

HOUSE BILL REPORT

HB 1549

As Reported by House Committee On:
Labor & Workplace Standards

Title: An act relating to modifying the responsible bidder criteria for public works projects.

Brief Description: Modifying the responsible bidder criteria for public works projects.

Sponsors: Representatives Fosse, Obras, Berry, Reed, Goodman, Stearns, Parshley, Callan, Salahuddin, Taylor, Ormsby, Peterson, Pollet, Scott, Macri and Hill.

Brief History:

Committee Activity:

Labor & Workplace Standards: 2/4/25, 2/14/25 [DPS].

Brief Summary of Substitute Bill

- Allows a contractor to bid on a public works project without receiving training on public works and prevailing wage if it has completed at least one public works project within the previous three years and not received a citation for certain violations within that time.
- Requires bidders who are awarded a contract with apprentice utilization requirements to submit an apprentice utilization plan, unless the bidder met or exceeded apprentice utilization requirements on the last public works project it completed.
- Requires the Department of Labor and Industries to publish certain information on its website and develop an apprentice utilization plan template.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Berry, Chair; Fosse, Vice Chair; Scott, Vice Chair;

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Schmidt, Ranking Minority Member; Ybarra, Assistant Ranking Minority Member; Bronoske, McEntire, Obras and Ortiz-Self.

Staff: Benjamin McCarthy (786-7116).

Background:

Responsible Bidder Criteria.

Public works refer to all work, construction, alteration, repair, or improvement, other than ordinary maintenance, executed at the cost of the state or a municipality. State law requires competitive bidding for all public works projects. A contractor bidding on a public works project must meet certain criteria, known as responsible bidder criteria, to be awarded a public works contract. To be a responsible bidder, the bidder must:

- be a registered contractor and, if applicable, be appropriately licensed;
- have a current Unified Business Identifier number;
- have, if applicable, industrial insurance coverage, an Employment Security Department number, and a state excise tax registration number;
- not be disqualified from bidding due to previous noncompliance with registration or prevailing wage requirements;
- not have been found out of compliance with apprenticeship requirements, if the project is subject to apprenticeship utilization requirements;
- have received training on public works and prevailing wage; and
- not have been found by the Department of Labor and Industries (L&I) or a court to have willfully violated the state's wage payment laws within the three-year period prior to the bid solicitation.

Training on public works and prevailing wage must be provided by L&I or a provider whose curriculum is approved by L&I. L&I must determine the length of the training in consultation with the Prevailing Wage Advisory Committee. Bidders who have completed three or more public works projects and have had a valid Washington business license for three or more years are exempt. The bidder must designate a person or persons to be trained. L&I must keep records of entities that have satisfied the training requirements or are exempt. L&I must post these records on its website. Responsible parties may rely on the records.

Verification of Compliance with Responsible Bidder Criteria.

Bidders must submit a signed statement under penalty of perjury that they have not been found by L&I or a court to have willfully violated the state's wage payment laws within the three-year period prior to bid solicitation. Contracting agencies may reasonably rely on this sworn statement.

Apprentice Utilization Criteria.

Apprentice utilization criteria, in general, require that on public works estimated to cost \$1 million or more, at least 15 percent of the labor hours must be performed by apprentices

enrolled in approved apprenticeship training programs. This requirement applies to contracts awarded by the state, school districts, and state four-year higher education institutions. Awarding agencies may adjust apprenticeship utilization requirements for certain reasons, such as an insufficient number of apprentices in a certain geographic area.

If a bidder has a history of receiving monetary penalties for not achieving apprentice utilization requirements or is habitual in using the good faith exception process, the bidder must submit an apprenticeship utilization plan within 10 business days immediately following notice to proceed. An apprenticeship utilization plan details verifiable efforts to meet apprentice utilization requirements.

Summary of Substitute Bill:

Responsible Bidder Criteria.

To meet responsible bidder criteria, a bidder must either: (1) within the last three year, both completed at least one public works project and not been cited for violating public works, prevailing wage, or certain other requirements, or (2) have at least one designated current officer or employee who has received training on public works and prevailing wage within the last three years.

The Department of Labor and Industries (L&I) must keep records of individuals who have satisfied the training requirements in the past three years and post these records on its website.

Verification of Compliance with Responsible Bidder Criteria.

L&I must publish available information on its website so contracting agencies can verify a bidder's compliance with the responsible bidder criteria. In addition to reasonably relying on a bidder's sworn statement that the bidder has not been found to have willfully violated the state's wage payment laws within the three-year period prior to bid solicitation, contracting agencies must verify that the bidder meets the other responsible bidder criteria based on the available information on L&I's website.

Apprentice Utilization Criteria.

Bidders who are awarded contracts that are subject to apprentice utilization requirements must submit an apprentice utilization plan before they may be given a notice to proceed. Bidders who met or exceeded apprentice utilization requirements on the last public works project that they completed, are exempt from this requirement. L&I will develop an apprentice utilization plan template that includes, at a minimum: (1) the expected start and end dates of the project; (2) estimate total work hours; (3) estimate apprentice hours by apprenticeable occupation; (4) a list of state registered apprenticeship programs; (5) a list of anticipated apprenticeship training agents or sponsors on the project; and (6) educational material on apprentice utilization requirements. Awarding agencies may develop their own templates that meet these minimum requirements, subject to approval by L&I.

L&I will publish completed apprentice utilization plans on its website.

Substitute Bill Compared to Original Bill:

The substitute bill requires bidders to submit an apprentice utilization plan before receiving notice to proceed, rather than within 60 days of being awarded the contract. The substitute bill adds an exemption from the requirement to submit an apprentice utilization plan if a bidder met or exceeded apprentice utilization requirements on the last public works project it completed. The substitute bill adds language to make it clear that apprentice utilization plans may contain estimates.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 14, 2025.

Effective Date of Substitute Bill: The bill takes effect on July 1, 2026.

Staff Summary of Public Testimony:

(In support) This increases job training for apprentices and increases transparency. This does not add penalties or regulation. There are over 2,000 apprentices out of work and 8,000 people on waitlists for apprenticeships. The solution is to increase jobsites and training opportunities. This will address the problem by requiring apprenticeship utilization plans upfront. This will recognize employers who have succeeded on public works projects without having any violations.

(Opposed) At the time a utilization plan is required, there can only be an estimate of the labor hours needed and some subcontractors might not be decided on yet. People might become training agents after the project has begun. The Washington Department of Transportation version works better, it recognizes that the apprentice utilization plan is a living document. This bill is over the top and exclusionary. It would allow only a handful of bidders to continue to bid on public works. It prohibits bidders who have a violation from bidding—this is double jeopardy—they have already been penalized for the violation.

(Other) House Bill 1050 is still being implemented, and there are concerns that this will interrupt work to shift over. Utilization plans are required after bid but before notice to proceed. It is unclear how to process them at this point in a project.

Persons Testifying: (In support) Representative Mary Fosse, prime sponsor; Erin Frasier, Washington State Building and Construction Trades Council; Chris Ellis, Bricklayers and Allied Craftworkers L 1 WA/AK; Neil Hartman, Washington State Association of UA Plumbers, Pipefitters and HVAC/R Mechanics; Joe Kendo, Washington State Labor

Council, AFL-CIO; and Jared Ross, South Sound Building and Construction Trades Council.

(Opposed) Nathan Turner, Washington State Electrical Contractors Association; and Jerry VanderWood, Associated General Contractors (AGC).

(Other) Axel Swanson, Washington State Association of County Engineers; and Chris Herman, Washington Public Ports Association.

Persons Signed In To Testify But Not Testifying: None.