
HOUSE BILL 1621

State of Washington

68th Legislature

2023 Regular Session

By Representative Ryu

1 AN ACT Relating to standardizing local government procurement
2 rules among special purpose districts, first-class and second-class
3 cities, and public utility districts; and amending RCW 54.04.070,
4 35.23.352, 35.22.620, 57.08.050, and 52.14.110.

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

6 **Sec. 1.** RCW 54.04.070 and 2019 c 434 s 7 are each amended to
7 read as follows:

8 (1) Any item, or items of the same kind of materials, equipment,
9 or supplies purchased, the estimated cost of which is in excess of
10 (~~thirty thousand dollars~~) \$30,000, exclusive of sales tax, shall be
11 by contract. However, a district may make purchases of the same kind
12 of items of materials, equipment, and supplies not exceeding (~~twelve~~
13 ~~thousand dollars~~) \$12,000 in any calendar month without a contract,
14 purchasing any excess thereof over (~~twelve thousand dollars~~)
15 \$12,000 by contract.

16 (2) Any work ordered by a district commission, the estimated cost
17 of which is in excess of (~~fifty thousand dollars, exclusive of sales~~
18 ~~tax~~) \$150,000 exclusive of sales tax if more than a single craft or
19 trade is involved with the public works project, or a public works
20 project in excess of \$75,500 exclusive of sales tax if only a single
21 craft or trade is involved with the public works project, shall be by

1 contract. However, a district commission may have its own regularly
2 employed personnel perform work which is an accepted industry
3 practice under prudent utility management without a contract. For
4 purposes of this section, "prudent utility management" means
5 performing work with regularly employed personnel utilizing material
6 of a worth not exceeding (~~three hundred thousand dollars~~) \$300,000
7 in value without a contract. This limit on the value of material
8 being utilized in work being performed by regularly employed
9 personnel shall not include the value of individual items of
10 equipment. For the purposes of this section, the term "equipment"
11 includes but is not limited to conductor, cabling, wire, pipe, or
12 lines used for electrical, water, fiber optic, or telecommunications.

13 (3) Before awarding a contract required under subsection (1) or
14 (2) of this section, the commission shall publish a notice once or
15 more in a newspaper of general circulation in the district at least
16 (~~thirteen~~) 13 days before the last date upon which bids will be
17 received, inviting sealed proposals for the work or materials. Plans
18 and specifications for the work or materials shall at the time of
19 publication be on file at the office of the district and subject to
20 public inspection. Any published notice ordering work to be performed
21 for the district shall be mailed at the time of publication to any
22 established trade association which files a written request with the
23 district to receive such notices. The commission may, at the same
24 time and as part of the same notice, invite tenders for the work or
25 materials upon plans and specifications to be submitted by the
26 bidders.

27 (4) As an alternative to the competitive bidding requirements of
28 this section and RCW 54.04.080, a district may let contracts using
29 the small works roster process under RCW 39.04.155.

30 (5) Whenever equipment or materials required by a district are
31 held by a governmental agency and are available for sale but such
32 agency is unwilling to submit a proposal, the commission may
33 ascertain the price of such items and file a statement of such price
34 supported by the sworn affidavit of one member of the commission, and
35 may consider such price as a bid without a deposit or bond.

36 (6) Pursuant to RCW 39.04.280, the commission may waive the
37 competitive bidding requirements of this section and RCW 54.04.080 if
38 an exemption contained within RCW 39.04.280 applies to the purchase
39 or public work.

1 (7) (a) A district may procure public works with a unit priced
2 contract under this section, RCW 54.04.080, or 54.04.085 for the
3 purpose of completing anticipated types of work based on hourly rates
4 or unit pricing for one or more categories of work or trades.

5 (b) For the purposes of this section, unit priced contract means
6 a competitively bid contract in which public works are anticipated on
7 a recurring basis to meet the business or operational needs of a
8 district, under which the contractor agrees to a fixed period
9 indefinite quantity delivery of work, at a defined unit price, for
10 each category of work.

