

# FINAL BILL REPORT

## SHB 2010

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C 133 L 07

Synopsis as Enacted

**Brief Description:** Providing responsible bidder criteria and related requirements for public works contracts.

**Sponsors:** By House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Haigh, Hunt, Ericks, Conway, Haler, Green, Hasegawa, Appleton, Campbell, Sells, Kenney, VanDeWege, Cody, Hurst, McDermott, Simpson and Ormsby).

**House Committee on State Government & Tribal Affairs**  
**Senate Committee on Labor, Commerce, Research & Development**

### **Background:**

Public works projects include construction, building, renovation, remodeling, alteration, repair or improvement of real property. Most public agencies are required to award public works contracts to the lowest responsible bidder or the responsible bidder who submits the lowest responsive bid. In public works statutes, there is no definition of "responsible bidder." Under the small works roster contracting process, the process for contract purchases of materials and equipment, and contracts for third-party cogeneration of power by a state authority, the statutes make reference to the definition of responsible bidder the state uses for purchasing goods or services. Under this definition, the agency must consider the ability of the bidder to perform the contract, the reputation and experience of the bidder, whether the bidder can perform in the time specified, the quality of performance under previous contracts, and previous compliance by the bidder with laws relating to the contract.

### **Summary:**

Responsible bidder is defined for purposes of public works contracts. In order to be considered a responsible bidder, the bidder must have a certificate of registration at the time of bid submittal; a current state unified business identifier number; and if applicable, industrial insurance coverage for the bidder's employees working in Washington, an Employment Security Department number, and a state excise tax registration number. In addition, the bidder must not be disqualified from bidding on any public works contracts.

A state or municipality may adopt relevant supplemental criteria for determining bidder responsibility that is applicable to a particular project. Any supplemental criteria must be included in the invitation to bid or the bidding documents.

At the request of a potential bidder, and after evaluation by the state or municipality, the bid criteria may be modified. If a change in criteria results, an addendum to the bidding documents must be issued identifying the new criteria.

If the state or municipality determines that a bidder is not responsible, it must provide the bidder the reasons, in writing, for that determination and must provide the bidder an opportunity to provide additional information. If the final determination is that the bidder is not responsible, the state or municipality may not execute a contract with another bidder until two business days have elapsed since the final determination was received by the bidder.

Public works contractors and subcontractors must verify that any subcontractors they directly hire meet the responsibility criteria for the project at the time of award. Verification that a subcontractor has an electrical contractor license or an elevator contractor license, if required by statute, must be included in the verification process.

The Capital Projects Advisory Review Board is to develop guidelines to assist the state and municipalities in developing supplemental responsibility criteria.

For purposes of public works contracts, "award" is defined as the formal decision by the state or municipality notifying a responsible bidder with the lowest responsive bid of the state or municipality's acceptance of the bid and intent to enter into a contract with the bidder.

**Votes on Final Passage:**

House	76	21
Senate	45	3

**Effective:** July 22, 2007