

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1196

Chapter 74, Laws of 2009

61st Legislature
2009 Regular Session

SMALL WORKS ROSTER PROJECTS--LIMITS

EFFECTIVE DATE: 07/26/09

Passed by the House February 23, 2009
Yeas 95 Nays 1

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 7, 2009
Yeas 43 Nays 4

BRAD OWEN

President of the Senate

Approved April 13, 2009, 3:35 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1196** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 14, 2009

**Secretary of State
State of Washington**

HOUSE BILL 1196

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By Representatives Haigh, Kristiansen, Hunt, and Armstrong; by request of Capital Projects Advisory Review Board

Read first time 01/15/09. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to increasing the dollar limits for small works
2 roster projects; and amending RCW 39.04.155 and 53.08.120.

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

4 **Sec. 1.** RCW 39.04.155 and 2008 c 130 s 17 are each amended to read
5 as follows:

6 (1) This section provides uniform small works roster provisions to
7 award contracts for construction, building, renovation, remodeling,
8 alteration, repair, or improvement of real property that may be used by
9 state agencies and by any local government that is expressly authorized
10 to use these provisions. These provisions may be used in lieu of other
11 procedures to award contracts for such work with an estimated cost of
12 ~~((two))~~ three hundred thousand dollars or less. The small works roster
13 process includes the limited public works process authorized under
14 subsection (3) of this section and any local government authorized to
15 award contracts using the small works roster process under this section
16 may award contracts using the limited public works process under
17 subsection (3) of this section.

18 (2)(a) A state agency or authorized local government may create a
19 single general small works roster, or may create a small works roster

1 for different specialties or categories of anticipated work. Where
2 applicable, small works rosters may make distinctions between
3 contractors based upon different geographic areas served by the
4 contractor. The small works roster or rosters shall consist of all
5 responsible contractors who have requested to be on the list, and where
6 required by law are properly licensed or registered to perform such
7 work in this state. A state agency or local government establishing a
8 small works roster or rosters may require eligible contractors desiring
9 to be placed on a roster or rosters to keep current records of any
10 applicable licenses, certifications, registrations, bonding, insurance,
11 or other appropriate matters on file with the state agency or local
12 government as a condition of being placed on a roster or rosters. At
13 least once a year, the state agency or local government shall publish
14 in a newspaper of general circulation within the jurisdiction a notice
15 of the existence of the roster or rosters and solicit the names of
16 contractors for such roster or rosters. In addition, responsible
17 contractors shall be added to an appropriate roster or rosters at any
18 time they submit a written request and necessary records. Master
19 contracts may be required to be signed that become effective when a
20 specific award is made using a small works roster.

21 (b) A state agency establishing a small works roster or rosters
22 shall adopt rules implementing this subsection. A local government
23 establishing a small works roster or rosters shall adopt an ordinance
24 or resolution implementing this subsection. Procedures included in
25 rules adopted by the department of general administration in
26 implementing this subsection must be included in any rules providing
27 for a small works roster or rosters that is adopted by another state
28 agency, if the authority for that state agency to engage in these
29 activities has been delegated to it by the department of general
30 administration under chapter 43.19 RCW. An interlocal contract or
31 agreement between two or more state agencies or local governments
32 establishing a small works roster or rosters to be used by the parties
33 to the agreement or contract must clearly identify the lead entity that
34 is responsible for implementing the provisions of this subsection.

35 (c) Procedures shall be established for securing telephone,
36 written, or electronic quotations from contractors on the appropriate
37 small works roster to assure that a competitive price is established
38 and to award contracts to the lowest responsible bidder, as defined in

1 RCW 39.04.010. Invitations for quotations shall include an estimate of
2 the scope and nature of the work to be performed as well as materials
3 and equipment to be furnished. However, detailed plans and
4 specifications need not be included in the invitation. This subsection
5 does not eliminate other requirements for architectural or engineering
6 approvals as to quality and compliance with building codes. Quotations
7 may be invited from all appropriate contractors on the appropriate
8 small works roster. As an alternative, quotations may be invited from
9 at least five contractors on the appropriate small works roster who
10 have indicated the capability of performing the kind of work being
11 contracted, in a manner that will equitably distribute the opportunity
12 among the contractors on the appropriate roster. However, if the
13 estimated cost of the work is from one hundred fifty thousand dollars
14 to (~~two~~) three hundred thousand dollars, a state agency or local
15 government that chooses to solicit bids from less than all the
16 appropriate contractors on the appropriate small works roster must also
17 notify the remaining contractors on the appropriate small works roster
18 that quotations on the work are being sought. The government has the
19 sole option of determining whether this notice to the remaining
20 contractors is made by: (i) Publishing notice in a legal newspaper in
21 general circulation in the area where the work is to be done; (ii)
22 mailing a notice to these contractors; or (iii) sending a notice to
23 these contractors by facsimile or other electronic means. For purposes
24 of this subsection (2)(c), "equitably distribute" means that a state
25 agency or local government soliciting bids may not favor certain
26 contractors on the appropriate small works roster over other
27 contractors on the appropriate small works roster who perform similar
28 services.

