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**SENATE BILL 5923**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** Senators Eide, Fairley, Patterson, B. Sheldon, Constantine and Zarelli

Read first time 02/08/2001. Referred to Committee on State & Local Government.

1 AN ACT Relating to the selection of responsible contractors bidding  
2 on public works; and adding a new chapter to Title 39 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The purpose of this chapter is to allow all  
5 state or local governmental entities that award contracts for publicly  
6 funded projects to select contractors by the lowest responsible bidder  
7 method.

8 NEW SECTION. **Sec. 2.** (1) A state or local governmental entity  
9 that awards contracts for publicly funded projects may examine, on  
10 projects where the scope of work is unusual, complex, or specialized,  
11 general contractors and electrical, mechanical, and heating,  
12 ventilation, and air conditioning subcontractors bidding on a project  
13 to determine if the low bidding contractor meets responsibility  
14 criteria.

15 (2) The governmental entity's contracting officer must make an  
16 affirmative determination of responsibility.

1        NEW SECTION.    **Sec. 3.**    (1) When requested, contractors and affected  
2 subcontractors are required to submit information, under oath, in the  
3 form of a questionnaire to the governmental entity to assist the  
4 governmental entity in making a determination as to whether the  
5 contractor or subcontractor is a responsible bidder.    If the  
6 information is not provided, or the information that is provided is  
7 false on a material point, then the bidder will be ruled not  
8 responsible.

9        (2) All information submitted on the questionnaire is subject to  
10 public inspection.    The required information must be submitted with the  
11 bid, or within forty-eight hours after the submission of the bid.

12        NEW SECTION.    **Sec. 4.**    Governmental entities may create their own  
13 questionnaire, required under section 3 of this act, or use a  
14 questionnaire created by the Washington state department of general  
15 administration or the superintendent of public instruction.

16        NEW SECTION.    **Sec. 5.**    In the presence of information clearly  
17 indicating that the prospective contractor is not a responsible bidder,  
18 the governmental entity or the entity's contracting officer shall make  
19 a determination that the bidder is not a responsible bidder.    Both the  
20 governmental entity and the contracting officer are immune from any  
21 suit or litigation brought on behalf of a bidder found to be not  
22 responsible.

23        NEW SECTION.    **Sec. 6.**    In determining lowest responsible bidder, in  
24 addition to price, the governmental entity awarding the contract must  
25 consider the following elements:

26        (1) The ability, capacity, and skill of the bidder to perform the  
27 contract or provide the service required;

28        (2) The reputation, experience, and references of the bidder;

29        (3) Whether the bidder can perform the contract within the time  
30 specified;

31        (4) The quality of performance of previous contracts or services;

32        (5) The previous and existing compliance by the bidder with laws  
33 relating to the contract or services; and

34        (6) The specific experience and ability of the bidder to manage  
35 unique project requirements.

1        NEW SECTION.   **Sec. 7.**   The state or local governmental entity shall  
2 provide the opportunity for a contractor to appeal the decision.  
3 Should the state or local governmental entity affirm its finding that  
4 the contractor is not responsible, the contractor must be given the  
5 option to withdraw its bid. The decision of the governmental entity is  
6 final. The governmental entity must issue the contractor a letter  
7 stating its determination that the contractor is not a responsible  
8 bidder for this particular job. The process must be repeated for the  
9 second low bidder to establish an affirmative determination of  
10 responsibility.

11        NEW SECTION.   **Sec. 8.**   Sections 1 through 7 of this act constitute  
12 a new chapter in Title 39 RCW.

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