
Transportation Committee

HB 1801

Brief Description: Addressing conflicts of interest in certain construction contracts.

Sponsors: Representatives Orcutt, Clibborn and Hargrove.

Brief Summary of Bill

- Requires bidders on Washington State Department of Transportation (WSDOT) projects to disclose any circumstances where the bidder or an affiliated entity would benefit from a related project.
- Requires the WSDOT to draft liquidated damages provisions so that the damages available to a single entity involved in two or more related contracts are offsetting.

Hearing Date: 2/18/13

Staff: David Munnecke (786-7315).

Background:

Conflicts of Interest.

The Washington State Department of Transportation (WSDOT) has adopted guidelines for organizational conflicts of interest (OCOI) that apply to all contracts for professional services related to the WSDOT projects, which are described in its Organizational Conflicts of Interest Manual (Manual). The guidelines apply to all individual entities that make up a joint venture as well as the joint venture itself.

When evaluating whether an OCOI exists, whether such a conflict can be avoided or neutralized, and the appropriate steps to avoid or neutralize a conflict, the WSDOT uses the guidance provided by the Washington ethics laws related to public service, the Washington conflicts of interest statute for engineers and land surveyors and related rules, and various regulations promulgated by the Federal Highway Administration.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The procedures described in the Manual for managing potential OCOI encourage potential bidders to determine in advance whether a potential, real, or perceived, OCOI exists. If that is the case, the potential bidder is required to submit an OCOI disclosure and avoidance/neutralization plan. The WSDOT then has the discretion to determine if the OCOI can be avoided or neutralized or not, and thus whether the bidder can bid on the project.

State Route 520 Bridge Replacement.

The Governor Albert D. Rosellini Bridge – Evergreen Point (Evergreen Point Bridge) spans the 1.44 mile distance between Interstate 5 (I-5) in the City of Seattle and the City of Medina on the eastern shore of Lake Washington. Originally opened to traffic in 1963, the four-lane floating bridge serves approximately 70,000 vehicles each day.

In 2007 the Legislature authorized the WSDOT to replace the existing bridge with a new floating structure. The replacement bridge, which is scheduled to open to traffic by the end of 2014, will have six lanes of traffic, including two general-purpose lanes, one transit/high occupancy vehicle (HOV) lane in each direction, and the ability to accommodate future light rail. In August 2011, the Federal Highway Administration issued the record of decision for the project, and construction on the replacement bridge is underway.

The program budget for the State Route (SR) 520 Bridge Replacement and HOV Program, as set by the Legislature in 2009, is \$4.65 billion. There are currently three major construction projects underway as part of the replacement program: (1) the Floating Bridge and Landings project; (2) the Pontoon Construction project; and (3) the Median to SR 202: Eastside Transit and HOV project.

Summary of Bill:

Any bidder on a WSDOT project is required to disclose any circumstances where that bidder or an affiliated entity would benefit from a related project.

The WSDOT is required to draft liquidated damages provisions so that the damages available to a single entity involved in two or more related contracts are offsetting.

Appropriation: None.

Fiscal Note: Requested on February 11, 2013.

Effective Date: The bill takes effect on August 1, 2013.