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SENATE BILL NO. 1305

Offered January 13, 2021

Prefiled January 12, 2021

A BILL to amend the Code of Virginia by adding a section numbered 2.2-4303.02, relating to the Virginia Public Procurement Act; public works contracts; subcontractor workforce requirements.

Patron—McPike

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 2.2-4303.02 as follows:

§ 2.2-4303.02. Public works contracts; subcontractor workforce requirements.

A. As used in this section, "covered institution" means the same as that term is defined in § 2.2-4321.

B. All public bodies and covered institutions shall include in every public works contract of more than $250,000 the following provisions, which a contractor shall agree to during the performance of such contract:

1. The contractor shall only utilize subcontractors that certify in writing to the contractor that they will outsource no more than 10 percent of the cost of the work subcontracted for, excluding the provision of materials.

2. The contractor may authorize a subcontractor to outsource more than 10 percent of the subcontracted work, excluding the provision of materials, so long as the subcontractor submits to the contractor in writing a request to exceed the outsource limitation.

3. The contractor's decision to approve or deny the subcontractor's request shall be based on the written request by the subcontractor that demonstrates that (i) more than 10 percent of the work subcontracted for is of a specialized nature and cannot be performed by the subcontractor's own workforce and (ii) the subcontractor is in compliance with all applicable federal and state labor laws.

4. A decision by the contractor to allow more than 10 percent of a subcontractor's workforce to be outsourced shall be documented in writing by the contractor to the public body or covered institution project manager responsible for the execution of the work and prior to the subcontractor's commencing the work. The public body or covered institution project manager shall review the contractor's decision for compliance with the contract outsource requirements.

5. The public body or covered institution may exercise the appropriate contract terms and conditions to enforce the outsource requirements as provided for in this section.

6. Any contractor that violates the provisions of this section may be (i) debarred for a length of time not to exceed one year or disqualified from the project and (ii) responsible for liquidated damages for any related delays in the project.

INTRODUCED

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