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**SUBSTITUTE HOUSE BILL 1897**

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**State of Washington**

**65th Legislature**

**2018 Regular Session**

**By** House Technology & Economic Development (originally sponsored by Representatives Gregerson, Santos, and Stanford)

1 AN ACT Relating to ensuring fairness and compliance with public  
2 works and procurement practices; amending RCW 39.19.020, 39.19.060,  
3 39.19.080, 39.19.090, 39.19.200, 39.19.250, 39.04.155, and 39.12.040;  
4 adding a new section to chapter 39.19 RCW; prescribing penalties; and  
5 repealing RCW 39.19.100 and 39.19.110.

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

7 **Sec. 1.** RCW 39.19.020 and 1996 c 69 s 4 are each amended to read  
8 as follows:

9 ((Unless the context clearly requires otherwise,)) The  
10 definitions in this section apply throughout this chapter unless the  
11 context clearly requires otherwise.

12 (1) "Advisory committee" means the advisory committee on minority  
13 and women's business enterprises.

14 (2) "Broker" means a person that provides a bona fide service,  
15 such as professional, technical, consultant, brokerage, or managerial  
16 services and assistance in the procurement of essential personnel,  
17 facilities, equipment, materials, or supplies required for  
18 performance of a contract.

19 (3) "Contractor" means an individual or entity granted state  
20 certification and awarded either a direct contract with an agency or

1 an indirect contract as a subcontractor to perform a service or  
2 provide goods.

3 (4) "Debar" means to prohibit a contractor, individual, or other  
4 entity from submitting a bid, having a bid considered, or entering  
5 into a state contract during a specified period of time as set forth  
6 in a debarment order.

7 (5) "Director" means the director of the office of minority and  
8 women's business enterprises.

9 ~~((4))~~ (6) "Educational institutions" means the state  
10 universities, the regional universities, The Evergreen State College,  
11 and the community colleges.

12 ~~((5))~~ (7) "Goals" means annual overall agency goals, expressed  
13 as a percentage of dollar volume, for participation by minority and  
14 women-owned and controlled businesses and shall not be construed as a  
15 minimum goal for any particular contract or for any particular  
16 geographical area. It is the intent of this chapter that such overall  
17 agency goals shall be achievable and shall be met on a contract-by-  
18 contract or class-of-contract basis.

19 ~~((6))~~ (8) "Goods and/or services" includes professional  
20 services and all other goods and services.

21 ~~((7))~~ (9) "Office" means the office of minority and women's  
22 business enterprises.

23 ~~((8))~~ (10) "Person" includes one or more individuals,  
24 partnerships, associations, organizations, corporations,  
25 cooperatives, legal representatives, trustees and receivers, or any  
26 group of persons.

27 ~~((9))~~ (11) "Procurement" means the purchase, lease, or rental  
28 of any goods or services.

29 ~~((10))~~ (12) "Public works" means all work, construction,  
30 highway and ferry construction, alteration, repair, or improvement  
31 other than ordinary maintenance, which a state agency or educational  
32 institution is authorized or required by law to undertake.

33 ~~((11))~~ (13) "State agency" includes the state of Washington and  
34 all agencies, departments, offices, divisions, boards, commissions,  
35 and correctional and other types of institutions.

36 **Sec. 2.** RCW 39.19.060 and 1996 c 288 s 28 are each amended to  
37 read as follows:

38 (1) Each state agency and educational institution shall comply  
39 with the annual goals established for that agency or institution

1 under this chapter for public works and procuring goods or services.  
2 This chapter applies to all public works and procurement by state  
3 agencies and educational institutions, including all contracts and  
4 other procurement under chapters 28B.10, 39.04, ~~((39.29))~~ 39.26,  
5 43.19, and 47.28 RCW.

6 (2) Each state agency shall adopt a plan, developed in  
7 consultation with the director and the advisory committee, to  
8 ~~((insure))~~ ensure that minority and women-owned businesses are  
9 afforded the maximum practicable opportunity to directly and  
10 meaningfully participate in the execution of public contracts for  
11 public works and goods and services. The plan shall include specific  
12 measures the agency will undertake to increase the participation of  
13 certified minority and women-owned businesses.

