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HOUSE BILL 1571

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State of Washington

66th Legislature

2019 Regular Session

By Representatives Ormsby, Gregerson, Chapman, Pellicciotti, Doglio,  
and Sells

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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