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BILL REQUEST - CODE REVISER'S OFFICE

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BILL REQ. #: H-0078.1/19

ATTY/TYPIST: AI:akl

BRIEF DESCRIPTION: Concerning design-build contracts.

1 AN ACT Relating to design-build contracts; amending RCW  
2 39.10.250, 39.10.270, 39.10.300, 39.10.330, and 39.10.470; and  
3 reenacting and amending RCW 39.10.210 and 42.56.270.

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

6 **Sec. 1.** RCW 39.10.210 and 2014 c 42 s 1 are each reenacted and  
7 amended to read as follows:

8 Unless the context clearly requires otherwise, the definitions  
9 in this section apply throughout this chapter.

10 (1) "Alternative public works contracting procedure" means the  
11 design-build, general contractor/construction manager, and job order  
12 contracting procedures authorized in RCW 39.10.300, 39.10.340, and  
13 39.10.420, respectively.

14 (2) "Board" means the capital projects advisory review board.

15 (3) "Certified public body" means a public body certified to use  
16 design-build or general contractor/construction manager contracting  
17 procedures, or both, under RCW 39.10.270.

18 (4) "Committee," unless otherwise noted, means the project  
19 review committee.

20 (5) "Design-build procedure" means a contract between a public  
21 body and another party in which the party agrees to both design and

1 build the facility, portion of the facility, or other item specified  
2 in the contract.

3 (6) "Disadvantaged business enterprise" means any business  
4 entity certified with the office of minority and women's business  
5 enterprises under chapter 39.19 RCW.

6 (7) "General contractor/construction manager" means a firm with  
7 which a public body has selected to provide services during the  
8 design phase and negotiated a maximum allowable construction cost to  
9 act as construction manager and general contractor during the  
10 construction phase.

11 (8) "Heavy civil construction project" means a civil engineering  
12 project, the predominant features of which are infrastructure  
13 improvements.

14 (9) "Job order contract" means a contract in which the  
15 contractor agrees to a fixed period, indefinite quantity delivery  
16 order contract which provides for the use of negotiated, definitive  
17 work orders for public works as defined in RCW 39.04.010.

18 (10) "Job order contractor" means a registered or licensed  
19 contractor awarded a job order contract.

20 (11) "Maximum allowable construction cost" means the maximum  
21 cost of the work to construct the project including a percentage for  
22 risk contingency, negotiated support services, and approved change  
23 orders.

24 (12) "Negotiated support services" means items a general  
25 contractor would normally manage or perform on a construction  
26 project including, but not limited to surveying, hoisting, safety  
27 enforcement, provision of toilet facilities, temporary heat,  
28 cleanup, and trash removal, and that are negotiated as part of the  
29 maximum allowable construction cost.

30 (13) "Percent fee" means the percentage amount to be earned by  
31 the general contractor/construction manager as overhead and profit.

32 (14) "Price-related factor" means an evaluation factor that  
33 impacts costs which may include, but is not limited to overhead and  
34 profit, lump sum or guaranteed maximum price for the entire or a

1 portion of the project, operating costs, or other similar factors  
2 that may apply to the project.

3 (15) "Public body" means any general or special purpose  
4 government in the state of Washington, including but not limited to  
5 state agencies, institutions of higher education, counties, cities,  
6 towns, ports, school districts, and special purpose districts.

7 ~~((15))~~ (16) "Public works project" means any work for a public  
8 body within the definition of "public work" in RCW 39.04.010.

9 ~~((16))~~ (17) "Small business entity" means a small business as  
10 defined in RCW 39.26.010.

11 ~~((17))~~ (18) "Total contract cost" means the fixed amount for  
12 the detailed specified general conditions work, the negotiated  
13 maximum allowable construction cost, and the percent fee on the  
14 negotiated maximum allowable construction cost.

15 ~~((18))~~ (19) "Total project cost" means the cost of the project  
16 less financing and land acquisition costs.

17 ~~((19))~~ (20) "Unit price book" means a book containing specific  
18 prices, based on generally accepted industry standards and  
19 information, where available, for various items of work to be  
20 performed by the job order contractor. The prices may include: All  
21 the costs of materials; labor; equipment; overhead, including  
22 bonding costs; and profit for performing the items of work. The unit  
23 prices for labor must be at the rates in effect at the time the  
24 individual work order is issued.

