

HOUSE BILL REPORT

HB 1511

As Reported by House Committee On:

State Government

Title: An act relating to public hospital district public works contracting.

Brief Description: Including public hospital districts in alternative public works contracting procedures.

Sponsors: Representatives Haigh, Armstrong, Wallace and Ruderman.

Brief History:

Committee Activity:

State Government: 2/11/03, 3/4/03 [DPS].

Brief Summary of Substitute Bill

- Creates a public hospital district (PHD) Project Review Board.
- Allows the PHDs with total revenues over \$15 million a year to use the design-build procedure, or to use the general contractor/construction manager (GC/CM) procedure as long as the project is approved by the PHD Project Review Board.
- Allows the PHDs with total revenues less than \$15 million a year to use the GC/CM procedure as long as the project is approved by the PHD Project Review Board.
- Allows the PHD Project Review Board to authorize an unlimited number of projects over \$10 million, and up to 10 demonstration projects valued between \$5 million and \$10 million.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Haigh, Chair; Miloscia, Vice Chair; Armstrong, Ranking Minority Member; Shabro, Assistant Ranking Minority Member; Hunt, McDermott, Nixon, Tom and Wallace.

Staff: Katie Blinn (786-7114).

Background:

Public works projects include construction, building, renovation, remodeling, alteration, repair or improvement of real property. The method by which contracts for public works projects are awarded is based on the estimated cost of the project and the size of the public entity.

Several state agencies and local governments are authorized to use the alternative public works contracting procedures to award contracts over \$10 million. One procedure is the "design-build" procedure and the other is the "general contractor/construction manager" (GC/CM) procedure. The following government entities are eligible to use either procedure:

- the Department of General Administration;
- the University of Washington;
- Washington State University;
- cities with over 70,000 people and public authorities chartered by those cities;
- counties with over 450,000 people;
- public utility districts with revenues from energy sales over \$23 million per year; and
- port districts with total revenues over \$15 million per year.

The government entity must include a number of details in the request for proposals, such as a detailed description of the project, the reasons for using the design-build or the GC/CM procedure, a description of the qualifications required of the bidder firm, a description of the process the government entity will use to evaluate the proposals, and the form of the contract.

The design-build procedure is a multi-step competitive process to award a contract to a single firm that agrees to both design and build a public facility that meets specific criteria. The contract is awarded following a public request for proposals for design-build services. Following extensive evaluation of the proposals, the contract is awarded to the firm that submits the best and final proposal with the lowest price.

Under the GC/CM procedure, a contract is awarded to a single firm for a guaranteed construction cost after competitive selection. The contract is to provide services during the design phase, and to act as both the construction manager and the general contractor during the construction phase. Use of the GC/CM procedure requires that the project meet specified criteria, such as the success of the project necessitates involvement of the GC/CM during the design stage. Following an extensive evaluation process, the government entity must award the contract to the firm that submits the final proposal scoring the highest based on outlined evaluation factors. The maximum construction cost guaranteed by the GC/CM is negotiated between the parties after the scope of the project is adequately determined. In addition to the procedures listed above, school districts may use the GC/CM procedure for the construction of school district capital demonstration

projects if the project is approved by the School District Project Review Board. The School District Project Review Board may not authorize more than 10 demonstration projects valued over \$5 million, of which at least two must be valued between \$5 million and \$10 million.

The alternative public works contracting procedures expire July 1, 2007.

Summary of Substitute Bill:

Public hospital districts (PHDs) are added to the list of government bodies eligible to use the alternative public works contracting procedures. The PHDs with total revenues over \$15 million a year may use the design-build procedure, or may use the GC/CM procedure as long as the project is approved by the PHD Project Review Board. The PHDs with total revenues less than \$15 million a year may use the GC/CM procedure as long as the project is approved by the PHD Project Review Board.

The PHD Project Review Board is created to select and approve qualified projects based upon an evaluation of the information submitted by the hospital districts. The members of the Project Review Board include representatives from:

- the Department of Health;
- the Office of Financial Management;
- the construction industry;
- organized labor;
- the design industry;
- a jurisdiction already authorized to use the alternative public works contracting procedures; and
- large and small PHDs.

The PHD Project Review Board may authorize an unlimited number of projects over \$10 million, and up to 10 demonstration projects valued between \$5 million and \$10 million. A PHD seeking to use the GC/CM procedure must file an application with the PHD Project Review Board, which shall approve or disapprove the application based on, at a minimum, the following criteria:

- a detailed description of the proposed project;
- the projected total budget for the project;
- the detailed costs;
- the anticipated project design and construction schedule;
- a summary of the district's construction activity for the preceding six years;
- an explanation of why the district believes that the use of the GC/CM procedure is in the public interest;
- an explanation of why the district is qualified to use the GC/CM procedure; and

- any other information requested by the Project Review Board.

Substitute Bill Compared to Original Bill:

The substitute bill allows the PHDs with total revenues over \$15 million a year to use the GC/CM procedure as long as the project is approved by the PHD Project Review Board. The original bill did not require large PHDs to obtain approval from the PHD Review Board.

The substitute bill allows the PHD Review Board to authorize an unlimited number of projects valued over \$10 million, and up to 10 demonstration projects valued between \$5 million and \$10 million. The original bill allowed the PHD Review Board to only authorize 10 demonstration projects value over \$5 million, of which at least two projects had to be valued between \$5 million and \$10 million.

Appropriation: None.

Fiscal Note: Not Requested.

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

Testimony For: The Association of Washington Public Hospital Districts supports the bill. This approach has already been approved for other local governments and would be beneficial for the PHDs. Hospital construction is complex and specialized. Residential needs must be addressed since patients often continue to be treated in the facilities under construction. The bill will benefit the PHDs in rural areas and those hospital districts that have older facilities. The aging of the baby boom generation is causing an increased demand for hospital renovations.

The use of the design-build or the GC/CM procedure is not required under the bill; it simply provides another tool for the hospital districts to use when appropriate. Use of the alternative public works contracting procedures prevents time delays and cost increases. Hospital districts need to be able to hire contractors who have the necessary experience to do the job right, on time, and within budget.

Testimony Against: Mechanical and electrical sub-contractors support the design-build and the GC/CM procedures but do not support expansion of the procedures to new jurisdictions until existing problems are cleared up. Sub-contractor eligibility is a problem because GC/CMs are using additional criteria over and above what is required by law, which limits the number of sub-contractors eligible to bid on a project. Too many requirements, costs, and inconveniences are being imposed by the GC/CMs on sub-contractors. On the other hand, the ongoing disputes between general contractors and

sub-contractors are probably occurring in other public works contracting arenas, not just the design-build and the GC/CM arenas. The GC/CMs are not doing enough of the work themselves so they do not have a sufficient stake or interest in the progress or quality of the projects. Requiring self-performance by a GC/CM will improve the ultimate product. Sub-contractors suggest bringing back the alternative public works oversight committee.

The GC/CM and design-build procedures are complex methods of building public works projects. Many smaller agencies and jurisdictions can easily get in over their heads. The minimum project value should be raised from \$10 million to \$20 million.

Testified: (In support) Taya Briley, Association of Washington Public Hospital Districts; and Dan Chandler and Bob Appel, Public Hospital District #1 of Mason County.

(Opposed) Larry Stevens, National Electrical Contractors Association and Mechanical Contractors Association.

(With concerns) Rick Slunaker, Associated General Contractors.