11 (c) Unit priced contracts must be executed for an initial
12 contract term not to exceed three years, with the district having the
13 option of extending or renewing the unit priced contract for one
14 additional year.

15 (d) Invitations for unit price bids shall include, for purposes
16 of the bid evaluation, estimated quantities of the anticipated types
17 of work or trades, and specify how the district will issue or release
18 work assignments, work orders, or task authorizations pursuant to a
19 unit priced contract for projects, tasks, or other work based on the
20 hourly rates or unit prices bid by the contractor. Where electrical
21 facility construction or improvement work is anticipated, contractors
22 on a unit priced contract shall comply with the requirements under
23 RCW 54.04.085 (1) through (5). Contracts must be awarded to the
24 lowest responsible bidder as per RCW 39.04.010.

25 (e) Unit price contractors shall pay prevailing wages for all
26 work that would otherwise be subject to the requirements of chapter
27 39.12 RCW. Prevailing wages for all work performed pursuant to each
28 work order must be the prevailing wage rates in effect at the
29 beginning date for each contract year. Unit priced contracts must
30 have prevailing wage rates updated annually. Intents and affidavits
31 for prevailing wages paid must be submitted annually for all work
32 completed within the previous (~~twelve-month~~) 12-month period of the
33 unit priced contract.

34 (8) For the purposes of this section, "lowest responsible bidder"
35 means a bid that meets the criteria under RCW 39.04.350 and has the
36 lowest bid; provided, that if the district commission issues a
37 written finding that the lowest bidder has delivered a project to the
38 district within the last three years which was late, over budget, or
39 did not meet specifications, and the commission does not find in
40 writing that such bidder has shown how they would improve performance

1 to be likely to meet project specifications then the commission may
2 choose the second lowest bidder whose bid is within five percent of
3 the lowest bid and meets the same criteria as the lowest bidder.

4 **Sec. 2.** RCW 35.23.352 and 2019 c 434 s 1 are each amended to
5 read as follows:

6 (1) Any second-class city or any town may construct any public
7 works, as defined in RCW 39.04.010, by contract or day labor without
8 calling for bids therefor whenever the estimated cost of the work or
9 improvement, including cost of materials, supplies and equipment will
10 not exceed the sum of (~~one hundred sixteen thousand one hundred~~
11 ~~fifty five dollars~~) \$150,000 if more than one craft or trade is
12 involved with the public works, or (~~seventy five thousand five~~
13 ~~hundred dollars~~) \$75,500 if a single craft or trade is involved with
14 the public works or the public works project is street signalization
15 or street lighting. A public works project means a complete project.
16 The restrictions in this subsection do not permit the division of the
17 project into units of work or classes of work to avoid the
18 restriction on work that may be performed by day labor on a single
19 project.

20 Whenever the cost of the public work or improvement, including
21 materials, supplies and equipment, will exceed these figures, the
22 same shall be done by contract. All such contracts shall be let at
23 public bidding upon publication of notice calling for sealed bids
24 upon the work. The notice shall be published in the official
25 newspaper, or a newspaper of general circulation most likely to bring
26 responsive bids, at least (~~thirteen~~) 13 days prior to the last date
27 upon which bids will be received. The notice shall generally state
28 the nature of the work to be done that plans and specifications
29 therefor shall then be on file in the city or town hall for public
30 inspections, and require that bids be sealed and filed with the
31 council or commission within the time specified therein. Each bid
32 shall be accompanied by a bid proposal deposit in the form of a
33 cashier's check, postal money order, or surety bond to the council or
34 commission for a sum of not less than five percent of the amount of
35 the bid, and no bid shall be considered unless accompanied by such
36 bid proposal deposit. The council or commission of the city or town
37 shall let the contract to the lowest responsible bidder or shall have
38 power by resolution to reject any or all bids and to make further
39 calls for bids in the same manner as the original call.