25 ~~((20))~~ (21) "Work order" means an order issued for a definite  
26 scope of work to be performed pursuant to a job order contract.

27 **Sec. 2.** RCW 39.10.250 and 2013 c 222 s 5 are each amended to  
28 read as follows:

29 The committee shall:

30 (1) Certify, or renew certification for, public bodies to use  
31 design-build or general contractor/construction manager contracting  
32 procedures, or both;

1 (2) Review and approve the use of the design-build or general  
2 contractor/construction manager contracting procedures on a project  
3 by project basis for public bodies that are not certified under RCW  
4 39.10.270;

5 ~~(3) ((Review and approve not more than fifteen projects using  
6 the design-build contracting procedure by noncertified public bodies  
7 for projects that have a total project cost between two million and  
8 ten million dollars. Projects must meet the criteria in RCW  
9 39.10.300(1). Where possible, the committee shall approve projects  
10 among multiple public bodies. At least annually, the committee shall  
11 report to the board regarding the committee's review procedure of  
12 these projects and its recommendations for further use; and~~

13 ~~(4))~~ Review and approve not more than two design-build  
14 demonstration projects that include procurement of operations and  
15 maintenance services for a period longer than three years.

16 **Sec. 3.** RCW 39.10.270 and 2017 c 211 s 1 are each amended to  
17 read as follows:

18 (1) A public body may apply for certification to use the design-  
19 build or general contractor/construction manager contracting  
20 procedure, or both. Once certified, a public body may use the  
21 contracting procedure for which it is certified on individual  
22 projects without seeking committee approval for a period of three  
23 years. ~~((Public bodies certified to use the design-build procedure  
24 are limited to no more than five projects with a total project cost  
25 between two and ten million dollars during the certification  
26 period.))~~ A public body seeking certification must submit to the  
27 committee an application in a format and manner as prescribed by the  
28 committee. The application must include a description of the public  
29 body's qualifications, its capital plan during the certification  
30 period, and its intended use of alternative contracting procedures.

31 (2) A public body seeking certification for the design-build  
32 procedure must demonstrate successful management of at least one  
33 design-build project within the previous five years. A public body

1 seeking certification for the general contractor/construction  
2 manager procedure must demonstrate successful management of at least  
3 one general contractor/construction manager project within the  
4 previous five years.

5 (3) To certify a public body, the committee shall determine that  
6 the public body:

7 (a) Has the necessary experience and qualifications to determine  
8 which projects are appropriate for using alternative contracting  
9 procedures;

10 (b) Has the necessary experience and qualifications to carry out  
11 the alternative contracting procedure including, but not limited to:

12 (i) Project delivery knowledge and experience; (ii) personnel with  
13 appropriate construction experience; (iii) a management plan and  
14 rationale for its alternative public works projects; (iv)  
15 demonstrated success in managing public works projects; (v) the  
16 ability to properly manage its capital facilities plan including,  
17 but not limited to, appropriate project planning and budgeting  
18 experience; and (vi) the ability to meet requirements of this  
19 chapter; and

20 (c) Has resolved any audit findings on previous public works  
21 projects in a manner satisfactory to the committee.

22 (4) The committee shall, ~~((if practicable,))~~ make its  
23 determination at the public meeting during which an application for  
24 certification is reviewed. Public comments must be considered before  
25 a determination is made. Within ten business days of the public  
26 meeting, the committee shall provide a written determination to the  
27 public body, and make its determination available to the public on  
28 the committee's web site.

29 (5) The committee may revoke any public body's certification  
30 upon a finding, after a public hearing, that its use of design-build  
31 or general contractor/construction manager contracting procedures no  
32 longer serves the public interest.

33 (6) The committee may renew the certification of a public body  
34 for additional three-year periods. The public body must submit an

1 application for recertification at least three months before the  
2 initial certification expires. The committee may accept late  
3 applications, if administratively feasible, to avoid expiration of  
4 certification on a case-by-case basis. The application shall include  
5 updated information on the public body's experience and current  
6 staffing with the procedure it is applying to renew, and any other  
7 information requested in advance by the committee. The committee  
8 must review the application for recertification at a public meeting  
9 held before expiration of the applicant's initial certification  
10 period. A public body must reapply for certification under the  
11 process described in subsection (1) of this section once the period  
12 of recertification expires.