14 (3) Of all state agencies and educational institutions, the  
15 office must annually identify those: (a) In the lowest quintile of  
16 utilization of minority and women-owned contractors as a percentage  
17 of all contracts issued by the agency; (b) in the lowest quintile of  
18 the dollar value awarded to minority and women-owned contractors as a  
19 percentage of the dollar value of all contracts issued by the agency;  
20 and (c) that are performing significantly below their established  
21 goals, as determined by the office. The office must meet with each  
22 identified agency to review its plan and identify available tools and  
23 actions for increasing participation.

24 (4) The office shall annually notify the governor, the state  
25 auditor, and the joint legislative audit and review committee of all  
26 agencies and educational institutions not in compliance with this  
27 chapter.

28 **Sec. 3.** RCW 39.19.080 and 1987 c 328 s 5 are each amended to  
29 read as follows:

30 ~~((1))~~ A person, firm, corporation, business, union, or other  
31 organization shall not:

32 ~~((a))~~ (1) Prevent or interfere with a contractor's or  
33 subcontractor's compliance with this chapter, or any rule adopted  
34 under this chapter;

35 ~~((b))~~ (2) Submit false or fraudulent information to the state  
36 concerning compliance with this chapter or any such rule;

37 ~~((c))~~ (3) Fraudulently obtain, retain, attempt to obtain or  
38 retain, or aid another in fraudulently obtaining or retaining or

1 attempting to obtain or retain certification as a minority or women's  
2 business enterprise for the purpose of this chapter;

3 ~~((d))~~ (4) Knowingly make a false statement, whether by  
4 affidavit, verified statement, report, or other representation, to a  
5 state official or employee for the purpose of influencing the  
6 certification or denial of certification of any entity as a minority  
7 or women's business enterprise;

8 ~~((e))~~ (5) Knowingly obstruct, impede, or attempt to obstruct or  
9 impede any state official or employee who is investigating the  
10 qualification of a business entity that has requested certification  
11 as a minority or women's business enterprise;

12 ~~((f))~~ (6) Fraudulently obtain, attempt to obtain, or aid  
13 another person in fraudulently obtaining or attempting to obtain  
14 public moneys to which the person is not entitled under this chapter;  
15 or

16 ~~((g))~~ (7) Knowingly make false statements that any entity is or  
17 is not certified as a minority or women's business enterprise for  
18 purposes of obtaining a contract governed by this chapter.

19 ~~((2) Any person or entity violating this chapter or any rule  
20 adopted under this chapter shall be subject to the penalties in RCW  
21 39.19.090. Nothing in this section prevents the state agency or  
22 educational institution from pursuing such procedures or sanctions as  
23 are otherwise provided by statute, rule, or contract provision.))~~

24 **Sec. 4.** RCW 39.19.090 and 1987 c 328 s 6 are each amended to  
25 read as follows:

26 (1)(a) If a person, firm, corporation, or business does not  
27 comply with any provision of this chapter ~~((or))~~ other than RCW  
28 39.19.080, or does not comply with a contract requirement established  
29 under this chapter, the state may ~~((withhold payment, debar the~~  
30 ~~contractor, suspend, or terminate the contract and subject))~~ impose  
31 one or more of the following penalties: Withholding payment,  
32 decertifying the contractor, debaring the contractor, suspending or  
33 terminating the contract, or subjecting the contractor to civil  
34 penalties of up to ten percent of the amount of the contract or up to  
35 five thousand dollars for each violation. ~~((The office shall adopt,~~  
36 ~~by rule, criteria for the imposition of penalties under this section.~~  
37 ~~Wilful))~~

38 (b) If a person, firm, corporation, or business commits any of  
39 the activities prohibited in RCW 39.19.080, the state must impose one

1 or more of the following penalties: Withholding payment, decertifying  
2 the contractor, debarring the contractor for a period between one and  
3 three years, terminating the contract, or subjecting the contractor  
4 to civil penalties of between two and ten percent of the amount of  
5 the contract or between one and five thousand dollars for each  
6 violation.

