
SENATE BILL 6770

State of Washington 59th Legislature 2006 Regular Session

By Senators Fraser, Zarelli, Pridemore, Benton, Kastama, Sheldon and Rasmussen

Read first time 01/23/2006. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to the population threshold for counties eligible
2 to use the design-build procedure; reenacting and amending RCW
3 39.10.051; and providing an expiration date.

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

5 **Sec. 1.** RCW 39.10.051 and 2003 c 352 s 2 and 2003 c 300 s 4 are
6 each reenacted and amended to read as follows:

7 (1) Notwithstanding any other provision of law, and after complying
8 with RCW 39.10.030, the following public bodies may utilize the design-
9 build procedure of public works contracting for public works projects
10 authorized under this section: The state department of general
11 administration; the state ferry system; the University of Washington;
12 Washington State University; every city with a population greater than
13 seventy thousand and any public authority chartered by such city under
14 RCW 35.21.730 through 35.21.755 and specifically authorized as provided
15 in RCW 39.10.120(4); every county with a population greater than
16 ((four)) two hundred ((fifty)) thousand; every public utility district
17 with revenues from energy sales greater than twenty-three million
18 dollars per year; every public hospital district with total revenues
19 greater than fifteen million dollars per year; and every port district

1 with total revenues greater than fifteen million dollars per year. The
2 authority granted to port districts in this section is in addition to
3 and does not affect existing contracting authority under RCW 53.08.120
4 and 53.08.130. For the purposes of this section, "design-build
5 procedure" means a contract between a public body and another party in
6 which the party agrees to both design and build the facility, portion
7 of the facility, or other item specified in the contract.

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

11 (a) The construction activities or technologies to be used are
12 highly specialized and a design-build approach is critical in
13 developing the construction methodology or implementing the proposed
14 technology; or

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

17 (c) Regular interaction with and feedback from facilities users and
18 operators during design is not critical to an effective facility
19 design.

20 (3) Public bodies authorized under this section may also use the
21 design-build procedure for the following projects that meet the
22 criteria in subsection (2)(b) and (c) of this section:

23 (a) The construction or erection of preengineered metal buildings
24 or prefabricated modular buildings, regardless of cost; or

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

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

35 (a) A detailed description of the project including programmatic,
36 performance, and technical requirements and specifications, functional
37 and operational elements, minimum and maximum net and gross areas of

1 any building, and, at the discretion of the public body, preliminary
2 engineering and architectural drawings;

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

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

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

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

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

18 (g) Other information relevant to the project.

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

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

1 Public bodies shall continue in accordance with this procedure until a
2 contract agreement is reached or the selection process is terminated.

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

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

13 (7) The authority provided to the state ferry system in this
14 section is limited to projects concerning construction, renovation,
15 preservation, demolition, and reconstruction of ferry terminals and
16 associated land-based facilities.

17 NEW SECTION. **Sec. 2.** Section 1 of this act expires July 1, 2007.

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