
HOUSE BILL 2328

State of Washington 62nd Legislature 2012 Regular Session

By Representatives Dammeier, Haigh, and Hunt

Read first time 01/11/12. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to job order contracting; and amending RCW
2 39.10.420, 39.10.440, 39.10.450, 39.10.460, and 43.131.408.

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

4 **Sec. 1.** RCW 39.10.420 and 2009 c 75 s 7 are each amended to read
5 as follows:

6 (1) The following public bodies are authorized to use the job order
7 contracting procedure:

8 (a) The department of (~~general administration~~) enterprise
9 services;

10 (b) The (~~University of Washington~~) state universities, regional
11 universities, and The Evergreen State College;

12 (c) (~~Washington State University~~) Sound transit (central Puget
13 Sound regional transit authority);

14 (d) Every city with a population greater than seventy thousand and
15 any public authority chartered by such city under RCW 35.21.730 through
16 35.21.755;

17 (e) Every county with a population greater than four hundred fifty
18 thousand;

1 (f) Every port district with total revenues greater than fifteen
2 million dollars per year;

3 (g) Every public utility district with revenues from energy sales
4 greater than twenty-three million dollars per year;

5 (h) Every school district; and

6 (i) The state ferry system.

7 (2)(a) The department of (~~general administration~~) enterprise
8 services may issue job order contract work orders for Washington state
9 parks department projects.

10 (b) The department of (~~general administration~~) enterprise
11 services, the University of Washington, and Washington State University
12 may issue job order contract work orders for the state regional
13 universities and The Evergreen State College.

14 (3) Public bodies may use a job order contract for public works
15 projects when a determination is made that the use of job order
16 contracts will benefit the public by providing an effective means of
17 reducing the total lead-time and cost for the construction of public
18 works projects for repair and renovation required at public facilities
19 through the use of unit price books and work orders by eliminating
20 time-consuming, costly aspects of the traditional public works process,
21 which require separate contracting actions for each small project.

22 **Sec. 2.** RCW 39.10.440 and 2007 c 494 s 403 are each amended to
23 read as follows:

24 (1) The maximum total dollar amount that may be awarded under a job
25 order contract is (~~four~~) six million dollars per year for a maximum
26 of three years.

27 (2) Job order contracts may be executed for an initial contract
28 term of not to exceed two years, with the option of extending or
29 renewing the job order contract for one year. All extensions or
30 renewals must be priced as provided in the request for proposals. The
31 extension or renewal must be mutually agreed to by the public body and
32 the job order contractor. The contract term is considered the time
33 that the contract is in effect for the purpose of issuing work orders.
34 Work orders may only be issued during the time that the contract is in
35 effect. Work orders may be completed beyond the contract term.

36 (3) A public body may have no more than two job order contracts in

1 effect at any one time, with the exception of the department of
2 (~~general administration~~) enterprise services, which may have four job
3 order contracts in effect at any one time.

4 (4) At least (~~ninety~~) sixty percent of (~~work contained in~~) a
5 job order contract must be subcontracted to entities other than the job
6 order contractor. The job order contractor must distribute contracts
7 as equitably as possible among qualified and available subcontractors
8 including minority and woman-owned subcontractors to the extent
9 permitted by law.

10 (5) The job order contractor shall publish notification of intent
11 to perform public works projects at the beginning of each contract year
12 in a statewide publication and in a legal newspaper of general
13 circulation in every county in which the public works projects are
14 anticipated.

15 (6) Job order contractors shall pay prevailing wages for all work
16 that would otherwise be subject to the requirements of chapter 39.12
17 RCW. Prevailing wages for all work performed pursuant to each work
18 order must be the rates in effect at the time the individual work order
19 is issued.

20 (7) If, in the initial contract term, the public body, at no fault
21 of the job order contractor, fails to issue the minimum amount of work
22 orders stated in the public request for proposals, the public body
23 shall pay the contractor an amount equal to the difference between the
24 minimum work order amount and the actual total of the work orders
25 issued multiplied by an appropriate percentage for overhead and profit
26 contained in the contract award coefficient for services as specified
27 in the request for proposals. This is the contractor's sole remedy.

28 (8) All job order contracts awarded under this section must be
29 signed before July 1, 2013; however the job order contract may be
30 extended or renewed as provided for in this section.

31 (9) Public bodies may amend job order contracts awarded prior to
32 July 1, 2007, in accordance with this chapter.

33 **Sec. 3.** RCW 39.10.450 and 2007 c 494 s 404 are each amended to
34 read as follows:

35 (1) The maximum dollar amount for a work order is three hundred
36 fifty thousand dollars. (~~For each job order contract, public bodies~~

1 ~~shall not issue more than two work orders equal to or greater than~~
2 ~~three hundred thousand dollars in a twelve-month contract period.))~~

3 (2) All work orders issued for the same project shall be treated as
4 a single work order for purposes of the dollar limit on work orders.

5 (3) No more than twenty percent of the dollar value of a work order
6 may consist of items of work not contained in the unit price book.

7 (4) Any new permanent, enclosed building space constructed under a
8 work order shall not exceed two thousand gross square feet.

9 (5) A public body may issue no work orders under a job order
10 contract until it has approved, in consultation with the office of
11 minority and women's business enterprises or the equivalent local
12 agency, a plan prepared by the job order contractor that equitably
13 spreads certified women and minority business enterprise subcontracting
14 opportunities, to the extent permitted by the Washington state civil
15 rights act, RCW 49.60.400, among the various subcontract disciplines.

