
HOUSE BILL 2722

State of Washington 64th Legislature 2016 Regular Session

By Representatives Kochmar and Stanford

Read first time 01/19/16. Referred to Committee on Capital Budget.

1 AN ACT Relating to modifying and updating small works roster
2 construction and limited public works requirements; amending RCW
3 28A.335.190, 28B.10.350, 28B.50.330, 35.22.620, 35.23.352, 35.61.135,
4 35.82.076, 36.32.235, 36.32.250, 36.77.075, 39.04.010, 39.04.200,
5 39.04.380, 39.12.040, 52.14.110, 53.08.120, 54.04.070, 57.08.050,
6 70.44.140, and 87.03.436; adding new sections to chapter 39.04 RCW;
7 creating a new section; and repealing RCW 39.04.155 and 39.04.156.

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

9 NEW SECTION. **Sec. 1.** The legislature finds that public works
10 contracting agencies need a streamlined and effective method for
11 delivering small public works projects. The legislature further finds
12 that small, mini, and microbusinesses are essential to a robust and
13 high-functioning economy and that small and limited public works
14 processes support small contractors and provide work to many citizens
15 throughout the state. Therefore, the legislature intends to update
16 and revise the small and limited works roster process to encourage
17 greater participation by small contractors.

18 NEW SECTION. **Sec. 2.** (1) State agencies and any expressly
19 authorized local government may use a uniform small works roster to
20 award contracts for construction, building, renovation, remodeling,

1 alteration, repair, or improvement of real property with an estimated
2 cost of five hundred thousand dollars or less.

3 (2) A state agency or authorized local government may create a
4 single general small works roster, or may create a small works roster
5 for different specialties or categories of anticipated work. Where
6 applicable, small works rosters may make distinctions between
7 contractors based on the different geographic areas served by the
8 contractors.

9 (3) The small works roster or rosters shall consist of all
10 responsible contractors who have requested to be on the list, and
11 where required by law, are properly licensed or registered to perform
12 such work in this state.

13 (a) A state agency or local government establishing a small works
14 roster or rosters may require eligible contractors desiring to be
15 placed on the roster or rosters to keep current records of any
16 applicable licenses, certifications, registrations, bonding,
17 insurance, or other appropriate matters on file with the state agency
18 or local government as a condition of being placed on the roster.

19 (b) At least once a year, the state agency or local government
20 must publish in a newspaper of general circulation a notice of the
21 existence of the roster or rosters and solicit the names of
22 contractors for the roster or rosters.

23 (c) Responsible contractors must be added to an appropriate
24 roster or rosters at any time they submit a written request and the
25 necessary records.

26 (4) For the purposes of this section and sections 3 through 5 of
27 this act:

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

32 (b) "State agency" means the department of enterprise services,
33 the state parks and recreation commission, the department of natural
34 resources, the department of fish and wildlife, the department of
35 transportation, any institution of higher education as defined under
36 RCW 28B.10.016, and any other state agency delegated authority by the
37 department of enterprise services to engage in construction,
38 building, renovation, remodeling, alteration, improvement, or repair
39 activities.

1 NEW SECTION. **Sec. 3.** (1) State agencies and authorized local
2 governments using small works rosters must establish procedures for
3 securing written or electronic quotations from contractors on the
4 appropriate small works roster to assure that a competitive price is
5 established and to award contracts to the lowest responsible bidder.

6 (2) Invitations for quotations must include, at a minimum, an
7 estimate of the scope and nature of the work to be performed as well
8 as the materials and equipment to be furnished. Detailed plans and
9 specifications need not be included in the invitation. This
10 subsection does not eliminate other requirements for architectural or
11 engineering approvals as to quality and compliance with building
12 codes.

13 (3) Invitations for quotations must be extended to at least five
14 contractors on the appropriate small works roster who have indicated
15 the capability to perform the kind of work being contracted in a
16 manner that equitably distributes the opportunities for the
17 contractors on the appropriate small works roster that are willing to
18 perform in the geographic area of the work.

19 (4) If the appropriate small works roster has fewer than five
20 contractors, an invitation to bid must be extended to all contractors
21 on the appropriate roster who have indicated the capability to
22 perform the kind of work being contracted.

23 (5) If the estimated cost of work is from one hundred fifty
24 thousand dollars to five hundred thousand dollars, a state agency or
25 local government that chooses to invite quotations from fewer than
26 all the appropriate contractors on the appropriate small works roster
27 must also notify the remaining contractors on the appropriate small
28 works roster that quotations on the work are being sought.

29 (6) Immediately after an award is made, the bid quotations
30 obtained must be recorded, open to public inspection, and available
31 by electronic request.

32 (7) For projects awarded under the small works roster process
33 established under sections 2 and 3 of this act, a state agency or
34 authorized local government may waive the retainage requirements of
35 chapter 60.28 RCW, thereby assuming the liability for contractor's
36 nonpayment of laborers, mechanics, subcontractors, materialpersons,
37 suppliers, and taxes imposed under Title 82 RCW that may be due from
38 the contractor for the project. However, the state agency or local
39 government has the right of recovery against the contractor for any
40 payments made on the contractor's behalf.

1 (8) A state agency or authorized local government may use the
2 small works roster process established in sections 2 and 3 of this
3 act to solicit and award small works roster contracts to small
4 businesses as defined under RCW 39.26.010 that are registered
5 contractors, as well as businesses that are certified with the
6 department of veterans affairs under chapter 43.60A RCW that are
7 registered contractors.

8 NEW SECTION. **Sec. 4.** (1) In lieu of awarding contracts under
9 sections 2 and 3 of this act, a state agency or local government that
10 is authorized to award contracts using the small works roster process
11 may award contracts using the limited public works process authorized
12 under this section for work, construction, alteration, repair, or
13 improvement projects estimated to cost less than one hundred fifty
14 thousand dollars.

15 (2) Public works projects under this section are exempt from
16 other requirements of the small works roster process provided under
17 sections 2 and 3 of this act and from the requirement that contracts
18 be awarded after advertisement as provided under RCW 39.04.010.

