
Local Government Committee

ESB 6167

Brief Description: Concerning local government procurement rules.

Sponsors: Senator Hasegawa.

Brief Summary of Engrossed Bill

- Delays implementation of a "lowest responsible bidder" definition and authorization to perform prudent utility management for certain jurisdictions until July 1, 2025.
- Requires the Capital Projects Advisory Review Board to review provisions related to the delay and make recommendations to the Legislature by October 31, 2024.

Hearing Date: 2/20/24

Staff: Elizabeth Allison (786-7129).

Background:

Public Works.

Public work is all work, construction, alteration, repair, or improvement, other than ordinary maintenance, executed at the cost of the state or any municipality. Every city, county, town, port district, district, or other public agency authorized to execute public work must follow specified requirements for competitive bidding for public works projects. Specific requirements vary by the type of municipality and certain exemptions are provided.

Lowest Responsible Bidder.

State law requires local agencies to award public works contracts to a responsible bidder with the lowest responsive bid, otherwise referred to as the lowest responsible bidder. Responsive bids

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are bids submitted on time with all of the information the agency requested. A responsible bidder must:

- be a registered contractor;
- have a current Unified Business Identifier number;
- have industrial insurance and workers' compensation coverage;
- have an Employment Security Department account;
- have a state excise tax registration number;
- not be disqualified from bidding because of a violation relating to registration, license, or wages;
- not have any apprenticeship violations, if applicable;
- have received training on prevailing wage and public works requirements; and
- within a three-year period immediately preceding the date of the bid solicitation, not have been determined by the Department of Labor and Industries or through a civil judgment to have willfully violated labor laws.

Prudent Utility Management.

Prudent utility management means performing work with regularly employed personnel utilizing materials of a specified worth without a contract.

2023 Legislative Changes.

During the 2023 legislative session, the Legislature adopted Substitute House Bill 1621, which included a definition of "lowest responsible bidder" that applied to public utility districts, water-sewer districts, fire protection districts, and cities. Substitute House Bill 1621 also permitted cities, water-sewer districts, and fire protection districts to have their own regularly employed personnel perform work that is an accepted industry practice under prudent utility management without a contract.

Capital Projects Advisory Review Board.

The Capital Projects Advisory Review Board, within the Department of Enterprise Services, provides evaluation of public capital projects construction processes, including the impact of contracting methods on project outcomes, and advises the Legislature on policies related to public works delivery methods and alternative public works contracting procedures.

Summary of Bill:

The definition of "lowest responsible bidder" for public utility districts, first-class cities, water-sewer districts, and fire protection districts does not apply until July 1, 2025.

Prudent utility management authorized for first-class cities, second-class cities, water-sewer districts, and fire protection districts does not apply until July 1, 2025.

The Capital Projects Advisory Review Board must review the provisions delaying implementation and make recommendations to the Legislature by October 31, 2024.

Appropriation: None.

Fiscal Note: Requested on February 16, 2024.

Effective Date: The bill takes effect on July 1, 2024.