1 When the contract is let then all bid proposal deposits shall be
2 returned to the bidders except that of the successful bidder which
3 shall be retained until a contract is entered into and a bond to
4 perform the work furnished, with surety satisfactory to the council
5 or commission, in accordance with RCW 39.08.030. If the bidder fails
6 to enter into the contract in accordance with his or her bid and
7 furnish a bond within (~~ten~~) 10 days from the date at which he or
8 she is notified that he or she is the successful bidder, the check or
9 postal money order and the amount thereof shall be forfeited to the
10 council or commission or the council or commission shall recover the
11 amount of the surety bond. A low bidder who claims error and fails to
12 enter into a contract is prohibited from bidding on the same project
13 if a second or subsequent call for bids is made for the project.

14 If no bid is received on the first call the council or commission
15 may readvertise and make a second call, or may enter into a contract
16 without any further call or may purchase the supplies, material or
17 equipment and perform the work or improvement by day labor.

18 (2) For the purposes of this section, "lowest responsible bidder"
19 means a bid that meets the criteria under RCW 39.04.350 and has the
20 lowest bid; provided, that if the city issues a written finding that
21 the lowest bidder has delivered a project to the city within the last
22 three years which was late, over budget, or did not meet
23 specifications, and the city does not find in writing that such
24 bidder has shown how they would improve performance to be likely to
25 meet project specifications then the city may choose the second
26 lowest bidder whose bid is within five percent of the lowest bid and
27 meets the same criteria as the lowest bidder.

28 (3) The allocation of public works projects to be performed by
29 city or town employees shall not be subject to a collective
30 bargaining agreement.

31 (4) In lieu of the procedures of subsection (1) of this section,
32 a second-class city or a town may let contracts using the small works
33 roster process provided in RCW 39.04.155.

34 Whenever possible, the city or town shall invite at least one
35 proposal from a certified minority or woman contractor who shall
36 otherwise qualify under this section.

37 (5) The form required by RCW 43.09.205 shall be to account and
38 record costs of public works in excess of (~~five thousand dollars~~)
39 \$5,000 that are not let by contract.

1 (6) The cost of a separate public works project shall be the
2 costs of the materials, equipment, supplies, and labor on that
3 construction project.

4 (7) Any purchase of supplies, material, or equipment, except for
5 public work or improvement, (~~where the cost thereof exceeds seven~~
6 ~~thousand five hundred dollars shall be made upon call for bids~~) with
7 an estimated cost in excess of \$40,000, shall be by contract. Any
8 purchase of materials, supplies, or equipment with an estimated cost
9 of less than \$50,000 shall be made using the process provided in RCW
10 39.04.190.

11 (8) Bids shall be called annually and at a time and in the manner
12 prescribed by ordinance for the publication in a newspaper of general
13 circulation in the city or town of all notices or newspaper
14 publications required by law. The contract shall be awarded to the
15 lowest responsible bidder.

16 (9) For advertisement and formal sealed bidding to be dispensed
17 with as to purchases with an estimated value of (~~fifteen thousand~~
18 ~~dollars~~) \$15,000 or less, the council or commission must authorize
19 by resolution, use of the uniform procedure provided in RCW
20 39.04.190.

21 (10) The city or town legislative authority may waive the
22 competitive bidding requirements of this section pursuant to RCW
23 39.04.280 if an exemption contained within that section applies to
24 the purchase or public work.

25 (11) This section does not apply to performance-based contracts,
26 as defined in RCW 39.35A.020(~~(+4)~~) (6), that are negotiated under
27 chapter 39.35A RCW.

28 (12) Nothing in this section shall prohibit any second-class city
29 or any town from allowing for preferential purchase of products made
30 from recycled materials or products that may be recycled or reused.

31 (13)(a) Any second-class city or any town may procure public
32 works with a unit priced contract under this section for the purpose
33 of completing anticipated types of work based on hourly rates or unit
34 pricing for one or more categories of work or trades.

