
OLR Bill Analysis

sSB 248

AN ACT CONCERNING PUBLIC WORKS PROJECTS AND THE THRESHOLD FOR COMPETITIVE BIDDING, SUBCONTRACTOR PREQUALIFICATION, CONSTRUCTION MANAGER AT-RISK PROJECT DELIVERY CONTRACTS, THE HIRING OF CONSULTANTS AND THE PURCHASING OF CERTAIN PROPERTY AND SERVICES.

SUMMARY:

This bill increases, from \$500,000 to \$1.5 million, the threshold triggering requirements for a competitive bidding process for state public works projects administered by the Department of Administrative Services (DAS). It establishes a separate awards process for DAS-administered public works projects that cost more than \$500,000 but less than \$1.5 million. It similarly increases, from \$500,000 to \$1.5 million, the cost of emergency repairs that DAS may contract for without certification to the Legislative Management Committee and the governor's prior approval.

The bill also requires certain subcontractors to be prequalified by DAS at the time a bid is submitted. The law requires subcontractors with contracts worth more than \$500,000 for public works projects paid for in whole or in part by the state, except for those administered by the Department of Transportation (DOT), to be prequalified by DAS, but such subcontractors currently have until the project starts to become prequalified (§ 2).

The bill allows, for DAS construction manager at risk (CMR) projects that involve renovations of existing buildings or facilities, (1) certain work to begin before the project's guaranteed maximum price (GMP) is determined and (2) a separate GMP to be determined for each phase of a multi-phase project.

The bill specifically allows DAS to enter into "on-call" contracts

with architects, professional engineers, and construction administrators “for a particular program involving various projects” for constructing or renovating buildings under the control of either the Military Department or the Department of Energy and Environmental Protection. Under current law, DAS can enter into on-call contracts for a range of consultant services or a range of tasks pursuant to a task letter detailing the services to be performed (see BACKGROUND) (§ 6).

The bill also specifically allows the DAS commissioner, when purchasing equipment, supplies, materials, or other property or services needed to fulfill his public works-related responsibilities, to (1) use cooperative purchasing and (2) purchase directly from the federal government.

Lastly, the bill makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2014

§§ 1, 3, & 4 — COMPETITIVE BIDDING THRESHOLD

The bill increases, from \$500,000 to \$1.5 million, the project cost threshold triggering competitive bidding for DAS-administered public works projects. Under current law, with certain exceptions (e.g., DOT-administered projects), any contract for the construction, reconstruction, alteration, remodeling, repair, or demolition of any public building or any other public work by the state estimated to cost more than \$500,000 must be awarded, through competitive bidding, to the lowest responsible DAS-prequalified contractor. The bill retains the \$500,000 competitive bidding threshold for projects administered by other agencies (e.g., the Judicial Branch).

Sealed Bids for Projects Costing Less Than \$1.5 Million

The bill establishes a separate process of sealed bidding, developed by the DAS commissioner, for DAS-administered public works projects estimated to cost more than \$500,000 but less than \$1.5 million. The process must be (1) different from the competitive bidding process described above, (2) followed whenever practicable, and (3) include

soliciting bids from (a) at least three contractors on a list of preselected contractors or (b) all available contractors on the list if fewer than three are available. The contractors must be deemed by the DAS commissioner to possess the necessary skill, ability, and integrity to perform the specific scope of work.

§ 4 — EMERGENCY REPAIRS

The law allows the DAS commissioner and the Legislative Management Committee to enter into contracts for emergency repairs to state facilities without competitive bidding. Under current law, the commissioner cannot act on a project costing more than \$500,000 without (1) the governor's written consent and (2) certifying to the Legislative Management Committee that a competitive bidding exception is warranted because of the project's emergency nature. The bill increases the threshold for invoking these conditions to \$1.5 million.

§ 5 — CMR PROJECTS

By law, a CMR project cannot proceed until the GMP is determined, except for site preparation and demolition work for which contracts have previously been bid and awarded (see BACKGROUND). The bill allows public utility installation and connections, and building envelope components (e.g., roof, doors, windows, exterior walls), to also begin before the GMP is determined, as long as they (1) have previously been bid and awarded and (2) do not cost more than 25% of the entire project's estimated construction cost. This authority applies only to CMR projects that involve renovations of existing buildings or facilities. The bill also allows a separate GMP to be determined for each phase of a multi-phase project that involves renovating an existing building while it remains occupied. Under current law, one GMP is determined for the entire project.

The bill eliminates a requirement that the construction manager for a DAS-administered CMR project advertise, in one or more newspapers having general circulation in the state, bidding opportunities for project elements (i.e., trade packages) of a CMR project. Instead, it conforms the law to current practice by requiring

that such opportunities be posted on the State Contracting Portal.

§ 7 — COOPERATIVE PURCHASING

The bill specifically allows the DAS commissioner, when purchasing equipment, supplies, materials, or other property or services needed to fulfill his public works-related responsibilities, to (1) use cooperative purchasing and (2) purchase them directly from the federal government.

By law, the commissioner may join with federal agencies, other states, Connecticut political subdivisions, or nonprofit organizations in cooperative purchasing plans when it is in the state's best interests to do so. He may also, on the state's behalf, purchase equipment, supplies, materials, and services by joining existing purchasing contracts with these entities or public consortia. The state is subject to the same contract terms and conditions as the other entities. The commissioner may also, on the state's behalf, purchase, lease, or otherwise acquire equipment, supplies, materials, or other property from the federal government.

BACKGROUND

On-Call Contracts

An on-call contract defines a broad range of consultant services (e.g., architectural services, professional engineers, accountants, and others) and is generally valid for two to three years. An on-call contract is generally not connected to a specific project; rather, DAS subsequently issues task letters to firms with on-call contracts that identify a specific scope of services to be performed and the fee for those services.

DAS must establish selection panels for evaluating consultant services proposals (including those for on-call contracts) if the value of the services exceeds \$300,000. The panels must submit a list of the most qualified firms to the DAS commissioner for his consideration.

CMR Projects

In a CMR project, the owner (e.g., DAS) hires a firm with

construction experience (the construction manager or “CM”), usually during a project’s design phase, to manage the entire construction process. The CM provides pre-construction services such as estimating costs, budgeting, reviewing constructability and suggesting construction alternatives, and scheduling. Once the design is finalized, the CM seeks competitive bids from subcontractors for each project element (e.g., electrical, mechanical, carpentry, roofing). Once the subcontractors’ bids are received and verified for compliance with project requirements, scope, and specifications, the CM and the project owner negotiate and set a GMP for construction. The CM assumes the risk to complete the project within the GMP.

The GMP includes the CM’s fee, the cost of the work, and contingency funds for the project. The CM is responsible for costs that exceed the GMP, excluding any work not included in the final GMP that the owner authorizes through a change order process.

Related Bill

sSB 5311, reported favorably by the Government Administration and Elections Committee, increases, from \$500,000 to \$1 million, the threshold at which any state agency may administer its own public works project. It also increases the competitive bidding threshold to \$1 million for all agencies.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 13 Nay 0 (03/24/2014)