
SENATE BILL 5222

State of Washington

56th Legislature

1999 Regular Session

By Senators Patterson and Winsley; by request of Alternative Public Works Methods Oversight Committee

Read first time 01/18/1999. Referred to Committee on State & Local Government.

1 AN ACT Relating to limited public works; and amending RCW 39.04.150
2 and 39.04.155.

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

4 **Sec. 1.** RCW 39.04.150 and 1998 c 278 s 11 are each amended to read
5 as follows:

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

10 (2) An agency may use either the small works roster process as
11 defined in subsection (3) of this section or the limited public works
12 process as defined in subsection (4) of this section for work,
13 construction, repair, alteration, or improvement projects.

14 (3)(a) In addition to any other power or authority that an agency
15 may have, each agency, alone or in concert, may establish a small works
16 roster consisting of all qualified contractors who have requested to be
17 included on the roster.

18 ((+3)) (b) The small works roster may make distinctions between
19 contractors based on the geographic areas served and the nature of the

1 work the contractor is qualified to perform. At least once every year,
2 the agency shall advertise in a newspaper of general circulation the
3 existence of the small works roster and shall add to the roster those
4 contractors who request to be included on the roster.

5 ~~((4))~~ (c) Construction, repair, or alteration projects estimated
6 to cost less than one hundred thousand dollars are exempt from the
7 requirement that the contracts be awarded after advertisement and
8 competitive bid as defined by RCW 39.04.010. In lieu of advertisement
9 and competitive bid, each agency alone or in concert shall establish a
10 procedure for securing ~~((telephone,))~~ electronic~~((,))~~ or written
11 quotations from the contractors on the small works roster to assure
12 establishment of a competitive price and for awarding contracts to the
13 lowest responsive and responsible bidder. This procedure shall require
14 either that the agency make a good faith effort to request quotations
15 from all contractors on the small works roster who have indicated the
16 capability of performing the kind of public works being contracted or
17 that the agency solicit quotations from at least five contractors in a
18 manner that will equitably distribute the opportunity among contractors
19 willing to perform in the geographic area of the work. The agency
20 shall invite at least one proposal from a certified minority or women-
21 owned contractor, if available, who is otherwise qualified to perform
22 such work. Immediately after an award is made, the bid quotations
23 obtained shall be recorded, open to public inspection, and available by
24 ~~((telephone))~~ electronic inquiry.

25 ~~((5) The breaking down of any public work or improvement into
26 units or accomplishing any public work or improvement by phases for the
27 purpose of avoiding the minimum dollar amount for bidding is contrary
28 to public policy and is prohibited.~~

29 ~~(6))~~ (d) The director of general administration shall adopt by
30 rule a procedure to qualify contractors for inclusion on the small
31 works roster. Each agency shall follow the procedure adopted by the
32 director of general administration. No agency shall be required to
33 make available for public inspection or copying under chapter 42.17 RCW
34 financial information required to be provided by the qualification
35 procedure.

36 ~~((7))~~ (e) An agency may adopt by rule procedures to implement
37 this section which shall not be inconsistent with the procedures
38 adopted by the director of the department of general administration
39 pursuant to (d) of this subsection ~~((6) of this section))~~.

1 (4) Work, construction, alteration, repair, or improvement projects
2 estimated to cost less than thirty-five thousand dollars are limited
3 public works exempt from the small works roster process and from the
4 requirement that contracts be awarded after advertisement and
5 competitive bid as provided in RCW 39.04.010. For limited public works
6 projects, the agency shall solicit electronic or written quotations
7 from a minimum of three contractors including a certified minority or
8 certified woman-owned contractor, when practicable, and shall award the
9 work to the licensed or registered contractor with the lowest
10 quotation, even if only one quotation is received, or reject all
11 quotations. After an award is made, the quotations shall be open to
12 public inspection and available by electronic request. An agency shall
13 attempt to equitably distribute opportunities for limited public works
14 projects among contractors willing to perform in the geographic area of
15 the work. An agency shall maintain a list each biennium of the
16 contracts awarded under the limited public works process, including the
17 name of the contractor, the amount of the contract, a brief description
18 of the type of work performed, and the date it was awarded. For
19 limited public works projects, an agency may waive the payment and
20 performance bond requirements of chapter 39.08 RCW and the retainage
21 requirements of chapter 60.28 RCW, thereby assuming the liability for
22 the contractor's nonpayment of laborers, mechanics, subcontractors,
23 materialmen, suppliers, and taxes imposed pursuant to Title 82 RCW that
24 may be due from the contractor for the limited public works project,
25 however the agency shall have a right of recovery against the
26 contractor for any payments made on the contractor's behalf.

