
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1549

State of Washington

69th Legislature

2025 Regular Session

By House Capital Budget (originally sponsored by Representatives Fosse, Obras, Berry, Reed, Goodman, Stearns, Parshley, Callan, Salahuddin, Taylor, Ormsby, Peterson, Pollet, Scott, Macri, and Hill)

READ FIRST TIME 02/27/25.

1 AN ACT Relating to modifying the responsible bidder criteria for
2 public works projects; amending RCW 39.04.350 and 39.04.350;
3 providing effective dates; and providing an expiration date.

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

5 **Sec. 1.** RCW 39.04.350 and 2023 c 88 s 1 are each amended to read
6 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, a plumbing
13 contractor license in compliance with chapter 18.106 RCW, an elevator
14 contractor license in compliance with chapter 70.87 RCW, or an
15 electrical contractor license in compliance with chapter 19.28 RCW,
16 as required under the provisions of those chapters;

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

18 (c) If applicable, have industrial insurance coverage for the
19 bidder's employees working in Washington as required in Title 51 RCW;
20 an employment security department number as required in Title 50 RCW;

1 and a state excise tax registration number as required in Title 82
2 RCW;

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

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

13 (f) Have received training on the requirements related to public
14 works and prevailing wage under this chapter and chapter 39.12 RCW.
15 The bidder must designate a person or persons to be trained on these
16 requirements. The training must be provided by the department of
17 labor and industries or by a training provider whose curriculum is
18 approved by the department. The department, in consultation with the
19 prevailing wage advisory committee, must determine the length of the
20 training. Bidders that have completed three or more public works
21 projects and have had a valid business license in Washington for
22 three or more years are exempt from this subsection. The department
23 of labor and industries must keep records of entities that have
24 satisfied the training requirement or are exempt and make the records
25 available on its website. Responsible parties may rely on the records
26 made available by the department regarding satisfaction of the
27 training requirement or exemption; and

28 (g) Within the three-year period immediately preceding the date
29 of the bid solicitation, not have been determined by a final and
30 binding citation and notice of assessment issued by the department of
31 labor and industries or through a civil judgment entered by a court
32 of limited or general jurisdiction to have willfully violated, as
33 defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or
34 49.52 RCW.

35 (2) Before award of a public works contract, a bidder shall
36 submit to the contracting agency a signed statement in accordance
37 with chapter 5.50 RCW verifying under penalty of perjury that the
38 bidder is in compliance with the responsible bidder criteria
39 requirement of subsection (1)(g) of this section. A contracting

1 agency may award a contract in reasonable reliance upon such a sworn
2 statement.

3 (3)(a) In addition to the bidder responsibility criteria in
4 subsection (1) of this section, for a project subject to apprentice
5 utilization requirements under RCW 39.04.320, the bidder shall submit
6 an apprentice utilization plan to the awarding agency before
7 receiving the notice to proceed. A contracting agency may exempt a
8 bidder from the requirements of this subsection if the bidder met or
9 exceeded apprentice utilization requirements on the last public works
10 project the bidder completed. Contracting agencies may rely on
11 records made available by the department of labor and industries to
12 determine whether a bidder is eligible for the exemption in this
13 subsection.

14 (b) The department of labor and industries shall develop an
15 apprentice utilization plan template and make the template available
16 to awarding agencies and bidders. The plan template must include, at
17 minimum: The projected start and end dates of the project; estimated
18 total work hours; estimated apprentice hours by apprenticeable
19 occupation; list of state registered apprenticeship programs to be
20 contacted; and list of estimated apprenticeship training agents or
21 sponsors on the project. The plan template must also include
22 educational material on apprentice utilization requirements,
23 including how to access apprentices and contact apprenticeship
24 programs and where to find additional and relevant resources. The
25 department may approve the use of a template developed by an awarding
26 agency if it meets the minimum requirements of this subsection.

27 (c) The department of labor and industries shall publish
28 completed apprentice utilization plans on its website.

29 (4) In addition to the bidder responsibility criteria in
30 subsection (1) of this section, the state or municipality may adopt
31 relevant supplemental criteria for determining bidder responsibility
32 applicable to a particular project which the bidder must meet.