35 (b) For the purposes of this section, "unit priced contract"
36 means a competitively bid contract in which public works are
37 anticipated on a recurring basis to meet the business or operational
38 needs of the city or town, under which the contractor agrees to a
39 fixed period indefinite quantity delivery of work, at a defined unit
40 price for each category of work.

1 (c) Unit priced contracts must be executed for an initial
2 contract term not to exceed three years, with the city or town having
3 the option of extending or renewing the unit priced contract for one
4 additional year.

5 (d) Invitations for unit price bids shall include, for purposes
6 of the bid evaluation, estimated quantities of the anticipated types
7 of work or trades, and specify how the city or town will issue or
8 release work assignments, work orders, or task authorizations
9 pursuant to a unit priced contract for projects, tasks, or other work
10 based on the hourly rates or unit prices bid by the contractor.
11 Contracts must be awarded to the lowest responsible bidder as per RCW
12 39.04.010. Whenever possible, the city or town must invite at least
13 one proposal from a certified minority or woman contractor who
14 otherwise qualifies under this section.

15 (e) Unit price contractors shall pay prevailing wages for all
16 work that would otherwise be subject to the requirements of chapter
17 39.12 RCW. Prevailing wages for all work performed pursuant to each
18 work order must be the prevailing wage rates in effect at the
19 beginning date for each contract year. Unit priced contracts must
20 have prevailing wage rates updated annually. Intents and affidavits
21 for prevailing wages paid must be submitted annually for all work
22 completed within the previous (~~twelve-month~~) 12-month period of the
23 unit priced contract.

24 (14) Any second-class city or town that awards a project to a
25 bidder under the criteria described in subsection (2) of this section
26 must make an annual report to the department of commerce that
27 includes the total number of bids awarded to certified minority or
28 women contractors and describing how notice was provided to potential
29 certified minority or women contractors.

30 (15) Any second-class city or town may have its own regularly
31 employed personnel perform work which is an accepted industry
32 practice under prudent utility management without a contract. For
33 purposes of this section, "prudent utility management" means
34 performing work with regularly employed personnel utilizing material
35 of a worth not exceeding \$300,000 in value without a contract. This
36 limit on the value of material being utilized in work being performed
37 by regularly employed personnel shall not include the value of
38 individual items of equipment. For the purposes of this section, the
39 term "equipment" includes but is not limited to conductor, cabling,

1 wire, pipe, or lines used for electrical, water, fiber optic, or
2 telecommunications.

3 **Sec. 3.** RCW 35.22.620 and 2019 c 434 s 11 are each amended to
4 read as follows:

5 (1) As used in this section, the term "public works" means as
6 defined in RCW 39.04.010.

7 (2) A first-class city may have public works performed by
8 contract pursuant to public notice and call for competitive bids. As
9 limited by subsection (3) of this section, a first-class city may
10 have public works performed by city employees in any annual or
11 biennial budget period equal to a dollar value not exceeding (~~ten~~)
12 10 percent of the public works construction budget, including any
13 amount in a supplemental public works construction budget, over the
14 budget period. The amount of public works that a first-class city has
15 a county perform for it under RCW 35.77.020 shall be included within
16 this (~~ten~~) 10 percent limitation.

17 If a first-class city has public works performed by public
18 employees in any budget period that are in excess of this (~~ten~~) 10
19 percent limitation, the amount in excess of the permitted amount
20 shall be reduced from the otherwise permitted amount of public works
21 that may be performed by public employees for that city in its next
22 budget period. Twenty percent of the motor vehicle fuel tax
23 distributions to that city shall be withheld if two years after the
24 year in which the excess amount of work occurred, the city has failed
25 to so reduce the amount of public works that it has performed by
26 public employees. The amount so withheld shall be distributed to the
27 city when it has demonstrated in its reports to the state auditor
28 that the amount of public works it has performed by public employees
29 has been so reduced.

30 Whenever a first-class city has had public works performed in any
31 budget period up to the maximum permitted amount for that budget
32 period, all remaining public works within that budget period shall be
33 done by contract pursuant to public notice and call for competitive
34 bids.

