
State Government Committee

HB 2522

Brief Description: Prohibiting rejection of all bids except for good cause.

Sponsors: Representatives Armstrong, Haigh, Miloscia, Nixon, Tom, Hunt, Shabro, McDermott and Chase.

Brief Summary of Bill

- Prohibits rejection of public works bids except for good cause.

Hearing Date: 1/28/04

Staff: Matt Kuehn (786-7291).

Background:

Public works bids are addressed throughout the RCWs. The public works bidding process is described individually for counties with a population of over one million (RCW 36.32.235), counties with a population less than one million (RCW 36.32.240), for county road and bridge construction (RCW 36.77.040), for executive agency bids (RCW 43.19.1911), and for subcontractors (RCW 39.30.060).

Under all of the above circumstances, contractors are selected through competitive bidding. The contract is awarded in all cases to the lowest responsible bidder, although the public body selecting the contractor is permitted to reject any or all bids if good cause exists to do so.

In addition to the normal public works bidding process, there is an alternative public works procedure for circumstances where a public body has determined that a public interest is served by abandoning the standard method of awarding public works contracts to the lowest responsible bidder (39.10 RCW). The selection of large-scale, design-build, General Contractor/Contract Manager for public works projects is done without the assistance of competitive bidding for 39.10 RCW projects. Conversely, the selection of subcontractors for those same large projects is done with competitive bidding. The alternative public works chapter expires in 2007.

Summary of Bill:

The bill describes the circumstances by which an invited public works bid may be rejected, beyond circumstances where the prospective contractor is not the lowest bidder. Unless there is a cogent and compelling reason to reject all bids and cancel the invitation, the contract must be

awarded to the lowest responsive bidder. Additionally, the class of bidders who must be selected for contracts is changed from "lowest responsible" to "lowest responsive."

All contractor bids may be cancelled if a public owner determines in writing that the cancellation is in the best interest of the government. The government's best interest is served by cancellation in the following circumstances:

- The conditions in the original bid invitation are inadequate, ambiguous or restrictive;
- The public work is no longer required;
- All of the public owner's needs were not considered in the invitation;
- All of the eligible bids are at an unreasonable price;
- The bids are collusive or are submitted in bad faith; or
- The bids are not sufficiently competitive to ensure reasonable prices.

Subcontractor bids in alternative public works procedures will be evaluated like all other public bids.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.