
SUBSTITUTE HOUSE BILL 1754

State of Washington

64th Legislature

2015 Regular Session

By House Capital Budget (originally sponsored by Representatives Buys, Dunshee, Muri, Haler, Senn, Ormsby, Sullivan, and Smith)

1 AN ACT Relating to adding building envelope to the list of
2 building trades that a prime contractor must list for bids on public
3 works; and amending RCW 39.30.060.

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

5 **Sec. 1.** RCW 39.30.060 and 2003 c 301 s 5 are each amended to
6 read as follows:

7 (1) Every invitation to bid on a prime contract that is expected
8 to cost one million dollars or more for the construction, alteration,
9 or repair of any public building or public work of the state or a
10 state agency or municipality as defined under RCW 39.04.010 or an
11 institution of higher education as defined under RCW 28B.10.016 shall
12 require each prime contract bidder to submit as part of the bid, or
13 within one hour after the published bid submittal time, the names of
14 the subcontractors with whom the bidder, if awarded the contract,
15 will subcontract for performance of the work of: HVAC (heating,
16 ventilation, and air conditioning); plumbing as described in chapter
17 18.106 RCW; and electrical as described in chapter 19.28 RCW, or to
18 name itself for the work. The prime contract bidder shall not list
19 more than one subcontractor for each category of work identified,
20 unless subcontractors vary with bid alternates, in which case the
21 prime contract bidder must indicate which subcontractor will be used

1 for which alternate. Failure of the prime contract bidder to submit
2 as part of the bid the names of such subcontractors or to name itself
3 to perform such work or the naming of two or more subcontractors to
4 perform the same work shall render the prime contract bidder's bid
5 nonresponsive and, therefore, void.

6 (2) At the time the public entity establishes the low responsive
7 bidder and provides intent to award the contract to the prime
8 contractor, the list of all subcontractors, including subcontract
9 work performed for the building envelope, must be provided to the
10 public entity. Failure of the prime contractor to list the names of
11 all subcontractors or to name itself to perform the work or the
12 naming of two or more subcontractors to perform the same work may
13 render the contract void.

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

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

26 (b) Bankruptcy or insolvency of the listed subcontractor;

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

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

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

34 ~~((+3))~~ (4) The requirement of this section to name the prime
35 contract bidder's proposed HVAC, plumbing, and electrical
36 subcontractors applies only to proposed HVAC, plumbing, and
37 electrical subcontractors who will contract directly with the prime
38 contract bidder submitting the bid to the public entity.

39 ~~((+4))~~ (5) This section does not apply to job order contract
40 requests for proposals under RCW ~~((39.10.130))~~ 39.10.420.

1 (6) For the purposes of this section, "building envelope" means
2 the elements of a building that are the physical separation between
3 the building's interior, conditioned spaces and the exterior,
4 unconditioned environment through which heat, air, light, and sound
5 may be transferred. "Building envelope" does not include any portion
6 of the building that is below grade.

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