19 (3) For limited public works projects, a state agency or
20 authorized local government shall solicit electronic or written
21 quotations from a minimum of three contractors from the appropriate
22 small works roster in a manner that equitably distributes the
23 opportunities for the contractors on the appropriate small works
24 roster that are willing to perform in the geographic area of the
25 work. The agency or authorized local government must award the
26 contract to the lowest responsible bidder.

27 (4) Immediately after an award is made, the bid quotations
28 obtained must be recorded, open to public inspection, and available
29 by electronic request.

30 (5) For limited public works projects awarded under this section,
31 a state agency or authorized local government may waive the payment
32 and performance bond requirements of chapter 39.08 RCW and the
33 retainage requirements of chapter 60.28 RCW, thereby assuming the
34 liability for the contractor's nonpayment of laborers, mechanics,
35 subcontractors, materialpersons, suppliers, and taxes imposed under
36 Title 82 RCW that may be due from the contractor for the limited
37 public works project. However, the state agency or local government
38 has the right of recovery against the contractor for any payments
39 made on the contractor's behalf.

1 (6) A state agency or authorized local government must maintain a
2 list of the contractors contacted and the contracts awarded during
3 the previous twenty-four months under the limited public works
4 process, including:

- 5 (a) Name of the contractor;
- 6 (b) Contractor's registration number;
- 7 (c) Amount of the contract;
- 8 (d) Brief description of the type of work performed; and
- 9 (e) Date the contract was awarded.

10 (7) A state agency or authorized local government may use the
11 limited public works process in this section to solicit and award
12 small works roster contracts to minibusinesses and microbusinesses as
13 defined under RCW 39.26.010 that are registered contractors.

14 NEW SECTION. **Sec. 5.** (1) A state agency establishing a small
15 works roster or rosters must adopt rules implementing sections 2
16 through 4 of this act. A local government establishing a small works
17 roster or rosters must adopt an ordinance or resolution implementing
18 sections 2 through 4 of this act.

19 (2) Procedures included in the rules adopted by the department of
20 enterprise services in implementing sections 2 through 4 of this act
21 must be included in any rules providing for small works roster or
22 rosters that is adopted by another state agency, if the authority for
23 that state agency to engage in these activities has been delegated to
24 it by the department of enterprise services.

25 (3) An interlocal contract or agreement between two or more state
26 agencies or local governments establishing a small works roster or
27 rosters to be used by the parties to the agreement or contract must
28 clearly identify the lead entity that is responsible for implementing
29 the provisions of sections 2 through 4 of this act.

30 (4) The department of enterprise services shall work with the
31 municipal research and services center to notify local governments
32 authorized to use small works rosters of this authority and to
33 provide guidance on how to use the authority. The guidance may take
34 the form of a manual provided to local governments.

35 (5) The breaking of any project into units or accomplishing any
36 project by phases is prohibited if it is done for the purposes of
37 avoiding the maximum dollar amount of a contract that may be let
38 using the small works roster process or the limited public works
39 process.

1 **Sec. 6.** RCW 28A.335.190 and 2013 c 223 s 1 are each amended to
2 read as follows:

3 (1) When, in the opinion of the board of directors of any school
4 district, the cost of any furniture, supplies, equipment, building,
5 improvements, or repairs, or other work or purchases, except books,
6 will equal or exceed the threshold levels specified in subsections
7 (2) and (4) of this section, complete plans and specifications for
8 such work or purchases shall be prepared and notice by publication
9 given in at least one newspaper of general circulation within the
10 district, once each week for two consecutive weeks, of the intention
11 to receive bids and that specifications and other information may be
12 examined at the office of the board or any other officially
13 designated location. The cost of any public work, improvement, or
14 repair for the purposes of this section shall be the aggregate of all
15 amounts to be paid for labor, material, and equipment on one
16 continuous or interrelated project where work is to be performed
17 simultaneously or in close sequence. The bids shall be in writing and
18 shall be opened and read in public on the date and in the place named
19 in the notice and after being opened shall be filed for public
20 inspection.

21 (2) Every purchase of furniture, equipment, or supplies, except
22 books, the cost of which is estimated to be in excess of forty
23 thousand dollars, shall be on a competitive basis. The board of
24 directors shall establish a procedure for securing telephone and/or
25 written quotations for such purchases. Whenever the estimated cost is
26 from forty thousand dollars up to seventy-five thousand dollars, the
27 procedure shall require quotations from at least three different
28 sources to be obtained in writing or by telephone, and recorded for
29 public perusal. Whenever the estimated cost is in excess of seventy-
30 five thousand dollars, the public bidding process provided in
31 subsection (1) of this section shall be followed.

32 (3) Any school district may purchase goods produced or provided
33 in whole or in part from class II inmate work programs operated by
34 the department of corrections pursuant to RCW 72.09.100, including
35 but not limited to furniture, equipment, or supplies. School
36 districts are encouraged to set as a target to contract, beginning
37 after June 30, 2006, to purchase up to one percent of the total goods
38 required by the school districts each year, goods produced or
39 provided in whole or in part from class II inmate work programs
40 operated by the department of corrections.

1 (4) The board may make improvements or repairs to the property of
2 the district through a department within the district without
3 following the public bidding process provided in subsection (1) of
4 this section when the total of such improvements or repairs does not
5 exceed the sum of seventy-five thousand dollars. Whenever the
6 estimated cost of a building, improvement, repair, or other public
7 works project is one hundred thousand dollars or more, the public
8 bidding process provided in subsection (1) of this section shall be
9 followed unless the contract is let using the small works roster
10 process in ((~~RCW 39.04.155~~)) sections 2 through 5 of this act or
11 under any other procedure authorized for school districts. One or
12 more school districts may authorize an educational service district
13 to establish and operate a small works roster for the school district
14 under the provisions of ((~~RCW 39.04.155~~)) sections 2 through 5 of
15 this act.