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

37 (b) In a timely manner before the bid submittal deadline, a
38 potential bidder may request that the state or municipality modify
39 the supplemental criteria. The state or municipality must evaluate
40 the information submitted by the potential bidder and respond before

1 the bid submittal deadline. If the evaluation results in a change of
2 the criteria, the state or municipality must issue an addendum to the
3 bidding documents identifying the new criteria.

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

9 (d) If the state or municipality determines a bidder to be not
10 responsible, the state or municipality must provide, in writing, the
11 reasons for the determination. The bidder may appeal the
12 determination within the time period specified in the bidding
13 documents by presenting additional information to the state or
14 municipality. The state or municipality must consider the additional
15 information before issuing its final determination. If the final
16 determination affirms that the bidder is not responsible, the state
17 or municipality may not execute a contract with any other bidder
18 until two business days after the bidder determined to be not
19 responsible has received the final determination.

20 (e) If the bidder has a history of receiving monetary penalties
21 for not achieving the apprentice utilization requirements pursuant to
22 RCW 39.04.320, or is habitual in utilizing the good faith effort
23 exception process, the bidder must submit an apprenticeship
24 utilization plan within ten business days immediately following the
25 notice to proceed date.

26 ~~((4))~~ (5) The capital projects advisory review board created in
27 RCW 39.10.220 shall develop suggested guidelines to assist the state
28 and municipalities in developing supplemental bidder responsibility
29 criteria. The guidelines must be posted on the board's website.

30 **Sec. 2.** RCW 39.04.350 and 2023 c 88 s 1 are each amended to read
31 as follows:

32 (1) Before award of a public works contract, a bidder must meet
33 the following responsibility criteria to be considered a responsible
34 bidder and qualified to be awarded a public works project. The bidder
35 must:

36 (a) At the time of bid submittal, have a certificate of
37 registration in compliance with chapter 18.27 RCW, a plumbing
38 contractor license in compliance with chapter 18.106 RCW, an elevator
39 contractor license in compliance with chapter 70.87 RCW, or an

1 electrical contractor license in compliance with chapter 19.28 RCW,
2 as required under the provisions of those chapters;

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

4 (c) If applicable, have industrial insurance coverage for the
5 bidder's employees working in Washington as required in Title 51 RCW;
6 an employment security department number as required in Title 50 RCW;
7 and a state excise tax registration number as required in Title 82
8 RCW;

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

11 (e) If bidding on a public works project subject to the
12 (~~apprenticeship~~) apprentice utilization requirements in RCW
13 39.04.320, not have been found out of compliance by the Washington
14 state apprenticeship and training council for working apprentices out
15 of ratio, without appropriate supervision, or outside their approved
16 work processes as outlined in their standards of apprenticeship under
17 chapter 49.04 RCW for the one-year period immediately preceding the
18 date of the bid solicitation;

19 (f) (i) Have completed at least one public works project within
20 the previous three years and have not received a citation for a
21 violation of this chapter, chapter 39.12 RCW, or those provided in
22 RCW 39.12.055 (1) through (3) during that same time period; or (ii)
23 have at least one designated person who is a current employee or
24 officer and who has received training on the requirements related to
25 public works and prevailing wage under this chapter and chapter 39.12
26 RCW (~~(. The bidder must designate a person or persons to be trained on~~
27 ~~these requirements)) within the previous three years. The training
28 must be provided by the department of labor and industries or by a
29 training provider whose curriculum is approved by the department. The
30 department, in consultation with the prevailing wage advisory
31 committee, must determine the length of the training. (~~Bidders that~~
32 ~~have completed three or more public works projects and have had a~~
33 ~~valid business license in Washington for three or more years are~~
34 ~~exempt from this subsection.)) The department of labor and industries
35 must keep records of (~~entities~~) persons that have (~~satisfied~~)
36 completed the training (~~requirement or are exempt~~) in the previous
37 three years and make the records available on its website.
38 Responsible parties may rely on the records made available by the
39 department (~~regarding satisfaction of the training requirement or~~
40 ~~exemption~~); and~~~~

1 (g) Within the three-year period immediately preceding the date
2 of the bid solicitation, not have been determined by a final and
3 binding citation and notice of assessment issued by the department of
4 labor and industries or through a civil judgment entered by a court
5 of limited or general jurisdiction to have willfully violated, as
6 defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or
7 49.52 RCW.