7 (c) In addition to any other penalties imposed, willful repeated  
8 violations, exceeding a single violation, (~~may~~) must disqualify the  
9 contractor from further participation in state contracts for a period  
10 of (~~up to~~) three years. A willful violation includes a conscious or  
11 deliberate false statement, misrepresentation, omission, or  
12 concealment of a material fact, with the specific intent of  
13 obtaining, continuing, or increasing benefits under this chapter.

14 (2) An apparent low-bidder must be in compliance with the  
15 contract provisions required under this chapter as a condition  
16 precedent to the granting of a notice of award by any state agency or  
17 educational institution.

18 (3) The office shall follow administrative procedures under  
19 chapter 34.05 RCW in determining a violation and imposing penalties  
20 under this chapter. The office shall adopt by rule criteria for the  
21 imposition of penalties under this section. The rule may incorporate  
22 the debarment process authorized for the department of enterprise  
23 services in RCW 39.26.200.

24 (4)(a) An investigation unit is established within the office for  
25 the purpose of detecting and investigating fraud and violations of  
26 this chapter. The office must employ qualified personnel for the  
27 unit.

28 (b) The director and the investigation unit are authorized to  
29 receive criminal history record information that includes  
30 nonconviction data for any purpose associated with the investigation  
31 of fraud or for violations of this chapter. Dissemination or use of  
32 nonconviction data for purposes other than that authorized in this  
33 section is prohibited.

34 (c) For the purpose of any investigation or proceeding under this  
35 chapter, the director or the director's designee may administer oaths  
36 and affirmations, subpoena witnesses, compel their attendance, take  
37 evidence, and require the production of any books, papers,  
38 correspondence, memoranda, agreements, or other documents or records  
39 that the director or the director's designee deems relevant or  
40 material to the inquiry.

1 (d) Subpoenas issued under this section may be enforced under RCW  
2 34.05.588.

3 (e) The investigation unit must annually:

4 (i) Conduct a site review of a minimum of three percent of  
5 persons, firms, corporations, or businesses awarded a contract under  
6 this chapter;

7 (ii) Submit a response for all complaints for investigation made  
8 by an external agency to the agency submitting the complaint;

9 (iii) Develop and implement a process for prioritizing and  
10 conducting thorough investigations of persons, firms, corporations,  
11 or businesses identified by an external complaint and determined to  
12 be the highest priority for the agency; and

13 (iv) Develop and implement a process for prioritizing and  
14 conducting thorough investigations of persons, firms, corporations,  
15 or businesses internally identified and determined to be the highest  
16 priority for the agency.

17 (5) The procedures and sanctions in this section are not  
18 exclusive; nothing in this section prevents the state agency or  
19 educational institution administering the contracts from pursuing  
20 such procedures or sanctions as are otherwise provided by statute,  
21 rule, or contract provision.

22 NEW SECTION. Sec. 5. A new section is added to chapter 39.19  
23 RCW to read as follows:

24 (1) The director or director's designee may apply for and obtain  
25 a superior court order approving and authorizing a subpoena in  
26 advance of its issuance. The application may be made in the county  
27 where the subpoenaed person resides or is found, or the county where  
28 the subpoenaed documents, records, or evidence are located, or in  
29 Thurston county. The application must:

30 (a) State that an order is sought under this section;

31 (b) Adequately specify the documents, records, evidence, or  
32 testimony; and

33 (c) Include a declaration made under oath that an investigation  
34 is being conducted for a lawfully authorized purpose related to an  
35 investigation within the office's authority and that the subpoenaed  
36 documents, records, evidence, or testimony are reasonably related to  
37 an investigation within the office's authority.

38 (2) When an application under this section is made to the  
39 satisfaction of the court, the court must issue an order approving

1 the subpoena. An order under this subsection constitutes authority of  
2 law for the agency to subpoena the documents, records, evidence, or  
3 testimony.

4 (3) The director or director's designee may seek approval and a  
5 court may issue an order under this section without prior notice to  
6 any person, including the person to whom the subpoena is directed and  
7 the person who is the subject of an investigation. An application for  
8 court approval is subject to the fee and process set forth in RCW  
9 36.18.012(3).

