

**HB 2805 - H AMD 1160**

By Representative Ormsby

ADOPTED 02/15/2010

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 39.04 RCW  
4 to read as follows:

5 (1) For any public work estimated to cost over one million dollars,  
6 the contract must contain a provision requiring the contractor to  
7 submit certain information about off-site, prefabricated, nonstandard,  
8 project specific items produced under the terms of the contract and  
9 produced outside Washington. The information must be submitted to the  
10 awarding agency and to the department of general administration within  
11 ten days of delivery of the item under the contract. The information  
12 that must be provided is:

13 (a) The total cost of the public works project;

14 (b) The contract value, including labor and materials, of the off-  
15 site, prefabricated, nonstandard, project specific items produced  
16 outside Washington; and

17 (c) The name, address, and federal employer identification number  
18 of the contractor that produced the off-site, prefabricated,  
19 nonstandard, project specific items.

20 (2)(a) The required information under this section must be  
21 submitted on forms made available by the department of general  
22 administration.

23 (b) The department of general administration shall develop standard  
24 contract language to meet the requirements of subsection (1)(a) of this  
25 section and make the language available on its web site.

26 (3) For the purposes of this section, "off-site, prefabricated,  
27 nonstandard, project specific items" means products or items that are:

28 (a) Made primarily of architectural or structural precast concrete,  
29 fabricated steel, pipe and pipe systems, or sheet metal and sheet metal  
30 duct work; (b) produced specifically for the public work and not

1 considered to be regularly available shelf items; (c) produced or  
2 manufactured by labor expended to assemble or modify standard items;  
3 and (d) produced at an off-site location.

4 (4) The department of general administration shall compile  
5 information collected under this section and submit it on an annual  
6 basis to the capital projects advisory review board created in RCW  
7 39.10.220 for review and public hearing.

8 (5) This section applies to contracts entered into on or after  
9 September 1, 2010, and expires December 31, 2015.

10 **Sec. 2.** RCW 39.04.350 and 2009 c 197 s 2 are each amended to read  
11 as follows:

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

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

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

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

24 (e) If bidding on a public works project subject to the  
25 apprenticeship utilization requirements in RCW 39.04.320, not have been  
26 found out of compliance by the Washington state apprenticeship and  
27 training council for working apprentices out of ratio, without  
28 appropriate supervision, or outside their approved work processes as  
29 outlined in their standards of apprenticeship under chapter 49.04 RCW  
30 for the one-year period immediately preceding the date of the bid  
31 solicitation; and

32 (f) Until December 31, 2015, not have violated section 1 of this  
33 act more than one time.

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

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

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

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

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

27 (3) The capital projects advisory review board created in RCW  
28 39.10.220 shall develop suggested guidelines to assist the state and  
29 municipalities in developing supplemental bidder responsibility  
30 criteria. The guidelines must be posted on the board's web site.

31 NEW SECTION. **Sec. 3.** The expiration of section 1 of this act does  
32 not affect any request or proceeding instituted prior to the expiration  
33 of section 1 of this act."

34 Correct the title.

EFFECT: (1) Strikes the provisions of the bill. Removes the

requirement to submit certified payroll records, the prevailing wage penalties, and the enforcement authority of the Department of Labor & Industries.

(2) Requires contractors on public works projects estimated to cost over \$1 million to submit information about certain prefabricated items produced outside Washington to the awarding agency and the Department of General Administration.

(3) Modifies the information contractors are required to submit to include: The total cost of the project; the contract value of the prefabricated items produced outside Washington; and information about the contractor that produced the items.

(4) Requires the Department of General Administration to compile the information and submit it to the Capital Projects Review Advisory Board for review and public hearing.

(5) Requires that, in order to meet the responsible bidder criteria, a bidder on a public works project must not have violated the requirements of the bill more than once.

(6) Extends the expiration date to December 31, 2015, from December 31, 2012.

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