

Legal-Related News



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NEW LAW ON MINIMUM BIDDER RESPONSIBILITY CRITERIA

Contractors bidding on public works projects take note: A new law establishing criteria and processes for public owners' use in determining if bidders on public works project are "responsible" goes into effect July 22, 2007. The law provides minimum responsibility criteria which must be met by contractors, including:

- Bidders must be registered contractors at the time of bid.
- Bidders must have a current state Unified Business Identifier (UBI) account number.
- Bidders must have Industrial Insurance coverage, an Employment Security Department number, and a state excise tax registration number, if required by applicable law.
- Bidders must not be disqualified from bidding on public works contracts as a

result of having two prevailing wage violations within a five-year period, or for failing to maintain a record of subcontractors' UBI account numbers.

Public agencies may adopt supplemental responsibility criteria for specific projects. Supplemental criteria must include the basis for evaluation, the deadline for appealing a determination that a bidder is not responsible, and must be included in the bidding documents.

If the public agency determines a bidder is not responsible, the agency must provide written reasons for the determination. A bidder may appeal the determination within the time specified in the bid documents. If the agency affirms the non-responsibility determination, the agency may not execute a contract with another bidder until two business days after the non-responsible bidder receives the agency's final determination.

General contractors are required to verify responsibility criteria for each first-tier subcontractor. Each subcontractor hiring another subcontractor must do the same. Verification must include that each subcontractor, at the time of subcontract execution, meets the minimum responsibility criteria set forth in the statute, and possesses any required specialty licenses (such as an electrical contractor's license) if required.

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cases concerning claims made by and against dissolved Washington LLCs under the Washington LLC Act RCW 25.15 et seq., revised in 2006.

The Court found the statutory amendment, which provided a three-year survival period within which to commence actions against a dissolved LLC, applies retroactively and permits actions against an LLC even when that company's certificate of formation has been cancelled. The three year limitation period begins to run upon dissolution of the LLC, administratively or otherwise.

The Court also clarified that the amendment only applies to actions against the LLC and not to actions brought by a LLC, finding that "administratively dissolved and cancelled LLCs are no longer legal entities and have no standing to prosecute a claim." In one case that meant the dissolved general-contractor LLC in question could not sustain claims against third party subcontractors to recover sums the LLC paid to settle a suit with a homeowners association for construction defects.

The above article was developed for informational purposes and should not be viewed or relied upon as legal advice. Ater Wynne LLP urges readers to consult legal counsel regarding specific legal issues and factual circumstances.

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LAW ON CLAIMS MADE BY AND AGAINST DISSOLVED LLCs IS CLARIFIED

Many developers and contractors are formed as limited liability companies ("LLCs"). The Washington Court of Appeals, Division One, recently issued decisions in three