10 **Sec. 6.** RCW 39.19.200 and 1993 c 195 s 1 are each amended to  
11 read as follows:

12 The minority and women's business enterprises account is created  
13 in the custody of the state treasurer. All receipts from RCW  
14 39.19.210, 39.19.220, and 39.19.230 and civil penalties imposed under  
15 RCW 39.19.090 shall be deposited in the account. Expenditures from  
16 the account may be used only for the purposes defraying all or part  
17 of the costs of the office in administering this chapter. Only the  
18 director or the director's designee may authorize expenditures from  
19 the account. Moneys in the account may be spent only after  
20 appropriation.

21 **Sec. 7.** RCW 39.19.250 and 2009 c 348 s 2 are each amended to  
22 read as follows:

23 (1) For the purpose of annual reporting on progress required by  
24 (~~section 1 of this act~~) this chapter, each state agency and  
25 educational institution shall submit data to the office and the  
26 office of minority and women's business enterprises on the  
27 participation by qualified minority and women-owned and controlled  
28 businesses in the agency's or institution's contracts and other  
29 related information requested by the director. The director of the  
30 office of minority and women's business enterprises shall determine  
31 the content and format of the data and the reporting schedule, which  
32 must be at least annually.

33 (2) The office must develop and maintain a list of contact people  
34 at each state agency and educational institution (~~that is~~) who are  
35 able to present to hearings of the appropriate committees of the  
36 legislature its progress in carrying out the purposes of chapter  
37 39.19 RCW.

1 (3) The office must submit a report aggregating the data received  
2 from each state agency and educational institution, and the  
3 information identified and actions taken under RCW 39.19.060(3) and  
4 39.19.090(4), to the legislature and the governor.

5 **Sec. 8.** RCW 39.04.155 and 2015 c 225 s 33 are each amended to  
6 read as follows:

7 (1) This section provides uniform small works roster provisions  
8 to award contracts for construction, building, renovation,  
9 remodeling, alteration, repair, or improvement of real property that  
10 may be used by state agencies and by any local government that is  
11 expressly authorized to use these provisions. These provisions may be  
12 used in lieu of other procedures to award contracts for such work  
13 with an estimated cost of (~~three~~) five hundred thousand dollars or  
14 less. The small works roster process includes the limited public  
15 works process authorized under subsection (3) of this section and any  
16 local government authorized to award contracts using the small works  
17 roster process under this section may award contracts using the  
18 limited public works process under subsection (3) of this section.

19 (2)(a) A state agency or authorized local government may create a  
20 single general small works roster, or may create a small works roster  
21 for different specialties or categories of anticipated work. Where  
22 applicable, small works rosters may make distinctions between  
23 contractors based upon different geographic areas served by the  
24 contractor. The small works roster or rosters shall consist of all  
25 responsible contractors who have requested to be on the list, and  
26 where required by law are properly licensed or registered to perform  
27 such work in this state. A state agency or local government  
28 establishing a small works roster or rosters may require eligible  
29 contractors desiring to be placed on a roster or rosters to keep  
30 current records of any applicable licenses, certifications,  
31 registrations, bonding, insurance, or other appropriate matters on  
32 file with the state agency or local government as a condition of  
33 being placed on a roster or rosters. At least once a year, the state  
34 agency or local government shall publish in a newspaper of general  
35 circulation within the jurisdiction a notice of the existence of the  
36 roster or rosters and solicit the names of contractors for such  
37 roster or rosters. In addition, responsible contractors shall be  
38 added to an appropriate roster or rosters at any time they submit a  
39 written request and necessary records. Master contracts may be



1 required to be signed that become effective when a specific award is  
2 made using a small works roster.

3 (b) A state agency establishing a small works roster or rosters  
4 shall adopt rules implementing this subsection. A local government  
5 establishing a small works roster or rosters shall adopt an ordinance  
6 or resolution implementing this subsection. Procedures included in  
7 rules adopted by the department of enterprise services in  
8 implementing this subsection must be included in any rules providing  
9 for a small works roster or rosters that is adopted by another state  
10 agency, if the authority for that state agency to engage in these  
11 activities has been delegated to it by the department of enterprise  
12 services under chapter 43.19 RCW. An interlocal contract or agreement  
13 between two or more state agencies or local governments establishing  
14 a small works roster or rosters to be used by the parties to the  
15 agreement or contract must clearly identify the lead entity that is  
16 responsible for implementing the provisions of this subsection.