8 (2)(a) The department of labor and industries shall publish on
9 its website available information in order for contracting agencies
10 to verify the status of a bidder's compliance with each of the
11 criteria under subsection (1)(a) through (f) of this section.

12 (b) Before award of a public works contract, a bidder shall
13 submit to the contracting agency a signed statement in accordance
14 with chapter 5.50 RCW verifying under penalty of perjury that the
15 bidder is in compliance with the responsible bidder criteria
16 requirement of subsection (1)(g) of this section. A contracting
17 agency may (~~award a contract in reasonable reliance~~) reasonably
18 rely upon such a sworn statement. The contracting agency shall verify
19 that the bidder meets the remaining criteria in subsection (1) of
20 this section through publicly available information on the department
21 of labor and industries' website.

22 (3)(a) In addition to the bidder responsibility criteria in
23 subsection (1) of this section, for a project subject to apprentice
24 utilization requirements under RCW 39.04.320, the bidder shall submit
25 an apprentice utilization plan to the awarding agency before
26 receiving the notice to proceed. A contracting agency may exempt a
27 bidder from the requirements of this subsection if the bidder met or
28 exceeded apprentice utilization requirements on the last public works
29 project the bidder completed. Contracting agencies may rely on
30 records made available by the department of labor and industries to
31 determine whether a bidder is eligible for the exemption in this
32 subsection.

33 (b) The department of labor and industries shall develop an
34 apprentice utilization plan template and make the template available
35 to awarding agencies and bidders. The plan template must include, at
36 minimum: The projected start and end dates of the project; estimated
37 total work hours; estimated apprentice hours by apprenticeable
38 occupation; list of state registered apprenticeship programs to be
39 contacted; and list of estimated apprenticeship training agents or
40 sponsors on the project. The plan template must also include

1 educational material on apprentice utilization requirements,
2 including how to access apprentices and contact apprenticeship
3 programs and where to find additional and relevant resources. The
4 department may approve the use of a template developed by an awarding
5 agency if it meets the minimum requirements of this subsection.

6 (c) The department of labor and industries shall publish
7 completed apprentice utilization plans on its website.

8 (4) In addition to the bidder responsibility criteria in
9 subsection (1) of this section, the state or municipality may adopt
10 relevant supplemental criteria for determining bidder responsibility
11 applicable to a particular project which the bidder must meet.

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

16 (b) In a timely manner before the bid submittal deadline, a
17 potential bidder may request that the state or municipality modify
18 the supplemental criteria. The state or municipality must evaluate
19 the information submitted by the potential bidder and respond before
20 the bid submittal deadline. If the evaluation results in a change of
21 the criteria, the state or municipality must issue an addendum to the
22 bidding documents identifying the new criteria.

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

28 (d) If the state or municipality determines a bidder to be not
29 responsible, the state or municipality must provide, in writing, the
30 reasons for the determination. The bidder may appeal the
31 determination within the time period specified in the bidding
32 documents by presenting additional information to the state or
33 municipality. The state or municipality must consider the additional
34 information before issuing its final determination. If the final
35 determination affirms that the bidder is not responsible, the state
36 or municipality may not execute a contract with any other bidder
37 until two business days after the bidder determined to be not
38 responsible has received the final determination.

39 ~~((e) If the bidder has a history of receiving monetary penalties~~
40 ~~for not achieving the apprentice utilization requirements pursuant to~~

1 ~~RCW 39.04.320, or is habitual in utilizing the good faith effort~~
2 ~~exception process, the bidder must submit an apprenticeship~~
3 ~~utilization plan within ten business days immediately following the~~
4 ~~notice to proceed date.~~

5 (4)) (5) The capital projects advisory review board created in
6 RCW 39.10.220 shall develop suggested guidelines to assist the state
7 and municipalities in developing supplemental bidder responsibility
8 criteria. The guidelines must be posted on the board's website.

9 NEW SECTION. **Sec. 3.** Section 1 of this act takes effect July 1,
10 2026.

11 NEW SECTION. **Sec. 4.** Section 1 of this act expires July 1,
12 2027.

13 NEW SECTION. **Sec. 5.** Section 2 of this act takes effect July 1,
14 2027.

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