16 (5) The contract for the work or purchase shall be awarded to the
17 lowest responsible bidder as described in RCW 39.26.160(2) but the
18 board may by resolution reject any and all bids and make further
19 calls for bids in the same manner as the original call. On any work
20 or purchase the board shall provide bidding information to any
21 qualified bidder or the bidder's agent, requesting it in person.

22 (6) In the event of any emergency when the public interest or
23 property of the district would suffer material injury or damage by
24 delay, upon resolution of the board declaring the existence of such
25 an emergency and reciting the facts constituting the same, the board
26 may waive the requirements of this section with reference to any
27 purchase or contract: PROVIDED, That an "emergency," for the purposes
28 of this section, means a condition likely to result in immediate
29 physical injury to persons or to property of the school district in
30 the absence of prompt remedial action.

31 (7) This section does not apply to the direct purchase of school
32 buses by school districts and educational services in accordance with
33 RCW 28A.160.195.

34 (8) This section does not apply to the purchase of Washington
35 grown food.

36 (9) At the discretion of the board, a school district may develop
37 and implement policies and procedures to facilitate and maximize to
38 the extent practicable, purchases of Washington grown food including,
39 but not limited to, policies that permit a percentage price
40 preference for the purpose of procuring Washington grown food.

1 (10) As used in this section, "Washington grown" has the
2 definition in RCW 15.64.060.

3 (11) As used in this section, "price percentage preference" means
4 the percent by which a responsive bid from a responsible bidder whose
5 product is a Washington grown food may exceed the lowest responsive
6 bid submitted by a responsible bidder whose product is not a
7 Washington grown food.

8 **Sec. 7.** RCW 28B.10.350 and 2009 c 229 s 2 are each amended to
9 read as follows:

10 (1) When the cost to The Evergreen State College or any regional
11 or state university of any building, construction, renovation,
12 remodeling, or demolition, other than maintenance or repairs, will
13 equal or exceed the sum of ninety thousand dollars, or forty-five
14 thousand dollars if the work involves one trade or craft area,
15 complete plans and specifications for the work shall be prepared, the
16 work shall be put out for public bid, and the contract shall be
17 awarded to the responsible bidder who submits the lowest responsive
18 bid.

19 (2) Any building, construction, renovation, remodeling, or
20 demolition project that exceeds the dollar amounts in subsection (1)
21 of this section is subject to the provisions of chapter 39.12 RCW.

22 (3) The Evergreen State College or any regional or state
23 university may require a project to be put to public bid even when it
24 is not required to do so under subsection (1) of this section. Any
25 project publicly bid under this subsection is subject to the
26 provisions of chapter 39.12 RCW.

27 (4) Where the estimated cost of any building, construction,
28 renovation, remodeling, or demolition is less than ninety thousand
29 dollars or the contract is awarded by the small works roster
30 procedure authorized in (~~RCW 39.04.155~~) sections 2 through 5 of
31 this act, the publication requirements of RCW 39.04.020 do not apply.

32 (5) In the event of any emergency when the public interest or
33 property of The Evergreen State College or a regional or state
34 university would suffer material injury or damage by delay, the
35 president of such college or university may declare the existence of
36 an emergency and, reciting the facts constituting the same, may waive
37 the requirements of this section with reference to any contract in
38 order to correct the condition causing the emergency. For the
39 purposes of this section, "emergency" means a condition likely to

1 result in immediate physical injury to persons or to property of the
2 college or university in the absence of prompt remedial action or a
3 condition which immediately impairs the institution's ability to
4 perform its educational obligations.

5 (6) This section does not apply when a contract is awarded by the
6 small works roster procedure authorized in (~~RCW 39.04.155~~) sections
7 2 through 5 of this act or under any other procedure authorized for
8 an institution of higher education.

9 **Sec. 8.** RCW 28B.50.330 and 2009 c 229 s 1 are each amended to
10 read as follows:

11 (1) The boards of trustees of college districts are empowered in
12 accordance with the provisions of this chapter to provide for the
13 construction, reconstruction, erection, equipping, demolition, and
14 major alterations of buildings and other capital assets, and the
15 acquisition of sites, rights-of-way, easements, improvements, or
16 appurtenances for the use of the aforementioned colleges as
17 authorized by the college board in accordance with RCW 28B.50.140; to
18 be financed by bonds payable out of special funds from revenues
19 hereafter derived from income received from such facilities, gifts,
20 bequests, or grants, and such additional funds as the legislature may
21 provide, and payable out of a bond retirement fund to be established
22 by the respective district boards in accordance with rules of the
23 state board. With respect to building, improvements, or repairs, or
24 other work, where the estimated cost exceeds ninety thousand dollars,
25 or forty-five thousand dollars if the work involves one trade or
26 craft area, complete plans and specifications for the work shall be
27 prepared, the work shall be put out for a public bid, and the
28 contract shall be awarded to the responsible bidder who submits the
29 lowest responsive bid. Any project regardless of dollar amount may be
30 put to public bid.

31 (2) This section does not apply when a contract is awarded by the
32 small works roster procedure authorized in (~~RCW 39.04.155~~) sections
33 2 through 5 of this act.

34 (3) Where the estimated cost to any college of any building,
35 improvements, or repairs, or other work, is less than ninety thousand
36 dollars, or forty-five thousand dollars if the work involves one
37 trade or craft area, the publication requirements of RCW 39.04.020 do
38 not apply.

1 **Sec. 9.** RCW 35.22.620 and 2012 1st sp.s. c 5 s 1 are each
2 amended to read as follows:

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

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

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

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

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

37 (3) In addition to the percentage limitation provided in
38 subsection (2) of this section, a first-class city shall not have
39 public employees perform a public works project in excess of ninety
40 thousand dollars if more than a single craft or trade is involved

1 with the public works project, or a public works project in excess of
2 forty-five thousand dollars if only a single craft or trade is
3 involved with the public works project or the public works project is
4 street signalization or street lighting. A public works project means
5 a complete project. The restrictions in this subsection do not permit
6 the division of the project into units of work or classes of work to
7 avoid the restriction on work that may be performed by day labor on a
8 single project.

