

SENATE BILL REPORT

SB 6853

As Reported By Senate Committee On:
Transportation, February 6, 2006

Title: An act relating to vessel procurement.

Brief Description: Modifying phase three procurement provisions for design-build ferries.

Sponsors: Senators Haugen and Benson; by request of Department of Transportation.

Brief History:

Committee Activity: Transportation: 1/30/06, 2/6/06 [DPS, w/oRec].

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Substitute Senate Bill No. 6853 be substituted therefor, and the substitute bill do pass.

Signed by Senators Haugen, Chair; Jacobsen, Vice Chair; Poulsen, Vice Chair; Benson, Ranking Minority Member; Berkey, Eide, Mulliken, Oke, Sheldon, Spanel, Swecker and Weinstein.

Minority Report: That it be referred without recommendation.

Signed by Senator Esser.

Staff: Janice Baumgardt (786-7319)

Background: Under current law, the design-build ferry procurement process includes three phases. To commence the process, the Department of Transportation (DOT) issues a notice of intent to submit a request for proposal (RFP). In phase one, DOT evaluates and selects pre-qualified proposers to participate in development of technical proposals. Agency rules outline pre-qualification requirements which include both a technical and financial test. In phase two, qualified proposers prepare technical proposals in consultation with DOT. Phase three includes the submission and evaluation of bids, award of the contract, and design and construction of the auto ferries. In order to be considered, bids must conform with the technical proposals submitted in phase two and proposers must have qualified through phase two. DOT may select the lowest total bid price and award the contract or reject any or all of the bids, republish the RFP, or revise or cancel the RFP. DOT may provide an honorarium to reimburse each unsuccessful phase three proposer for a portion of its technical proposal preparation costs.

Summary of Substitute Bill: Phase two language is changed to reference the new "best and final" proposal process. Language is added that DOT's review of the proposers' technical proposal must not replace the builder's responsibility to meet the requirements of the RFP.

In phase three, language is changed from the "lowest bidder" process to a "best and final" proposal process. The "best and final" process is a scored evaluation process which considers

price and other evaluation factors and results in the selection of the highest scoring proposal. The factors, weighting, and process used to score the proposals must be identified in the RFP. DOT may amend the RFP to add factors if the process is already underway. Factors may include, but are not limited to:

- price;
- ability, capacity, and skill of the proposer's project team and other key personnel to perform the contract;
- the integrity, reputation, experience, and efficiency of the proposer;
- design capability;
- build strategy;
- location and quality of the shipyard facilities intended for performance of the contract;
- ability to meet the vessel delivery dates;
- recent, current, and projected work load;
- experience and quality of performance on previous contracts;
- recent and current compliance with laws relating to ship construction and repair;
- objective, measurable criteria as may be defined in the request for proposal; and
- such other information as may be secured having a bearing on the decision to award the contract.

DOT must negotiate with the submitting firm with the highest score. If it is unable to execute a contract with that "best and final" proposing firm, DOT may negotiate with the next highest scoring bidder, and so on.

DOT may use an independent panel of experts to provide oversight and make recommendations to DOT on the implementation of phases two and three.

Intent language is added.

Substitute Bill Compared to Original Bill: The bill as referred to committee was not considered.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Lowest bid contracting doesn't always end up as the lowest cost product; this bill will allow other factors to be considered when awarding the contract. Best value contracting results in customers receiving the product that best meets their need.

Testimony Against: This legislation removes all safeguards from the original legislation; it removes all "lowest" price language and says the shipyard is not responsible for the final product. The process already ensures that only qualified builders be allowed to bid.

Who Testified: PRO: Doug MacDonald, Secretary, Department of Transportation; Scot Wiscomb, CEO, Todd Shipyards; Randy Ray, Todd Shipyards; Bill Alkire, Nichols Bros. Boatbuilders; Bryan Nichols, President, Nichols Bros. Boatbuilders.

CON: Jonathan Platt, J. M. Martinac.