

HOUSE RESOLUTION NO. 2001-4630, by Representatives Romero, McMorris, Lambert, Miloscia, Keiser and D. Schmidt

WHEREAS, A number of differing standards exist in laws throughout the country for public entities to award contracts for public works projects and for purchasing materials, supplies, and equipment, with some laws establishing the bid amount as the standard for awarding the contract and other laws allowing the government entity the option of considering other various factors, such as quality and past performance or experience, along with bid amount as the standard for awarding the contract; and

WHEREAS, Many laws in Washington state provide that a contract be awarded, if at all, to the "lowest responsible" bidder without defining that term, but some disagreement exists on the meaning of that standard, with some arguing that the contract, if awarded, may only be awarded to the bidder submitting the lowest bid if, in the case of public works projects, that bidder secures a bond, while others argue that this standard allows a government entity to reject a bid on the basis of the bidder not being "responsible" and make an award, if at all, to the remaining lowest responsible bidder; and

WHEREAS, Several laws in Washington state provide other standards by public entities awarding these contracts, including: (1) Contracts for architectural and engineering services that must be awarded to the "most qualified" firm at a price negotiated between the public entity and the firm; (2) alternative public works contracting procedures that use a request for proposals, evaluation of proposals using various factors, selecting a firm based upon these factors, and negotiations with the selected firm; (3) the department of transportation has the authority to prequalify contractors or limit contractors who are allowed to bid on projects using various statutorily defined criteria; and (4) the department of general administration has the authority to postqualify suppliers bidding on their requests for bids on purchases based upon various statutorily specified criteria; and

WHEREAS, A number of public entities, including Highline Community College, have experienced difficulties in contracting under the lowest responsible bidder procedure, feeling compelled to award the contract, if at all, to a contractor submitting the lowest bid, despite evidence that the contractor was not qualified to perform the level of sophisticated work required for the project and had a known reputation of having difficulty in public works projects;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives form an interim task force to study issues involved in the use of the lowest responsible bidder method of contracting, and related episodes such as recently occurred with Highline Community College, and make possible recommendations for changes in law to the legislature for consideration in the 2002 legislative session; and

BE IT FURTHER RESOLVED, That the interim task force be composed of eleven members as follows: (1) Two members of the house of representatives, one from each of the two major political parties, who are appointed by the co-speakers of the house; (2) an assistant attorney general with knowledge of contracting law designated by the attorney general; (3) an employee of the office of superintendent of

public instruction designated by the superintendent of public instruction; (4) a representative of a community or technical college designated by the state board for community and technical colleges; (5) an employee of the department of general administration with experience in contracting designated by the director of general administration; (6) a professor from the University of Washington with experience in contracting procedures designated by the president of the University of Washington; (7) two representatives of general contractors appointed by the co-speakers of the house; (8) a representative of subcontractors appointed by the co-speakers of the house; and (9) a representative of the building trade council appointed by the co-speakers of the house; and

BE IT FURTHER RESOLVED, That any expenses of persons serving on the interim task force shall be borne by the groups they represent and staff services for the task force shall be provided by the office of program research.

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