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

21 Each first-class city with a population of one hundred fifty
22 thousand or less shall use the form required by RCW 43.09.205 to
23 account and record costs of public works in excess of five thousand
24 dollars that are not let by contract.

25 (5) The cost of a separate public works project shall be the
26 costs of materials, supplies, equipment, and labor on the
27 construction of that project. The value of the public works budget
28 shall be the value of all the separate public works projects within
29 the budget.

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

34 (7) In lieu of the procedures of subsections (2) and (6) of this
35 section, a first-class city may let contracts using the small works
36 roster process in ~~((RCW 39.04.155))~~ sections 2 through 5 of this act.

37 Whenever possible, the city shall invite at least one proposal
38 from a minority or woman contractor who shall otherwise qualify under
39 this section.

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

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

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

10 **Sec. 10.** RCW 35.23.352 and 2009 c 229 s 4 are each amended to
11 read as follows:

12 (1) Any second-class city or any town may construct any public
13 works, as defined in RCW 39.04.010, by contract or day labor without
14 calling for bids therefor whenever the estimated cost of the work or
15 improvement, including cost of materials, supplies and equipment will
16 not exceed the sum of sixty-five thousand dollars if more than one
17 craft or trade is involved with the public works, or forty thousand
18 dollars if a single craft or trade is involved with the public works
19 or the public works project is street signalization or street
20 lighting. A public works project means a complete project. The
21 restrictions in this subsection do not permit the division of the
22 project into units of work or classes of work to avoid the
23 restriction on work that may be performed by day labor on a single
24 project.

25 Whenever the cost of the public work or improvement, including
26 materials, supplies and equipment, will exceed these figures, the
27 same shall be done by contract. All such contracts shall be let at
28 public bidding upon publication of notice calling for sealed bids
29 upon the work. The notice shall be published in the official
30 newspaper, or a newspaper of general circulation most likely to bring
31 responsive bids, at least thirteen days prior to the last date upon
32 which bids will be received. The notice shall generally state the
33 nature of the work to be done that plans and specifications therefor
34 shall then be on file in the city or town hall for public
35 inspections, and require that bids be sealed and filed with the
36 council or commission within the time specified therein. Each bid
37 shall be accompanied by a bid proposal deposit in the form of a
38 cashier's check, postal money order, or surety bond to the council or
39 commission for a sum of not less than five percent of the amount of

1 the bid, and no bid shall be considered unless accompanied by such
2 bid proposal deposit. The council or commission of the city or town
3 shall let the contract to the lowest responsible bidder or shall have
4 power by resolution to reject any or all bids and to make further
5 calls for bids in the same manner as the original call.

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

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

23 (2) The allocation of public works projects to be performed by
24 city or town employees shall not be subject to a collective
25 bargaining agreement.

26 (3) In lieu of the procedures of subsection (1) of this section,
27 a second-class city or a town may let contracts using the small works
28 roster process provided in (~~RCW 39.04.155~~) sections 2 through 5 of
29 this act.

30 Whenever possible, the city or town shall invite at least one
31 proposal from a minority or woman contractor who shall otherwise
32 qualify under this section.

33 (4) The form required by RCW 43.09.205 shall be to account and
34 record costs of public works in excess of five thousand dollars that
35 are not let by contract.

36 (5) The cost of a separate public works project shall be the
37 costs of the materials, equipment, supplies, and labor on that
38 construction project.

1 (6) Any purchase of supplies, material, or equipment, except for
2 public work or improvement, where the cost thereof exceeds seven
3 thousand five hundred dollars shall be made upon call for bids.

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

9 (8) For advertisement and formal sealed bidding to be dispensed
10 with as to purchases with an estimated value of fifteen thousand
11 dollars or less, the council or commission must authorize by
12 resolution, use of the uniform procedure provided in RCW 39.04.190.

13 (9) The city or town legislative authority may waive the
14 competitive bidding requirements of this section pursuant to RCW
15 39.04.280 if an exemption contained within that section applies to
16 the purchase or public work.

17 (10) This section does not apply to performance-based contracts,
18 as defined in RCW 39.35A.020(4), that are negotiated under chapter
19 39.35A RCW.

20 (11) Nothing in this section shall prohibit any second class city
21 or any town from allowing for preferential purchase of products made
22 from recycled materials or products that may be recycled or reused.

23 **Sec. 11.** RCW 35.61.135 and 2009 c 229 s 10 are each amended to
24 read as follows:

25 (1) All work ordered, the estimated cost of which is in excess of
26 twenty thousand dollars, shall be let by contract and competitive
27 bidding. Before awarding any such contract the board of park
28 commissioners shall publish a notice in a newspaper of general
29 circulation where the district is located at least once thirteen days
30 before the last date upon which bids will be received, inviting
31 sealed proposals for such work, plans, and specifications which must
32 at the time of publication of such notice be on file in the office of
33 the board of park commissioners subject to the public inspection. The
34 notice shall state generally the work to be done and shall call for
35 proposals for doing the same to be sealed and filed with the board of
36 park commissioners on or before the day and hour named therein.

37 Each bid shall be accompanied by a certified or cashier's check
38 or postal money order payable to the order of the metropolitan park
39 district for a sum not less than five percent of the amount of the

