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**SECOND SUBSTITUTE HOUSE BILL 1549**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** House Capital Budget (originally sponsored by Representatives Fosse, Obras, Berry, Reed, Goodman, Stearns, Parshley, Callan, Salahuddin, Taylor, Ormsby, Peterson, Pollet, Scott, Macri, and Hill)

READ FIRST TIME 02/27/25.

1 AN ACT Relating to modifying the responsible bidder criteria for  
2 public works projects; amending RCW 39.04.350 and 39.04.350;  
3 providing effective dates; and providing an expiration date.

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

5 **Sec. 1.** RCW 39.04.350 and 2023 c 88 s 1 are each amended to read  
6 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, a plumbing  
13 contractor license in compliance with chapter 18.106 RCW, an elevator  
14 contractor license in compliance with chapter 70.87 RCW, or an  
15 electrical contractor license in compliance with chapter 19.28 RCW,  
16 as required under the provisions of those chapters;

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

18 (c) If applicable, have industrial insurance coverage for the  
19 bidder's employees working in Washington as required in Title 51 RCW;  
20 an employment security department number as required in Title 50 RCW;

1 and a state excise tax registration number as required in Title 82  
2 RCW;

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

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

13 (f) Have received training on the requirements related to public  
14 works and prevailing wage under this chapter and chapter 39.12 RCW.  
15 The bidder must designate a person or persons to be trained on these  
16 requirements. The training must be provided by the department of  
17 labor and industries or by a training provider whose curriculum is  
18 approved by the department. The department, in consultation with the  
19 prevailing wage advisory committee, must determine the length of the  
20 training. Bidders that have completed three or more public works  
21 projects and have had a valid business license in Washington for  
22 three or more years are exempt from this subsection. The department  
23 of labor and industries must keep records of entities that have  
24 satisfied the training requirement or are exempt and make the records  
25 available on its website. Responsible parties may rely on the records  
26 made available by the department regarding satisfaction of the  
27 training requirement or exemption; and

28 (g) Within the three-year period immediately preceding the date  
29 of the bid solicitation, not have been determined by a final and  
30 binding citation and notice of assessment issued by the department of  
31 labor and industries or through a civil judgment entered by a court  
32 of limited or general jurisdiction to have willfully violated, as  
33 defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or  
34 49.52 RCW.

35 (2) Before award of a public works contract, a bidder shall  
36 submit to the contracting agency a signed statement in accordance  
37 with chapter 5.50 RCW verifying under penalty of perjury that the  
38 bidder is in compliance with the responsible bidder criteria  
39 requirement of subsection (1)(g) of this section. A contracting

1 agency may award a contract in reasonable reliance upon such a sworn  
2 statement.

3 (3)(a) In addition to the bidder responsibility criteria in  
4 subsection (1) of this section, for a project subject to apprentice  
5 utilization requirements under RCW 39.04.320, the bidder shall submit  
6 an apprentice utilization plan to the awarding agency before  
7 receiving the notice to proceed. However, a bidder is exempt from the  
8 requirements of this subsection if the bidder met or exceeded  
9 apprentice utilization requirements on the last public works project  
10 the bidder completed.

11 (b) The department of labor and industries shall develop an  
12 apprentice utilization plan template and make the template available  
13 to awarding agencies and bidders. The plan template must include, at  
14 minimum: The projected start and end dates of the project; estimated  
15 total work hours; estimated apprentice hours by apprenticeable  
16 occupation; list of state registered apprenticeship programs to be  
17 contacted; and list of estimated apprenticeship training agents or  
18 sponsors on the project. The plan template must also include  
19 educational material on apprentice utilization requirements,  
20 including how to access apprentices and contact apprenticeship  
21 programs and where to find additional and relevant resources. The  
22 department may approve the use of a template developed by an awarding  
23 agency if it meets the minimum requirements of this subsection.

24 (c) The department of labor and industries shall publish  
25 completed apprentice utilization plans on its website.

26 (4) In addition to the bidder responsibility criteria in  
27 subsection (1) of this section, the state or municipality may adopt  
28 relevant supplemental criteria for determining bidder responsibility  
29 applicable to a particular project which the bidder must meet.

