

# FINAL BILL REPORT

## HB 2535

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Synopsis as Enacted

**Brief Description:** Facilitating payments to subcontractors on design-build projects.

**Sponsors:** Representatives Miloscia, D. Schmidt, Ogden, Veloria and Haigh.

**House Committee on State Government**

**Senate Committee on State & Local Government**

**Background:**

Procedures for awarding public works contracts Legislation enacted in 1994 authorizes several state agencies and local governments to use alternative public works contracting procedures to award contracts on certain public works contracts, generally of very large dollar values. Authority to use these alternative procedures terminates on July 1, 2001. A temporary Independent Oversight Committee reviews these alternative bidding procedures and recommends changes in contracting laws to the Legislature.

One of these alternative procedures is the general contractor/construction manager (GCCM) procedure. The GCCM procedure is a multi-step competitive process to award a contract for a single firm to provide services during the design phase, as well as acting as both the construction manager and general contractor during the construction phase, for a specific facility of a relatively high cost. The general contractor guarantees the project budget under this procedure.

This procedure involves: (1) soliciting proposals; (2) using an evaluation committee to review proposals; (3) selecting three to five finalists to submit final proposals; (4) scoring the final proposals by measuring quality and technical merits on a unit price basis; (5) selecting a finalist on the basis of responsiveness and lowest price from among the finalists who are able to produce plans and specifications meeting project requirements; and (6) directly negotiating a contract with the selected firm over the maximum allowable construction costs. Negotiations may be terminated with the selected firm if an agreement is not reached and opened with the next highest scored firm until an agreement is reached or the process terminated.

The Department of General Administration, University of Washington, Washington State University, every county with a population of greater than 450,000 (King, Pierce, and Snohomish counties), every city with a population in excess of 150,000 (Seattle, Tacoma, and Spokane), port districts with populations in excess of 500,000

(Port of Seattle and Port of Tacoma), and a public facilities district constructing a baseball stadium may award contracts using the GCCM procedure on any project with an estimated cost of \$10 million or more. In addition, these entities may use the GCCM procedure on several demonstration projects of between \$3 million and \$10 million in estimated cost.

Retainage requirements on public works contracts Most public works contracts are subject to retainage requirements, where the public entity retains up to 5 percent of the contract amount from the general contractor for 45 days after completion of the project. The retained funds are used as a trust fund for the payment of laborers, subcontractors, material suppliers, and excise taxes that are imposed on the project.

**Summary of Bill:**

Retainage requirements are altered for public works contracts that are awarded using the general contractor/construction manager alternative public works procedure.

The public body may accept subcontractor work that is completed during the first half of the time specified in the contract between the public entity and the general contractor for the general contractor to complete the project. The public body may release the portion of the overall retained funds that are associated with this accepted subcontractor work 45 days after providing notice of its acceptance.

Claims against the retained funds after this 45-day period are not valid.

**Votes on Final Passage:**

House 96 0

Senate 47 0

**Effective:** June 8, 2000