
HOUSE BILL 2813

State of Washington

53rd Legislature

1994 Regular Session

By Representatives Romero, Veloria, Caver, Wolfe and Bray; by request of Department of General Administration

Read first time 01/24/94. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to public contracts; amending RCW 39.08.010,
2 39.04.020, and 39.04.150; and providing an effective date.

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

4 **Sec. 1.** RCW 39.08.010 and 1989 c 145 s 1 are each amended to read
5 as follows:

6 Whenever any board, council, commission, trustees, or body acting
7 for the state or any county or municipality or any public body shall
8 contract with any person or corporation to do any work for the state,
9 county, or municipality, or other public body, city, town, or district,
10 such board, council, commission, trustees, or body shall require the
11 person or persons with whom such contract is made to make, execute, and
12 deliver to such board, council, commission, trustees, or body a good
13 and sufficient bond, with a surety company as surety, conditioned that
14 such person or persons shall faithfully perform all the provisions of
15 such contract and pay all laborers, mechanics, and subcontractors and
16 materialmen, and all persons who supply such person or persons, or
17 subcontractors, with provisions and supplies for the carrying on of
18 such work, which bond in cases of cities and towns shall be filed with
19 the clerk or comptroller thereof, and any person or persons performing

1 such services or furnishing material to any subcontractor shall have
2 the same right under the provisions of such bond as if such work,
3 services or material was furnished to the original contractor(~~(+
4 PROVIDED, HOWEVER, That)~~). However, the provisions of RCW 39.08.010
5 through 39.08.030 shall not apply to any money loaned or advanced to
6 any such contractor, subcontractor or other person in the performance
7 of any such work(~~(+PROVIDED FURTHER, That)~~).

8 On contracts of ((~~twenty-five~~)) one hundred thousand dollars or
9 less, at the option of the contractor the respective public entity may,
10 in lieu of the bond, retain ((~~fifty~~)) twenty-five percent of the
11 contract amount for a period of thirty days after date of final
12 acceptance, or until receipt of all necessary releases from the
13 department of revenue and the department of labor and industries and
14 settlement of any liens filed under chapter 60.28 RCW, whichever is
15 later(~~(+PROVIDED FURTHER, That)~~).

16 For contracts of one hundred thousand dollars or less, the public
17 entity may accept a full payment and performance bond from an
18 individual surety or sureties(~~(+AND PROVIDED FURTHER, That)~~). The
19 surety must agree to be bound by the laws of the state of Washington
20 and subjected to the jurisdiction of the state of Washington.

21 **Sec. 2.** RCW 39.04.020 and 1993 c 379 s 111 are each amended to
22 read as follows:

23 Whenever the state or any municipality shall determine that any
24 public work is necessary to be done, it shall cause plans,
25 specifications, or both thereof and an estimate of the cost of such
26 work to be made and filed in the office of the director, supervisor,
27 commissioner, trustee, board, or agency having by law the authority to
28 require such work to be done. The plans, specifications, and estimates
29 of cost shall be approved by the director, supervisor, commissioner,
30 trustee, board, or agency and the original draft or a certified copy
31 filed in such office before further action is taken.

32 If the state or such municipality shall determine that it is
33 necessary or advisable that such work shall be executed by any means or
34 method other than by contract or by a small works roster process, and
35 it shall appear by such estimate that the probable cost of executing
36 such work will exceed the sum of ((~~fifteen~~)) twenty-five thousand
37 dollars (~~(or the amounts specified in RCW 28B.10.350 or 28B.10.355 for~~
38 ~~colleges and universities, or the amounts specified in RCW 28B.50.330~~

1 or 39.04.150 for community colleges and technical colleges)), then the
2 state or such municipality shall at least fifteen days before beginning
3 work cause such estimate, together with a description of the work, to
4 be published at least once in a legal newspaper of general circulation
5 published in or as near as possible to that part of the county in which
6 such work is to be done(~~(: PROVIDED, That)~~). If the work is executed
7 by any means other than by contract, the agency shall invite at least
8 one proposal each from a certified minority and a certified women-owned
9 contractor who shall otherwise qualify to perform such work except in
10 instances when the work is to be performed by public employees. When
11 any emergency shall require the immediate execution of such public
12 work, upon a finding of the existence of such emergency by the
13 authority having power to direct such public work to be done and duly
14 entered of record, publication of description and estimate may be made
15 within seven days after the commencement of the work.

16 **Sec. 3.** RCW 39.04.150 and 1993 c 379 s 112 are each amended to
17 read as follows:

18 (1) As used in this section, "agency" means the department of
19 general administration, the department of (~~(fisheries, the department~~
20 ~~of)~~) fish and wildlife, and the state parks and recreation commission.

21 (2) In addition to any other power or authority that an agency may
22 have, each agency, alone or in concert, may establish a small works
23 roster consisting of all qualified contractors who have requested to be
24 included on the roster.

25 (3) The small works roster may make distinctions between
26 contractors based on the geographic areas served and the nature of the
27 work the contractor is qualified to perform. At least once every year,
28 the agency shall advertise in a newspaper of general circulation the
29 existence of the small works roster and shall add to the roster those
30 contractors who request to be included on the roster.

31 (4) Construction, repair, or alteration projects estimated to cost
32 less than (~~(fifty)~~) one hundred thousand dollars(~~(, or less than one~~
33 ~~hundred thousand dollars for projects managed by the department of~~
34 ~~general administration for community colleges and technical colleges,~~
35 ~~as defined under chapter 28B.50 RCW,)) are exempt from the requirement
36 that the contracts be awarded after advertisement and competitive bid
37 as defined by RCW 39.04.010. In lieu of advertisement and competitive
38 bid, the agency shall solicit at least five quotations, confirmed in~~

1 writing, from contractors chosen (~~by random number generated by~~
2 ~~computer~~) from the (~~contractors on the~~) small works roster for the
3 category of job type involved and shall award the work to the party
4 with the lowest quotation or reject all quotations. If the agency (~~is~~
5 ~~unable to solicit~~) does not receive at least two responsive quotations
6 (~~from five qualified contractors on the small works roster~~) for a
7 particular project, then the project shall be advertised and
8 competitively bid. The agency shall solicit quotations (~~randomly~~)
9 from contractors (~~on~~) selected randomly from the small works roster
10 (~~in a manner which will equitably distribute the opportunity for these~~
11 ~~contracts among contractors on the roster: PROVIDED, That whenever~~
12 ~~possible,~~). The agency shall invite at least one proposal each from
13 a certified minority and a certified women-owned contractor who shall
14 otherwise qualify to perform such work. Immediately after an award is
15 made, the bid quotations obtained shall be recorded, open to public
16 inspection, and available by telephone request.

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

21 (6) The director of general administration shall adopt by rule a
22 procedure to prequalify contractors for inclusion on the small works
23 roster. Each agency shall follow the procedure adopted by the director
24 of general administration. No agency shall be required to make
25 available for public inspection or copying under chapter 42.17 RCW
26 financial information required to be provided by the prequalification
27 procedure.

28 (7) An agency may adopt by rule procedures to implement this
29 section which shall not be inconsistent with the procedures adopted by
30 the director of the department of general administration pursuant to
31 subsection (6) of this section.

32 NEW SECTION. Sec. 4. Section 3 of this act shall take effect July
33 1, 1994.

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