

FINAL BILL REPORT

2SHB 1384

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Synopsis as Enacted

Brief Description: Authorizing the construction and operation of renewable energy projects by joint operating agencies.

Sponsors: By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Haler, B. Sullivan, Morris, Crouse, P. Sullivan, Chase and Hudgins).

House Committee on Technology, Energy & Communications
Senate Committee on Government Operations & Elections
Senate Committee on Water, Energy & Environment

Background:

Joint operating agencies (JOAs) are formed by cities and public utility districts that join together to develop electricity generation projects. The only JOA currently operating is Energy Northwest, which operates and maintains the state's only nuclear-powered electrical generation facility. Energy Northwest has recently developed a wind power generation site and a solar power demonstration site, and is exploring generation using biomass and fuel cells.

A JOA must use a sealed bid process to purchase materials, equipment, and supplies costing more than \$10,000 or to order work for the construction of generating facilities and associated facilities costing more than \$10,000.

A JOA may use a competitive negotiation process for contracts to acquire materials, equipment, and supplies or for work performed during the commercial operation of a nuclear generating project. This process may be used where an existing contract is in default or is terminated or if the managing director and the executive board of the JOA finds that the project will be completed or will operate more economically than using the sealed bid process.

The negotiated bid process for selecting a contractor includes several steps. The JOA issues a request for proposal along with public notice similar to that of the sealed bid process. A pre-bid conference is held to discuss and clarify the contract requirements in the request for proposal. Any inquiries from potential offerors and the responses from the JOA are given to all potential offerors. The contract requirements may be refined during this process.

Once offerors submit proposals, further discussion and clarification takes place with each offeror. Proposals may be revised in order to obtain the best and final offers. Proposals must be opened and discussed in a manner that protects their disclosure to competing offerors during the negotiation process.

The JOA selects the offeror's proposal that is most advantageous to the JOA and the state. The basis of the final selection must be part of the contract file. After a contract is awarded, a register of proposals is available for public inspection. Any offeror may request a briefing conference on the selection.

The contract may be fixed price or cost-reimbursable, but not cost plus percentage of cost.

Summary:

A JOA's authorization to use a competitive negotiation process is extended to the acquisition of materials, equipment, and supplies, and to work performed in support of siting, constructing, developing, or deploying of a renewable electrical energy generation project. The competitive negotiation process may be used if the managing director and the executive board of the JOA find that the project operation or completion will be more economical than using the sealed bid process.

Renewable Energy

A renewable electrical generation project is a generation facility fueled by wind, solar energy, geothermal energy, landfill gas, wave or tidal action, gas produced by wastewater treatment, qualified hydropower, or biomass energy. Qualified hydropower means energy produced either: as a result of modernizations or upgrades made after June 1, 1998, to hydropower facilities operating on May 8, 2001, that have been demonstrated to reduce the mortality of anadromous fish; or by run of the river or run of the canal hydropower facilities that are not responsible for obstructing the passage of anadromous fish.

Selection of Contractor

The selection process follows specified procedures which include a request for proposals stating requirements, a preproposal conference, and periodic discussions open to all responsible offerors to assure full understanding of requirements. The selection of a contractor must be made in an open public meeting as part of the public record.

The JOA shall execute a contract with the responsible offeror whose proposal is determined to be the most advantageous to the JOA and the state. Responsible offerors are offerors who possess necessary management and financial resources, experience, and organiza, and the ability, capacity, and skill to successfully perform the contract. Offerors must demonstrate through their proposal professional competence, the technical merits of the offer, and the price. Professional competence is the offeror's totality of demonstrated experience, knowledge, skills, proficiency, and abilities to successfully perform the contract.

Through out the process any inquiry is confirmed by the JOA and the response is sent to all potential offerors. Also, proposals submitted are opened in a manner that avoids disclosure of contents to competing offerors during the process of negotiation. After the contract is awarded, a register of proposals will be made available for public inspection.

Contract Restrictions

The contract may be fixed price or cost-reimbursement, but not cost plus percentage of cost.

Votes on Final Passage:

House	94	2
Senate	32	14

Effective: June 7, 2006