
SUBSTITUTE SENATE BILL 5492

State of Washington

65th Legislature

2018 Regular Session

By Senate Labor & Commerce (originally sponsored by Senators Conway, Hasegawa, Keiser, Miloscia, Hobbs, Takko, Wellman, Chase, Darneille, Hunt, and Saldaña)

READ FIRST TIME 01/17/18.

1 AN ACT Relating to adding training on public works and prevailing
2 wage requirements to responsible bidder criteria; amending RCW
3 39.04.350; creating a new section; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 39.04.350 and 2017 c 258 s 2 are each amended to
6 read as follows:

7 (1) Before award of a public works contract, a bidder must meet
8 the following responsibility criteria to be considered a responsible
9 bidder and qualified to be awarded a public works project. The bidder
10 must:

11 (a) At the time of bid submittal, have a certificate of
12 registration in compliance with chapter 18.27 RCW;

13 (b) Have a current state unified business identifier number;

14 (c) If applicable, have industrial insurance coverage for the
15 bidder's employees working in Washington as required in Title 51 RCW;
16 an employment security department number as required in Title 50 RCW;
17 and a state excise tax registration number as required in Title 82
18 RCW;

19 (d) Not be disqualified from bidding on any public works contract
20 under RCW 39.06.010 or 39.12.065(3);

1 (e) If bidding on a public works project subject to the
2 apprenticeship utilization requirements in RCW 39.04.320, not have
3 been found out of compliance by the Washington state apprenticeship
4 and training council for working apprentices out of ratio, without
5 appropriate supervision, or outside their approved work processes as
6 outlined in their standards of apprenticeship under chapter 49.04 RCW
7 for the one-year period immediately preceding the date of the bid
8 solicitation;

9 (~~Until December 31, 2013, not have violated RCW 39.04.370~~
10 ~~more than one time as determined by the department of labor and~~
11 ~~industries)) Have received training on the requirements related to
12 public works and prevailing wage under this chapter and chapter 39.12
13 RCW. The bidder must designate a person or persons to be trained on
14 these requirements. The training must be provided by the department
15 of labor and industries or by a training provider whose curriculum is
16 approved by the department and must be four hours in length. Bidders
17 that have completed three or more public works projects and have had
18 a valid business license in Washington for three or more years are
19 exempt from this subsection. The department of labor and industries
20 must keep records of entities that have satisfied the training
21 requirement or are exempt and make the records available on its web
22 site. Responsible parties may rely on the records made available by
23 the department regarding satisfaction of the training requirement or
24 exemption; and~~

25 (g) Within the three-year period immediately preceding the date
26 of the bid solicitation, not have been determined by a final and
27 binding citation and notice of assessment issued by the department of
28 labor and industries or through a civil judgment entered by a court
29 of limited or general jurisdiction to have willfully violated, as
30 defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or
31 49.52 RCW.

32 (2) Before award of a public works contract, a bidder shall
33 submit to the contracting agency a signed statement in accordance
34 with RCW 9A.72.085 verifying under penalty of perjury that the bidder
35 is in compliance with the responsible bidder criteria requirement of
36 subsection (1)(g) of this section. A contracting agency may award a
37 contract in reasonable reliance upon such a sworn statement.

38 (3) In addition to the bidder responsibility criteria in
39 subsection (1) of this section, the state or municipality may adopt

1 relevant supplemental criteria for determining bidder responsibility
2 applicable to a particular project which the bidder must meet.

3 (a) Supplemental criteria for determining bidder responsibility,
4 including the basis for evaluation and the deadline for appealing a
5 determination that a bidder is not responsible, must be provided in
6 the invitation to bid or bidding documents.

7 (b) In a timely manner before the bid submittal deadline, a
8 potential bidder may request that the state or municipality modify
9 the supplemental criteria. The state or municipality must evaluate
10 the information submitted by the potential bidder and respond before
11 the bid submittal deadline. If the evaluation results in a change of
12 the criteria, the state or municipality must issue an addendum to the
13 bidding documents identifying the new criteria.

14 (c) If the bidder fails to supply information requested
15 concerning responsibility within the time and manner specified in the
16 bid documents, the state or municipality may base its determination
17 of responsibility upon any available information related to the
18 supplemental criteria or may find the bidder not responsible.

19 (d) If the state or municipality determines a bidder to be not
20 responsible, the state or municipality must provide, in writing, the
21 reasons for the determination. The bidder may appeal the
22 determination within the time period specified in the bidding
23 documents by presenting additional information to the state or
24 municipality. The state or municipality must consider the additional
25 information before issuing its final determination. If the final
26 determination affirms that the bidder is not responsible, the state
27 or municipality may not execute a contract with any other bidder
28 until two business days after the bidder determined to be not
29 responsible has received the final determination.

30 (4) The capital projects advisory review board created in RCW
31 39.10.220 shall develop suggested guidelines to assist the state and
32 municipalities in developing supplemental bidder responsibility
33 criteria. The guidelines must be posted on the board's web site.

34 NEW SECTION. **Sec. 2.** This act takes effect July 1, 2019.

35 NEW SECTION. **Sec. 3.** If specific funding for the purposes of
36 this act, referencing this act by bill or chapter number, is not

1 provided by June 30, 2018, in the omnibus appropriations act, this
2 act is null and void.

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