

HOUSE BILL REPORT

HB 1936

As Reported by House Committee On: Capital Budget

Title: An act relating to the inclusion of willful violations of chapters 49.46, 49.48, and 49.52 RCW to the state's responsible bidder criteria.

Brief Description: Including willful violations of certain state laws to the state's responsible bidder criteria.

Sponsors: Representatives Hudgins, Johnson, Sawyer, Tarleton, Kilduff and Ormsby; by request of Attorney General.

Brief History:

Committee Activity:

Capital Budget: 2/10/17, 2/23/17 [DP].

Brief Summary of Bill

- Amends low responsive bidder criteria to include requirements that: (1) the bidder cannot have been determined by the Department of Labor and Industries to have violated a wage payment has been violated within the past three years, and; (2) the bidder must provide a written statement that the bidder is in compliance with this wage requirement.

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: Do pass. Signed by 15 members: Representatives Tharinger, Chair; Doglio, Vice Chair; Peterson, Vice Chair; DeBolt, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Johnson, Macri, Morris, Reeves, Riccelli, Ryu, Sells, Steele, Stonier and J. Walsh.

Minority Report: Do not pass. Signed by 3 members: Representatives Dye, Koster and MacEwen.

Minority Report: Without recommendation. Signed by 1 member: Representative Kraft.

Staff: Steve Masse (786-7115).

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.

Background:

Public Works Contracting.

Public works projects include construction, building, renovation, remodeling, alteration, repair, or improvement of real property. Generally public agencies are required to award public works contracts to the lowest responsible bidder.

To be a considered a "responsible bidder" who is qualified to be awarded a public works project, the bidder must: (1) be a registered contractor; (2) have a current state Unified Business Identifier number; (3) if applicable, have industrial insurance coverage for employees working in Washington, have an Employment Security Department number, and an excise tax registration number; (4) not be disqualified for being unlicensed or unregistered, and have kept accurate records regarding subcontractors over the last two years; (5) have maintained compliance with apprenticeship utilization requirements over the past year; and (6) have met any supplemental criteria as established by the state or municipality.

A contractor is not permitted to bid on a public works contract if they were assessed a civil penalty by the Department of Labor and Industries for the failure to pay prevailing wages, and the penalty remains unpaid. The failure to pay prevailing wages twice in a five-year period disqualifies a bidder for two years.

A contractor is barred from bidding on any public works contract for one year if the contractor committed any two of the following violations within a five-year period: (1) failing to register as a contractor; (2) filing false payroll reports; (3) failing to obtain industrial insurance coverage; or (4) working apprentices out of ratio, without supervision, or outside their approved work processes.

Goods and Services.

Public procurement of goods and services is generally handled through a competitive solicitation and bidding process. The award for the purchase or contract is given to the lowest responsive and responsible bidder. Under this process, the agency determining a "responsible bidder" must consider elements such as the bidder's ability, capacity, and skill; character, integrity, reputation, judgment, experience, and efficiency; quality of previous performance; and compliance with related contracting laws. When considering the "lowest responsive and responsible bidder," the agency may consider a best value criteria.

Summary of Bill:

The requirements for being a low responsive bidder for public works contracts and for bidders for goods and services are modified.

Within a three-year period preceding the bid solicitation the contractor cannot have been cited by the Department of Labor and Industries for having violated: (1) wage payment requirements; (2) minimum wage rate payments; and (3) proper wage deductions for benefits and contributions, additionally the bidder must submit a signed statement of being in

compliance with the Department of Labor and Industries wage requirements before the contract is awarded.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Intentional wage violators should not be supported with state tax dollars. This only addresses when a final decision has been made. A level playing field is provided rather than attempting to do this through the request-for-proposal process. This makes uniform application of the law, provides consistency, clarity, and certainty. The low fiscal note indicates this is the most cost effective method to achieve this.

(Opposed) None.

Persons Testifying: Steve Reinmuth and Mike Webb, Office of the Attorney General.

Persons Signed In To Testify But Not Testifying: None.