1 bid, or accompanied by a bid bond in an amount not less than five
2 percent of the bid with a corporate surety licensed to do business in
3 the state, conditioned that the bidder will pay the metropolitan park
4 district as liquidated damages the amount specified in the bond,
5 unless the bidder enters into a contract in accordance with the
6 bidder's bid, and no bid shall be considered unless accompanied by
7 such check, cash, or bid bond. At the time and place named such bids
8 shall be publicly opened and read and the board of park commissioners
9 shall proceed to canvass the bids and may let such contract to the
10 lowest responsible bidder upon plans and specifications on file or to
11 the best bidder submitting the bidder's own plans and specifications.
12 The board of park commissioners may reject all bids for good cause
13 and readvertise and in such case all checks, cash, or bid bonds shall
14 be returned to the bidders. If the contract is let, then all checks,
15 cash, or bid bonds shall be returned to the bidders, except that of
16 the successful bidder, which shall be retained until a contract is
17 entered into for doing the work, and a bond to perform such work
18 furnished with sureties satisfactory to the board of park
19 commissioners in the full amount of the contract price between the
20 bidder and the metropolitan park district in accordance with the bid.
21 If the bidder fails to enter into the contract in accordance with the
22 bid and furnish the bond within ten days from the date at which the
23 bidder is notified that the bidder is the successful bidder, the
24 check, cash, or bid bonds and the amount thereof shall be forfeited
25 to the metropolitan park district. If the bidder fails to enter into
26 a contract in accordance with the bidder's bid, and the board of park
27 commissioners deems it necessary to take legal action to collect on
28 any bid bond required by this section, then the metropolitan park
29 district is entitled to collect from the bidder any legal expenses,
30 including reasonable attorneys' fees occasioned thereby. A low bidder
31 who claims error and fails to enter into a contract is prohibited
32 from bidding on the same project if a second or subsequent call for
33 bids is made for the project.

34 (2) As an alternative to requirements under subsection (1) of
35 this section, a metropolitan park district may let contracts using
36 the small works roster process under (~~RCW 39.04.155~~) sections 2
37 through 5 of this act.

38 (3) Any purchase of materials, supplies, or equipment, with an
39 estimated cost in excess of forty thousand dollars, shall be by
40 contract. Any purchase of materials, supplies, or equipment, with an

1 estimated cost of less than fifty thousand dollars shall be made
2 using the process provided in RCW 39.04.190. Any purchase of
3 materials, supplies, or equipment with an estimated cost of fifty
4 thousand dollars or more shall be made by competitive bidding
5 following the procedure for letting contracts for projects under
6 subsection (1) of this section.

7 (4) As an alternative to requirements under subsection (3) of
8 this section, a metropolitan park district may let contracts for
9 purchase of materials, supplies, or equipment with the suppliers
10 designated on current state agency, county, city, or town purchasing
11 rosters for the materials, supplies, or equipment, when the roster
12 has been established in accordance with the competitive bidding law
13 for purchases applicable to the state agency, county, city, or town.
14 The price and terms for purchases shall be as described on the
15 applicable roster.

16 (5) The park board may waive the competitive bidding requirements
17 of this section pursuant to RCW 39.04.280 if an exemption contained
18 within RCW 39.04.280 applies to the purchase or public work.

19 **Sec. 12.** RCW 35.82.076 and 2000 c 138 s 205 are each amended to
20 read as follows:

21 A housing authority may establish and use a small works roster
22 for awarding contracts under (~~RCW 39.04.155~~) sections 2 through 5
23 of this act.

24 **Sec. 13.** RCW 36.32.235 and 2009 c 229 s 6 are each amended to
25 read as follows:

26 (1) In each county with a population of four hundred thousand or
27 more which by resolution establishes a county purchasing department,
28 the purchasing department shall enter into leases of personal
29 property on a competitive basis and purchase all supplies, materials,
30 and equipment on a competitive basis, for all departments of the
31 county, as provided in this chapter and chapter 39.04 RCW, except
32 that the county purchasing department is not required to make
33 purchases that are paid from the county road fund or equipment rental
34 and revolving fund.

35 (2) As used in this section, "public works" has the same
36 definition as in RCW 39.04.010.

37 (3) Except as otherwise specified in this chapter or in chapter
38 36.77 RCW, all counties subject to these provisions shall contract on

1 a competitive basis for all public works after bids have been
2 submitted to the county upon specifications therefor. Such
3 specifications shall be in writing and shall be filed with the clerk
4 of the county legislative authority for public inspection.

5 (4) An advertisement shall be published in the county official
6 newspaper stating the time and place where bids will be opened, the
7 time after which bids will not be received, the character of the work
8 to be done, the materials and equipment to be furnished, and that
9 specifications therefor may be seen at the office of the clerk of the
10 county legislative authority. An advertisement shall also be
11 published in a legal newspaper of general circulation in or as near
12 as possible to that part of the county in which such work is to be
13 done. If the county official newspaper is a newspaper of general
14 circulation covering at least forty percent of the residences in that
15 part of the county in which such public works are to be done, then
16 the publication of an advertisement of the applicable specifications
17 in the county official newspaper is sufficient. Such advertisements
18 shall be published at least once at least thirteen days prior to the
19 last date upon which bids will be received.

20 (5) The bids shall be in writing, shall be filed with the clerk,
21 shall be opened and read in public at the time and place named
22 therefor in the advertisements, and after being opened, shall be
23 filed for public inspection. No bid may be considered for public work
24 unless it is accompanied by a bid deposit in the form of a surety
25 bond, postal money order, cash, cashier's check, or certified check
26 in an amount equal to five percent of the amount of the bid proposed.

27 (6) The contract for the public work shall be awarded to the
28 lowest responsible bidder. Any or all bids may be rejected for good
29 cause. The county legislative authority shall require from the
30 successful bidder for such public work a contractor's bond in the
31 amount and with the conditions imposed by law.

32 (7) If the bidder to whom the contract is awarded fails to enter
33 into the contract and furnish the contractor's bond as required
34 within ten days after notice of the award, exclusive of the day of
35 notice, the amount of the bid deposit shall be forfeited to the
36 county and the contract awarded to the next lowest and best bidder.
37 The bid deposit of all unsuccessful bidders shall be returned after
38 the contract is awarded and the required contractor's bond given by
39 the successful bidder is accepted by the county legislative
40 authority. Immediately after the award is made, the bid quotations

1 obtained shall be recorded and open to public inspection and shall be
2 available by telephone inquiry.

3 (8) As limited by subsection (10) of this section, a county
4 subject to these provisions may have public works performed by county
5 employees in any annual or biennial budget period equal to a dollar
6 value not exceeding ten percent of the public works construction
7 budget, including any amount in a supplemental public works
8 construction budget, over the budget period.

