
SENATE BILL 6239

State of Washington

66th Legislature

2020 Regular Session

By Senators Conway, Keiser, Hasegawa, Saldaña, Van De Wege, Lovelett,
and Wilson, C.

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on Labor & Commerce.

1 AN ACT Relating to compliance with apprenticeship utilization
2 requirements and bidding on public works projects; and amending RCW
3 39.04.310 and 39.04.350.

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

5 **Sec. 1.** RCW 39.04.310 and 2015 c 48 s 1 are each amended to read
6 as follows:

7 The definitions in this section apply throughout this section and
8 RCW 39.04.300 and 39.04.320 unless the context clearly requires
9 otherwise.

10 (1) "Apprentice" means an apprentice enrolled in a state-approved
11 apprenticeship training program.

12 (2) "Apprentice utilization requirement" means the requirement
13 that the appropriate percentage of labor hours be performed by
14 apprentices for each and every contractor and subcontractor on a
15 public works project.

16 (3) "Labor hours" means the total hours of workers receiving an
17 hourly wage who are directly employed by the contractor or
18 subcontractor on a public works project upon the public works
19 project. "Labor hours" includes hours performed by workers employed
20 by the contractor and all subcontractors working on the project, and
21 is measured on a per contractor basis. "Labor hours" does not include

1 hours worked by foremen, superintendents, owners, and workers who are
2 not subject to prevailing wage requirements.

3 (4) "School district" has the same meaning as in RCW 28A.315.025.

4 (5) "State-approved apprenticeship training program" means an
5 apprenticeship training program approved by the Washington state
6 apprenticeship council.

7 **Sec. 2.** RCW 39.04.350 and 2019 c 232 s 15 are each amended to
8 read as follows:

9 (1) Before award of a public works contract, a bidder must meet
10 the following responsibility criteria to be considered a responsible
11 bidder and qualified to be awarded a public works project. The bidder
12 must:

13 (a) At the time of bid submittal, have a certificate of
14 registration in compliance with chapter 18.27 RCW;

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

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

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

23 (e) If bidding on a public works project subject to the
24 apprenticeship utilization requirements in RCW 39.04.320, not have
25 been found out of compliance by the Washington state apprenticeship
26 and training council for working apprentices out of ratio, without
27 appropriate supervision, or outside their approved work processes as
28 outlined in their standards of apprenticeship under chapter 49.04 RCW
29 for the one-year period immediately preceding the date of the bid
30 solicitation;

31 (f) If bidding on a public works project subject to the
32 apprenticeship utilization requirements in RCW 39.04.320, be a
33 training agent operating under a valid training agreement in
34 accordance with chapter 49.04 RCW;

35 (g) Have received training on the requirements related to public
36 works and prevailing wage under this chapter and chapter 39.12 RCW.
37 The bidder must designate a person or persons to be trained on these
38 requirements. The training must be provided by the department of
39 labor and industries or by a training provider whose curriculum is

1 approved by the department. The department, in consultation with the
2 prevailing wage advisory committee, must determine the length of the
3 training. Bidders that have completed three or more public works
4 projects and have had a valid business license in Washington for
5 three or more years are exempt from this subsection. The department
6 of labor and industries must keep records of entities that have
7 satisfied the training requirement or are exempt and make the records
8 available on its web site. Responsible parties may rely on the
9 records made available by the department regarding satisfaction of
10 the training requirement or exemption; and

11 ~~((g))~~ (h) Within the three-year period immediately preceding
12 the date of the bid solicitation, not have been determined by a final
13 and binding citation and notice of assessment issued by the
14 department of labor and industries or through a civil judgment
15 entered by a court of limited or general jurisdiction to have
16 willfully violated, as defined in RCW 49.48.082, any provision of
17 chapter 49.46, 49.48, or 49.52 RCW.

18 (2) Before award of a public works contract, a bidder shall
19 submit to the contracting agency a signed statement in accordance
20 with chapter 5.50 RCW verifying under penalty of perjury that the
21 bidder is in compliance with the responsible bidder criteria
22 requirement of subsection (1)~~((g))~~ (h) of this section. A
23 contracting agency may award a contract in reasonable reliance upon
24 such a sworn statement.

25 (3) In addition to the bidder responsibility criteria in
26 subsection (1) of this section, the state or municipality may adopt
27 relevant supplemental criteria for determining bidder responsibility
28 applicable to a particular project which the bidder must meet.

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

33 (b) In a timely manner before the bid submittal deadline, a
34 potential bidder may request that the state or municipality modify
35 the supplemental criteria. The state or municipality must evaluate
36 the information submitted by the potential bidder and respond before
37 the bid submittal deadline. If the evaluation results in a change of
38 the criteria, the state or municipality must issue an addendum to the
39 bidding documents identifying the new criteria.

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

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

17 (4) The capital projects advisory review board created in RCW
18 39.10.220 shall develop suggested guidelines to assist the state and
19 municipalities in developing supplemental bidder responsibility
20 criteria. The guidelines must be posted on the board's web site.

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