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

34 (b) In a timely manner before the bid submittal deadline, a  
35 potential bidder may request that the state or municipality modify  
36 the supplemental criteria. The state or municipality must evaluate  
37 the information submitted by the potential bidder and respond before  
38 the bid submittal deadline. If the evaluation results in a change of  
39 the criteria, the state or municipality must issue an addendum to the  
40 bidding documents identifying the new criteria.

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

6 (d) If the state or municipality determines a bidder to be not  
7 responsible, the state or municipality must provide, in writing, the  
8 reasons for the determination. The bidder may appeal the  
9 determination within the time period specified in the bidding  
10 documents by presenting additional information to the state or  
11 municipality. The state or municipality must consider the additional  
12 information before issuing its final determination. If the final  
13 determination affirms that the bidder is not responsible, the state  
14 or municipality may not execute a contract with any other bidder  
15 until two business days after the bidder determined to be not  
16 responsible has received the final determination.

17 (e) If the bidder has a history of receiving monetary penalties  
18 for not achieving the apprentice utilization requirements pursuant to  
19 RCW 39.04.320, or is habitual in utilizing the good faith effort  
20 exception process, the bidder must submit an apprenticeship  
21 utilization plan within ten business days immediately following the  
22 notice to proceed date.

23 ~~((4))~~ (5) The capital projects advisory review board created in  
24 RCW 39.10.220 shall develop suggested guidelines to assist the state  
25 and municipalities in developing supplemental bidder responsibility  
26 criteria. The guidelines must be posted on the board's website.

27 **Sec. 2.** RCW 39.04.350 and 2023 c 88 s 1 are each amended to read  
28 as follows:

29 (1) Before award of a public works contract, a bidder must meet  
30 the following responsibility criteria to be considered a responsible  
31 bidder and qualified to be awarded a public works project. The bidder  
32 must:

33 (a) At the time of bid submittal, have a certificate of  
34 registration in compliance with chapter 18.27 RCW, a plumbing  
35 contractor license in compliance with chapter 18.106 RCW, an elevator  
36 contractor license in compliance with chapter 70.87 RCW, or an  
37 electrical contractor license in compliance with chapter 19.28 RCW,  
38 as required under the provisions of those chapters;

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

1 (c) If applicable, have industrial insurance coverage for the  
2 bidder's employees working in Washington as required in Title 51 RCW;  
3 an employment security department number as required in Title 50 RCW;  
4 and a state excise tax registration number as required in Title 82  
5 RCW;

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

8 (e) If bidding on a public works project subject to the  
9 (~~apprenticeship~~) apprentice utilization requirements in RCW  
10 39.04.320, not have been found out of compliance by the Washington  
11 state apprenticeship and training council for working apprentices out  
12 of ratio, without appropriate supervision, or outside their approved  
13 work processes as outlined in their standards of apprenticeship under  
14 chapter 49.04 RCW for the one-year period immediately preceding the  
15 date of the bid solicitation;

16 (f) (i) Have completed at least one public works project within  
17 the previous three years and have not received a citation for a  
18 violation of this chapter, chapter 39.12 RCW, or those provided in  
19 RCW 39.12.055 (1) through (3) during that same time period; or (ii)  
20 have at least one designated person who is a current employee or  
21 officer and who has received training on the requirements related to  
22 public works and prevailing wage under this chapter and chapter 39.12  
23 RCW (~~. The bidder must designate a person or persons to be trained on~~  
24 ~~these requirements~~) within the previous three years. The training  
25 must be provided by the department of labor and industries or by a  
26 training provider whose curriculum is approved by the department. The  
27 department, in consultation with the prevailing wage advisory  
28 committee, must determine the length of the training. (~~Bidders that~~  
29 ~~have completed three or more public works projects and have had a~~  
30 ~~valid business license in Washington for three or more years are~~  
31 ~~exempt from this subsection.~~) The department of labor and industries  
32 must keep records of (~~entities~~) persons that have (~~satisfied~~)  
33 completed the training (~~requirement or are exempt~~) in the previous  
34 three years and make the records available on its website.  
35 Responsible parties may rely on the records made available by the  
36 department (~~regarding satisfaction of the training requirement or~~  
37 ~~exemption~~); and

38 (g) Within the three-year period immediately preceding the date  
39 of the bid solicitation, not have been determined by a final and  
40 binding citation and notice of assessment issued by the department of

1 labor and industries or through a civil judgment entered by a court  
2 of limited or general jurisdiction to have willfully violated, as  
3 defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or  
4 49.52 RCW.

