

HB 1830 - S COMM AMD

By Committee on Government Operations & Elections

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 39.04.010 and 2008 c 130 s 16 are each amended to
4 read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Award" means the formal decision by the state or municipality
8 notifying a responsible bidder with the lowest responsive bid of the
9 state's or municipality's acceptance of the bid and intent to enter
10 into a contract with the bidder.

11 (2) "Contract" means a contract in writing for the execution of
12 public work for a fixed or determinable amount duly awarded after
13 advertisement and competitive bid, or a contract awarded under the
14 small works roster process in RCW 39.04.155.

15 (3) "Microbusiness" means any business entity, including a sole
16 proprietorship, corporation, partnership, or other legal entity, that:
17 (a) Is owned and operated independent from all other businesses; and
18 (b) has a gross revenue of less than one million dollars annually as
19 reported on its federal tax return or on its return filed with the
20 department of revenue.

21 (4) "Minibusiness" means any business entity, including a sole
22 proprietorship, corporation, partnership, or other legal entity, that:
23 (a) Is owned and operated independent from all other businesses; and
24 (b) has a gross revenue of less than three million dollars, but more
25 than one million dollars annually as reported on its federal tax return
26 or on its return filed with the department of revenue.

27 (5) "Municipality" means every city, county, town, port district,
28 district, or other public agency authorized by law to require the
29 execution of public work, except drainage districts, diking districts,
30 diking and drainage improvement districts, drainage improvement

1 diking improvement districts, consolidated diking and
2 drainage improvement districts, consolidated drainage improvement
3 districts, consolidated diking improvement districts, irrigation
4 districts, or other districts authorized by law for the reclamation or
5 development of waste or undeveloped lands.

6 ~~((4))~~ (6) "Public work" means all work, construction, alteration,
7 repair, or improvement other than ordinary maintenance, executed at the
8 cost of the state or of any municipality, or which is by law a lien or
9 charge on any property therein. All public works, including
10 maintenance when performed by contract shall comply with chapter 39.12
11 RCW. "Public work" does not include work, construction, alteration,
12 repair, or improvement performed under contracts entered into under RCW
13 36.102.060(4) or under development agreements entered into under RCW
14 36.102.060(7) or leases entered into under RCW 36.102.060(8).

15 ~~((5))~~ (7) "Responsible bidder" means a contractor who meets the
16 criteria in RCW 39.04.350.

17 ~~((6))~~ (8) "Small business" means any business entity, including
18 a sole proprietorship, corporation, partnership, or other legal entity,
19 that: (a) Is owned and operated independent from all other businesses;
20 and (b) has a gross revenue of less than seven million dollars annually
21 as reported on its federal tax return or its return filed with the
22 department of revenue.

23 (9) "State" means the state of Washington and all departments,
24 supervisors, commissioners, and agencies of the state.

25 **Sec. 2.** RCW 39.04.155 and 2008 c 130 s 17 are each amended to read
26 as follows:

27 (1) This section provides uniform small works roster provisions to
28 award contracts for construction, building, renovation, remodeling,
29 alteration, repair, or improvement of real property that may be used by
30 state agencies and by any local government that is expressly authorized
31 to use these provisions. These provisions may be used in lieu of other
32 procedures to award contracts for such work with an estimated cost of
33 two hundred thousand dollars or less. The small works roster process
34 includes the limited public works process authorized under subsection
35 (3) of this section and any local government authorized to award
36 contracts using the small works roster process under this section may

1 award contracts using the limited public works process under subsection
2 (3) of this section.

3 (2)(a) A state agency or authorized local government may create a
4 single general small works roster, or may create a small works roster
5 for different specialties or categories of anticipated work. Where
6 applicable, small works rosters may make distinctions between
7 contractors based upon different geographic areas served by the
8 contractor. The small works roster or rosters shall consist of all
9 responsible contractors who have requested to be on the list, and where
10 required by law are properly licensed or registered to perform such
11 work in this state. A state agency or local government establishing a
12 small works roster or rosters may require eligible contractors desiring
13 to be placed on a roster or rosters to keep current records of any
14 applicable licenses, certifications, registrations, bonding, insurance,
15 or other appropriate matters on file with the state agency or local
16 government as a condition of being placed on a roster or rosters. At
17 least once a year, the state agency or local government shall publish
18 in a newspaper of general circulation within the jurisdiction a notice
19 of the existence of the roster or rosters and solicit the names of
20 contractors for such roster or rosters. In addition, responsible
21 contractors shall be added to an appropriate roster or rosters at any
22 time they submit a written request and necessary records. Master
23 contracts may be required to be signed that become effective when a
24 specific award is made using a small works roster.

25 (b) A state agency establishing a small works roster or rosters
26 shall adopt rules implementing this subsection. A local government
27 establishing a small works roster or rosters shall adopt an ordinance
28 or resolution implementing this subsection. Procedures included in
29 rules adopted by the department of general administration in
30 implementing this subsection must be included in any rules providing
31 for a small works roster or rosters that is adopted by another state
32 agency, if the authority for that state agency to engage in these
33 activities has been delegated to it by the department of general
34 administration under chapter 43.19 RCW. An interlocal contract or
35 agreement between two or more state agencies or local governments
36 establishing a small works roster or rosters to be used by the parties
37 to the agreement or contract must clearly identify the lead entity that
38 is responsible for implementing the provisions of this subsection.