29 (d) A contract awarded from a small works roster under this section
30 need not be advertised.

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

34 (3) In lieu of awarding contracts under subsection (2) of this
35 section, a state agency or authorized local government may award a
36 contract for work, construction, alteration, repair, or improvement
37 projects estimated to cost less than thirty-five thousand dollars using
38 the limited public works process provided under this subsection.

1 Public works projects awarded under this subsection are exempt from the
2 other requirements of the small works roster process provided under
3 subsection (2) of this section and are exempt from the requirement that
4 contracts be awarded after advertisement as provided under RCW
5 39.04.010.

6 For limited public works projects, a state agency or authorized
7 local government shall solicit electronic or written quotations from a
8 minimum of three contractors from the appropriate small works roster
9 and shall award the contract to the lowest responsible bidder as
10 defined under RCW 39.04.010. After an award is made, the quotations
11 shall be open to public inspection and available by electronic request.
12 A state agency or authorized local government shall attempt to
13 distribute opportunities for limited public works projects equitably
14 among contractors willing to perform in the geographic area of the
15 work. A state agency or authorized local government shall maintain a
16 list of the contractors contacted and the contracts awarded during the
17 previous twenty-four months under the limited public works process,
18 including the name of the contractor, the contractor's registration
19 number, the amount of the contract, a brief description of the type of
20 work performed, and the date the contract was awarded. For limited
21 public works projects, a state agency or authorized local government
22 may waive the payment and performance bond requirements of chapter
23 39.08 RCW and the retainage requirements of chapter 60.28 RCW, thereby
24 assuming the liability for the contractor's nonpayment of laborers,
25 mechanics, subcontractors, materialpersons, suppliers, and taxes
26 imposed under Title 82 RCW that may be due from the contractor for the
27 limited public works project, however the state agency or authorized
28 local government shall have the right of recovery against the
29 contractor for any payments made on the contractor's behalf.

30 (4) The breaking of any project into units or accomplishing any
31 projects by phases is prohibited if it is done for the purpose of
32 avoiding the maximum dollar amount of a contract that may be let using
33 the small works roster process or limited public works process.

34 (5)(a) A state agency or authorized local government may use the
35 limited public works process of subsection (3) of this section to
36 solicit and award small works roster contracts to small businesses that
37 are registered contractors with gross revenues under one million
38 dollars annually as reported on their federal tax return.

1 (b) A state agency or authorized local government may adopt
2 additional procedures to encourage small businesses that are registered
3 contractors with gross revenues under two hundred fifty thousand
4 dollars annually as reported on their federal tax returns to submit
5 quotations or bids on small works roster contracts.

6 (6) As used in this section, "state agency" means the department of
7 general administration, the state parks and recreation commission, the
8 department of natural resources, the department of fish and wildlife,
9 the department of transportation, any institution of higher education
10 as defined under RCW 28B.10.016, and any other state agency delegated
11 authority by the department of general administration to engage in
12 construction, building, renovation, remodeling, alteration,
13 improvement, or repair activities.

14 **Sec. 2.** RCW 53.08.120 and 2008 c 130 s 1 are each amended to read
15 as follows:

16 (1) All material and work required by a port district not meeting
17 the definition of public work in RCW 39.04.010(4) may be procured in
18 the open market or by contract and all work ordered may be done by
19 contract or day labor.

20 (2)(a) All such contracts for work meeting the definition of
21 "public work" in RCW 39.04.010(4), the estimated cost of which exceeds
22 ((~~two~~)) three hundred thousand dollars, shall be awarded using a
23 competitive bid process. The contract must be awarded at public
24 bidding upon notice published in a newspaper of general circulation in
25 the district at least thirteen days before the last date upon which
26 bids will be received, calling for bids upon the work, plans and
27 specifications for which shall then be on file in the office of the
28 commission for public inspection. The same notice may call for bids on
29 such work or material based upon plans and specifications submitted by
30 the bidder. The competitive bidding requirements for purchases or
31 public works may be waived pursuant to RCW 39.04.280 if an exemption
32 contained within that section applies to the purchase or public work.

33 (b) For all contracts related to work meeting the definition of
34 "public work" in RCW 39.04.010(4) that are estimated at ((~~two~~)) three
35 hundred thousand dollars or less, a port district may let contracts
36 using the small works roster process under RCW 39.04.155 in lieu of

1 advertising for bids. Whenever possible, the managing official shall
2 invite at least one proposal from a minority contractor who shall
3 otherwise qualify under this section.

4 When awarding such a contract for work, when utilizing proposals
5 from the small works roster, the managing official shall give weight to
6 the contractor submitting the lowest and best proposal, and whenever it
7 would not violate the public interest, such contracts shall be
8 distributed equally among contractors, including minority contractors,
9 on the small works roster.

Passed by the House February 23, 2009.

Passed by the Senate April 7, 2009.

Approved by the Governor April 13, 2009.

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