
HOUSE BILL 1754

State of Washington

64th Legislature

2015 Regular Session

By Representatives Buys, Dunshee, Muri, Haler, Senn, Ormsby,
Sullivan, and Smith

Read first time 01/28/15. Referred to Committee on Capital Budget.

1 AN ACT Relating to adding building envelope to the list of
2 building trades that a prime contractor must list for bids on public
3 works; and amending RCW 39.30.060.

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

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

7 (1) Every invitation to bid on a prime contract that is expected
8 to cost one million dollars or more for the construction, alteration,
9 or repair of any public building or public work of the state or a
10 state agency or municipality as defined under RCW 39.04.010 or an
11 institution of higher education as defined under RCW 28B.10.016 shall
12 require each prime contract bidder to submit as part of the bid, or
13 within one hour after the published bid submittal time, the names of
14 the subcontractors with whom the bidder, if awarded the contract,
15 will subcontract for performance of the work of: Building envelope as
16 defined in this section; HVAC (heating, ventilation, and air
17 conditioning); plumbing as described in chapter 18.106 RCW; and
18 electrical as described in chapter 19.28 RCW, or to name itself for
19 the work. The prime contract bidder shall not list more than one
20 subcontractor for each category of work identified, unless
21 subcontractors vary with bid alternates, in which case the prime

1 contract bidder must indicate which subcontractor will be used for
2 which alternate. Failure of the prime contract bidder to submit as
3 part of the bid the names of such subcontractors or to name itself to
4 perform such work or the naming of two or more subcontractors to
5 perform the same work shall render the prime contract bidder's bid
6 nonresponsive and, therefore, void.

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

17 (a) Refusal of the listed subcontractor to sign a contract with
18 the prime contractor;

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

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

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

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

27 (3) The requirement of this section to name the prime contract
28 bidder's proposed HVAC, plumbing, and electrical subcontractors
29 applies only to proposed HVAC, plumbing, and electrical
30 subcontractors who will contract directly with the prime contract
31 bidder submitting the bid to the public entity.

32 (4) This section does not apply to job order contract requests
33 for proposals under RCW (~~(39.10.130)~~) 39.10.420.

34 (5) For the purposes of this section, "building envelope" means
35 the elements of a building that are the physical separation between
36 the building's interior, conditioned spaces and the exterior,
37 unconditioned environment through which heat, air, light, and sound

1 may be transferred. "Building envelope" does not include any portion
2 of the building that is below grade.

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