35 The state auditor shall report to the state treasurer any
36 first-class city that exceeds this amount and the extent to which the
37 city has or has not reduced the amount of public works it has
38 performed by public employees in subsequent years.

1 (3) In addition to the percentage limitation provided in
2 subsection (2) of this section, a first-class city shall not have
3 public employees perform a public works project in excess of (~~one~~
4 ~~hundred fifty thousand dollars~~) \$150,000 if more than a single craft
5 or trade is involved with the public works project, or a public works
6 project in excess of (~~seventy-five thousand five hundred dollars~~)
7 \$75,500 if only a single craft or trade is involved with the public
8 works project or the public works project is street signalization or
9 street lighting. A public works project means a complete project. The
10 restrictions in this subsection do not permit the division of the
11 project into units of work or classes of work to avoid the
12 restriction on work that may be performed by day labor on a single
13 project.

14 (4) In addition to the accounting and recordkeeping requirements
15 contained in RCW 39.04.070, every first-class city annually may
16 prepare a report for the state auditor indicating the total public
17 works construction budget and supplemental public works construction
18 budget for that year, the total construction costs of public works
19 performed by public employees for that year, and the amount of public
20 works that is performed by public employees above or below (~~ten~~) 10
21 percent of the total construction budget. However, if a city budgets
22 on a biennial basis, this annual report may indicate the amount of
23 public works that is performed by public employees within the current
24 biennial period that is above or below (~~ten~~) 10 percent of the
25 total biennial construction budget.

26 Each first-class city with a population of (~~one hundred fifty~~
27 ~~thousand~~) 150,000 or less shall use the form required by RCW
28 43.09.205 to account and record costs of public works in excess of
29 (~~five thousand dollars~~) \$5,000 that are not let by contract.

30 (5) The cost of a separate public works project shall be the
31 costs of materials, supplies, equipment, and labor on the
32 construction of that project. The value of the public works budget
33 shall be the value of all the separate public works projects within
34 the budget.

35 (6) The competitive bidding requirements of this section may be
36 waived by the city legislative authority pursuant to RCW 39.04.280 if
37 an exemption contained within that section applies to the work or
38 contract.

1 (7) In lieu of the procedures of subsections (2) and (6) of this
2 section, a first-class city may let contracts using the small works
3 roster process in RCW 39.04.155.

4 Whenever possible, the city shall invite at least one proposal
5 from a certified minority or woman contractor who shall otherwise
6 qualify under this section.

7 (8) The allocation of public works projects to be performed by
8 city employees shall not be subject to a collective bargaining
9 agreement.

10 (9) This section does not apply to performance-based contracts,
11 as defined in RCW 39.35A.020(~~((4))~~) (6), that are negotiated under
12 chapter 39.35A RCW.

13 (10) Nothing in this section shall prohibit any first-class city
14 from allowing for preferential purchase of products made from
15 recycled materials or products that may be recycled or reused.

16 (11)(a) Any first-class city may procure public works with a unit
17 priced contract under this section for the purpose of completing
18 anticipated types of work based on hourly rates or unit pricing for
19 one or more categories of work or trades.

20 (b) For the purposes of this section, "unit priced contract"
21 means a competitively bid contract in which public works are
22 anticipated on a recurring basis to meet the business or operational
23 needs of the city, under which the contractor agrees to a fixed
24 period indefinite quantity delivery of work, at a defined unit price
25 for each category of work.

26 (c) Unit priced contracts must be executed for an initial
27 contract term not to exceed three years, with the city having the
28 option of extending or renewing the unit priced contract for one
29 additional year.

