
**State Government & Tribal Affairs
Committee**

SSB 6365

Brief Description: Waiving and clarifying certain requirements for port district small public works projects.

Sponsors: Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators Hatfield, Swecker, Prentice, Holmquist Newbry, Pridemore, Haugen, Hobbs, Parlette and Shin).

Brief Summary of Substitute Bill

- Creates a process for awarding public works projects estimated to cost \$35,000 or less for port districts.

Hearing Date: 2/16/12

Staff: Marsha Reilly (786-7135).

Background:

Formal Sealed Bid Process.

Public works projects generally must be awarded through a competitive bid process. A formal, sealed bid process requires a request for bids through advertising or public notice. Full plans and specifications for the project must be available to potential bidders. Pre-bid meetings are held, and proposals and sealed bids must be submitted to the agency by a specified date. Bids must be accompanied by bid bond, and, after the contract is awarded, payment and performance bonds are required. A process for a bid protest is required. The contract is generally awarded to the responsible bidder submitting the lowest, responsive bid.

Small Works Roster.

State agencies and certain local governments may use a small works roster process, rather than a formal sealed bid process, to award contracts for public works estimated to cost \$300,000 or less.

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.

A single roster may be created or different rosters for different specialties or categories of anticipated work. Distinctions may be made between contractors based on geographic areas. The agency or local government may solicit bids from all appropriate contractors on the roster, but at a minimum five bids must be solicited. The contract, if awarded, is awarded to the lowest responsible bidder. An effort must be made to equitably distribute the opportunity among contractors on the appropriate roster if bids are solicited from less than all contractors on the roster. If the estimated cost of the work is between \$150,000 and \$300,000, and the state agency or local government chooses to solicit bids from less than all the appropriate contractors, the remaining contractors on the roster must be notified that quotations on the work are being sought.

Limited Public Works.

In lieu of awarding contracts under the small works roster process, a state agency or authorized local government may award a contract estimated to cost less than \$35,000 using the limited public works process. For limited public works projects, the public entity may solicit electronic or written quotations from a minimum of three contractors from the appropriate small works roster and award the contract to the lowest responsible bidder. Consistent with the requirement for the small works roster process, an attempt to distribute opportunities equitably among contractors willing to perform in the geographic area of the work is required. Under the limited works process, a state agency or local government may waive the payment and performance bond and retainage requirements, thereby assuming the liability for the contractor's nonpayment of laborers, mechanics, subcontractors, materialpersons, suppliers, and taxes.

Port District Public Works.

Public works projects estimated to cost in excess of \$300,000 must be awarded using a competitive bid process that includes advertising for bids based upon plans and specifications and sealed bids. Ports are also authorized to use the small works roster and limited public works processes. Port districts may complete public works projects estimated to cost \$40,000 or less using its own employees unless it is determined that it is less expensive to contract out the work.

Summary of Bill:

Port districts may award public works contracts estimated to cost less than \$35,000 based on quotations by responsible contractors for projects. Port districts must reasonably attempt to equitably distribute the opportunity to provide quotations among responsible contractors performing similar services. Contractors do not need to be listed on the district's small works roster to be eligible. Contracts may not be negotiated after receipt of the quotation or amended by adding work not included within the intent of the original quotation. The process may not be used for the purpose of breaking apart larger scopes of work to avoid formal bidding requirements.

Payment and performance bond and retainage requirements may be waived, provided that implementing procedures are adopted. If these requirements are waived, districts assume liability for nonpayment of sums owed to various parties by contractors. A district may recover payments from contractors the district has made on their behalf.

For projects estimated to cost \$5,000 or less, districts are exempt from the requirements for advertising and competitive bids. advertising requirements.

All quotations for projects estimated to cost less than \$35,000 must be logged, open to public inspection, and available electronically by request. Prevailing wage standards apply. Notification requirements may be met by publishing an annual notification describing the nature and value of work to be performed.

For public work projects performed by port employees, districts may determine if a project can be accomplished more efficiently, rather than less expensively, by contracting out; if contracting out is more efficient, a district may contract out.

Appropriation: None.

Fiscal Note: Not requested.

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