
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1071

State of Washington

56th Legislature

2000 Regular Session

By House Committee on State Government (originally sponsored by Representatives Romero and D. Schmidt; by request of Alternative Public Works Methods Oversight Committee)

Read first time 02/02/2000. Referred to Committee on .

1 AN ACT Relating to limited public works; amending RCW 39.04.155;
2 and adding a new section to chapter 39.04 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 39.04 RCW
5 to read as follows:

6 In addition to any other power or authority that an agency may
7 have, an agency alone or in concert with another agency may award
8 contracts for work, construction, alteration, repair, or improvement
9 projects estimated to cost less than thirty-five thousand dollars using
10 a limited public works process without advertising and competitive
11 bidding. An agency using the limited public works process shall
12 solicit electronic or written quotations from a minimum of three
13 contractors included on the appropriate small works roster established
14 under RCW 39.04.150 and shall award the contract to the lowest
15 responsible bidder, even if only one quotation is received, or shall
16 reject all quotations. After an award is made, the quotations shall be
17 open to public inspection and available by electronic request. Unless
18 the agency chooses to notify all contractors on the appropriate roster
19 who are willing to perform work in the geographic area of the work, a

1 contractor on the appropriate roster who is willing to perform work in
2 that geographic area and who has been sent a notice of a project shall
3 not be sent another notice of a project until all others on the
4 appropriate roster who are willing to perform work in the geographic
5 area have been sent notice of a project. An agency shall maintain a
6 list each biennium of the contracts awarded under the limited public
7 works process, including the name of the contractor, the amount of the
8 contract, a brief description of the type of work performed, and the
9 date it was awarded. For limited public works projects, an agency may
10 waive the payment and performance bond requirements of chapter 39.08
11 RCW and the retainage requirements of chapter 60.28 RCW, thereby
12 assuming the liability for the contractor's nonpayment of laborers,
13 mechanics, subcontractors, materialmen, suppliers, and taxes imposed
14 pursuant to Title 82 RCW that may be due from the contractor for the
15 limited public works project, however the agency shall have a right of
16 recovery against the contractor for any payments made on the
17 contractor's behalf.

18 (2) The breaking down of any public work or improvement into units
19 or accomplishing any public work or improvement by phases for the
20 purpose of avoiding the minimum dollar amount for bidding is contrary
21 to public policy and is prohibited.

22 (3) As used in this section, the term "agency" means the department
23 of general administration, the department of fish and wildlife, the
24 department of natural resources, the department of transportation, and
25 the state parks and recreation commission.

26 **Sec. 2.** RCW 39.04.155 and 1998 c 278 s 12 are each amended to read
27 as follows:

28 (1) A municipality may use either the small works roster process as
29 defined in subsection (2) of this section or an alternative small works
30 roster process that is called the limited public works process as
31 defined in subsection (3) of this section for work, construction,
32 repair, alteration, or improvement projects.

33 (2)(a) This ((section)) subsection provides a uniform process to
34 award contracts for public works projects by those municipalities that
35 are authorized to use a small works roster in lieu of the requirements
36 for formal sealed bidding. The state statutes governing a specific
37 type of municipality shall establish the maximum dollar thresholds of
38 the contracts that can be awarded under this process, and may include

1 other matters concerning the small works roster process, for the
2 municipality.

3 ((+2)) (b) Such municipalities may create a single general small
4 works roster, or may create a small works roster for different
5 categories of anticipated work. The small works roster or rosters
6 shall consist of all responsible contractors who have requested to be
7 on the list, and where required by law are properly licensed or
8 registered to perform such work in this state. At least twice a year,
9 the municipality shall publish in a newspaper of general circulation
10 within the jurisdiction a notice of the existence of the roster or
11 rosters and solicit the names of contractors for such roster or
12 rosters.

13 The governing body of the municipality shall establish a procedure
14 for securing ((telephone)) electronic or written quotations from the
15 contractors on the general small works roster, or a specific small
16 works roster for the appropriate category of work, to assure that a
17 competitive price is established and to award contracts to the lowest
18 responsible bidder, as defined in RCW 43.19.1911. Such invitations for
19 quotations shall include an estimate of the scope and nature of the
20 work to be performed as well as materials and equipment to be
21 furnished. However, detailed plans and specifications need not be
22 included in the invitation. This section does not eliminate other
23 requirements for architectural or engineering approvals as to quality
24 and compliance with building codes. Whenever possible at least five
25 contractors shall be invited to submit bids. Once a contractor has
26 been afforded an opportunity to submit a proposal, that contractor
27 shall not be offered another opportunity until all other appropriate
28 contractors on the small works roster have been afforded an opportunity
29 to submit a proposal on a contract. Proposals may be invited from all
30 appropriate contractors on the small works roster.

31 A contract awarded from a small works roster under this section
32 need not be advertised.

33 Immediately after an award is made, the bid quotations obtained
34 shall be recorded, open to public inspection, and available by
35 ((telephone)) electronic inquiry.

36 (3)(a) Work, construction, alteration, repair, or improvement
37 projects estimated to cost less than thirty-five thousand dollars are
38 limited public works exempt from the small works roster process and
39 from the requirement that contracts be awarded after advertisement and

1 competitive bid as provided in RCW 39.04.010. For limited public works
2 projects, the municipality shall solicit electronic or written
3 quotations from a minimum of three contractors on the appropriate small
4 works roster and shall award the contract to the lowest responsible
5 bidder, even if only one quotation is received, or reject all
6 quotations. After an award is made, the quotations must be open to
7 public inspection and available by electronic request. Unless the
8 municipality chooses to notify all contractors on the appropriate
9 roster, a contractor on the appropriate roster who has been sent a
10 notice of a project shall not be sent another notice of a project until
11 all others on the appropriate roster who are willing to perform work
12 have been sent notice of a project. A municipality shall maintain a
13 list each biennium of the contracts awarded under the limited public
14 works process, including the name of the contractor, the amount of the
15 contract, a brief description of the type of work performed, and the
16 date it was awarded. For limited public works projects, a municipality
17 may waive the payment and performance bond requirements of chapter
18 39.08 RCW and the retainage requirements of chapter 60.28 RCW, thereby
19 assuming the liability for the contractor's nonpayment of laborers,
20 mechanics, subcontractors, materialmen, suppliers, and taxes imposed
21 pursuant to Title 82 RCW that may be due from the contractor for the
22 limited public works project, however the agency shall have a right of
23 recovery against the contractor for any payments made on the
24 contractor's behalf.

25 (b) The breaking down of any public work or improvement into units
26 or accomplishing any public work or improvement by phases for the
27 purpose of avoiding the minimum dollar amount for bidding is contrary
28 to public policy and is prohibited.

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