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**SENATE BILL 5492**

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**State of Washington**

**65th Legislature**

**2017 Regular Session**

**By** Senators Conway, Hasegawa, Keiser, Miloscia, Hobbs, Takko, Wellman, Chase, Darneille, Hunt, and Saldaña

Read first time 01/26/17. Referred to Committee on Commerce, Labor & Sports.

1 AN ACT Relating to adding training on public works and prevailing  
2 wage requirements to responsible bidder criteria; and amending RCW  
3 39.04.350.

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

5 **Sec. 1.** RCW 39.04.350 and 2010 c 276 s 2 are each amended to  
6 read as follows:

7 (1) Before award of a public works contract, a bidder must meet  
8 the following responsibility criteria to be considered a responsible  
9 bidder and qualified to be awarded a public works project. The bidder  
10 must:

11 (a) At the time of bid submittal, have a certificate of  
12 registration in compliance with chapter 18.27 RCW;

13 (b) Have a current state unified business identifier number;

14 (c) If applicable, have industrial insurance coverage for the  
15 bidder's employees working in Washington as required in Title 51 RCW;  
16 an employment security department number as required in Title 50 RCW;  
17 and a state excise tax registration number as required in Title 82  
18 RCW;

19 (d) Not be disqualified from bidding on any public works contract  
20 under RCW 39.06.010 or 39.12.065(3);

1 (e) If bidding on a public works project subject to the  
2 apprenticeship utilization requirements in RCW 39.04.320, not have  
3 been found out of compliance by the Washington state apprenticeship  
4 and training council for working apprentices out of ratio, without  
5 appropriate supervision, or outside their approved work processes as  
6 outlined in their standards of apprenticeship under chapter 49.04 RCW  
7 for the one-year period immediately preceding the date of the bid  
8 solicitation; and

9 (~~Until December 31, 2013, not have violated RCW 39.04.370~~  
10 ~~more than one time as determined by the department of labor and~~  
11 ~~industries)) Have attended training from the department of labor and  
12 industries or a training program approved by the department of labor  
13 and industries relating to the requirements associated with public  
14 works and prevailing wage under this chapter and chapter 39.12 RCW.~~

15 (2) In addition to the bidder responsibility criteria in  
16 subsection (1) of this section, the state or municipality may adopt  
17 relevant supplemental criteria for determining bidder responsibility  
18 applicable to a particular project which the bidder must meet.

19 (a) Supplemental criteria for determining bidder responsibility,  
20 including the basis for evaluation and the deadline for appealing a  
21 determination that a bidder is not responsible, must be provided in  
22 the invitation to bid or bidding documents.

23 (b) In a timely manner before the bid submittal deadline, a  
24 potential bidder may request that the state or municipality modify  
25 the supplemental criteria. The state or municipality must evaluate  
26 the information submitted by the potential bidder and respond before  
27 the bid submittal deadline. If the evaluation results in a change of  
28 the criteria, the state or municipality must issue an addendum to the  
29 bidding documents identifying the new criteria.

30 (c) If the bidder fails to supply information requested  
31 concerning responsibility within the time and manner specified in the  
32 bid documents, the state or municipality may base its determination  
33 of responsibility upon any available information related to the  
34 supplemental criteria or may find the bidder not responsible.

35 (d) If the state or municipality determines a bidder to be not  
36 responsible, the state or municipality must provide, in writing, the  
37 reasons for the determination. The bidder may appeal the  
38 determination within the time period specified in the bidding  
39 documents by presenting additional information to the state or  
40 municipality. The state or municipality must consider the additional

1 information before issuing its final determination. If the final  
2 determination affirms that the bidder is not responsible, the state  
3 or municipality may not execute a contract with any other bidder  
4 until two business days after the bidder determined to be not  
5 responsible has received the final determination.

6 (3) The capital projects advisory review board created in RCW  
7 39.10.220 shall develop suggested guidelines to assist the state and  
8 municipalities in developing supplemental bidder responsibility  
9 criteria. The guidelines must be posted on the board's web site.

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