17 (c) Procedures shall be established for securing telephone,  
18 written, or electronic quotations from contractors on the appropriate  
19 small works roster to assure that a competitive price is established  
20 and to award contracts to the lowest responsible bidder, as defined  
21 in RCW 39.04.010. Invitations for quotations shall include an  
22 estimate of the scope and nature of the work to be performed as well  
23 as materials and equipment to be furnished. However, detailed plans  
24 and specifications need not be included in the invitation. This  
25 subsection does not eliminate other requirements for architectural or  
26 engineering approvals as to quality and compliance with building  
27 codes. Quotations may be invited from all appropriate contractors on  
28 the appropriate small works roster. As an alternative, quotations  
29 (~~may~~) must be invited from at least five contractors on the  
30 appropriate small works roster who have indicated the capability of  
31 performing the kind of work being contracted, in a manner that will  
32 equitably distribute the opportunity among the contractors on the  
33 appropriate roster. However, if the estimated cost of the work is  
34 from one hundred fifty thousand dollars to (~~three~~) five hundred  
35 thousand dollars, a state agency or local government that chooses to  
36 solicit bids from less than all the appropriate contractors on the  
37 appropriate small works roster must also notify the remaining  
38 contractors on the appropriate small works roster that quotations on  
39 the work are being sought. The government has the sole option of  
40 determining whether this notice to the remaining contractors is made

1 by: (i) Publishing notice in a legal newspaper in general circulation  
2 in the area where the work is to be done; (ii) mailing a notice to  
3 these contractors; or (iii) sending a notice to these contractors by  
4 facsimile or other electronic means. For purposes of this subsection  
5 (2)(c), "equitably distribute" means that a state agency or local  
6 government soliciting bids may not favor certain contractors on the  
7 appropriate small works roster over other contractors on the  
8 appropriate small works roster who perform similar services.

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

11 (e) Immediately after an award is made, the bid quotations  
12 obtained shall be recorded, open to public inspection, and available  
13 by ~~((telephone inquiry))~~ electronic request.

14 (f) For projects awarded under the small works roster process  
15 established under this subsection, a state agency or authorized local  
16 government may waive the retainage requirements of RCW  
17 60.28.011(1)(a), thereby assuming the liability for contractor's  
18 nonpayment of: (i) Laborers, mechanics, subcontractors,  
19 materialpersons, and suppliers; and (ii) taxes, increases, and  
20 penalties under Titles 50, 51, and 82 RCW that may be due from the  
21 contractor for the project. However, the state agency or local  
22 government has the right of recovery against the contractor for any  
23 payments made on the contractor's behalf. Recovery of unpaid wages  
24 and benefits are the first priority for actions filed against the  
25 retainage.

26 (3)(a) In lieu of awarding contracts under subsection (2) of this  
27 section, a state agency or authorized local government may award a  
28 contract for work, construction, alteration, repair, or improvement  
29 projects estimated to cost less than ~~((thirty-five))~~ one hundred  
30 fifty thousand dollars using the limited public works process  
31 provided under this subsection. Public works projects awarded under  
32 this subsection are exempt from the other requirements of the small  
33 works roster process provided under subsection (2) of this section  
34 and are exempt from the requirement that contracts be awarded after  
35 advertisement as provided under RCW 39.04.010.

36 (b) For limited public works projects, a state agency or  
37 authorized local government shall solicit electronic or written  
38 quotations from a minimum of three contractors from the appropriate  
39 small works roster and shall award the contract to the lowest  
40 responsible bidder as defined under RCW 39.04.010. After an award is