13 (7) Certified public bodies must submit project data information  
14 as required in RCW 39.10.320 and 39.10.350.

15 **Sec. 4.** RCW 39.10.300 and 2013 c 222 s 9 are each amended to  
16 read as follows:

17 (1) Subject to the requirements in RCW 39.10.250, 39.10.270, or  
18 39.10.280, public bodies may utilize the design-build procedure,  
19 including progressive design-build, for public works projects in  
20 which the total project cost is over ~~((ten))~~ two million dollars and  
21 where:

22 (a) The construction activities are highly specialized and a  
23 design-build approach is critical in developing the construction  
24 methodology; or

25 (b) The projects selected provide opportunity for greater  
26 innovation or efficiencies between the designer and the builder; or

27 (c) Significant savings in project delivery time would be  
28 realized.

29 (2) Subject to the process in RCW 39.10.270 or 39.10.280, public  
30 bodies may use the design-build procedure for parking garages,  
31 regardless of cost.

32 (3) The design-build procedure may be used for the construction  
33 or erection of portable facilities as defined in WAC 392-343-018,

1 preengineered metal buildings, or not more than ten prefabricated  
2 modular buildings per installation site, regardless of cost and is  
3 not subject to approval by the committee.

4 (4) Except for utility projects and approved demonstration  
5 projects, the design-build procedure may not be used to procure  
6 operations and maintenance services for a period longer than three  
7 years. State agency projects that propose to use the design-build-  
8 operate-maintain procedure shall submit cost estimates for the  
9 construction portion of the project consistent with the office of  
10 financial management's capital budget requirements. Operations and  
11 maintenance costs must be shown separately and must not be included  
12 as part of the capital budget request.

13 ~~(5) ((Subject to the process in RCW 39.10.280, public bodies may  
14 use the design-build procedure for public works projects in which  
15 the total project cost is between two million and ten million  
16 dollars and that meet one of the criteria in subsection (1)(a), (b),  
17 or (c) of this section.~~

18 ~~(6))~~ Subject to the process in RCW 39.10.280, a public body may  
19 seek committee approval for a design-build demonstration project  
20 that includes procurement of operations and maintenance services for  
21 a period longer than three years.

22 **Sec. 5.** RCW 39.10.330 and 2014 c 19 s 1 are each amended to  
23 read as follows:

24 (1) Contracts for design-build services shall be awarded through  
25 a competitive process using public solicitation of proposals for  
26 design-build services. The public body shall publish at least once  
27 in a legal newspaper of general circulation published in, or as near  
28 as possible to, that part of the county in which the public work  
29 will be done, a notice of its request for qualifications from  
30 proposers for design-build services, and the availability and  
31 location of the request for proposal documents. The request for  
32 qualifications documents shall include:

1 (a) A ~~((general))~~ description of the project ~~((that provides~~  
2 ~~sufficient information for proposers to submit qualifications))~~  
3 including the estimated design-build contract value and the intended  
4 use of the project;

5 (b) The reasons for using the design-build procedure;

6 (c) A description of the qualifications to be required of the  
7 proposer ~~((including, but not limited to, submission of the~~  
8 ~~proposer's accident prevention program))~~;

9 (d) A description of the process the public body will use to  
10 evaluate qualifications and finalists' proposals, including  
11 evaluation factors and the relative weight of factors and any  
12 specific forms to be used by the proposers;

13 (i) Evaluation factors for ~~((request for))~~ qualifications shall  
14 ~~include((, but not be limited to,))~~ technical qualifications, such  
15 as specialized experience and technical competence of the firms and  
16 the key design and construction personnel; ((capability)) capacity  
17 to perform; utilization performance of office of minority and women's  
18 business enterprises-certified, minority, women, veteran, and small  
19 businesses; ((past performance of the proposers' team, including the  
20 architect-engineer and construction members)) ability to provide a  
21 performance and payment bond for the project; and other appropriate  
22 factors. Evaluation factors may also include ~~((:(A)))~~, but are not  
23 limited to, the proposer's past performance in utilization of small  
24 business entities ~~((; and ((B)))~~ disadvantaged business  
25 enterprises)). Cost or price-related factors are not permitted in  
26 the request for qualifications phase;

