
SENATE BILL 6845

State of Washington

59th Legislature

2006 Regular Session

By Senators Fraser, Kastama and Pridemore

Read first time 01/26/2006. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to the population threshold for cities and counties
2 eligible to use the design-build procedure; amending RCW 39.10.902; and
3 reenacting and amending RCW 39.10.051.

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)) forty thousand and any public authority chartered by such
14 city under RCW 35.21.730 through 35.21.755 and specifically authorized
15 as provided in RCW 39.10.120(4); every county with a population greater
16 than ((four)) two hundred ((fifty)) thousand; every public utility
17 district with revenues from energy sales greater than twenty-three
18 million dollars per year; every public hospital district with total
19 revenues greater than fifteen million dollars per year; and every port

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

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

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

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

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

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

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

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

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

36 (a) A detailed description of the project including programmatic,
37 performance, and technical requirements and specifications, functional

1 and operational elements, minimum and maximum net and gross areas of
2 any building, and, at the discretion of the public body, preliminary
3 engineering and architectural drawings;

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

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

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

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

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

19 (g) Other information relevant to the project.

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

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

1 public body may proceed to negotiate with the next highest scored firm.
2 Public bodies shall continue in accordance with this procedure until a
3 contract agreement is reached or the selection process is terminated.

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

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

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

18 **Sec. 2.** RCW 39.10.902 and 2005 c 469 s 5 are each amended to read
19 as follows:

20 The following acts or parts of acts, as now existing or hereafter
21 amended, are each repealed, effective July 1, 2007:

- 22 (1) RCW 39.10.010 and 1994 c 132 s 1;
- 23 (2) RCW 39.10.020 and 2005 c 469 s 3, 2003 c 352 s 1, 2003 c 301 s
24 2, 2003 c 300 s 3, 2001 c 328 s 1, 2000 c 209 s 1, 1997 c 376 s 1, &
25 1994 c 132 s 2;
- 26 (3) RCW 39.10.030 and 1997 c 376 s 2 & 1994 c 132 s 3;
- 27 (4) RCW 39.10.040 and 1994 c 132 s 4;
- 28 (5) RCW 39.10.051 and 2006 c ... s 1 (section 1 of this act), 2003
29 c 352 s 2, 2003 c 300 s 4, 2002 c 46 s 1, & 2001 c 328 s 2;
- 30 (6) RCW 39.10.061 and 2003 c 352 s 3, 2003 c 300 s 5, 2002 c 46 s
31 2, & 2001 c 328 s 3;
- 32 (7) RCW 39.10.065 and 1997 c 376 s 5;
- 33 (8) RCW 39.10.067 and 2003 c 301 s 3, 2002 c 46 s 3, & 2000 c 209
34 s 3;
- 35 (9) RCW 39.10.070 and 1994 c 132 s 7;
- 36 (10) RCW 39.10.080 and 1994 c 132 s 8;
- 37 (11) RCW 39.10.090 and 1994 c 132 s 9;

- 1 (12) RCW 39.10.100 and 1994 c 132 s 10;
- 2 (13) RCW 39.10.115 and 2001 c 328 s 4 & 2000 c 209 s 4;
- 3 (14) RCW 39.10.900 and 1994 c 132 s 13;
- 4 (15) RCW 39.10.901 and 1994 c 132 s 14;
- 5 (16) RCW 39.10.068 and 2003 c 300 s 6;
- 6 (17) RCW 39.10.117 and 2003 c 300 s 7; and
- 7 (18) RCW 39.10.130 and 2003 c 301 s 1.

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