

# SENATE BILL REPORT

## SB 6669

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As of February 4, 2004

**Title:** An act relating to prohibiting rejection of all bids except for good cause.

**Brief Description:** Prohibiting rejection of all bids except for good cause.

**Sponsors:** Senators Roach, Kastama, Stevens, Berkey, Winsley and McCaslin.

**Brief History:**

**Committee Activity:** Government Operations & Elections: 2/4/04.

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### SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

**Staff:** Jennifer Arnold (786-7543)

**Background:** By statute, competitive bidding for the selection of contractors is generally required for all public works projects in the state. The specific procedures required for competitive public works bidding are contained throughout the RCWs and vary depending on the project and type of governmental entity: state, local, or institutions of higher education. In almost all circumstances, as a requirement of competitive bidding, contracts are awarded to the lowest responsible bidder. Currently, under certain circumstances, some governmental entities may reject any or all bids for good cause; however, a unified procedure for rejecting all bids and canceling the solicitation on state contracts does not exist.

An alternative public works procedure exists for circumstances in which a public body has determined that a public interest is served using the alternative selection procedure in place of the standard process. Design-build and general contractor/construction manager procedures for public projects follow a competitive selection process, which differs from the competitive bidding process for subcontractors for those same projects.

**Summary of Bill:** In situations other than when the prospective contractor is not the lowest bidder, an invited public works bid cannot be rejected, unless there is a "cogent and compelling reason" to reject all bids and cancel the invitation. After the bidding process has started, rejecting all bids and canceling the invitation may be done only when the public owner can establish in writing that the reasons for the cancellation are not only "cogent and compelling," but also that it is in the best interests of the government. Specific examples of reasons that meet these criteria are included among, but not limited to, the following:

- the invitation contained provisions that are inadequate, ambiguous, or too restrictive;
- the public work is no longer required;
- the public owner's needs were inadequately addressed in the invitation;
- all of the eligible bids are unreasonably priced;
- the bid submission involved collusion or bad faith; or
- the bids were not sufficiently competitive to ensure reasonable prices.

The requirements of this bill apply to the procedures for subcontractor bids in alternative public works in the same manner as all other public works, with the exception that both the public owner and contractor must determine in writing the rationale for rejection of all bids and cancellation of the solicitation of bids that is in the best interests of the government.

The terminology used in referring to the class of bidders who must be selected for contracts is changed from "lowest responsible" to "lowest responsive."

**Appropriation:** None.

**Fiscal Note:** Not requested.

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