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**SENATE BILL 5494**

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**State of Washington**

**56th Legislature**

**1999 Regular Session**

**By** Senators Franklin, Haugen, Shin and Roach

Read first time 01/25/1999. Referred to Committee on State & Local Government.

1 AN ACT Relating to the selection of responsible contractors bidding  
2 on public works; and adding a new chapter to Title 39 RCW.

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

4 NEW SECTION. **Sec. 1.** The purpose of this chapter is to allow all  
5 state or local governmental entities that award contracts for publicly  
6 funded projects to select contractors by the lowest responsible bidder  
7 method.

8 NEW SECTION. **Sec. 2.** (1) A state or local governmental entity  
9 that awards contracts for publicly funded projects must examine all  
10 general contractors and all electrical, mechanical, and heating,  
11 ventilation, and air conditioning subcontractors bidding on a project  
12 to determine which contractors are the lowest responsible bidders.

13 (2) The governmental entity's contracting officer must make an  
14 affirmative determination of responsibility.

15 NEW SECTION. **Sec. 3.** (1) All contractors and affected  
16 subcontractors are required to submit information, under oath, in the  
17 form of a questionnaire to the governmental entity to assist the

1 governmental entity in making a determination as to whether the  
2 contractor or subcontractor is a responsible bidder. If the  
3 information is not provided, or the information that is provided is  
4 false on a material point, then the bid will be ruled nonresponsive.  
5 Information should be included for corporate or business affiliates.

6 (2) All information submitted on the questionnaire is subject to  
7 public inspection. The required information must be submitted with the  
8 bid, or within forty-eight hours after the submission of the bid.

9 NEW SECTION. **Sec. 4.** Governmental entities may create their own  
10 questionnaire, required under section 3 of this act, or use a  
11 questionnaire created by the Washington state department of general  
12 administration or the superintendent of public instruction.

13 NEW SECTION. **Sec. 5.** In the absence of information clearly  
14 indicating that the prospective contractor is a responsible bidder,  
15 the governmental entity or the entity's contracting officer shall make  
16 a determination that the bidder is not a responsible bidder, and both  
17 the governmental entity and the contracting officer are immune from any  
18 suit or litigation brought on behalf of a bidder found to be not  
19 responsible.

20 NEW SECTION. **Sec. 6.** In determining lowest responsible bidder, in  
21 addition to price, the governmental entity awarding the contract must  
22 consider the following elements:

23 (1) The ability, capacity, and skill of the bidder to perform the  
24 contract or provide the service required;

25 (2) The character, integrity, reputation, judgment, experience, and  
26 efficiency of the bidder;

27 (3) Whether the bidder can perform the contract within the time  
28 specified;

29 (4) The quality of performance of previous contracts or services;

30 (5) The previous and existing compliance by the bidder with laws  
31 relating to the contract or services;

32 (6) Other information as may be secured having a bearing on the  
33 decision to award the contract. However, in considering bids for  
34 purchase, manufacture, or lease, and in determining the lowest  
35 responsible bidder, whenever there is reason to believe that applying  
36 the "life-cycle costing" technique to bid evaluation would result in

1 lowest total cost to the state, first consideration shall be given by  
2 state purchasing activities to the bid with the lowest life-cycle cost  
3 that complies with specifications. "Life-cycle cost" means the total  
4 cost of an item to the state over its estimated useful life, including  
5 costs of selection, acquisition, operation, maintenance, and where  
6 applicable, disposal, as far as these costs can reasonably be  
7 determined, minus the salvage value at the end of its estimated useful  
8 life. The "estimated useful life" of an item means the estimated time  
9 from the date of acquisition to the date of replacement or disposal,  
10 determined in any reasonable manner. Nothing in this section shall  
11 prohibit any state agency, department, board, commission, committee, or  
12 other state-level entity from allowing for preferential purchase of  
13 products made from recycled materials or products that may be recycled  
14 or reused.

15 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act constitute  
16 a new chapter in Title 39 RCW.

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