5 (2)(a) The department of labor and industries shall publish on  
6 its website available information in order for contracting agencies  
7 to verify the status of a bidder's compliance with each of the  
8 criteria under subsection (1)(a) through (f) of this section.

9 (b) Before award of a public works contract, a bidder shall  
10 submit to the contracting agency a signed statement in accordance  
11 with chapter 5.50 RCW verifying under penalty of perjury that the  
12 bidder is in compliance with the responsible bidder criteria  
13 requirement of subsection (1)(g) of this section. A contracting  
14 agency may ((award a contract in reasonable reliance)) reasonably  
15 rely upon such a sworn statement. The contracting agency shall verify  
16 that the bidder meets the remaining criteria in subsection (1) of  
17 this section through publicly available information on the department  
18 of labor and industries' website.

19 (3)(a) In addition to the bidder responsibility criteria in  
20 subsection (1) of this section, for a project subject to apprentice  
21 utilization requirements under RCW 39.04.320, the bidder shall submit  
22 an apprentice utilization plan to the awarding agency before  
23 receiving the notice to proceed. However, a bidder is exempt from the  
24 requirements of this subsection if the bidder met or exceeded  
25 apprentice utilization requirements on the last public works project  
26 the bidder completed.

27 (b) The department of labor and industries shall develop an  
28 apprentice utilization plan template and make the template available  
29 to awarding agencies and bidders. The plan template must include, at  
30 minimum: The projected start and end dates of the project; estimated  
31 total work hours; estimated apprentice hours by apprenticeable  
32 occupation; list of state registered apprenticeship programs to be  
33 contacted; and list of estimated apprenticeship training agents or  
34 sponsors on the project. The plan template must also include  
35 educational material on apprentice utilization requirements,  
36 including how to access apprentices and contact apprenticeship  
37 programs and where to find additional and relevant resources. The  
38 department may approve the use of a template developed by an awarding  
39 agency if it meets the minimum requirements of this subsection.

1 (c) The department of labor and industries shall publish  
2 completed apprentice utilization plans on its website.

3 (4) In addition to the bidder responsibility criteria in  
4 subsection (1) of this section, the state or municipality may adopt  
5 relevant supplemental criteria for determining bidder responsibility  
6 applicable to a particular project which the bidder must meet.

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

11 (b) In a timely manner before the bid submittal deadline, a  
12 potential bidder may request that the state or municipality modify  
13 the supplemental criteria. The state or municipality must evaluate  
14 the information submitted by the potential bidder and respond before  
15 the bid submittal deadline. If the evaluation results in a change of  
16 the criteria, the state or municipality must issue an addendum to the  
17 bidding documents identifying the new criteria.

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

23 (d) If the state or municipality determines a bidder to be not  
24 responsible, the state or municipality must provide, in writing, the  
25 reasons for the determination. The bidder may appeal the  
26 determination within the time period specified in the bidding  
27 documents by presenting additional information to the state or  
28 municipality. The state or municipality must consider the additional  
29 information before issuing its final determination. If the final  
30 determination affirms that the bidder is not responsible, the state  
31 or municipality may not execute a contract with any other bidder  
32 until two business days after the bidder determined to be not  
33 responsible has received the final determination.

34 ~~((e) If the bidder has a history of receiving monetary penalties~~  
35 ~~for not achieving the apprentice utilization requirements pursuant to~~  
36 ~~RCW 39.04.320, or is habitual in utilizing the good faith effort~~  
37 ~~exception process, the bidder must submit an apprenticeship~~  
38 ~~utilization plan within ten business days immediately following the~~  
39 ~~notice to proceed date.~~

1       ~~(4))~~ (5) The capital projects advisory review board created in  
2 RCW 39.10.220 shall develop suggested guidelines to assist the state  
3 and municipalities in developing supplemental bidder responsibility  
4 criteria. The guidelines must be posted on the board's website.

5       NEW SECTION.   **Sec. 3.** Section 1 of this act takes effect July 1,  
6 2026.

7       NEW SECTION.   **Sec. 4.** Section 1 of this act expires July 1,  
8 2027.

9       NEW SECTION.   **Sec. 5.** Section 2 of this act takes effect July 1,  
10 2027.

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