
SUBSTITUTE HOUSE BILL 1384

State of Washington

59th Legislature

2005 Regular Session

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

READ FIRST TIME 03/01/05.

1 AN ACT Relating to construction and operation of renewable energy
2 projects by joint operating agencies; and adding a new section to
3 chapter 43.52 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.52 RCW
6 to read as follows:

7 (1) A joint operating agency may enter into contracts through
8 competitive negotiation under subsection (3) of this section for
9 materials, equipment, supplies, or work to be performed in support of
10 siting, constructing, developing, or deploying a renewable electrical
11 energy generation project, if the managing director or a designee
12 determines in writing and the executive board finds that execution of
13 a contract under this section will accomplish project completion or
14 operation more economically than sealed bids.

15 (2) The definitions in this subsection apply throughout this
16 section unless the context clearly requires otherwise.

17 (a) "Professional competence" means the totality of demonstrated
18 experience, knowledge, skills, proficiency, and abilities required to
19 successfully perform the contract.

1 (b) "Qualified hydropower" means the energy produced either: (i)
2 As a result of modernizations or upgrades made after June 1, 1998, to
3 hydropower facilities operating on May 8, 2001, that have been
4 demonstrated to reduce the mortality of anadromous fish; or (ii) by run
5 of the river or run of the canal hydropower facilities that are not
6 responsible for obstructing the passage of anadromous fish.

7 (c) "Renewable electrical energy generation project" means
8 electrical generation facilities that are fueled by: (i) Wind; (ii)
9 solar energy; (iii) geothermal energy; (iv) landfill gas; (v) wave or
10 tidal action; (vi) gas produced during the treatment of wastewater;
11 (vii) qualified hydropower; or (viii) biomass energy based on animal
12 waste or solid organic fuels from wood, forest, or field residues, or
13 dedicated energy crops that do not include wood pieces that have been
14 treated with chemical preservatives such as creosote,
15 pentachlorophenol, or copper-chrome-arsenic.

16 (d) "Responsible offerors" means offerors who possess necessary
17 management and financial resources, experience, organization, and the
18 ability, capacity, and skill to successfully perform the contract.

19 (3) The selection of a contractor shall be made in an open public
20 meeting, as part of a public record, and in accordance with the
21 following procedures:

22 (a) Proposals shall be solicited through a request for proposals,
23 which shall state the requirements to be met. Responses shall describe
24 the professional competence of the offeror, the technical merits of the
25 offer, and the price.

26 (b) The request for proposals shall be given adequate public notice
27 in the same manner as for sealed bids.

28 (c) As provided in the request for proposals, the joint operating
29 agency shall specify at a preproposal conference specific contract
30 requirements, which may include but are not limited to: Schedule,
31 managerial, and staffing requirements, productivity and production
32 levels, technical expertise, approved project quality assurance
33 procedures, and time and place for submission of proposals. Any
34 inquiries and responses thereto shall be confirmed in writing and shall
35 be sent to all potential offerors.

36 (d) Proposals shall be opened so as to avoid disclosure of contents
37 to competing offerors during the process of negotiation. A register of
38 proposals shall be open for public inspection after contract award.

1 (e) As provided in the request for proposals, invitations shall be
2 sent to all responsible offerors who submit proposals to attend
3 discussions for the purpose of clarification to assure full
4 understanding of, and responsiveness to, the solicitation requirements.
5 Any inquiries and responses thereto shall be confirmed in writing and
6 shall be sent to all offerors. Offerors shall be accorded fair and
7 equal treatment with respect to any opportunity for discussion and
8 revision of proposals, and such revisions may be permitted after
9 submissions and prior to award for the purpose of obtaining best and
10 final offers. In conducting discussions, there shall be no disclosure
11 of any information derived from proposals submitted by competing
12 offerors.

13 (f) The joint operating agency shall execute a contract with the
14 responsible offeror whose proposal is determined in writing to be the
15 most advantageous to the joint operating agency and the state taking
16 into consideration the requirements set forth in the request for
17 proposals. The contract file shall contain the basis on which the
18 successful offeror is selected. The joint operating agency shall
19 conduct a briefing conference on the selection if requested by an
20 offeror.

21 (g) The contract may be fixed price or cost-reimbursable, in whole
22 or in part, but not cost-plus-percentage-of-cost.

23 (h) The joint operating agency shall retain authority and
24 responsibility for inspection, testing, and compliance with applicable
25 regulations or standards of any state or federal governmental agency.

--- END ---