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HOUSE BILL 2846

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By Representatives Ormsby, Sells, Frame, Gregerson, Moscoso, Bergquist, Jenkins, Cody, Peterson, Robinson, Farrell, Riccelli, Sawyer, Pollet, Appleton, Reykdal, Kilduff, Stanford, Walkinshaw, and Santos

Read first time 01/22/16. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to compliance with apprenticeship utilization  
2 requirements; amending RCW 39.04.350 and 39.12.055; and adding a new  
3 section to chapter 49.04 RCW.

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

5 **Sec. 1.** RCW 39.04.350 and 2010 c 276 s 2 are each amended to  
6 read 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;

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

14 (c) If applicable, have industrial insurance coverage for the  
15 bidder's employees working in Washington as required in Title 51 RCW;  
16 an employment security department number as required in Title 50 RCW;  
17 and a state excise tax registration number as required in Title 82  
18 RCW;

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

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

11 (f) Until December 31, 2013, not have violated RCW 39.04.370 more  
12 than one time as determined by the department of labor and  
13 industries.

14 (2) In addition to the bidder responsibility criteria in  
15 subsection (1) of this section, the state or municipality may adopt  
16 relevant supplemental criteria for determining bidder responsibility  
17 applicable to a particular project which the bidder must meet.

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

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

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

34 (d) If the state or municipality determines a bidder to be not  
35 responsible, the state or municipality must provide, in writing, the  
36 reasons for the determination. The bidder may appeal the  
37 determination within the time period specified in the bidding  
38 documents by presenting additional information to the state or  
39 municipality. The state or municipality must consider the additional  
40 information before issuing its final determination. If the final

1 determination affirms that the bidder is not responsible, the state  
2 or municipality may not execute a contract with any other bidder  
3 until two business days after the bidder determined to be not  
4 responsible has received the final determination.

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

9 **Sec. 2.** RCW 39.12.055 and 2009 c 197 s 3 are each amended to  
10 read as follows:

11 A contractor shall not be allowed to bid on any public works  
12 contract for one year from the date of a final determination that the  
13 contractor has committed any combination of two of the following  
14 violations or infractions within a five-year period:

15 (1) Violated RCW 51.48.020(1) or 51.48.103;

16 (2) Committed an infraction or violation under chapter 18.27 RCW  
17 for performing work as an unregistered contractor; ((~~or~~))

18 (3) Determined to be out of compliance by the Washington state  
19 apprenticeship and training council for working apprentices out of  
20 ratio, without appropriate supervision, or outside their approved  
21 work processes as outlined in their standards of apprenticeship under  
22 chapter 49.04 RCW; or

23 (4) Determined to be out of compliance with the percentage of  
24 labor hours required to be performed by apprentices under RCW  
25 39.04.320.

26 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.04  
27 RCW to read as follows:

28 (1) In addition to the duties established under RCW 49.04.030,  
29 the supervisor of apprenticeship shall monitor compliance by  
30 contractors and awarding agencies of apprenticeship utilization  
31 requirements. The supervisor may coordinate with the department of  
32 enterprise services, the state department of transportation, the  
33 office of the superintendent of public instruction, and any other  
34 appropriate agency or organization to assist in tracking compliance.

1           (2) Compliance information must be made available to the  
2 apprenticeship council and must be used to determine compliance for  
3 purposes of RCW 39.04.350 and 39.12.055.

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