30 (d) Invitations for unit price bids shall include, for purposes
31 of the bid evaluation, estimated quantities of the anticipated types
32 of work or trades, and specify how the city will issue or release
33 work assignments, work orders, or task authorizations pursuant to a
34 unit priced contract for projects, tasks, or other work based on the
35 hourly rates or unit prices bid by the contractor. Contracts must be
36 awarded to the lowest responsible bidder as per RCW 39.04.010.
37 Whenever possible, the city must invite at least one proposal from a
38 certified minority or woman contractor who otherwise qualifies under
39 this section.

1 (e) Unit price contractors shall pay prevailing wages for all
2 work that would otherwise be subject to the requirements of chapter
3 39.12 RCW. Prevailing wages for all work performed pursuant to each
4 work order must be the prevailing wage rates in effect at the
5 beginning date for each contract year. Unit priced contracts must
6 have prevailing wage rates updated annually. Intents and affidavits
7 for prevailing wages paid must be submitted annually for all work
8 completed within the previous (~~twelve-month~~) 12-month period of the
9 unit priced contract.

10 (12) A first-class city may have its own regularly employed
11 personnel perform work which is an accepted industry practice under
12 prudent utility management without a contract. For purposes of this
13 section, "prudent utility management" means performing work with
14 regularly employed personnel utilizing material of a worth not
15 exceeding \$300,000 in value without a contract. This limit on the
16 value of material being utilized in work being performed by regularly
17 employed personnel shall not include the value of individual items of
18 equipment. For the purposes of this section, the term "equipment"
19 includes but is not limited to conductor, cabling, wire, pipe, or
20 lines used for electrical, water, fiber optic, or telecommunications.

21 (13) For the purposes of this section, "lowest responsible
22 bidder" means a bid that meets the criteria under RCW 39.04.350 and
23 has the lowest bid; provided, that if the city issues a written
24 finding that the lowest bidder has delivered a project to the city
25 within the last three years which was late, over budget, or did not
26 meet specifications, and the city does not find in writing that such
27 bidder has shown how they would improve performance to be likely to
28 meet project specifications then the city may choose the second
29 lowest bidder whose bid is within five percent of the lowest bid and
30 meets the same criteria as the lowest bidder.

31 **Sec. 4.** RCW 57.08.050 and 2019 c 434 s 10 are each amended to
32 read as follows:

33 (1) All work ordered, the estimated cost of which is in excess of
34 (~~fifty thousand dollars~~) \$150,000 if more than a single craft or
35 trade is involved with the public works project, or a public works
36 project in excess of \$75,500 if only a single craft or trade is
37 involved with the public works project, shall be let by contract and
38 competitive bidding. Before awarding any such contract the board of
39 commissioners shall publish a notice in a newspaper of general

1 circulation where the district is located at least once (~~thirteen~~)
2 13 days before the last date upon which bids will be received,
3 inviting sealed proposals for such work, plans and specifications
4 which must at the time of publication of such notice be on file in
5 the office of the board of commissioners subject to the public
6 inspection. The notice shall state generally the work to be done and
7 shall call for proposals for doing the same to be sealed and filed
8 with the board of commissioners on or before the day and hour named
9 therein.

10 Each bid shall be accompanied by a certified or cashier's check
11 or postal money order payable to the order of the county treasurer
12 for a sum not less than five percent of the amount of the bid, or
13 accompanied by a bid bond in an amount not less than five percent of
14 the bid with a corporate surety licensed to do business in the state,
15 conditioned that the bidder will pay the district as liquidated
16 damages the amount specified in the bond, unless the bidder enters
17 into a contract in accordance with the bidder's bid, and no bid shall
18 be considered unless accompanied by such check, cash or bid bond. At
19 the time and place named such bids shall be publicly opened and read
20 and the board of commissioners shall proceed to canvass the bids and
21 may let such contract to the lowest responsible bidder upon plans and
22 specifications on file or to the best bidder submitting the bidder's
23 own plans and specifications. The board of commissioners may reject
24 all bids for good cause and readvertise and in such case all checks,
25 cash or bid bonds shall be returned to the bidders. If the contract
26 is let, then all checks, cash, or bid bonds shall be returned to the
27 bidders, except that of the successful bidder, which shall be
28 retained until a contract shall be entered into for doing the work,
29 and a bond to perform such work furnished with sureties satisfactory
30 to the board of commissioners in the full amount of the contract
31 price between the bidder and the commission in accordance with the
32 bid. If the bidder fails to enter into the contract in accordance
33 with the bid and furnish the bond within (~~ten~~) 10 days from the
34 date at which the bidder is notified that the bidder is the
35 successful bidder, the check, cash, or bid bonds and the amount
36 thereof shall be forfeited to the district. If the bidder fails to
37 enter into a contract in accordance with the bidder's bid, and the
38 board of commissioners deems it necessary to take legal action to
39 collect on any bid bond required by this section, then the district
40 shall be entitled to collect from the bidder any legal expenses,

