
SENATE BILL 5546

State of Washington

60th Legislature

2007 Regular Session

By Senators Kline, Fairley and Franklin

Read first time 01/23/2007. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to small works roster contracting procedures; and
2 amending RCW 39.04.155.

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

4 **Sec. 1.** RCW 39.04.155 and 2001 c 284 s 1 are each amended to read
5 as follows:

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

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

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

35 (c) Procedures shall be established for securing telephone,
36 written, or electronic quotations from contractors on the appropriate
37 small works roster to assure that a competitive price is established
38 and to award contracts to the lowest responsible bidder, as defined in

1 RCW 43.19.1911. Invitations for quotations shall include an estimate
2 of the scope and nature of the work to be performed as well as
3 materials and equipment to be furnished. However, detailed plans and
4 specifications need not be included in the invitation. This subsection
5 does not eliminate other requirements for architectural or engineering
6 approvals as to quality and compliance with building codes. Quotations
7 may be invited from all appropriate contractors on the appropriate
8 small works roster. As an alternative, quotations may be invited from
9 at least five contractors on the appropriate small works roster who
10 have indicated the capability of performing the kind of work being
11 contracted, in a manner that will equitably distribute the opportunity
12 among the contractors on the appropriate roster. However, if the
13 estimated cost of the work is from one hundred thousand dollars to two
14 hundred thousand dollars, a state agency or local government, other
15 than a port district, that chooses to solicit bids from less than all
16 the appropriate contractors on the appropriate small works roster must
17 also notify the remaining contractors on the appropriate small works
18 roster that quotations on the work are being sought. The government
19 has the sole option of determining whether this notice to the remaining
20 contractors is made by: (i) Publishing notice in a legal newspaper in
21 general circulation in the area where the work is to be done; (ii)
22 mailing a notice to these contractors; or (iii) sending a notice to
23 these contractors by facsimile or other electronic means. For purposes
24 of this subsection (2)(c), "equitably distribute" means that a state
25 agency or local government soliciting bids may not favor certain
26 contractors on the appropriate small works roster over other
27 contractors on the appropriate small works roster who perform similar
28 services.

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

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

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

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

6 For limited public works projects, a state agency or authorized
7 local government shall solicit electronic or written quotations from a
8 minimum of three contractors from the appropriate small works roster
9 and shall award the contract to the lowest responsible bidder as
10 defined under RCW 43.19.1911. After an award is made, the quotations
11 shall be open to public inspection and available by electronic request.
12 A state agency or authorized local government shall attempt to
13 distribute opportunities for limited public works projects equitably
14 among contractors willing to perform in the geographic area of the
15 work. A state agency or authorized local government shall maintain a
16 list of the contractors contacted and the contracts awarded during the
17 previous twenty-four months under the limited public works process,
18 including the name of the contractor, the contractor's registration
19 number, the amount of the contract, a brief description of the type of
20 work performed, and the date the contract was awarded. For limited
21 public works projects, a state agency or authorized local government
22 may waive the payment and performance bond requirements of chapter
23 39.08 RCW and the retainage requirements of chapter 60.28 RCW, thereby
24 assuming the liability for the contractor's nonpayment of laborers,
25 mechanics, subcontractors, (~~materialmen~~) materialpersons, suppliers,
26 and taxes imposed under Title 82 RCW that may be due from the
27 contractor for the limited public works project, however the state
28 agency or authorized local government shall have the right of recovery
29 against the contractor for any payments made on the contractor's
30 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 using
34 the small works roster process or limited public works process.

35 (5) A state agency or authorized local government may adopt
36 procedures to award small works roster contracts to small businesses
37 with gross revenues under one million dollars annually as reported on
38 their federal tax return. Additional procedures may be developed to

1 award small works roster contracts to small businesses with gross
2 revenues under two hundred fifty thousand dollars annually as reported
3 on their federal tax return. For contracts awarded to small businesses
4 with gross revenues under two hundred fifty thousand dollars annually,
5 a state agency or authorized local government may waive the payment and
6 performance bond requirements of chapter 39.08 RCW and the retainage
7 requirements of chapter 60.28 RCW, and assume the liability for the
8 contractor's nonpayment of laborers, mechanics, subcontractors,
9 materialpersons, suppliers, and taxes imposed under Title 82 RCW. If
10 the state agency or authorized local government assumes this liability,
11 it has the right of recovery against the contractor for any payments
12 made on behalf of the contractor.

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

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