

SENATE BILL REPORT

ESB 5356

As Passed Senate, February 23, 2021

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: Senators Short, Kuderer and Conway.

Brief History:

Committee Activity: Housing & Local Government: 2/04/21, 2/09/21 [DP].

Floor Activity: Passed Senate: 2/23/21, 49-0.

Brief Summary of Engrossed Bill

- Changes submittal requirements for a prime contract bidder on contracts expected to cost \$1,000,000 or more for the construction or alteration of any public building or public work.
- Exempts design-build and general contractor/construction manager requests for proposals.
- Requires a report on subcontractor listing policies and practices by November 1, 2022.

SENATE COMMITTEE ON HOUSING & LOCAL GOVERNMENT

Majority Report: Do pass.

Signed by Senators Kuderer, Chair; Das, Vice Chair; Fortunato, Ranking Member; Gildon, Assistant Ranking Member; Short, Assistant Ranking Member; Lovelett, Salomon and Warnick.

Staff: Bonnie Kim (786-7316)

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.

Background: Every invitation to bid on a prime contract that is expected to cost \$1,000,000 or more for the construction, alteration, or repair of any public building or public work of the state, or a state agency or municipality, or an institution of higher education, must require each prime contract bidder to submit:

- within one hour after the published bid submittal time, the names of the subcontractors with whom the bidder, if awarded the contract, will subcontract for performance of the work of heating, ventilation, and air conditioning (HVAC), plumbing, and electrical work, or to name itself for the work; or
- within 48 hours after the published bid submittal time, the names of the subcontractors with whom the bidder, if awarded the contract, will subcontract for performance of structural steel installation and rebar installation work.

Summary of Engrossed Bill: Every invitation to bid on a prime contract that is expected to cost \$1,000,000 or more for the construction, alteration, or repair of any public building or public work of the state, or a state agency or municipality, or an institution of higher education, must require each prime contract bidder to submit:

- within one hour after the published bid submittal time, the names of the subcontractors with whom the bidder, if awarded the contract, will subcontract for performance of HVAC, plumbing, and electrical work, or to name itself for the work; and
- within 48 hours after the published bid submittal time, the names of the subcontractors with whom the bidder, if awarded the contract, will subcontract for performance of structural steel installation and rebar installation work.

Design-build and general contractor/construction manager requests for proposals are exempt.

The Capital Projects Advisory Review Board must submit a report on subcontractor listing policies and practices by November 1, 2022.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This is follow up on a bill we heard in the Local Government committee last year. We want to make sure prime contractors notify who they will use as subcontractors. This bill is an important technical fix to clarify confusion amongst contractors. The intention behind last year's bill was to include structural steel and rebar installation subcontractors not to make the inclusion optional. The intention of the bill last year was to include the disclosure of all subcontractors during the

bid process. We intended the bill last year to have an "and" not an "or". This bill is small but impactful and hopefully does not fall through the cracks.

Persons Testifying: PRO: Senator Shelly Short, Prime Sponsor; Mark Streuli, NW District Council of Ironworkers - IMPACT; Neil Hartman, Washington State Association of the UA; Michael Transue, Mechanical Contractors Association of Western Washington; Mark Riker, Washington State Building and Construction Trades Council; Jerry VanderWood, Associated General Contractors of Washington.

Persons Signed In To Testify But Not Testifying: No one.