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House Committee on State Government and Tribal Affairs

October 19, 2010

1 AN ACT Relating to authorizing pilot projects using the best value  
2 contracting procedure; and adding a new section to chapter 39.10 RCW.

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

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8 NEW SECTION. **Sec. 1.** The legislature finds that the traditional  
9 process of awarding public works contracts to the lowest responsible,  
10 responsive bidder is a fair and objective method of selecting a  
11 contractor. The legislature also finds that it is in the public  
12 interest to include life cycle costs and other value added to a public  
13 works project in determining the overall price. Therefore, the  
14 legislature intends that the capital projects advisory review board  
15 evaluate the use of best value contracting through a limited number of  
16 demonstration projects that award public works projects using a  
17 combination of price, qualifications, and value added to the project.

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1        NEW SECTION. **Sec. 2.** A new section is added to chapter 39.10 RCW  
2 to read as follows: (1) The project review committee may authorize  
3 twenty pilot projects using best value contracting. For purposes of  
4 this section, "best value contracting" means a public works project  
5 that is awarded based on price, qualifications, and value added to the  
6 overall project. In order for a public body to be authorized to use  
7 best value, it must have completed either a general contractor  
8 construction manager or a design build project since July 2007. The  
9 project review committee may authorize a public body to use best value  
10 when all of the following criteria are met:

11        (a) The project involves construction with a high risk of cost  
12 or operational impacts, or requires a contractor highly skilled with  
13 the installation of a specific system;

14        (b) Implementation of the project requires a high level of  
15 contractor management skills in a specialized area during  
16 construction; and

17        (c) The project has a high potential to benefit from the value  
18 added by specialized construction management.

19        No public body may be authorized more than three pilot projects  
20 using best value.

21        (2) If a public body is authorized a best value pilot project,  
22 it must:

23        (a) Publish a notice of its intent to utilize the best value  
24 process to evaluate bidders in a legal newspaper published in or as  
25 near as possible to that part of the county where the public work  
26 will be constructed at least fourteen calendar days before  
27 conducting a public hearing. The public hearing notice must include  
28 the date, time, and location of the hearing and instructions on how  
29 to obtain, prior to the hearing, the specific criteria and  
30 applicable weights given to each criterion that will be used to  
31 evaluate the proposals.

32        (b) Conduct a public hearing and provide an opportunity for any  
33 interested party to submit written and verbal comments regarding the  
34 evaluation criteria and weights for each criterion.

1 (c) After the public hearing, consider and respond to written  
2 and verbal comments received and determine the final criteria and  
3 weights given to each criterion.

4 (3) Contracts using best value must be awarded through a  
5 competitive process using public solicitation of proposals. The  
6 public body must publish at least once in a legal newspaper of  
7 general circulation published in, or as near as possible to that  
8 part of the county in which the public work will be constructed, a  
9 notice of its request for proposals and the availability and  
10 location of the proposal documents. The request for proposal  
11 documents must include:

12 (a) Design drawings and specifications;

13 (b) A description of the qualifications, experience, and  
14 previous performance required of the proposer;

15 (c) A description of the factors, other than modifications to  
16 the design, that may be considered by the public body that add value  
17 to the project;

18 (d) A description of the process the public body will use to  
19 evaluate the proposals, including evaluation factors and the  
20 relative weight of factors; and

21 (e) Compliance with the bid listing requirements as described in  
22 RCW 29.30.060.

23 (4) Evaluation factors for selection of the contractor may  
24 include, but not be limited to:

25 (a) The bid price;

26 (b) The firm's approach to the public body's technical criteria;  
27 and

28 (c) Qualifications, experience and previous performance of the  
29 firm acting as a prime contractor, including but not limited to:

30 (i) Ability of the firm's professional personnel;

31 (ii) The firm's past performance on similar projects;

32 (iii) The firm's ability to meet time and budget requirements;

33 (iv) The scope of work the firm proposes to perform with its own  
34 forces and its ability to perform that work;

1 (v) The firm's plan for outreach to certified minority and  
2 women-owned businesses and small businesses;  
3 (vi) The firm's proximity to the project location;  
4 (vii) The firm's capacity to successfully complete the project;  
5 (viii) The firm's approach to executing the project; and  
6 (ix) The firm's safety history and its approach to safety for  
7 the project.

8 (5) The public body must establish an evaluation committee to  
9 evaluate proposals. Evaluations are based on the criterion and  
10 process identified in the bid documents. Based on the evaluation  
11 committee's findings, the public body will select the firm offering  
12 the best price and value added.

13 (6) A public body utilizing the best value contracting procedure  
14 shall submit project information as required by the capital projects  
15 advisory review board, including any information that may be  
16 requested to determine whether the project met expectations  
17 following completion. Contract documents must include requirements  
18 that the contractor, subcontractors, and designers also submit  
19 project information as required by the board.

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