
SENATE BILL 5457

State of Washington

66th Legislature

2019 Regular Session

By Senators Keiser and Saldaña

1 AN ACT Relating to the naming of subcontractors by prime contract
2 bidders on public works contracts; and amending RCW 39.30.060.

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

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

6 (1) Every invitation to bid on a prime contract that is expected
7 to cost one million dollars or more for the construction, alteration,
8 or repair of any public building or public work of the state or a
9 state agency or municipality as defined under RCW 39.04.010 or an
10 institution of higher education as defined under RCW 28B.10.016 shall
11 require each prime contract bidder to submit as part of the bid, or
12 within one hour after the published bid submittal time, the names of
13 the subcontractors with whom the bidder, if awarded the contract,
14 will subcontract for performance of the work of: HVAC (heating,
15 ventilation, and air conditioning); plumbing as described in chapter
16 18.106 RCW; ~~((and))~~ electrical as described in chapter 19.28 RCW; and
17 all other work performed by contractors required to be registered as
18 described in chapter 18.27 RCW, or to name itself for the work. The
19 prime contract bidder shall not list more than one subcontractor for
20 each category of work identified, unless subcontractors vary with bid
21 alternates, in which case the prime contract bidder must indicate

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

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

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

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

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

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

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

26 (3) The requirement of this section to name the prime contract
27 bidder's proposed (~~HVAC, plumbing, and electrical~~) subcontractors
28 applies (~~only~~) to proposed HVAC, plumbing, and electrical
29 subcontractors, and all other work performed by contractors required
30 to be registered as described in chapter 18.27 RCW who will contract
31 directly with the prime contract bidder submitting the bid to the
32 public entity.

33 (4) This section does not apply to job order contract requests
34 for proposals under RCW (~~39.10.130~~) 39.10.420.

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