27 (ii) Evaluation factors for finalists' proposals shall include  
28 the management plan to meet time and budget requirements and one or  
29 more price-related factors. Evaluation factors may also include, but  
30 not be limited to, ~~((the factors listed in (d)(i) of this~~  
31 ~~subsection, as well as technical approach design concept; ability of~~  
32 ~~professional personnel; past performance on similar projects;~~  
33 ~~ability to meet time and budget requirements; ability to provide a~~  
34 ~~performance and payment bond for the project; recent, current, and~~

1 ~~projected workloads of the firm; location; and cost or price-related~~  
2 ~~factors that may include operating costs. The public body may also~~  
3 ~~consider a proposer's)) the technical approach, design concept, and~~  
4 the outreach plan to include small business entities and  
5 disadvantaged business enterprises as subconsultants,  
6 subcontractors, and suppliers for the project (~~(. Alternatively, if~~  
7 ~~the public body determines that all finalists will be capable of~~  
8 ~~producing a design that adequately meets project requirements, the~~  
9 ~~public body may award the contract to the firm that submits the~~  
10 ~~responsive proposal with the lowest price))~~);

11 (e) Protest procedures including time limits for filing a  
12 protest, which in no event may limit the time to file a protest to  
13 fewer than four business days from the date the proposer was  
14 notified of the selection decision;

15 (f) The ~~((form of the))~~ proposed contract ~~((to be awarded))~~;

16 (g) The honorarium to be paid to finalists submitting responsive  
17 proposals and who are not awarded a design-build contract;

18 (h) The schedule for the procurement process and the project;  
19 and

20 (i) Other information relevant to the project.

21 (2) The public body shall establish an evaluation committee to  
22 evaluate the responses to the request for qualifications based  
23 solely on the factors, weighting, and process identified in the  
24 request for qualifications and any addenda issued by the public  
25 body. Based on the evaluation committee's findings, the public body  
26 shall select not more than five responsive and responsible finalists  
27 to submit proposals. The public body may, in its sole discretion,  
28 reject all proposals and shall provide its reasons for rejection in  
29 writing to all proposers.

30 (3) The public body must notify all proposers of the finalists  
31 selected to move to the next phase of the selection process. The  
32 process may not proceed to the next phase until two business days  
33 after all proposers are notified of the committee's selection  
34 decision. At the request of a proposer not selected as a finalist,

1 the public body must provide the requesting proposer with a scoring  
2 summary of the evaluation factors for its proposal. Proposers filing  
3 a protest on the selection of the finalists must file the protest in  
4 accordance with the published protest procedures. The selection  
5 process may not advance to the next phase of selection until two  
6 business days after the final protest decision is transmitted to the  
7 protestor.

8 (4) Upon selection of the finalists, the public body shall issue  
9 a request for proposals to the finalists (~~(, which shall provide the~~  
10 ~~following information)~~). The request for proposal documents shall  
11 include:

12 (a) (~~(A detailed description of the project including~~  
13 ~~programmatic, performance, and technical requirements and~~  
14 ~~specifications; functional and operational elements; building~~  
15 ~~performance goals and validation requirements; minimum and maximum~~  
16 ~~net and gross areas of any building; and, at the discretion of the~~  
17 ~~public body, preliminary engineering and architectural drawings; and~~

18 ~~(b) The target budget for the design-build portion of the~~  
19 ~~project)) Any specific forms to be used by the finalists; and~~

20 (b) Submission of a summary of the finalist's accident  
21 prevention program and an overview of its implementation.

22 (5) The public body shall establish an evaluation committee to  
23 evaluate the proposals submitted by the finalists. (~~(Design-build~~  
24 ~~contracts shall be awarded using the procedures in (a) or (b) of~~  
25 ~~this subsection. The public body must identify in the request for~~  
26 ~~qualifications which procedure will be used.~~

27 ~~(a))~~) The finalists' proposals shall be evaluated and scored  
28 based solely on the factors, weighting, and process identified in  
29 the ~~((initial))~~ request for qualifications, the request for  
30 proposals, and in any addenda published by the public body. Public  
31 bodies may request best and final proposals from finalists. The  
32 public body may initiate negotiations with the ~~((firm))~~ finalist  
33 submitting the highest scored proposal. If the public body is unable  
34 to execute a contract with the ~~((firm))~~ finalist submitting the

1 highest scored proposal, negotiations with that ~~((firm))~~ finalist  
2 may be suspended or terminated and the public body may proceed to  
3 negotiate with the next highest scored ~~((firm))~~ finalist. Public  
4 bodies shall continue in accordance with this procedure until a  
5 contract agreement is reached or the selection process is  
6 terminated.

