

**HB 1836** - H AMD TO H AMD (1836 AMH ORMS ELGE 053) **338**

By Representative Condotta

NOT ADOPTED 3/12/2009

1 On page 1, beginning on line 4, after "**Sec. 1.**" strike all  
2 material through "act." on page 3, line 29 and insert "A new section  
3 is added to chapter 39.04 RCW to read as follows:

4 (1) The definitions in this subsection apply throughout this  
5 section unless the context clearly requires otherwise.

6 (a) "Off-site nonstandard item" means any item that is  
7 prefabricated off-site and which is nonstandard and project-specific  
8 under the terms of the respective contract and which is: (i) Made  
9 primarily of architectural or structural precast concrete, fabricated  
10 steel, pipe and pipe systems, or sheet metal and sheet metal duct  
11 work; (ii) produced specifically for the public work and not  
12 considered to be a regularly available shelf item; (iii) produced or  
13 manufactured by labor expended to assemble or modify a standard item;  
14 and (iv) produced at an off-site location. "Off-site nonstandard item"  
15 does not include the materials supplied to manufacturers, fabricators,  
16 or employers that will be used to complete, construct, or assemble the  
17 final product, products, or items prior to their delivery to the  
18 public works site.

19 (b) "Off-site fabricator" means a company or entity that  
20 manufactures or fabricates an off-site nonstandard item.

21 (2)(a) Except as provided in (b) of this subsection, every  
22 contract to perform public work as defined in RCW 39.04.010 which is  
23 estimated to cost over five million dollars and every contract arising  
24 thereunder between the prime contractor, subcontractors, and their  
25 subcontractors must contain the following provision:

26 "By entering into this contract you hereby acknowledge and  
27 agree to provide a list to the awarding agency which shall

1 describe off-site nonstandard items you procure. An "off-  
2 site nonstandard item" is any item that is prefabricated  
3 off-site and which is nonstandard and project-specific under  
4 the terms of the respective contract and which is: (i) Made  
5 primarily of architectural or structural precast concrete,  
6 fabricated steel, pipe and pipe systems, or sheet metal and  
7 sheet metal duct work; (ii) produced specifically for the  
8 public work and not considered to be a regularly available  
9 shelf item; (iii) produced or manufactured by labor expended  
10 to assemble or modify a standard item; and (iv) produced at  
11 an off-site location. "Off-site nonstandard item" does not  
12 include the materials supplied to manufacturers,  
13 fabricators, or employers that will be used to complete,  
14 construct, or assemble the final product, products, or items  
15 prior to their delivery to the public works site."

16 (b) The list shall not be required for any off-site nonstandard  
17 items that are produced within Washington.

18 (c) The list must identify:

19 (i) The name and address of the contractor or subcontractor  
20 supplying the list;

21 (ii) The name and address of each off-site fabricator;

22 (iii) A general description of the off-site nonstandard items that  
23 will be procured from each off-site fabricator; and

24 (iv) The total sum cost of the off-site nonstandard items which  
25 will be procured from each off-site fabricator.

26 (3) The list required under this section must be submitted on  
27 forms made available by the awarding agency.

28 (4) The failure of a contractor or subcontractor to provide the  
29 list required by subsection (2) of this section shall not be a  
30 condition precedent to nor affect the release of retained funds by the  
31 awarding agency to the prime contractor.

32 (5) This section expires December 31, 2011."  
33

34 Correct the title.

**EFFECT:**

- Requires the list to include the total sum cost of the off-site nonstandard items that will be procured from each off-site fabricator.
- Specifies contract language regarding the list requirement.
- Eliminates the requirement to provide certified payroll records upon request.
- Eliminates the requirement that the list be submitted within 10 days of delivery of an item and provides that the failure to provide the list does not affect the release of retained funds by the awarding agency to the prime contractor.
- Deletes penalty provisions.
- Moves the provisions from the prevailing wage chapter to the general public works chapter.
- Raises the threshold for the application of the requirements to \$5 million.