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HOUSE BILL 3052

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State of Washington

56th Legislature

2000 Regular Session

By Representative Miloscia

Read first time 01/26/2000. Referred to Committee on State Government.

1 AN ACT Relating to thresholds for utilizing design-build procedures  
2 under alternative public works contracting procedures; and amending RCW  
3 39.10.020 and 39.10.050.

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

5 **Sec. 1.** RCW 39.10.020 and 1997 c 376 s 1 are each amended to read  
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout this chapter.

9 (1) "Alternative public works contracting procedure" means the  
10 design-build and the general contractor/construction manager  
11 contracting procedures authorized in RCW 39.10.050 and 39.10.060,  
12 respectively.

13 (2) "Public body" means the state department of general  
14 administration; the University of Washington; Washington State  
15 University; every city with a population greater than (~~one hundred~~  
16 ~~fifty~~) seventy thousand or up to three cities, with a combined  
17 population greater than seventy thousand, supporting a regional  
18 facility through an interlocal agreement; every city authorized to use  
19 the design-build procedure for a water system demonstration project

1 under RCW 39.10.065(3); every county with a population greater than  
2 four hundred fifty thousand; and every port district with a population  
3 greater than five hundred thousand.

4 (3) "Public works project" means any work for a public body within  
5 the definition of the term public work in RCW 39.04.010.

6 **Sec. 2.** RCW 39.10.050 and 1997 c 376 s 3 are each amended to read  
7 as follows:

8 (1) Notwithstanding any other provision of law, and after complying  
9 with RCW 39.10.030, the following public bodies may utilize the design-  
10 build procedure of public works contracting for public works projects  
11 authorized under this section: The state department of general  
12 administration; the University of Washington; Washington State  
13 University; every city with a population greater than one hundred fifty  
14 thousand; every county with a population greater than four hundred  
15 fifty thousand; and every port district with a population greater than  
16 five hundred thousand. The authority granted to port districts in this  
17 section is in addition to and does not affect existing contracting  
18 authority under RCW 53.08.120 and 53.08.130. For the purposes of this  
19 section, "design-build procedure" means a contract between a public  
20 body and another party in which the party agrees to both design and  
21 build the facility, portion of the facility, or other item specified in  
22 the contract.

23 (2) Public bodies authorized under this section may utilize the  
24 design-build procedure for public works projects valued over ~~((ten))~~  
25 five million dollars where:

26 (a) The construction activities or technologies to be used are  
27 highly specialized and a design-build approach is critical in  
28 developing the construction methodology or implementing the proposed  
29 technology;

30 (b) The project design is repetitive in nature and is an incidental  
31 part of the installation or construction; or

32 (c) Regular interaction with and feedback from facilities users and  
33 operators during design is not critical to an effective facility  
34 design.

35 (3) Public bodies authorized under this section may also use the  
36 design-build procedure for the following projects that meet the  
37 criteria in subsection (2)(b) and (c) of this section:

1 (a) The construction or erection of preengineered metal buildings  
2 or prefabricated modular buildings, regardless of cost; or

3 (b) The construction of new student housing projects valued over  
4 five million dollars.

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

13 (a) A detailed description of the project including programmatic,  
14 performance, and technical requirements and specifications, functional  
15 and operational elements, minimum and maximum net and gross areas of  
16 any building, and, at the discretion of the public body, preliminary  
17 engineering and architectural drawings;

18 (b) The reasons for using the design-build procedure;

19 (c) A description of the qualifications to be required of the  
20 proposer including, but not limited to, submission of the proposer's  
21 accident prevention program;

22 (d) A description of the process the public body will use to  
23 evaluate qualifications and proposals, including evaluation factors and  
24 the relative weight of factors. Evaluation factors shall include, but  
25 not be limited to: Proposal price; ability of professional personnel;  
26 past performance on similar projects; ability to meet time and budget  
27 requirements; ability to provide a performance and payment bond for the  
28 project; recent, current, and projected work loads of the firm;  
29 location; and the concept of the proposal;

30 (e) The form of the contract to be awarded;

31 (f) The maximum allowable construction cost and minority and women  
32 enterprise total project goals;

33 (g) The amount to be paid to finalists submitting best and final  
34 proposals who are not awarded a design-build contract; and

35 (h) Other information relevant to the project.

36 (5) The public body shall establish a committee to evaluate the  
37 proposals based on the factors, weighting, and process identified in  
38 the request for proposals. Based on its evaluation, the public body  
39 shall select not fewer than three nor more than five finalists to

1 submit best and final proposals. The public body may, in its sole  
2 discretion, reject all proposals. Design-build contracts shall be  
3 awarded using the procedures in (a) or (b) of this subsection.

4 (a) Best and final proposals shall be evaluated and scored based on  
5 the factors, weighting, and process identified in the initial request  
6 for proposals. The public body may score the proposals using a system  
7 that measures the quality and technical merits of the proposal on a  
8 unit price basis. Final proposals may not be considered if the  
9 proposal cost is greater than the maximum allowable construction cost  
10 identified in the initial request for proposals. The public body shall  
11 initiate negotiations with the firm submitting the highest scored best  
12 and final proposal. If the public body is unable to execute a contract  
13 with the firm submitting the highest scored best and final proposal,  
14 negotiations with that firm may be suspended or terminated and the  
15 public body may proceed to negotiate with the next highest scored firm.  
16 Public bodies shall continue in accordance with this procedure until a  
17 contract agreement is reached or the selection process is terminated.

18 (b) If the public body determines that all finalists are capable of  
19 producing plans and specifications that adequately meet project  
20 requirements, the public body may award the contract to the firm that  
21 submits the responsive best and final proposal with the lowest price.

22 (6) The firm awarded the contract shall provide a performance and  
23 payment bond for the contracted amount. The public body shall provide  
24 appropriate honorarium payments to finalists submitting best and final  
25 proposals who are not awarded a design-build contract. Honorarium  
26 payments shall be sufficient to generate meaningful competition among  
27 potential proposers on design-build projects.

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