9 Whenever a county subject to these provisions has had public
10 works performed in any budget period up to the maximum permitted
11 amount for that budget period, all remaining public works except
12 emergency work under subsection (12) of this section within that
13 budget period shall be done by contract pursuant to public notice and
14 call for competitive bids as specified in subsection (3) of this
15 section. The state auditor shall report to the state treasurer any
16 county subject to these provisions that exceeds this amount and the
17 extent to which the county has or has not reduced the amount of
18 public works it has performed by public employees in subsequent
19 years.

20 (9) If a county subject to these provisions has public works
21 performed by public employees in any budget period that are in excess
22 of this ten percent limitation, the amount in excess of the permitted
23 amount shall be reduced from the otherwise permitted amount of public
24 works that may be performed by public employees for that county in
25 its next budget period. Ten percent of the motor vehicle fuel tax
26 distributions to that county shall be withheld if two years after the
27 year in which the excess amount of work occurred, the county has
28 failed to so reduce the amount of public works that it has performed
29 by public employees. The amount withheld shall be distributed to the
30 county when it has demonstrated in its reports to the state auditor
31 that the amount of public works it has performed by public employees
32 has been reduced as required.

33 (10) In addition to the percentage limitation provided in
34 subsection (8) of this section, counties subject to these provisions
35 containing a population of four hundred thousand or more shall not
36 have public employees perform a public works project in excess of
37 ninety thousand dollars if more than a single craft or trade is
38 involved with the public works project, or a public works project in
39 excess of forty-five thousand dollars if only a single craft or trade
40 is involved with the public works project. A public works project

1 means a complete project. The restrictions in this subsection do not
2 permit the division of the project into units of work or classes of
3 work to avoid the restriction on work that may be performed by public
4 employees on a single project.

5 The cost of a separate public works project shall be the costs of
6 materials, supplies, equipment, and labor on the construction of that
7 project. The value of the public works budget shall be the value of
8 all the separate public works projects within the budget.

9 (11) In addition to the accounting and recordkeeping requirements
10 contained in chapter 39.04 RCW, any county which uses public
11 employees to perform public works projects under RCW 36.32.240(1)
12 shall prepare a year-end report to be submitted to the state auditor
13 indicating the total dollar amount of the county's public works
14 construction budget and the total dollar amount for public works
15 projects performed by public employees for that year.

16 The year-end report submitted pursuant to this subsection to the
17 state auditor shall be in accordance with the standard form required
18 by RCW 43.09.205.

19 (12) Notwithstanding any other provision in this section,
20 counties may use public employees without any limitation for
21 emergency work performed under an emergency declared pursuant to RCW
22 36.32.270, and any such emergency work shall not be subject to the
23 limitations of this section. Publication of the description and
24 estimate of costs relating to correcting the emergency may be made
25 within seven days after the commencement of the work. Within two
26 weeks of the finding that such an emergency existed, the county
27 legislative authority shall adopt a resolution certifying the damage
28 to public facilities and costs incurred or anticipated relating to
29 correcting the emergency. Additionally this section shall not apply
30 to architectural and engineering or other technical or professional
31 services performed by public employees in connection with a public
32 works project.

33 (13) In lieu of the procedures of subsections (3) through (11) of
34 this section, a county may let contracts using the small works roster
35 process provided in (~~RCW 39.04.155~~) sections 2 through 5 of this
36 act.

37 Whenever possible, the county shall invite at least one proposal
38 from a minority or woman contractor who shall otherwise qualify under
39 this section.

1 (14) The allocation of public works projects to be performed by
2 county employees shall not be subject to a collective bargaining
3 agreement.

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

7 (16) Nothing in this section prohibits any county from allowing
8 for preferential purchase of products made from recycled materials or
9 products that may be recycled or reused.

10 (17) This section does not apply to contracts between the public
11 stadium authority and a team affiliate under RCW 36.102.060(4), or
12 development agreements between the public stadium authority and a
13 team affiliate under RCW 36.102.060(7) or leases entered into under
14 RCW 36.102.060(8).

15 **Sec. 14.** RCW 36.32.250 and 2009 c 229 s 8 are each amended to
16 read as follows:

17 No contract for public works may be entered into by the county
18 legislative authority or by any elected or appointed officer of the
19 county until after bids have been submitted to the county upon
20 specifications therefor. Such specifications shall be in writing and
21 shall be filed with the clerk of the county legislative authority for
22 public inspection. An advertisement shall be published in the county
23 official newspaper stating the time and place where bids will be
24 opened, the time after which bids will not be received, the character
25 of the work to be done, the materials and equipment to be furnished,
26 and that specifications therefor may be seen at the office of the
27 clerk of the county legislative authority. An advertisement shall
28 also be published in a legal newspaper of general circulation in or
29 as near as possible to that part of the county in which such work is
30 to be done. If the county official newspaper is a newspaper of
31 general circulation covering at least forty percent of the residences
32 in that part of the county in which such public works are to be done,
33 then the publication of an advertisement of the applicable
34 specifications in the county official newspaper shall be sufficient.
35 Such advertisements shall be published at least once at least
36 thirteen days prior to the last date upon which bids will be
37 received. The bids shall be in writing, shall be filed with the
38 clerk, shall be opened and read in public at the time and place named
39 therefor in the advertisements, and after being opened, shall be

1 filed for public inspection. No bid may be considered for public work
2 unless it is accompanied by a bid deposit in the form of a surety
3 bond, postal money order, cash, cashier's check, or certified check
4 in an amount equal to five percent of the amount of the bid proposed.
5 The contract for the public work shall be awarded to the lowest
6 responsible bidder. Any or all bids may be rejected for good cause.
7 The county legislative authority shall require from the successful
8 bidder for such public work a contractor's bond in the amount and
9 with the conditions imposed by law. If the bidder to whom the
10 contract is awarded fails to enter into the contract and furnish the
11 contractor's bond as required within ten days after notice of the
12 award, exclusive of the day of notice, the amount of the bid deposit
13 shall be forfeited to the county and the contract awarded to the next
14 lowest and best bidder. A low bidder who claims error and fails to
15 enter into a contract is prohibited from bidding on the same project
16 if a second or subsequent call for bids is made for the project. The
17 bid deposit of all unsuccessful bidders shall be returned after the
18 contract is awarded and the required contractor's bond given by the
19 successful bidder is accepted by the county legislative authority. In
20 the letting of any contract for public works involving less than
21 forty thousand dollars, advertisement and competitive bidding may be
22 dispensed with on order of the county legislative authority.
23 Immediately after the award is made, the bid quotations obtained
24 shall be recorded and open to public inspection and shall be
25 available by telephone inquiry.