1 including reasonable attorneys' fees occasioned thereby. A low bidder
2 who claims error and fails to enter into a contract is prohibited
3 from bidding on the same project if a second or subsequent call for
4 bids is made for the project.

5 (2) As an alternative to requirements under subsection (1) of
6 this section, a water-sewer district may let contracts using the
7 small works roster process under RCW 39.04.155.

8 (3) Any purchase of materials, supplies, or equipment, with an
9 estimated cost in excess of (~~forty thousand dollars~~) \$40,000, shall
10 be by contract. Any purchase of materials, supplies, or equipment,
11 with an estimated cost of less than (~~fifty thousand dollars~~)
12 \$50,000 shall be made using the process provided in RCW 39.04.190.
13 Any purchase of materials, supplies, or equipment with an estimated
14 cost of (~~fifty thousand dollars~~) \$50,000 or more shall be made by
15 competitive bidding following the procedure for letting contracts for
16 projects under subsection (1) of this section.

17 (4) As an alternative to requirements under subsection (3) of
18 this section, a water-sewer district may let contracts for purchase
19 of materials, supplies, or equipment with the suppliers designated on
20 current state agency, county, city, or town purchasing rosters for
21 the materials, supplies, or equipment, when the roster has been
22 established in accordance with the competitive bidding law for
23 purchases applicable to the state agency, county, city, or town. The
24 price and terms for purchases shall be as described on the applicable
25 roster.

26 (5) The board may waive the competitive bidding requirements of
27 this section pursuant to RCW 39.04.280 if an exemption contained
28 within that section applies to the purchase or public work.

29 (6)(a) A district may procure public works with a unit priced
30 contract under this section for the purpose of completing anticipated
31 types of work based on hourly rates or unit pricing for one or more
32 categories of work or trades.

33 (b) For the purposes of this section, "unit priced contract"
34 means a competitively bid contract in which public works are
35 anticipated on a recurring basis to meet the business or operational
36 needs of the district, under which the contractor agrees to a fixed
37 period indefinite quantity delivery of work, at a defined unit price
38 for each category of work.

39 (c) Unit priced contracts must be executed for an initial
40 contract term not to exceed one year, with the district having the

1 option of extending or renewing the unit priced contract for one
2 additional year.

3 (d) Invitations for unit price bids must include, for purposes of
4 the bid evaluation, estimated quantities of the anticipated types of
5 work or trades, and specify how the district will issue or release
6 work assignments, work orders, or task authorizations pursuant to a
7 unit priced contract for projects, tasks, or other work based on the
8 hourly rates or unit prices bid by the contractor. Contracts must be
9 awarded to the lowest responsible bidder as per RCW 39.04.010.
10 Whenever possible, the district must invite at least one proposal
11 from a certified minority or woman contractor who otherwise qualifies
12 under this section.

13 (e) Unit price contractors shall pay prevailing wages for all
14 work that would otherwise be subject to the requirements of chapter
15 39.12 RCW. Prevailing wages for all work performed pursuant to each
16 work order must be the prevailing wage rates in effect at the
17 beginning date for each contract year. Unit priced contracts must
18 have prevailing wage rates updated annually. Intents and affidavits
19 for prevailing wages paid must be submitted annually for all work
20 completed within the previous (~~twelve-month~~) 12-month period of the
21 unit priced contract.