7 ~~((b) If the public body determines that all finalists are  
8 capable of producing a design that adequately meets project  
9 requirements, the public body may award the contract to the firm  
10 that submits the responsive proposal with the lowest price.))~~

11 (6) The public body shall notify all finalists of the selection  
12 decision and make a selection summary of the final proposals  
13 available to all proposers within two business days of such  
14 notification. If the public body receives a timely written protest  
15 from a finalist firm, the public body may not execute a contract  
16 until two business days after the final protest decision is  
17 transmitted to the protestor. The protestor must submit its protest  
18 in accordance with the published protest procedures.

19 (7) The firm awarded the contract shall provide a performance  
20 and payment bond for the contracted amount.

21 (8) The firm awarded the contract shall extend its performance  
22 and payment bond coverage to all subcontractors at no cost to the  
23 subcontractor and as specified by the public body.

24 ~~((8))~~(9) The public body shall provide appropriate honorarium  
25 payments to finalists submitting responsive proposals that are not  
26 awarded a design-build contract. Honorarium payments shall be  
27 sufficient to generate meaningful competition among potential  
28 proposers on design-build projects. In determining the amount of the  
29 honorarium, the public body shall ~~((consider))~~ recognize the level  
30 of effort required to meet the selection criteria.

31 **Sec. 6.** RCW 39.10.470 and 2014 c 19 s 2 are each amended to  
32 read as follows:

1 (1) Except as provided in subsections (2) and (3) of this  
2 section, all proceedings, records, contracts, and other public  
3 records relating to alternative public works transactions under this  
4 chapter shall be open to the inspection of any interested person,  
5 firm, or corporation in accordance with chapter 42.56 RCW.

6 (2) Trade secrets, as defined in RCW 19.108.010, or other  
7 proprietary information submitted by a bidder, offeror, or  
8 contractor in connection with an alternative public works  
9 transaction under this chapter shall not be subject to chapter 42.56  
10 RCW if the bidder, offeror, or contractor specifically states in  
11 writing the reasons why protection is necessary, and identifies the  
12 data or materials to be protected.

13 (3) ~~((Proposals submitted by design-build finalists))~~ All  
14 documents related to a procurement under RCW 39.10.330 are exempt  
15 from disclosure until the notification of the highest scoring  
16 finalist is made in accordance with RCW 39.10.330~~((+5))~~ (6) or the  
17 selection process is terminated, except as expressly required under  
18 RCW 39.10.330(3).

19 **Sec. 7.** RCW 42.56.270 and 2018 c 201 s 8008, 2018 c 196 s 21,  
20 and 2018 c 4 s 9 are each reenacted and amended to read as follows:

21 The following financial, commercial, and proprietary information  
22 is exempt from disclosure under this chapter:

23 (1) Valuable formulae, designs, drawings, computer source code  
24 or object code, and research data obtained by any agency within five  
25 years of the request for disclosure when disclosure would produce  
26 private gain and public loss;

27 (2) Financial information supplied by or on behalf of a person,  
28 firm, or corporation for the purpose of qualifying to submit a bid  
29 or proposal for (a) a ferry system construction or repair contract  
30 as required by RCW 47.60.680 through 47.60.750 ~~((or))~~; (b) highway  
31 construction or improvement as required by RCW 47.28.070; or (c)  
32 alternative public works contracting procedures as required by RCW  
33 39.10.200 through 39.10.905;

1 (3) Financial and commercial information and records supplied by  
2 private persons pertaining to export services provided under  
3 chapters 43.163 and 53.31 RCW, and by persons pertaining to export  
4 projects under RCW 43.23.035;

5 (4) Financial and commercial information and records supplied by  
6 businesses or individuals during application for loans or program  
7 services provided by chapters 43.325, 43.163, 43.160, 43.330, and  
8 43.168 RCW, or during application for economic development loans or  
9 program services provided by any local agency;