26 As an alternative to requirements under this section, a county
27 may let contracts using the small works roster process under ((RCW
28 39.04.155)) sections 2 through 5 of this act.

29 This section does not apply to performance-based contracts, as
30 defined in RCW 39.35A.020(4), that are negotiated under chapter
31 39.35A RCW.

32 **Sec. 15.** RCW 36.77.075 and 2000 c 138 s 208 are each amended to
33 read as follows:

34 In lieu of the procedure for awarding contracts that is provided
35 in RCW 36.77.020 through 36.77.040, a county may award contracts for
36 public works projects on county roads using the small works roster
37 process under ((RCW 39.04.155)) sections 2 through 5 of this act.

1 **Sec. 16.** RCW 39.04.010 and 2008 c 130 s 16 are each amended to
2 read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

5 (1) "Award" means the formal decision by the state or
6 municipality notifying a responsible bidder with the lowest
7 responsive bid of the state's or municipality's acceptance of the bid
8 and intent to enter into a contract with the bidder.

9 (2) "Contract" means a contract in writing for the execution of
10 public work for a fixed or determinable amount duly awarded after
11 advertisement and competitive bid, or a contract awarded under the
12 small works roster process in (~~RCW 39.04.155~~) sections 2 through 5
13 of this act.

14 (3) "Municipality" means every city, county, town, port district,
15 district, or other public agency authorized by law to require the
16 execution of public work, except drainage districts, diking
17 districts, diking and drainage improvement districts, drainage
18 improvement districts, diking improvement districts, consolidated
19 diking and drainage improvement districts, consolidated drainage
20 improvement districts, consolidated diking improvement districts,
21 irrigation districts, or other districts authorized by law for the
22 reclamation or development of waste or undeveloped lands.

23 (4) "Public work" means all work, construction, alteration,
24 repair, or improvement other than ordinary maintenance, executed at
25 the cost of the state or of any municipality, or which is by law a
26 lien or charge on any property therein. All public works, including
27 maintenance when performed by contract shall comply with chapter
28 39.12 RCW. "Public work" does not include work, construction,
29 alteration, repair, or improvement performed under contracts entered
30 into under RCW 36.102.060(4) or under development agreements entered
31 into under RCW 36.102.060(7) or leases entered into under RCW
32 36.102.060(8).

33 (5) "Responsible bidder" means a contractor who meets the
34 criteria in RCW 39.04.350.

35 (6) "State" means the state of Washington and all departments,
36 supervisors, commissioners, and agencies of the state.

37 **Sec. 17.** RCW 39.04.200 and 2000 c 138 s 103 are each amended to
38 read as follows:

1 Any local government using the uniform process established in RCW
2 39.04.190 to award contracts for purchases must post a list of the
3 contracts awarded under that process at least once every two months.
4 Any state agency or local government using the small works roster
5 process established in (~~RCW 39.04.155~~) sections 2 through 5 of this
6 act to award contracts for construction, building, renovation,
7 remodeling, alteration, repair, or improvement of real property must
8 make available a list of the contracts awarded under that process at
9 least once every year. The list shall contain the name of the
10 contractor or vendor awarded the contract, the amount of the
11 contract, a brief description of the type of work performed or items
12 purchased under the contract, and the date it was awarded. The list
13 shall also state the location where the bid quotations for these
14 contracts are available for public inspection.

15 **Sec. 18.** RCW 39.04.380 and 2015 c 225 s 39 are each amended to
16 read as follows:

17 (1) The department of enterprise services must conduct a survey
18 and compile the results into a list of which states provide a bidding
19 preference on public works contracts for their resident contractors.
20 The list must include details on the type of preference, the amount
21 of the preference, and how the preference is applied. The list must
22 be updated periodically as needed. The initial survey must be
23 completed by November 1, 2011, and by December 1, 2011, the
24 department must submit a report to the appropriate committees of the
25 legislature on the results of the survey. The report must include the
26 list and recommendations necessary to implement the intent of this
27 section and section 2, chapter 345, Laws of 2011.

28 (2) The department of enterprise services must distribute the
29 report, along with the requirements of this section and section 2,
30 chapter 345, Laws of 2011, to all state and local agencies with the
31 authority to procure public works. The department may adopt rules and
32 procedures to implement the reciprocity requirements in subsection
33 (3) of this section. However, subsection (3) of this section does not
34 take effect until the department of enterprise services has adopted
35 the rules and procedures for reciprocity under this subsection or
36 announced that it will not be issuing rules or procedures pursuant to
37 this section.

38 (3) In any bidding process for public works in which a bid is
39 received from a nonresident contractor from a state that provides a

1 percentage bidding preference, a comparable percentage disadvantage
2 must be applied to the bid of that nonresident contractor. This
3 subsection does not apply until the department of enterprise services
4 has adopted the rules and procedures for reciprocity under subsection
5 (2) of this section, or has determined and announced that rules are
6 not necessary for implementation.

7 (4) A nonresident contractor from a state that provides a
8 percentage bid preference means a contractor that:

9 (a) Is from a state that provides a percentage bid preference to
10 its resident contractors bidding on public works contracts; and

11 (b) At the time of bidding on a public works project, does not
12 have a physical office located in Washington.

13 (5) The state of residence for a nonresident contractor is the
14 state in which the contractor was incorporated or, if not a
15 corporation, the state where the contractor's business entity was
16 formed.

17 (6) This section does not apply to public works procured pursuant
18 to (~~RCW 39.04.155~~) sections 2 through 5 of this act, RCW 39.04.280,
19 or any other procurement exempt from competitive bidding.

