

EHB 2805 - S COMM AMD

By Committee on Labor, Commerce & Consumer Protection

ADOPTED AS AMENDED 03/03/2010

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

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 39.04 RCW
4 to read as follows:

5 (1) For any public work estimated to cost over one million dollars,
6 the contract must contain a provision requiring the submission of
7 certain information about off-site, prefabricated, nonstandard, project
8 specific items produced under the terms of the contract and produced
9 outside Washington. The information must be submitted to the
10 department of labor and industries under subsection (2) of this
11 section. The information that must be provided is:

12 (a) The estimated cost of the public works project;

13 (b) The name of the awarding agency and the title of the public
14 works project;

15 (c) The contract value of the off-site, prefabricated, nonstandard,
16 project specific items produced outside Washington, including labor and
17 materials; and

18 (d) The name, address, and federal employer identification number
19 of the contractor that produced the off-site, prefabricated,
20 nonstandard, project specific items.

21 (2)(a) The required information under this section must be
22 submitted by the contractor or subcontractor as a part of the affidavit
23 of wages paid form filed with the department of labor and industries
24 under RCW 39.12.040. This information is only required to be submitted
25 by the contractor or subcontractor who directly contracted for the off-
26 site, prefabricated, nonstandard, project specific items produced
27 outside Washington.

28 (b) The department of labor and industries shall include requests
29 for the information about off-site, prefabricated, nonstandard, project

1 specific items produced outside Washington on the affidavit of wages
2 paid form required under RCW 39.12.040.

3 (c) The department of general administration shall develop standard
4 contract language to meet the requirements of subsection (1) of this
5 section and make the language available on its web site.

6 (3) For the purposes of this section, "off-site, prefabricated,
7 nonstandard, project specific items" means products or items that are:
8 (a) Made primarily of architectural or structural precast concrete,
9 fabricated steel, pipe and pipe systems, or sheet metal and sheet metal
10 duct work; (b) produced specifically for the public work and not
11 considered to be regularly available shelf items; (c) produced or
12 manufactured by labor expended to assemble or modify standard items;
13 and (d) produced at an off-site location.

14 (4) The department of labor and industries shall transmit
15 information collected under this section to the department of general
16 administration on a regular basis. The department of general
17 administration shall compile the information and submit it on an annual
18 basis to the capital projects advisory review board created in RCW
19 39.10.220 for review and public hearing.

20 (5) This section applies to contracts entered into between
21 September 1, 2010, and December 31, 2013.

22 **Sec. 2.** RCW 39.04.350 and 2009 c 197 s 2 are each amended to read
23 as follows:

24 (1) Before award of a public works contract, a bidder must meet the
25 following responsibility criteria to be considered a responsible bidder
26 and qualified to be awarded a public works project. The bidder must:

27 (a) At the time of bid submittal, have a certificate of
28 registration in compliance with chapter 18.27 RCW;

29 (b) Have a current state unified business identifier number;

30 (c) If applicable, have industrial insurance coverage for the
31 bidder's employees working in Washington as required in Title 51 RCW;
32 an employment security department number as required in Title 50 RCW;
33 and a state excise tax registration number as required in Title 82 RCW;

34 (d) Not be disqualified from bidding on any public works contract
35 under RCW 39.06.010 or 39.12.065(3); (~~and~~)

36 (e) If bidding on a public works project subject to the
37 apprenticeship utilization requirements in RCW 39.04.320, not have been

1 found out of compliance by the Washington state apprenticeship and
2 training council for working apprentices out of ratio, without
3 appropriate supervision, or outside their approved work processes as
4 outlined in their standards of apprenticeship under chapter 49.04 RCW
5 for the one-year period immediately preceding the date of the bid
6 solicitation; and

7 (f) Until December 31, 2013, not have violated section 1 of this
8 act more than one time as determined by the department of labor and
9 industries.

10 (2) In addition to the bidder responsibility criteria in subsection
11 (1) of this section, the state or municipality may adopt relevant
12 supplemental criteria for determining bidder responsibility applicable
13 to a particular project which the bidder must meet.

14 (a) Supplemental criteria for determining bidder responsibility,
15 including the basis for evaluation and the deadline for appealing a
16 determination that a bidder is not responsible, must be provided in the
17 invitation to bid or bidding documents.

18 (b) In a timely manner before the bid submittal deadline, a
19 potential bidder may request that the state or municipality modify the
20 supplemental criteria. The state or municipality must evaluate the
21 information submitted by the potential bidder and respond before the
22 bid submittal deadline. If the evaluation results in a change of the
23 criteria, the state or municipality must issue an addendum to the
24 bidding documents identifying the new criteria.

25 (c) If the bidder fails to supply information requested concerning
26 responsibility within the time and manner specified in the bid
27 documents, the state or municipality may base its determination of
28 responsibility upon any available information related to the
29 supplemental criteria or may find the bidder not responsible.

30 (d) If the state or municipality determines a bidder to be not
31 responsible, the state or municipality must provide, in writing, the
32 reasons for the determination. The bidder may appeal the determination
33 within the time period specified in the bidding documents by presenting
34 additional information to the state or municipality. The state or
35 municipality must consider the additional information before issuing
36 its final determination. If the final determination affirms that the
37 bidder is not responsible, the state or municipality may not execute a

1 contract with any other bidder until two business days after the bidder
2 determined to be not responsible has received the final determination.

3 (3) The capital projects advisory review board created in RCW
4 39.10.220 shall develop suggested guidelines to assist the state and
5 municipalities in developing supplemental bidder responsibility
6 criteria. The guidelines must be posted on the board's web site."

EHB 2805 - S COMM AMD

By Committee on Labor, Commerce & Consumer Protection

ADOPTED AS AMENDED 03/03/2010

7 On page 1, line 1 of the title, after "prefabrication;" strike the
8 remainder of the title and insert "amending RCW 39.04.350; and adding
9 a new section to chapter 39.04 RCW."

--- END ---