

HB 1830 - S COMM AMD

By Committee on Economic Development, Trade & Innovation

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 districts, 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" has the same meaning as defined in RCW
18 39.29.006(11).

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

21 **Sec. 2.** RCW 39.04.155 and 2009 c 74 s 1 are each amended to read
22 as follows:

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

35 (2)(a) A state agency or authorized local government may create a
36 single general small works roster, or may create a small works roster
37 for different specialties or categories of anticipated work. Where

1 applicable, small works rosters may make distinctions between
2 contractors based upon different geographic areas served by the
3 contractor. The small works roster or rosters shall consist of all
4 responsible contractors who have requested to be on the list, and where
5 required by law are properly licensed or registered to perform such
6 work in this state. A state agency or local government establishing a
7 small works roster or rosters may require eligible contractors desiring
8 to be placed on a roster or rosters to keep current records of any
9 applicable licenses, certifications, registrations, bonding, insurance,
10 or other appropriate matters on file with the state agency or local
11 government as a condition of being placed on a roster or rosters. At
12 least once a year, the state agency or local government shall publish
13 in a newspaper of general circulation within the jurisdiction a notice
14 of the existence of the roster or rosters and solicit the names of
15 contractors for such roster or rosters. In addition, responsible
16 contractors shall be added to an appropriate roster or rosters at any
17 time they submit a written request and necessary records. Master
18 contracts may be required to be signed that become effective when a
19 specific award is 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 general administration 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 general
29 administration under chapter 43.19 RCW. An interlocal contract or
30 agreement between two or more state agencies or local governments
31 establishing a small works roster or rosters to be used by the parties
32 to the agreement or contract must clearly identify the lead entity that
33 is 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 in
38 RCW 39.04.010. Invitations for quotations shall include an estimate of

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

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

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

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

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

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

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

33 (5)(a) A state agency or authorized local government may use the
34 limited public works process of subsection (3) of this section to
35 solicit and award small works roster contracts to all responsible
36 contractors who have requested to be on the roster or rosters,
37 including small businesses (~~that are registered contractors with gross~~

1 ~~revenues under one million dollars annually as reported on their~~
2 ~~federal tax return)), minibusinesses, and microbusinesses.~~

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

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

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

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