
SECOND SUBSTITUTE HOUSE BILL 2933

State of Washington

64th Legislature

2016 Regular Session

By House Capital Budget (originally sponsored by Representatives Gregerson, Santos, and Ryu)

READ FIRST TIME 02/09/16.

1 AN ACT Relating to small works rosters; and amending RCW
2 39.04.155.

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

4 **Sec. 1.** RCW 39.04.155 and 2015 c 225 s 33 are each amended to
5 read as follows:

6 (1) This section provides uniform small works roster provisions
7 to award contracts for construction, building, renovation,
8 remodeling, alteration, repair, or improvement of real property that
9 may be used by state agencies and by any local government that is
10 expressly authorized to use these provisions. These provisions may be
11 used in lieu of other procedures to award contracts for such work
12 with an estimated cost of (~~three~~) four hundred thousand dollars or
13 less. The small works roster process includes the limited public
14 works process authorized under subsection (3) of this section and any
15 local government authorized to award contracts using the small works
16 roster process under this section may award contracts using the
17 limited public works process under subsection (3) of this section.

18 (2)(a) A state agency or authorized local government may create a
19 single general small works roster, or may create a small works roster
20 for different specialties or categories of anticipated work. Where
21 applicable, small works rosters may make distinctions between

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

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

34 (c) Procedures shall be established for securing telephone,
35 written, or electronic quotations from contractors on the appropriate
36 small works roster to assure that a competitive price is established
37 and to award contracts to the lowest responsible bidder, as defined
38 in RCW 39.04.010. Invitations for quotations shall include an
39 estimate of the scope and nature of the work to be performed as well
40 as materials and equipment to be furnished. However, detailed plans

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

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

28 (e) Immediately after an award is made, the bid quotations
29 obtained shall be recorded, open to public inspection, and available
30 by (~~telephone inquiry~~) electronic request.

31 (f) For projects awarded under the small works roster process
32 established under this subsection, unpaid wages and benefits shall be
33 the first priority for actions filed against retainage by a state
34 agency or authorized local government.

35 (3)(a) In lieu of awarding contracts under subsection (2) of this
36 section, a state agency or authorized local government may award a
37 contract for work, construction, alteration, repair, or improvement
38 projects estimated to cost less than (~~thirty-five~~) one hundred
39 fifty thousand dollars using the limited public works process
40 provided under this subsection. Public works projects awarded under

1 this subsection are exempt from the other requirements of the small
2 works roster process provided under subsection (2) of this section
3 and are exempt from the requirement that contracts be awarded after
4 advertisement as provided under RCW 39.04.010.

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

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

35 ~~((a)) A state agency or authorized local government may use
36 the limited public works process of subsection (3) of this section to
37 solicit and award small works roster contracts to small businesses
38 that are registered contractors with gross revenues under one million
39 dollars annually as reported on their federal tax return.~~

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

6 ~~(6) As used in this section,~~) A state agency or authorized local
7 government may use the limited public works process in this section
8 to solicit and award small works roster contracts to minibusinesses
9 and microbusinesses as defined under RCW 39.26.010 that are
10 registered contractors.

11 (6) The department of enterprise services shall work with the
12 municipal research and services center to notify local governments
13 authorized to use small works rosters of this authority and to
14 provide guidance on how to use the authority. The guidance may take
15 the form of a manual provided to local governments.

16 (7) The definitions in this subsection apply throughout this
17 section unless the context clearly requires otherwise.

18 (a) "Equitably distributes" means that a state agency or
19 authorized local government may not favor certain contractors on the
20 appropriate small works roster over other contractors on the same
21 roster who perform similar services.

22 (b) "State agency" means the department of enterprise services,
23 the state parks and recreation commission, the department of natural
24 resources, the department of fish and wildlife, the department of
25 transportation, any institution of higher education as defined under
26 RCW 28B.10.016, and any other state agency delegated authority by the
27 department of enterprise services to engage in construction,
28 building, renovation, remodeling, alteration, improvement, or repair
29 activities.

30 (c) Beginning July 1, 2019, the small works roster process
31 provided under subsections (1) and (2) of this section may be used in
32 lieu of other procedures to award contracts for projects with an
33 estimated cost of five hundred thousand dollars or less.

34 (d) The joint legislative audit and review committee shall review
35 the implementation of these changes and report by December 1, 2017.

36 (e) The small works roster projects with an estimated cost of
37 four hundred thousand dollars or less is increased to five hundred
38 thousand dollars or less on July 1, 2018.

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