10 (5) Financial information, business plans, examination reports,  
11 and any information produced or obtained in evaluating or examining  
12 a business and industrial development corporation organized or  
13 seeking certification under chapter 31.24 RCW;

14 (6) Financial and commercial information supplied to the state  
15 investment board by any person when the information relates to the  
16 investment of public trust or retirement funds and when disclosure  
17 would result in loss to such funds or in private loss to the  
18 providers of this information;

19 (7) Financial and valuable trade information under RCW  
20 51.36.120;

21 (8) Financial, commercial, operations, and technical and  
22 research information and data submitted to or obtained by the clean  
23 Washington center in applications for, or delivery of, program  
24 services under chapter 70.95H RCW;

25 (9) Financial and commercial information requested by the public  
26 stadium authority from any person or organization that leases or  
27 uses the stadium and exhibition center as defined in RCW 36.102.010;

28 (10)(a) Financial information, including but not limited to  
29 account numbers and values, and other identification numbers  
30 supplied by or on behalf of a person, firm, corporation, limited  
31 liability company, partnership, or other entity related to an  
32 application for a horse racing license submitted pursuant to RCW  
33 67.16.260(1)(b), marijuana producer, processor, or retailer license,  
34 liquor license, gambling license, or lottery retail license;

1 (b) Internal control documents, independent auditors' reports  
2 and financial statements, and supporting documents: (i) Of house-  
3 banked social card game licensees required by the gambling  
4 commission pursuant to rules adopted under chapter 9.46 RCW; or (ii)  
5 submitted by tribes with an approved tribal/state compact for class  
6 III gaming;

7 (11) Proprietary data, trade secrets, or other information that  
8 relates to: (a) A vendor's unique methods of conducting business;  
9 (b) data unique to the product or services of the vendor; or (c)  
10 determining prices or rates to be charged for services, submitted by  
11 any vendor to the department of social and health services or the  
12 health care authority for purposes of the development, acquisition,  
13 or implementation of state purchased health care as defined in RCW  
14 41.05.011;

15 (12)(a) When supplied to and in the records of the department of  
16 commerce:

17 (i) Financial and proprietary information collected from any  
18 person and provided to the department of commerce pursuant to RCW  
19 43.330.050(8); and

20 (ii) Financial or proprietary information collected from any  
21 person and provided to the department of commerce or the office of  
22 the governor in connection with the siting, recruitment, expansion,  
23 retention, or relocation of that person's business and until a  
24 siting decision is made, identifying information of any person  
25 supplying information under this subsection and the locations being  
26 considered for siting, relocation, or expansion of a business;

27 (b) When developed by the department of commerce based on  
28 information as described in (a)(i) of this subsection, any work  
29 product is not exempt from disclosure;

30 (c) For the purposes of this subsection, "siting decision" means  
31 the decision to acquire or not to acquire a site;

32 (d) If there is no written contact for a period of sixty days to  
33 the department of commerce from a person connected with siting,  
34 recruitment, expansion, retention, or relocation of that person's

1 business, information described in (a)(ii) of this subsection will  
2 be available to the public under this chapter;

3 (13) Financial and proprietary information submitted to or  
4 obtained by the department of ecology or the authority created under  
5 chapter 70.95N RCW to implement chapter 70.95N RCW;

6 (14) Financial, commercial, operations, and technical and  
7 research information and data submitted to or obtained by the life  
8 sciences discovery fund authority in applications for, or delivery  
9 of, grants under chapter 43.350 RCW, to the extent that such  
10 information, if revealed, would reasonably be expected to result in  
11 private loss to the providers of this information;

12 (15) Financial and commercial information provided as evidence  
13 to the department of licensing as required by RCW 19.112.110 or  
14 19.112.120, except information disclosed in aggregate form that does  
15 not permit the identification of information related to individual  
16 fuel licensees;

17 (16) Any production records, mineral assessments, and trade  
18 secrets submitted by a permit holder, mine operator, or landowner to  
19 the department of natural resources under RCW 78.44.085;

20 (17)(a) Farm plans developed by conservation districts, unless  
21 permission to release the farm plan is granted by the landowner or  
22 operator who requested the plan, or the farm plan is used for the  
23 application or issuance of a permit;

