

House Bill Analysis Job Order Contracting HB 2412

Background:

Public works or a public works project is defined in the statute as all work involving construction, alternations, repair, or improvement other than ordinary maintenance executed at a cost to the state or any local government.

Public works projects generally fall into three categories:

1) Projects valued less than \$25,000. These projects are normally performed by public employees. However, they can be contracted out to private firms. Projects that fall in this category are not considered public works for higher education institutions and are performed by state employees. In the case of other state agencies, some perform the work with in-house staff and others contract out the work.

2) Projects valued between \$25,000 and \$100,000. Projects in this category are referred to as small works projects for higher education institutions and must be contracted out. The institutions can use the small works roster or the public bid process to select the contractor. The dollar value of small works projects for other state agencies are not expressly specified in the statute. Agencies can use in-house staff, the small works roster or the public bid process. Agencies normally contract out for this category of work.

3) Projects valued higher than \$100,000. These projects are referred to as major projects and are performed private construction firms selected by the public works competitive bid process. The law for higher education specifically states that projects more than \$100,000 must be competitively bid. The law for other state agencies is unspecific as to dollar level, but projects in this category are almost always competitively bid unless there are special circumstances. The competitive process can be the traditional design/bid/build process or the alternative public works process for GC/CM and Design/Build. The alternative public work process, GC/CM and Design/Build, is limited to selected agencies for projects valued more than \$10 million.

Job Order Contracting:

Job Order Contracting would be another method, on a limited pilot basis, of performing public works projects. A Job Order Contractor would be a private firm, selected by a competitive process, offered a two-year contract to perform public works projects for a public entity. The contractor would be selected on the basis of price and ability to perform the work. The bid price is normally a percent markup to the Unit Price Book.

The Job Order Contracting process would be limited to larger state agencies and local governments that would have the volume of work to meet the minimum levels of work necessary to retain a Job Order Contracting firm. The Job Order Contractor could perform the work ordered by the agency valued from \$1 dollars to \$200,000 and the price for each

project would be determined by a unit price book. Government entities could use Job Order Contractor as another tool for constructing, repairing, or minor improvements to public facilities. It would not replace state employee performed work, the small works roster or the competitive bid process.

Job Order Contracting would be limited to the Department of General Administration, University of Washington, Washington State University, the three largest cities (Seattle, Tacoma and Spokane), the three largest counties (King, Pierce, and Snohomish) and the two largest ports (Seattle and Tacoma).

Job Order Contracting will meet all the requirements of existing public works law, including prevailing wage, prompt payment, MWBE goals, retainage and lien rights.

The authority to use Job Order Contracting sunsets in the year 2003.

What is Job Order Contracting?

It is an alternative method for public agencies to contract with private industry for capital maintenance and repairs and minor construction projects.

How does Job Order Contracting Work?

After a contractor is selected by a competitive bidding process, the contractor would be under contract for a two-year period to perform whatever construction or repair work the public entity issues on a work order. The cost of the work order would be predetermined by a nationally recognized unit price book, which has detailed cost estimates for thousands of jobs ranging from changing door knobs to moving walls. The unit price would be adjusted by a coefficient— to cover the contractor's profit and indirect costs. The coefficient— is the basis for the competitive bidding process that the public entity would evaluate the lowest responsive bid. The work orders would be limited to projects valued less than \$200,000 and only two projects over \$150,000 would be allowed per year.

Who uses Job Order Contracting now?

It is extensively used by the federal government and by municipalities and school districts in other states. Its principles are widely used in private industry.

What are the Advantages of using Job Order Contracting?