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**SUBSTITUTE HOUSE BILL 1072**

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**State of Washington**

**56th Legislature**

**1999 Regular Session**

**By** House Committee on State Government (originally sponsored by Representatives Romero and D. Schmidt; by request of Alternative Public Works Methods Oversight Committee)

Read first time 02/26/1999.

1 AN ACT Relating to financial information and building systems for  
2 the alternative public works process; and amending RCW 39.10.050.

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

4 **Sec. 1.** RCW 39.10.050 and 1997 c 376 s 3 are each amended to read  
5 as follows:

6 (1) Notwithstanding any other provision of law, and after complying  
7 with RCW 39.10.030, the following public bodies may utilize the design-  
8 build procedure of public works contracting for public works projects  
9 authorized under this section: The state department of general  
10 administration; the University of Washington; Washington State  
11 University; every city with a population greater than one hundred fifty  
12 thousand; every county with a population greater than four hundred  
13 fifty thousand; and every port district with a population greater than  
14 five hundred thousand. The authority granted to port districts in this  
15 section is in addition to and does not affect existing contracting  
16 authority under RCW 53.08.120 and 53.08.130. For the purposes of this  
17 section, "design-build procedure" means a contract between a public  
18 body and another party in which the party agrees to both design and

1 build the facility, portion of the facility, or other item specified in  
2 the contract.

3 (2) Public bodies authorized under this section may utilize the  
4 design-build procedure for public works projects valued over ten  
5 million dollars where:

6 (a) The construction activities or technologies to be used are  
7 highly specialized and a design-build approach is critical in  
8 developing the construction methodology or implementing the proposed  
9 technology;

10 (b) The project design is repetitive in nature and is an incidental  
11 part of the installation or construction; or

12 (c) Regular interaction with and feedback from facilities users and  
13 operators during design is not critical to an effective facility  
14 design.

15 (3) Public bodies authorized under this section may also use the  
16 design-build procedure for the following projects that meet the  
17 criteria in subsection (2)(a), (b), and (c) of this section:

18 (a) The construction or erection of preengineered metal buildings  
19 ~~((or))~~, prefabricated modular buildings, or the design, fabrication,  
20 and installation of building engineering systems, regardless of cost;  
21 or

22 (b) The construction of new student housing projects valued over  
23 five million dollars.

24 (4) Contracts for design-build services shall be awarded through a  
25 competitive process utilizing public solicitation of proposals for  
26 design-build services. The public body shall publish at least once in  
27 a legal newspaper of general circulation published in or as near as  
28 possible to that part of the county in which the public work will be  
29 done, a notice of its request for proposals for design-build services  
30 and the availability and location of the request for proposal  
31 documents. The request for proposal documents shall include:

32 (a) A detailed description of the project including programmatic,  
33 performance, and technical requirements and specifications, functional  
34 and operational elements, minimum and maximum net and gross areas of  
35 any building, and, at the discretion of the public body, preliminary  
36 engineering and architectural drawings;

37 (b) The reasons for using the design-build procedure;

1 (c) A description of the qualifications to be required of the  
2 proposer including, but not limited to, submission of the proposer's  
3 accident prevention program;

4 (d) A description of the process the public body will use to  
5 evaluate qualifications and proposals, including evaluation factors and  
6 the relative weight of factors. Evaluation factors shall include, but  
7 not be limited to: Proposal price; ability of professional personnel;  
8 past performance on similar projects; ability to meet time and budget  
9 requirements; ability to provide a performance and payment bond for the  
10 project; recent, current, and projected work loads of the firm;  
11 location; and the concept of the proposal;

12 (e) The form of the contract to be awarded;

13 (f) The maximum allowable construction cost and minority and women  
14 enterprise total project goals;

15 (g) The amount to be paid to finalists submitting best and final  
16 proposals who are not awarded a design-build contract; and

17 (h) Other information relevant to the project.

18 (5) The public body shall establish a committee to evaluate the  
19 proposals based on the factors, weighting, and process identified in  
20 the request for proposals. Based on its evaluation, the public body  
21 shall select not fewer than three nor more than five finalists to  
22 submit best and final proposals. The public body may, in its sole  
23 discretion, reject all proposals. Design-build contracts shall be  
24 awarded using the procedures in (a) or (b) of this subsection.

25 (a) Best and final proposals shall be evaluated and scored based on  
26 the factors, weighting, and process identified in the initial request  
27 for proposals. The public body may score the proposals using a system  
28 that measures the quality and technical merits of the proposal on a  
29 unit price basis. Final proposals may not be considered if the  
30 proposal cost is greater than the maximum allowable construction cost  
31 identified in the initial request for proposals. The public body shall  
32 initiate negotiations with the firm submitting the highest scored best  
33 and final proposal. If the public body is unable to execute a contract  
34 with the firm submitting the highest scored best and final proposal,  
35 negotiations with that firm may be suspended or terminated and the  
36 public body may proceed to negotiate with the next highest scored firm.  
37 Public bodies shall continue in accordance with this procedure until a  
38 contract agreement is reached or the selection process is terminated.

1 (b) If the public body determines that all finalists are capable of  
2 producing plans and specifications that adequately meet project  
3 requirements, the public body may award the contract to the firm that  
4 submits the responsive best and final proposal with the lowest price.

5 (6) The firm awarded the contract shall provide a performance and  
6 payment bond for the contracted amount. The public body shall provide  
7 appropriate honorarium payments to finalists submitting best and final  
8 proposals who are not awarded a design-build contract. Honorarium  
9 payments shall be sufficient to generate meaningful competition among  
10 potential proposers on design-build projects.

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