
HOUSE BILL 2523

State of Washington

58th Legislature

2004 Regular Session

By Representatives Haigh, Armstrong, Miloscia, Nixon, Hunt, Shabro, McDermott, Moeller and Chase

Read first time 01/15/2004. Referred to Committee on State Government.

1 AN ACT Relating to requiring the subcontractor listing to be read
2 with the bid award; and amending RCW 39.30.060.

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

4 **Sec. 1.** RCW 39.30.060 and 2003 c 301 s 5 are each amended to read
5 as follows:

6 (1) Every invitation to bid on a prime contract that is expected to
7 cost one million dollars or more for the construction, alteration, or
8 repair of any public building or public work of the state or a state
9 agency or municipality as defined under RCW 39.04.010 or an institution
10 of higher education as defined under RCW 28B.10.016 shall require each
11 prime contract bidder to submit as part of the bid, or within one hour
12 after the published bid submittal time, the names of the subcontractors
13 with whom the bidder, if awarded the contract, will subcontract for
14 performance of the work of: HVAC (heating, ventilation, and air
15 conditioning); plumbing as described in chapter 18.106 RCW; and
16 electrical as described in chapter 19.28 RCW, or to name itself for the
17 work. Bids shall not be publicly opened or read until the names of the
18 subcontractors with whom the prime contract bidder, if awarded the
19 contract, will subcontract for performance of the work have been

1 submitted. The names of the subcontractors with whom the prime
2 contract bidder, if awarded the contract, will subcontract for
3 performance of the work shall be publicly read at the bid opening when
4 bids are opened. The prime contract bidder shall not list more than
5 one subcontractor for each category of work identified, unless
6 subcontractors vary with bid alternates, in which case the prime
7 contract bidder must indicate which subcontractor will be used for
8 which alternate. Failure of the prime contract bidder to submit as
9 part of the bid the names of such subcontractors or to name itself to
10 perform such work or the naming of two or more subcontractors to
11 perform the same work shall render the prime contract bidder's bid
12 nonresponsive and, therefore, void.

13 (2) Substitution of a listed subcontractor in furtherance of bid
14 shopping or bid peddling before or after the award of the prime
15 contract is prohibited and the originally listed subcontractor is
16 entitled to recover monetary damages from the prime contract bidder who
17 executed a contract with the public entity and the substituted
18 subcontractor but not from the public entity inviting the bid. It is
19 the original subcontractor's burden to prove by a preponderance of the
20 evidence that bid shopping or bid peddling occurred. Substitution of
21 a listed subcontractor may be made by the prime contractor for the
22 following reasons:

23 (a) Refusal of the listed subcontractor to sign a contract with the
24 prime contractor;

25 (b) Bankruptcy or insolvency of the listed subcontractor;

26 (c) Inability of the listed subcontractor to perform the
27 requirements of the proposed contract or the project;

28 (d) Inability of the listed subcontractor to obtain the necessary
29 license, bonding, insurance, or other statutory requirements to perform
30 the work detailed in the contract; or

31 (e) The listed subcontractor is barred from participating in the
32 project as a result of a court order or summary judgment.

33 (3) The requirement of this section to name the prime contract
34 bidder's proposed HVAC, plumbing, and electrical subcontractors applies
35 only to proposed HVAC, plumbing, and electrical subcontractors who will
36 contract directly with the prime contract bidder submitting the bid to
37 the public entity.

1 (4) This section does not apply to job order contract requests for
2 proposals under RCW 39.10.130.

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