22 (7) A water-sewer district may have its own regularly employed
23 personnel perform work which is an accepted industry practice under
24 prudent utility management without a contract. For purposes of this
25 section, "prudent utility management" means performing work with
26 regularly employed personnel utilizing material of a worth not
27 exceeding \$300,000 in value without a contract. This limit on the
28 value of material being utilized in work being performed by regularly
29 employed personnel shall not include the value of individual items of
30 equipment. For the purposes of this section, the term "equipment"
31 includes but is not limited to conductor, cabling, wire, pipe, or
32 lines used for electrical, water, fiber optic, or telecommunications.

33 (8) For the purposes of this section, "lowest responsible bidder"
34 means a bid that meets the criteria under RCW 39.04.350 and has the
35 lowest bid; provided, that if the district issues a written finding
36 that the lowest bidder has delivered a project to the district within
37 the last three years which was late, over budget, or did not meet
38 specifications, and the district does not find in writing that such
39 bidder has shown how they would improve performance to be likely to
40 meet project specifications then the district may choose the second

1 lowest bidder whose bid is within five percent of the lowest bid and
2 meets the same criteria as the lowest bidder.

3 **Sec. 5.** RCW 52.14.110 and 2019 c 434 s 12 are each amended to
4 read as follows:

5 (1) Insofar as practicable, purchases and any public works by the
6 district shall be based on competitive bids. A formal sealed bid
7 procedure shall be used as standard procedure for purchases and
8 contracts for purchases executed by the board of commissioners.
9 Formal sealed bidding shall not be required for:

10 ~~((1))~~ (a) The purchase of any materials, supplies, or equipment
11 if the cost will not exceed the sum of ~~((forty thousand dollars))~~
12 \$75,500. However, whenever the estimated cost does not exceed
13 ~~((seventy five thousand dollars))~~ \$150,000, the commissioners may by
14 resolution use the process provided in RCW 39.04.190 to award
15 contracts;

16 ~~((2))~~ (b) Contracting for work to be done involving the
17 construction or improvement of a fire station or other buildings
18 where the estimated cost will not exceed the sum of ~~((thirty thousand~~
19 dollars, which includes the costs of labor, material, and equipment))
20 \$150,000 if more than a single craft or trade is involved with the
21 public works project, or a public works project in excess of \$75,500
22 if only a single craft or trade is involved with the public works
23 project;

24 ~~((3))~~ (c) Contracts using the small works roster process under
25 RCW 39.04.155; and

26 ~~((4))~~ (d) Any contract for purchases or public work pursuant to
27 RCW 39.04.280 if an exemption contained within that section applies
28 to the purchase or public work.

29 (2) A fire protection district may have its own regularly
30 employed personnel perform work which is an accepted industry
31 practice under prudent utility management without a contract. For
32 purposes of this section, "prudent utility management" means
33 performing work with regularly employed personnel utilizing material
34 of a worth not exceeding \$300,000 in value without a contract. This
35 limit on the value of material being utilized in work being performed
36 by regularly employed personnel shall not include the value of
37 individual items of equipment. For the purposes of this section, the
38 term "equipment" includes but is not limited to conductor, cabling,

1 wire, pipe, or lines used for electrical, water, fiber optic, or
2 telecommunications.

3 (3) For the purposes of this section, "lowest responsible bidder"
4 means a bid that meets the criteria under RCW 39.04.350 and has the
5 lowest bid; provided, that if the district issues a written finding
6 that the lowest bidder has delivered a project to the district within
7 the last three years which was late, over budget, or did not meet
8 specifications, and the district does not find in writing that such
9 bidder has shown how they would improve performance to be likely to
10 meet project specifications then the district may choose the second
11 lowest bidder whose bid is within five percent of the lowest bid and
12 meets the same criteria as the lowest bidder.

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