1 made, the quotations shall be open to public inspection and available  
2 by electronic request. A state agency or authorized local government  
3 (~~shall attempt to~~) must equitably distribute opportunities for  
4 limited public works projects (~~equitably~~) among contractors willing  
5 to perform in the geographic area of the work. A state agency or  
6 authorized local government shall maintain a list of the contractors  
7 contacted and the contracts awarded during the previous twenty-four  
8 months under the limited public works process, including the name of  
9 the contractor, the contractor's registration number, the amount of  
10 the contract, a brief description of the type of work performed, and  
11 the date the contract was awarded. For limited public works projects,  
12 a state agency or authorized local government may waive the payment  
13 and performance bond requirements of chapter 39.08 RCW and the  
14 retainage requirements of (~~chapter 60.28~~) RCW 60.28.011(1)(a),  
15 thereby assuming the liability for the contractor's nonpayment of  
16 laborers, mechanics, subcontractors, materialpersons, suppliers, and  
17 taxes (~~imposed under Title~~), increases, and penalties imposed under  
18 Titles 50, 51, and 82 RCW that may be due from the contractor for the  
19 limited public works project, however the state agency or authorized  
20 local government shall have the right of recovery against the  
21 contractor for any payments made on the contractor's behalf.

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

26 (5)(~~(a) A state agency or authorized local government may use~~  
27 ~~the limited public works process of subsection (3) of this section to~~  
28 ~~solicit and award small works roster contracts to small businesses~~  
29 ~~that are registered contractors with gross revenues under one million~~  
30 ~~dollars annually as reported on their federal tax return.~~

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

36 (6) ~~As used in this section,~~) A state agency or authorized local  
37 government may use the limited public works process in this section  
38 to solicit and award small works roster contracts to minibusinesses  
39 and microbusinesses as defined under RCW 39.26.010 that are  
40 registered contractors.

1 (6) The department of enterprise services shall work with the  
2 municipal research and services center to notify local governments  
3 authorized to use small works rosters of this authority and to  
4 provide guidance on how to use the authority. The guidance may take  
5 the form of a manual provided to local governments.

6 (7) The definitions in this subsection apply throughout this  
7 section unless the context clearly requires otherwise.

8 (a) "Equitably distributes" means that a state agency or  
9 authorized local government may not favor certain contractors on the  
10 appropriate small works roster over other contractors on the same  
11 roster who perform similar services.

12 (b) "State agency" means the department of enterprise services,  
13 the state parks and recreation commission, the department of natural  
14 resources, the department of fish and wildlife, the department of  
15 transportation, any institution of higher education as defined under  
16 RCW 28B.10.016, and any other state agency delegated authority by the  
17 department of enterprise services to engage in construction,  
18 building, renovation, remodeling, alteration, improvement, or repair  
19 activities.

20 (8) The joint legislative audit and review committee must review  
21 the implementation of the changes to the small works roster and  
22 limited public works processes in this section and report to the  
23 governor and appropriate committees of the legislature by December 1,  
24 2018. The report must include recommendations for the furtherance of  
25 practices set out in this section and identify:

26 (a) Progress in the rates of participation of certain groups  
27 including, qualified minority and women-owned and controlled  
28 businesses, minibusinesses, and microbusinesses in the small works  
29 roster and limited public works contracting processes; and

30 (b) Barriers to improving the participation rate of qualified  
31 minority and women-owned and controlled businesses and the growth of  
32 minibusinesses and microbusinesses in the small works roster and  
33 limited public works contracting processes.

34 **Sec. 9.** RCW 39.12.040 and 2013 c 113 s 5 are each amended to  
35 read as follows:

36 (1)(a) Except as provided in subsection (2) of this section,  
37 before payment is made by or on behalf of the state, or any county,  
38 municipality, or political subdivision created by its laws, of any  
39 sum or sums due on account of a public works contract, it is the duty

1 of the officer or person charged with the custody and disbursement of  
2 public funds to require the contractor and each and every  
3 subcontractor from the contractor or a subcontractor to submit to  
4 such officer a "Statement of Intent to Pay Prevailing Wages". For a  
5 contract in excess of ten thousand dollars, the statement of intent  
6 to pay prevailing wages must include:

7 (i) The contractor's registration certificate number; and

8 (ii) The prevailing rate of wage for each classification of  
9 workers entitled to prevailing wages under RCW 39.12.020 and the  
10 estimated number of workers in each classification.

