

2 ES2HB 1071 - S COMM AMD  
3 By Committee on State & Local Government

4 ADOPTED 3/3/00

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 39.04 RCW  
8 to read as follows:

9 In addition to any other power or authority that an agency may  
10 have, an agency alone or in concert with another agency may award  
11 contracts for work, construction, alteration, repair, or improvement  
12 projects estimated to cost less than thirty-five thousand dollars using  
13 a limited public works process without advertising and competitive  
14 bidding. An agency using the limited public works process shall  
15 solicit electronic or written quotations from a minimum of three  
16 contractors included on the appropriate small works roster established  
17 under RCW 39.04.150, making an effort to include a certified minority  
18 or certified woman-owned contractor, and shall award the contract to  
19 the lowest responsible bidder, even if only one quotation is received,  
20 or shall reject all quotations. After an award is made, the quotations  
21 shall be open to public inspection and available by electronic request.  
22 Unless the agency chooses to notify all contractors on the appropriate  
23 roster who are willing to perform work in the geographic area of the  
24 work, a contractor on the appropriate roster who is willing to perform  
25 work in that geographic area and who has been sent a notice of a  
26 project shall not be sent another notice of a project until all others  
27 on the appropriate roster who are willing to perform work in the  
28 geographic area have been sent notice of a project. An agency shall  
29 maintain a list each biennium of the contracts awarded under the  
30 limited public works process, including the name of the contractor, the  
31 amount of the contract, a brief description of the type of work  
32 performed, and the date it was awarded. For limited public works  
33 projects, an agency may waive the payment and performance bond  
34 requirements of chapter 39.08 RCW and the retainage requirements of  
35 chapter 60.28 RCW, thereby assuming the liability for the contractor's  
36 nonpayment of laborers, mechanics, subcontractors, materialmen,  
37 suppliers, and taxes imposed pursuant to Title 82 RCW that may be due

1 from the contractor for the limited public works project, however the  
2 agency shall have a right of recovery against the contractor for any  
3 payments made on the contractor's behalf.

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

8 (3) As used in this section, the term "agency" means the department  
9 of general administration, the department of fish and wildlife, the  
10 department of natural resources, the department of transportation, and  
11 the state parks and recreation commission.

12 **Sec. 2.** RCW 39.04.155 and 1998 c 278 s 12 are each amended to read  
13 as follows:

14 (1) A municipality may use either the small works roster process as  
15 defined in subsection (2) of this section or an alternative small works  
16 roster process that is called the limited public works process as  
17 defined in subsection (3) of this section for work, construction,  
18 repair, alteration, or improvement projects.

19 (2)(a) This ~~((section))~~ subsection provides a uniform process to  
20 award contracts for public works projects by those municipalities that  
21 are authorized to use a small works roster in lieu of the requirements  
22 for formal sealed bidding. The state statutes governing a specific  
23 type of municipality shall establish the maximum dollar thresholds of  
24 the contracts that can be awarded under this process, and may include  
25 other matters concerning the small works roster process, for the  
26 municipality.

27 ~~((+2))~~ (b) Such municipalities may create a single general small  
28 works roster, or may create a small works roster for different  
29 categories of anticipated work. The small works roster or rosters  
30 shall consist of all responsible contractors who have requested to be  
31 on the list, and where required by law are properly licensed or  
32 registered to perform such work in this state. At least twice a year,  
33 the municipality shall publish in a newspaper of general circulation  
34 within the jurisdiction a notice of the existence of the roster or  
35 rosters and solicit the names of contractors for such roster or  
36 rosters.

37 The governing body of the municipality shall establish a procedure  
38 for securing ~~((telephone))~~ electronic or written quotations from the

1 contractors on the general small works roster, or a specific small  
2 works roster for the appropriate category of work, to assure that a  
3 competitive price is established and to award contracts to the lowest  
4 responsible bidder, as defined in RCW 43.19.1911. Such invitations for  
5 quotations shall include an estimate of the scope and nature of the  
6 work to be performed as well as materials and equipment to be  
7 furnished. However, detailed plans and specifications need not be  
8 included in the invitation. This section does not eliminate other  
9 requirements for architectural or engineering approvals as to quality  
10 and compliance with building codes. Whenever possible at least five  
11 contractors shall be invited to submit bids. Once a contractor has  
12 been afforded an opportunity to submit a proposal, that contractor  
13 shall not be offered another opportunity until all other appropriate  
14 contractors on the small works roster have been afforded an opportunity  
15 to submit a proposal on a contract. Proposals may be invited from all  
16 appropriate contractors on the small works roster.

17 A contract awarded from a small works roster under this section  
18 need not be advertised.

19 Immediately after an award is made, the bid quotations obtained  
20 shall be recorded, open to public inspection, and available by  
21 ((telephone)) electronic inquiry.

22 (3)(a) Work, construction, alteration, repair, or improvement  
23 projects estimated to cost less than thirty-five thousand dollars are  
24 limited public works exempt from the small works roster process and  
25 from the requirement that contracts be awarded after advertisement and  
26 competitive bid as provided in RCW 39.04.010. For limited public works  
27 projects, the municipality shall solicit electronic or written  
28 quotations from a minimum of three contractors on the appropriate small  
29 works roster, making an effort to include a certified minority or  
30 certified woman-owned contractor, and shall award the contract to the  
31 lowest responsible bidder, even if only one quotation is received, or  
32 reject all quotations. After an award is made, the quotations must be  
33 open to public inspection and available by electronic request. Unless  
34 the municipality chooses to notify all contractors on the appropriate  
35 roster, a contractor on the appropriate roster who has been sent a  
36 notice of a project shall not be sent another notice of a project until  
37 all others on the appropriate roster who are willing to perform work  
38 have been sent notice of a project. A municipality shall maintain a  
39 list each biennium of the contracts awarded under the limited public

1 works process, including the name of the contractor, the amount of the  
2 contract, a brief description of the type of work performed, and the  
3 date it was awarded. For limited public works projects, a municipality  
4 may waive the payment and performance bond requirements of chapter  
5 39.08 RCW and the retainage requirements of chapter 60.28 RCW, thereby  
6 assuming the liability for the contractor's nonpayment of laborers,  
7 mechanics, subcontractors, materialmen, suppliers, and taxes imposed  
8 pursuant to Title 82 RCW that may be due from the contractor for the  
9 limited public works project, however the agency shall have a right of  
10 recovery against the contractor for any payments made on the  
11 contractor's behalf.

12 (b) The breaking down of any public work or improvement into units  
13 or accomplishing any public work or improvement by phases for the  
14 purpose of avoiding the minimum dollar amount for bidding is contrary  
15 to public policy and is prohibited."

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19 On page 1, line 1 of the title, after "works;" strike the remainder  
20 of the title and insert "amending RCW 39.04.155; and adding a new  
21 section to chapter 39.04 RCW."

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