
HOUSE BILL 2119

State of Washington

55th Legislature

1997 Regular Session

By Representatives McMorris, Conway, Honeyford, Boldt, Cole, Wood, Hatfield and Clements

Read first time 02/21/97. Referred to Committee on Government Administration.

1 AN ACT Relating to competitive bidding on public contracts;
2 amending RCW 39.30.060; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that the practice of
5 substitution of named subcontractors for reasons other than those under
6 section 2(2) of this act in connection with the construction,
7 alteration, or repair of any public building or public work of the
8 state or a state agency or municipality as defined under RCW 39.04.010,
9 an institution of higher education as defined under RCW 28B.10.016, or
10 a school district may deprive the public of the full value of its
11 public works construction budget, may adversely affect competition
12 among bidders and subcontractors, and may lead to insolvencies and loss
13 of wages to employees.

14 **Sec. 2.** RCW 39.30.060 and 1995 c 94 s 1 are each amended to read
15 as follows:

16 (1) Every invitation to bid on a contract that is expected to cost
17 in excess of one hundred thousand dollars for the construction,
18 alteration, or repair of any public building or public work of the

1 state or a state agency or municipality as defined under RCW 39.04.010,
2 an institution of higher education as defined under RCW 28B.10.016, or
3 a school district shall require each bidder to submit as part of the
4 bid, or within one hour after the published bid submittal time, the
5 names of ((the)) each subcontractor((s)) whose subcontract amount is
6 more than ten percent of the bid price with whom the bidder, if awarded
7 the contract, will subcontract for performance of the work designated
8 on the list to be submitted with the bid. Failure to name each such
9 subcontractor((s)) or the naming of two or more subcontractors for the
10 same work shall render the bidder's bid nonresponsive and, therefore,
11 void.

12 (2) A bidder whose bid is accepted shall not substitute another
13 subcontractor for a subcontractor who is named pursuant to subsection
14 (1) of this section unless:

15 (a) The awarding authority objects to the subcontractor and
16 requests in writing a change in the subcontractor; or

17 (b) The substitution is approved by the awarding authority, and any
18 of the following apply:

19 (i) The subcontractor, after having a reasonable opportunity, fails
20 or refuses to execute a written contract with the bidder when such
21 subcontract was offered to the subcontractor with the same terms that
22 all other subcontractors on the project were offered;

23 (ii) The named subcontractor files for bankruptcy or becomes
24 insolvent;

25 (iii) The named subcontractor fails or refuses to perform its
26 subcontract within a reasonable time;

27 (iv) The named subcontractor fails, refuses, or is unable to
28 furnish a performance bond and payment bond where the named
29 subcontractor agreed in writing to furnish a performance and payment
30 bond prior to being named by the bidder pursuant to subsection (1) of
31 this section;

32 (v) When the bidder demonstrates to the awarding agency that the
33 name of the subcontractor was listed as the result of a good faith,
34 inadvertent clerical error;

35 (vi) When the named subcontractor is not licensed pursuant to
36 chapter 18.27 or 19.28 RCW; or

37 (vii) When the bidder determines that the work performed by the
38 named subcontractor is substantially unsatisfactory and not in
39 substantial accordance with the plans and specifications, or that the

1 subcontractor is substantially delaying or disrupting the progress of
2 the work.

3 (3) Substitution of named subcontractors for reasons other than
4 those under subsection (2) of this section is prohibited. Any bidder
5 who violates this section is liable to the named subcontractor in the
6 amount of ten percent of the substituted subcontractor's subcontract
7 price. Legal action to enforce this section shall be brought in the
8 superior court of the county in which the work is to be performed and
9 the prevailing party in such an action is entitled to recover
10 reasonable attorneys' fees, costs, and disbursements.

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