11 (b) Each statement of intent to pay prevailing wages must be  
12 approved by the industrial statistician of the department of labor  
13 and industries before it is submitted to the disbursing officer.  
14 Unless otherwise authorized by the department of labor and  
15 industries, each voucher claim submitted by a contractor for payment  
16 on a project estimate must state that the prevailing wages have been  
17 paid in accordance with the prefiled statement or statements of  
18 intent to pay prevailing wages on file with the public agency.  
19 Following the final acceptance of a public works project, it is the  
20 duty of the officer charged with the disbursement of public funds, to  
21 require the contractor and each and every subcontractor from the  
22 contractor or a subcontractor to submit to such officer an affidavit  
23 of wages paid before the funds retained according to the provisions  
24 of RCW 60.28.011 are released to the contractor. On a public works  
25 project where no retainage is withheld (~~pursuant to RCW~~  
26 ~~60.28.011(1)(b))~~), the affidavit of wages paid must be submitted to  
27 the state, county, municipality, or other public body charged with  
28 the duty of disbursing or authorizing disbursement of public funds  
29 prior to final acceptance of the public works project. If a  
30 subcontractor performing work on a public works project fails to  
31 submit an affidavit of wages paid form, the contractor or  
32 subcontractor with whom the subcontractor had a contractual  
33 relationship for the project may file the forms on behalf of the  
34 nonresponsive subcontractor. Affidavit forms may only be filed on  
35 behalf of a nonresponsive subcontractor who has ceased operations or  
36 failed to file as required by this section. The contractor filing the  
37 affidavit must accept responsibility for payment of prevailing wages  
38 unpaid by the subcontractor on the project pursuant to RCW 39.12.020  
39 and 39.12.065. Intentionally filing a false affidavit on behalf of a  
40 subcontractor subjects the filer to the same penalties as are

1 provided in RCW 39.12.050. Each affidavit of wages paid must be  
2 certified by the industrial statistician of the department of labor  
3 and industries before it is submitted to the disbursing officer.

4 (2) As an alternate to the procedures provided for in subsection  
5 (1) of this section, for public works projects of two thousand five  
6 hundred dollars or less and for projects where the limited public  
7 works process under RCW 39.04.155(3) is followed:

8 (a) An awarding agency may authorize the contractor or  
9 subcontractor to submit the statement of intent to pay prevailing  
10 wages directly to the officer or person charged with the custody or  
11 disbursement of public funds in the awarding agency without approval  
12 by the industrial statistician of the department of labor and  
13 industries. The awarding agency must retain such statement of intent  
14 to pay prevailing wages for a period of not less than three years.

15 (b) Upon final acceptance of the public works project, the  
16 awarding agency must require the contractor or subcontractor to  
17 submit an affidavit of wages paid. Upon receipt of the affidavit of  
18 wages paid, the awarding agency may pay the contractor or  
19 subcontractor in full, including funds that would otherwise be  
20 retained according to the provisions of RCW 60.28.011. Within thirty  
21 days of receipt of the affidavit of wages paid, the awarding agency  
22 must submit the affidavit of wages paid to the industrial  
23 statistician of the department of labor and industries for approval.

24 (c) A statement of intent to pay prevailing wages and an  
25 affidavit of wages paid must be on forms approved by the department  
26 of labor and industries.

27 (d) In the event of a wage claim and a finding for the claimant  
28 by the department of labor and industries where the awarding agency  
29 has used the alternative process provided for in this subsection (2),  
30 the awarding agency must pay the wages due directly to the claimant.  
31 If the contractor or subcontractor did not pay the wages stated in  
32 the affidavit of wages paid, the awarding agency may take action at  
33 law to seek reimbursement from the contractor or subcontractor of  
34 wages paid to the claimant, and may prohibit the contractor or  
35 subcontractor from bidding on any public works contract of the  
36 awarding agency for up to one year.

37 (e) Nothing in this section may be interpreted to allow an  
38 awarding agency to subdivide any public works project of more than  
39 two thousand five hundred dollars for the purpose of circumventing  
40 the procedures required by subsection (1) of this section.

1        NEW SECTION.    **Sec. 10.**    The following acts or parts of acts are  
2 each repealed:

3        (1) RCW 39.19.100 (Enforcement by attorney general—Injunctive  
4 relief) and 1987 c 328 s 12; and

5        (2) RCW 39.19.110 (Enforcement by attorney general—Investigative  
6 powers) and 1987 c 328 s 13.

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