24 (b) Farm plans developed under chapter 90.48 RCW and not under  
25 the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are  
26 subject to RCW 42.56.610 and 90.64.190;

27 (18) Financial, commercial, operations, and technical and  
28 research information and data submitted to or obtained by a health  
29 sciences and services authority in applications for, or delivery of,  
30 grants under RCW 35.104.010 through 35.104.060, to the extent that  
31 such information, if revealed, would reasonably be expected to  
32 result in private loss to providers of this information;

33 (19) Information gathered under chapter 19.85 RCW or RCW  
34 34.05.328 that can be identified to a particular business;

1 (20) Financial and commercial information submitted to or  
2 obtained by the University of Washington, other than information the  
3 university is required to disclose under RCW 28B.20.150, when the  
4 information relates to investments in private funds, to the extent  
5 that such information, if revealed, would reasonably be expected to  
6 result in loss to the University of Washington consolidated  
7 endowment fund or to result in private loss to the providers of this  
8 information;

9 (21) Market share data submitted by a manufacturer under RCW  
10 70.95N.190(4);

11 (22) Financial information supplied to the department of  
12 financial institutions or to a portal under RCW 21.20.883, when  
13 filed by or on behalf of an issuer of securities for the purpose of  
14 obtaining the exemption from state securities registration for small  
15 securities offerings provided under RCW 21.20.880 or when filed by  
16 or on behalf of an investor for the purpose of purchasing such  
17 securities;

18 (23) Unaggregated or individual notices of a transfer of crude  
19 oil that is financial, proprietary, or commercial information,  
20 submitted to the department of ecology pursuant to RCW  
21 90.56.565(1)(a), and that is in the possession of the department of  
22 ecology or any entity with which the department of ecology has  
23 shared the notice pursuant to RCW 90.56.565;

24 (24) Financial institution and retirement account information,  
25 and building security plan information, supplied to the liquor and  
26 cannabis board pursuant to RCW 69.50.325, 69.50.331, 69.50.342, and  
27 69.50.345, when filed by or on behalf of a licensee or prospective  
28 licensee for the purpose of obtaining, maintaining, or renewing a  
29 license to produce, process, transport, or sell marijuana as allowed  
30 under chapter 69.50 RCW;

31 (25) Marijuana transport information, vehicle and driver  
32 identification data, and account numbers or unique access  
33 identifiers issued to private entities for traceability system  
34 access, submitted by an individual or business to the liquor and

1 cannabis board under the requirements of RCW 69.50.325, 69.50.331,  
2 69.50.342, and 69.50.345 for the purpose of marijuana product  
3 traceability. Disclosure to local, state, and federal officials is  
4 not considered public disclosure for purposes of this section;

5 (26) Financial and commercial information submitted to or  
6 obtained by the retirement board of any city that is responsible for  
7 the management of an employees' retirement system pursuant to the  
8 authority of chapter 35.39 RCW, when the information relates to  
9 investments in private funds, to the extent that such information,  
10 if revealed, would reasonably be expected to result in loss to the  
11 retirement fund or to result in private loss to the providers of  
12 this information except that (a) the names and commitment amounts of  
13 the private funds in which retirement funds are invested and (b) the  
14 aggregate quarterly performance results for a retirement fund's  
15 portfolio of investments in such funds are subject to disclosure;

16 (27) Proprietary financial, commercial, operations, and  
17 technical and research information and data submitted to or obtained  
18 by the liquor and cannabis board in applications for marijuana  
19 research licenses under RCW 69.50.372, or in reports submitted by  
20 marijuana research licensees in accordance with rules adopted by the  
21 liquor and cannabis board under RCW 69.50.372;

22 (28) Trade secrets, technology, proprietary information, and  
23 financial considerations contained in any agreements or contracts,  
24 entered into by a licensed marijuana business under RCW 69.50.395,  
25 which may be submitted to or obtained by the state liquor and  
26 cannabis board; (~~and~~)

27 (29) Financial, commercial, operations, and technical and  
28 research information and data submitted to or obtained by the Andy  
29 Hill cancer research endowment program in applications for, or  
30 delivery of, grants under chapter 43.348 RCW, to the extent that  
31 such information, if revealed, would reasonably be expected to  
32 result in private loss to providers of this information; and

33 (30) Proprietary information filed with the department of health  
34 under chapter 69.48 RCW.

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