

HOUSE BILL REPORT

HB 1391

As Reported by House Committee On:
Capital Budget

Title: An act relating to prime contractor bidding submission requirements on public works contracts.

Brief Description: Concerning prime contractor bidding submission requirements on public works contracts.

Sponsors: Representatives Goehner, Senn and Pollet.

Brief History:

Committee Activity:

Capital Budget: 2/9/21, 2/17/21 [DPS].

Brief Summary of Substitute Bill

- Changes submittal requirements for prime contractors awarded the bid for a public works project expected to cost \$1 million or more.
- Makes technical corrections.

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 23 members: Representatives Tharinger, Chair; Callan, Vice Chair; Hackney, Vice Chair; Steele, Ranking Minority Member; Abbarno, Assistant Ranking Minority Member; McEntire, Assistant Ranking Minority Member; Bateman, Dye, Eslick, Gilday, Kloba, Kraft, Leavitt, MacEwen, Maycumber, Mosbrucker, Peterson, Riccelli, Rule, Santos, Sells, Shewmake and Volz.

Staff: Richelle Geiger (786-7139).

Background:

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

Public Works.

The term "public works" refers to all work, construction, repair, or improvement other than ordinary maintenance performed by a municipality. A municipality includes cities, towns, port districts, public institutions of higher education, and any other public body authorized to execute public works. Most public works projects require a bidding process that awards the contract to the lowest responsive bidder. Competitive bids are required except for certain conditions including an emergency. The bidding process allows for a prime contractor to provide bids for a specific scope of work. Before the award of the contract, the prime contract bidder must submit statements that it is in compliance with responsible bidder criteria.

For public works projects expected to cost \$1 million or more (eligible projects), the prime contractor awarded the bid must provide the names of subcontractors that will perform one of the following categories of work (specified subcontractors) within the following time periods after the published bid submittal time (defined time frame):

- heating, ventilation, and air conditioning; plumbing; and electrical work within one hour; or
- structural steel and rebar installation within 48 hours.

If the prime contractor submits more than one subcontractor listed for each category of work, or fails to list subcontractors, then the prime contract bidder is considered nonresponsive and their bid is void.

Capital Projects Advisory Review Board.

In 2005 the Capital Projects Advisory Review Board (CPARB) was established to monitor and evaluate the use of traditional and alternative public works contracting procedures and to evaluate potential future use of other alternative contracting procedures. The CPARB also provides a forum in which best practices and concerns about alternative public works contracting can be discussed. The CPARB consists of 23 members, including four legislative members: two from the House of Representatives, appointed by the Speaker of the House of Representatives, and two from the Senate, appointed by the President of the Senate. The CPARB is required to submit a report to the Governor and the Legislature by November 1, 2020, evaluating current subcontractor listing policies and practices and recommending modifications to the requirements (evaluation report).

Summary of Substitute Bill:

For eligible projects, the prime contractor awarded the bid must provide the names of all specified subcontractors within the defined time frame.

The subcontractor naming requirements do not apply to design-build and general contractor/construction manager requests for proposal.

The CPARB is directed to submit a second evaluation report to the Governor and the Legislature by November 1, 2022.

Technical corrections are made, with written numbers greater than 10 replaced by numeric values.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes:

- specifies the subcontractor naming requirements do not apply to design-build and general contractor/construction manager requests for proposal; and
- requires the CPARB to submit a second report to the Governor and Legislature by November 1, 2022.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The bill is a simple, straightforward fix that would clarify that contractors report heating, ventilation, and air conditioning (HVAC) subcontractors and structural steel and rebar installation subcontractors. The intent was for both to be part of the original bill and there was a small error during drafting. The CPARB recommends support of this fix unanimously. Additionally, CPARB recommends that the subcontractor listing to not be applicable to the general contractor/construction manager and design build proposals.

(Opposed) None.

(Other) The CPARB unanimously recommended two additional fixes to the statute, including the addition of a report to review implementation of the subcontractor listing changes.

Persons Testifying: (In support) Representative Goehner, prime sponsor; Mark Riker, Washington State Building and Construction Trades Council; Jerry Vanderwood, Associated General Contractors of Washington; Michael Transue, Mechanical Contractors Association of Western Washington; and Mark Streuli, Pacific Northwest Ironworkers District Council—Iron Worker Management Progressive Action Cooperative Trust.

(Other) Janice Zahn, Capital Projects Advisory Review Board.

Persons Signed In To Testify But Not Testifying: None.