16 (6) For purposes of chapters 39.08, 39.12, 39.76, and 60.28 RCW,
17 each work order issued shall be treated as a separate contract. The
18 alternate filing provisions of RCW 39.12.040(2) apply to each work
19 order that otherwise meets the eligibility requirements of RCW
20 39.12.040(2).

21 (7) The job order contract shall not be used for the procurement of
22 architectural or engineering services not associated with specific work
23 orders. Architectural and engineering services shall be procured in
24 accordance with RCW 39.80.040.

25 **Sec. 4.** RCW 39.10.460 and 2007 c 494 s 405 are each amended to
26 read as follows:

27 Each year, a public body shall provide to the board the following
28 information for each job order contract ((at the end of each contract
29 year)) for the period July 1st through June 30th:

30 (1) A list of work orders issued;

31 (2) The cost of each work order;

32 (3) A list of subcontractors hired under each work order;

33 (4) If requested by the board, a copy of the intent to pay
34 prevailing wage and the affidavit of wages paid for each work order
35 subcontract; and

36 (5) Any other information requested by the board.

1 **Sec. 5.** RCW 43.131.408 and 2010 1st sp.s. c 21 s 5 are each
2 amended to read as follows:

3 The following acts or parts of acts, as now existing or hereafter
4 amended, are each repealed, effective June 30, 2014:

5 (1) RCW 39.10.200 and 2010 1st sp.s. c 21 s 2, 2007 c 494 s 1, &
6 1994 c 132 s 1;

7 (2) RCW 39.10.210 and 2010 1st sp.s. c 36 s 6014, 2007 c 494 s 101,
8 & 2005 c 469 s 3;

9 (3) RCW 39.10.220 and 2007 c 494 s 102 & 2005 c 377 s 1;

10 (4) RCW 39.10.230 and 2010 1st sp.s. c 21 s 3, 2009 c 75 s 1, 2007
11 c 494 s 103, & 2005 c 377 s 2;

12 (5) RCW 39.10.240 and 2007 c 494 s 104;

13 (6) RCW 39.10.250 and 2009 c 75 s 2 & 2007 c 494 s 105;

14 (7) RCW 39.10.260 and 2007 c 494 s 106;

15 (8) RCW 39.10.270 and 2009 c 75 s 3 & 2007 c 494 s 107;

16 (9) RCW 39.10.280 and 2007 c 494 s 108;

17 (10) RCW 39.10.290 and 2007 c 494 s 109;

18 (11) RCW 39.10.300 and 2009 c 75 s 4 & 2007 c 494 s 201(~~(, 2003 c~~
19 ~~352 s 2, 2003 c 300 s 4, 2002 c 46 s 1, & 2001 c 328 s 2))~~);

20 (12) RCW 39.10.320 and 2007 c 494 s 203 & 1994 c 132 s 7;

21 (13) RCW 39.10.330 and 2009 c 75 s 5 & 2007 c 494 s 204;

22 (14) RCW 39.10.340 and 2007 c 494 s 301(~~(, 2003 c 352 s 3, 2003 c~~
23 ~~300 s 5, 2002 c 46 s 2, & 2001 c 328 s 3))~~);

24 (15) RCW 39.10.350 and 2007 c 494 s 302;

25 (16) RCW 39.10.360 and 2009 c 75 s 6 & 2007 c 494 s 303;

26 (17) RCW 39.10.370 and 2007 c 494 s 304;

27 (18) RCW 39.10.380 and 2007 c 494 s 305;

28 (19) RCW 39.10.385 and 2010 c 163 s 1;

29 (20) RCW 39.10.390 and 2007 c 494 s 306;

30 (~~(+20)~~) (21) RCW 39.10.400 and 2007 c 494 s 307;

31 (~~(+21)~~) (22) RCW 39.10.410 and 2007 c 494 s 308;

32 (~~(+22)~~) (23) RCW 39.10.420 and 2012 c ... s 1 (section 1 of this
33 act), 2009 c 75 s 7, 2007 c 494 s 401, & 2003 c 301 s 1;

34 (~~(+23)~~) (24) RCW 39.10.430 and 2007 c 494 s 402;

35 (~~(+24)~~) (25) RCW 39.10.440 and 2012 c ... s 2 (section 2 of this
36 act) & 2007 c 494 s 403;

37 (~~(+25)~~) (26) RCW 39.10.450 and 2012 c ... s 3 (section 3 of this
38 act) & 2007 c 494 s 404;

1 ~~((+26+))~~ (27) RCW 39.10.460 and 2012 c ... s 4 (section 4 of this
2 act) & 2007 c 494 s 405;
3 ~~((+27+))~~ (28) RCW 39.10.470 and 2005 c 274 s 275 & 1994 c 132 s 10;
4 ~~((+28+))~~ (29) RCW 39.10.480 and 1994 c 132 s 9;
5 ~~((+29+))~~ (30) RCW 39.10.490 and 2007 c 494 s 501 & 2001 c 328 s 5;
6 ~~((+30+))~~ (31) RCW 39.10.500 and 2007 c 494 s 502;
7 ~~((+31+))~~ (32) RCW 39.10.510 and 2007 c 494 s 503;
8 ~~((+32+))~~ (33) RCW 39.10.900 and 1994 c 132 s 13;
9 ~~((+33+))~~ (34) RCW 39.10.901 and 1994 c 132 s 14; (~~and~~
10 ~~+34+))~~ (35) RCW 39.10.903 and 2007 c 494 s 510(~~(-))~~;
11 (36) RCW 39.10.904 and 2007 c 494 s 512; and
12 (37) RCW 39.10.905 and 2007 c 494 s 513.

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