1 (c) Procedures shall be established for securing telephone,
2 written, or electronic quotations from contractors on the appropriate
3 small works roster to assure that a competitive price is established
4 and to award contracts to the lowest responsible bidder, as defined in
5 RCW 39.04.010. Invitations for quotations shall include an estimate of
6 the scope and nature of the work to be performed as well as materials
7 and equipment to be furnished. However, detailed plans and
8 specifications need not be included in the invitation. This subsection
9 does not eliminate other requirements for architectural or engineering
10 approvals as to quality and compliance with building codes. Quotations
11 may be invited from all appropriate contractors on the appropriate
12 small works roster. As an alternative, quotations may be invited from
13 at least five contractors on the appropriate small works roster who
14 have indicated the capability of performing the kind of work being
15 contracted, in a manner that will equitably distribute the opportunity
16 among the contractors on the appropriate roster. However, if the
17 estimated cost of the work is from one hundred thousand dollars to two
18 hundred thousand dollars, a state agency or local government that
19 chooses to solicit bids from less than all the appropriate contractors
20 on the appropriate small works roster must also notify the remaining
21 contractors on the appropriate small works roster that quotations on
22 the work are being sought. The government has the sole option of
23 determining whether this notice to the remaining contractors is made
24 by: (i) Publishing notice in a legal newspaper in general circulation
25 in the area where the work is to be done; (ii) mailing a notice to
26 these contractors; or (iii) sending a notice to these contractors by
27 facsimile or other electronic means. For purposes of this subsection
28 (2)(c), "equitably distribute" means that a state agency or local
29 government soliciting bids may not favor certain contractors on the
30 appropriate small works roster over other contractors on the
31 appropriate small works roster who perform similar services.

32 (d) A contract awarded from a small works roster under this section
33 need not be advertised.

34 (e) Immediately after an award is made, the bid quotations obtained
35 shall be recorded, open to public inspection, and available by
36 telephone inquiry.

37 (3) In lieu of awarding contracts under subsection (2) of this
38 section, a state agency or authorized local government may award a

1 contract for work, construction, alteration, repair, or improvement
2 projects estimated to cost less than thirty-five thousand dollars using
3 the limited public works process provided under this subsection.
4 Public works projects awarded under this subsection are exempt from the
5 other requirements of the small works roster process provided under
6 subsection (2) of this section and are exempt from the requirement that
7 contracts be awarded after advertisement as provided under RCW
8 39.04.010.

9 For limited public works projects, a state agency or authorized
10 local government shall solicit electronic or written quotations from a
11 minimum of three contractors from the appropriate small works roster
12 and shall award the contract to the lowest responsible bidder as
13 defined under RCW 39.04.010. After an award is made, the quotations
14 shall be open to public inspection and available by electronic request.
15 A state agency or authorized local government shall attempt to
16 distribute opportunities for limited public works projects equitably
17 among contractors willing to perform in the geographic area of the
18 work. A state agency or authorized local government shall maintain a
19 list of the contractors contacted and the contracts awarded during the
20 previous twenty-four months under the limited public works process,
21 including the name of the contractor, the contractor's registration
22 number, the amount of the contract, a brief description of the type of
23 work performed, and the date the contract was awarded. For limited
24 public works projects, a state agency or authorized local government
25 may waive the payment and performance bond requirements of chapter
26 39.08 RCW and the retainage requirements of chapter 60.28 RCW, thereby
27 assuming the liability for the contractor's nonpayment of laborers,
28 mechanics, subcontractors, materialpersons, suppliers, and taxes
29 imposed under Title 82 RCW that may be due from the contractor for the
30 limited public works project, however the state agency or authorized
31 local government shall have the right of recovery against the
32 contractor for any payments made on the contractor's behalf.

33 (4) The breaking of any project into units or accomplishing any
34 projects by phases is prohibited if it is done for the purpose of
35 avoiding the maximum dollar amount of a contract that may be let using
36 the small works roster process or limited public works process.

37 (5)(a) A state agency or authorized local government may use the
38 limited public works process of subsection (3) of this section to

1 solicit and award small works roster contracts to small businesses
2 (~~that are registered contractors with gross revenues under one million~~
3 ~~dollars — annually — as — reported — on — their — federal — tax — return~~),
4 minibusinesses, and microbusinesses.

5 (b) A state agency or authorized local government may adopt
6 additional procedures to encourage small businesses that are registered
7 contractors with gross revenues under two hundred fifty thousand
8 dollars annually as reported on their federal tax returns to submit
9 quotations or bids on small works roster contracts.

10 (6) As used in this section, "state agency" means the department of
11 general administration, the state parks and recreation commission, the
12 department of natural resources, the department of fish and wildlife,
13 the department of transportation, any institution of higher education
14 as defined under RCW 28B.10.016, and any other state agency delegated
15 authority by the department of general administration to engage in
16 construction, building, renovation, remodeling, alteration,
17 improvement, or repair activities."

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18 On page 1, line 1 of the title, after "contracting;" strike the
19 remainder of the title and insert "and amending RCW 39.04.010 and
20 39.04.155."

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