

HOUSE BILL REPORT

SSB 6572

As Reported By House Committee On:

Government Operations

Title: An act relating to the competitive bidding system.

Brief Description: Revising the competitive bid system.

Sponsors: Senate Committee on Government Operations (originally sponsored by Senators McDonald, Haugen, Heavey and West).

Brief History:

Committee Activity:

Government Operations: 2/21/96, 2/23/96 [DP].

HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

Majority Report: Do pass. Signed by 15 members: Representatives Reams, Chairman; Cairnes, Vice Chairman; Goldsmith, Vice Chairman; Rust, Ranking Minority Member; Scott, Assistant Ranking Minority Member; Conway; R. Fisher; Hargrove; Honeyford; Hymes; Mulliken; Scheuerman; D. Schmidt; Van Luven and Wolfe.

Staff: Bill Lynch (786-7092).

Background: The Division of Purchasing within the Department of General Administration is generally responsible for purchasing all materials, supplies, services, and equipment for state agencies, institutions, and institutions of higher education. When purchases are made through competitive bidding, the Division of Purchasing may reject all bids and enter into direct negotiations to achieve the best possible bid whenever it has reason to believe that the lowest acceptable bid is not the best bid available. Concerns have been expressed that these procedures are too flexible, and can result in an auction for a contract.

Concerns have been expressed that when measuring the level of minority and women's business enterprise participation, when these enterprises are acting as brokers of goods or services provided by another party, that the measure should be based upon the commission or fee paid to the minority- or women-owned business and not the total value of the goods or services provided.

Summary of Bill: In a solicitation by the state for purchases where competitive bidding is used, after the bids are opened the award must be made to the lowest responsible bidder unless there is a compelling reason to reject all bids and cancel the solicitation.

The state must make every effort to anticipate changes in a requirement before the date of the bid opening and provide reasonable notice to all prospective bidders of any modifications or cancellation. The date of the bid opening may be postponed and all bidders notified to allow bidders to change their bids and prevent unnecessary exposure of bid prices.

After bids have been opened, an increase in requirements cannot result in a cancellation of the solicitation. The increase in requirements may be treated as a new solicitation.

After bids have been opened, a solicitation may be canceled and all bids rejected if the purchasing agency, division, or department head determines that (a) unavailable, inadequate, or ambiguous specifications were used in the solicitation; (b) the specifications have been revised; (c) the supplies or services being contracted for are no longer required; (d) the solicitation did not provide for consideration of all factors of cost to the agency; (e) bids received indicate that a less expensive article than what was specified can satisfy the needs of the agency; (f) all the bids are at unreasonable prices or only one bid was received and the agency cannot determine the reasonableness of the bid price; (g) no responsive bid was received from a responsible bidder; or (h) the bid process was not fair or equitable.

An agency may no longer reject all bids and enter into direct negotiations for the purchase, but may enter into negotiations with the lowest responsible bidder in order to determine if the lowest responsible bid can be improved. An agency cannot use direct negotiations to change a nonresponsive bid into a responsive bid. An agency, division, or department head is prohibited from delegating his or her authority to award contracts to the lowest responsible bidder.

The Office of Minority and Women's Business Enterprises is required to adopt rules pertaining to an agency's or educational institution's goal attainment that measure the amount of participation by a minority or women's business enterprise acting as a broker of goods or materials only to the extent of the fee or commission received by the broker and not the value of goods or materials provided.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: This makes state law more like federal law. This will discourage bid auctions and encourage more people to submit bids. This has been worked out with the department and other interest groups.

Testimony Against: None.

Testified: Lincoln Ferris, Services Group of America; Duke Schaub, Associated General Contractors; Martha Lindley, Central Washington University; and Pat Kohler, Department of General Administration.