RCW 39.30.060 Bids on public works—Identification, substitution of licensed subcontractors. (1) Every invitation to bid on a prime contract that is expected to cost $1,000,000 or more for the construction, alteration, or repair of any public building or public work of the state or a state agency or municipality as defined under RCW 39.04.010 or an institution of higher education as defined under RCW 28B.10.016 shall require each prime contract bidder to submit:

(a) At the published bid submittal time, the names of the licensed subcontractors and proof of license with whom the bidder, if awarded the contract, will subcontract for performance of the work of: HVAC (heating, ventilation, and air conditioning); plumbing as described in chapter 18.106 RCW; and electrical as described in chapter 19.28 RCW, or to name itself for the work, if it is licensed to perform the work for which it has named itself. Errors identified by the contracting agency in the proof of license information must be corrected by the bidder within 48 hours of submission; and

(b) Within 48 hours after the published bid submittal time, the names of the subcontractors with whom the bidder, if awarded the contract, will subcontract for performance of the work of structural steel installation and rebar installation.

(2) The prime contract bidder shall not list more than one subcontractor for each category of work identified, unless subcontractors vary with bid alternates, in which case the prime contract bidder must indicate which subcontractor will be used for which alternate. Failure of the prime contract bidder to submit as part of the bid the names of such subcontractors or to name itself to perform such work or the naming of two or more subcontractors to perform the same work shall render the prime contract bidder's bid nonresponsive and, therefore, void.

(3) Substitution of a listed subcontractor in furtherance of bid shopping or bid peddling before or after the award of the prime contract is prohibited and the originally listed subcontractor is entitled to recover monetary damages from the prime contract bidder who executed a contract with the public entity and the substituted subcontractor but not from the public entity inviting the bid. It is the original subcontractor's burden to prove by a preponderance of the evidence that bid shopping or bid peddling occurred. Substitution of a listed subcontractor may be made by the prime contractor for the following reasons:

(a) Refusal of the listed subcontractor to sign a contract with the prime contractor;

(b) Bankruptcy or insolvency of the listed subcontractor;

(c) Inability of the listed subcontractor to perform the requirements of the proposed contract or the project;

(d) Inability of the listed subcontractor to obtain the necessary bonding, insurance, or other statutory requirements to perform the work detailed in the contract;

(e) Refusal or inability to provide a letter of bondability from a surety company; or

(f) The listed subcontractor is barred from participating in the project as a result of a court order or summary judgment.

(4) The requirement of this section to name the prime contract bidder's proposed subcontractors applies only to proposed HVAC, plumbing, electrical, structural steel installation, and rebar installation subcontractors who will contract directly with the prime contract bidder submitting the bid to the public entity.

(5) This section does not apply to design-build requests for proposals under RCW 39.10.330, to general contractor/construction manager requests for proposals under RCW 39.10.350, or to job order contract requests for proposals under RCW 39.10.420. [2025 c 308 s 1; 2021 c 103 s 1; 2020 c 140 s 1; 2003 c 301 s 5; 2002 c 163 s 2; 1999 c 109 s 1; 1995 c 94 s 1; 1994 c 91 s 1; 1993 c 378 s 1.]

Intent—2002 c 163: "This act is intended to discourage bid shopping and bid peddling on Washington state public building and works projects." [2002 c 163 s 1.]

Application—1994 c 91: "This act applies prospectively only and not retroactively. It applies only to invitations to bid issued on or after June 9, 1994." [1994 c 91 s 2.]

Application—1993 c 378: "This act applies prospectively only and not retroactively. It applies only to invitations to bid issued on or after July 25, 1993." [1993 c 378 s 2.]