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

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

33 (1) A municipality may use either the small works roster process as
34 defined in subsection (2) of this section or the limited public works
35 process as defined in subsection (3) of this section for work,
36 construction, repair, alteration, or improvement projects.

37 (2)(a) This (~~section~~) subsection provides a uniform process to
38 award contracts for public works projects by those municipalities that

1 are authorized to use a small works roster in lieu of the requirements
2 for formal sealed bidding. The state statutes governing a specific
3 type of municipality shall establish the maximum dollar thresholds of
4 the contracts that can be awarded under this process, and may include
5 other matters concerning the small works roster process, for the
6 municipality.

7 ((+2)) (b) Such municipalities may create a single general small
8 works roster, or may create a small works roster for different
9 categories of anticipated work. The small works roster or rosters
10 shall consist of all responsible contractors who have requested to be
11 on the list, and where required by law are properly licensed or
12 registered to perform such work in this state. At least twice a year,
13 the municipality shall publish in a newspaper of general circulation
14 within the jurisdiction a notice of the existence of the roster or
15 rosters and solicit the names of contractors for such roster or
16 rosters.

17 The governing body of the municipality shall establish a procedure
18 for securing ((telephone)) electronic or written quotations from the
19 contractors on the general small works roster, or a specific small
20 works roster for the appropriate category of work, to assure that a
21 competitive price is established and to award contracts to the lowest
22 responsible bidder, as defined in RCW 43.19.1911. Such invitations for
23 quotations shall include an estimate of the scope and nature of the
24 work to be performed as well as materials and equipment to be
25 furnished. However, detailed plans and specifications need not be
26 included in the invitation. This section does not eliminate other
27 requirements for architectural or engineering approvals as to quality
28 and compliance with building codes. Whenever possible at least five
29 contractors shall be invited to submit bids. Once a contractor has
30 been afforded an opportunity to submit a proposal, that contractor
31 shall not be offered another opportunity until all other appropriate
32 contractors on the small works roster have been afforded an opportunity
33 to submit a proposal on a contract. Proposals may be invited from all
34 appropriate contractors on the small works roster.

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

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

1 (3) Work, construction, alteration, repair, or improvement projects
2 estimated to cost less than thirty-five thousand dollars are limited
3 public works exempt from the small works roster process and from the
4 requirement that contracts be awarded after advertisement and
5 competitive bid as provided in RCW 39.04.010. For limited public works
6 projects, the municipality shall solicit electronic or written
7 quotations from a minimum of three contractors including a certified
8 minority or certified woman-owned contractor, when practicable, and
9 shall award the work to the licensed or registered contractor with the
10 lowest quotation, even if only one quotation is received, or reject all
11 quotations. After an award is made, the quotations shall be open to
12 public inspection and available by electronic request. A municipality
13 shall attempt to equitably distribute opportunities for limited public
14 works projects among contractors willing to perform in the geographic
15 area of the work. A municipality shall maintain a list each biennium
16 of the contracts awarded under the limited public works process,
17 including the name of the contractor, the amount of the contract, a
18 brief description of the type of work performed, and the date it was
19 awarded. For limited public works projects, a municipality may waive
20 the payment and performance bond requirements of chapter 39.08 RCW and
21 the retainage requirements of chapter 60.28 RCW, thereby assuming the
22 liability for the contractor's nonpayment of laborers, mechanics,
23 subcontractors, materialmen, suppliers, and taxes imposed pursuant to
24 Title 82 RCW that may be due from the contractor for the limited public
25 works project, however the agency shall have a right of recovery
26 against the contractor for any payments made on the contractor's
27 behalf.

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