20 **Sec. 19.** RCW 39.12.040 and 2013 c 113 s 5 are each amended to
21 read as follows:

22 (1)(a) Except as provided in subsection (2) of this section,
23 before payment is made by or on behalf of the state, or any county,
24 municipality, or political subdivision created by its laws, of any
25 sum or sums due on account of a public works contract, it is the duty
26 of the officer or person charged with the custody and disbursement of
27 public funds to require the contractor and each and every
28 subcontractor from the contractor or a subcontractor to submit to
29 such officer a "Statement of Intent to Pay Prevailing Wages". For a
30 contract in excess of ten thousand dollars, the statement of intent
31 to pay prevailing wages must include:

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

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

36 (b) Each statement of intent to pay prevailing wages must be
37 approved by the industrial statistician of the department of labor
38 and industries before it is submitted to the disbursing officer.
39 Unless otherwise authorized by the department of labor and

1 industries, each voucher claim submitted by a contractor for payment
2 on a project estimate must state that the prevailing wages have been
3 paid in accordance with the prefiled statement or statements of
4 intent to pay prevailing wages on file with the public agency.
5 Following the final acceptance of a public works project, it is the
6 duty of the officer charged with the disbursement of public funds, to
7 require the contractor and each and every subcontractor from the
8 contractor or a subcontractor to submit to such officer an affidavit
9 of wages paid before the funds retained according to the provisions
10 of RCW 60.28.011 are released to the contractor. On a public works
11 project where no retainage is withheld pursuant to RCW
12 60.28.011(1)(b), the affidavit of wages paid must be submitted to the
13 state, county, municipality, or other public body charged with the
14 duty of disbursing or authorizing disbursement of public funds prior
15 to final acceptance of the public works project. If a subcontractor
16 performing work on a public works project fails to submit an
17 affidavit of wages paid form, the contractor or subcontractor with
18 whom the subcontractor had a contractual relationship for the project
19 may file the forms on behalf of the nonresponsive subcontractor.
20 Affidavit forms may only be filed on behalf of a nonresponsive
21 subcontractor who has ceased operations or failed to file as required
22 by this section. The contractor filing the affidavit must accept
23 responsibility for payment of prevailing wages unpaid by the
24 subcontractor on the project pursuant to RCW 39.12.020 and 39.12.065.
25 Intentionally filing a false affidavit on behalf of a subcontractor
26 subjects the filer to the same penalties as are provided in RCW
27 39.12.050. Each affidavit of wages paid must be certified by the
28 industrial statistician of the department of labor and industries
29 before it is submitted to the disbursing officer.

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

35 (a) An awarding agency may authorize the contractor or
36 subcontractor to submit the statement of intent to pay prevailing
37 wages directly to the officer or person charged with the custody or
38 disbursement of public funds in the awarding agency without approval
39 by the industrial statistician of the department of labor and

1 industries. The awarding agency must retain such statement of intent
2 to pay prevailing wages for a period of not less than three years.

3 (b) Upon final acceptance of the public works project, the
4 awarding agency must require the contractor or subcontractor to
5 submit an affidavit of wages paid. Upon receipt of the affidavit of
6 wages paid, the awarding agency may pay the contractor or
7 subcontractor in full, including funds that would otherwise be
8 retained according to the provisions of RCW 60.28.011. Within thirty
9 days of receipt of the affidavit of wages paid, the awarding agency
10 must submit the affidavit of wages paid to the industrial
11 statistician of the department of labor and industries for approval.

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

15 (d) In the event of a wage claim and a finding for the claimant
16 by the department of labor and industries where the awarding agency
17 has used the alternative process provided for in this subsection (2),
18 the awarding agency must pay the wages due directly to the claimant.
19 If the contractor or subcontractor did not pay the wages stated in
20 the affidavit of wages paid, the awarding agency may take action at
21 law to seek reimbursement from the contractor or subcontractor of
22 wages paid to the claimant, and may prohibit the contractor or
23 subcontractor from bidding on any public works contract of the
24 awarding agency for up to one year.

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

29 **Sec. 20.** RCW 52.14.110 and 2009 c 229 s 9 are each amended to
30 read as follows:

31 Insofar as practicable, purchases and any public works by the
32 district shall be based on competitive bids. A formal sealed bid
33 procedure shall be used as standard procedure for purchases and
34 contracts for purchases executed by the board of commissioners.
35 Formal sealed bidding shall not be required for:

36 (1) The purchase of any materials, supplies, or equipment if the
37 cost will not exceed the sum of ten thousand dollars. However,
38 whenever the estimated cost does not exceed fifty thousand dollars,

1 the commissioners may by resolution use the process provided in RCW
2 39.04.190 to award contracts;

3 (2) Contracting for work to be done involving the construction or
4 improvement of a fire station or other buildings where the estimated
5 cost will not exceed the sum of twenty thousand dollars, which
6 includes the costs of labor, material, and equipment;

7 (3) Contracts using the small works roster process under ((RCW
8 ~~39.04.155~~)) sections 2 through 5 of this act; and

9 (4) Any contract for purchases or public work pursuant to RCW
10 39.04.280 if an exemption contained within that section applies to
11 the purchase or public work.

12 **Sec. 21.** RCW 53.08.120 and 2009 c 74 s 2 are each amended to
13 read as follows:

14 (1) All material and work required by a port district not meeting
15 the definition of public work in RCW 39.04.010(4) may be procured in
16 the open market or by contract and all work ordered may be done by
17 contract or day labor.

18 (2)(a) All such contracts for work meeting the definition of
19 "public work" in RCW 39.04.010(4), the estimated cost of which
20 exceeds three hundred thousand dollars, shall be awarded using a
21 competitive bid process. The contract must be awarded at public
22 bidding upon notice published in a newspaper of general circulation
23 in the district at least thirteen days before the last date upon
24 which bids will be received, calling for bids upon the work, plans
25 and specifications for which shall then be on file in the office of
26 the commission for public inspection. The same notice may call for
27 bids on such work or material based upon plans and specifications
28 submitted by the bidder. The competitive bidding requirements for
29 purchases or public works may be waived pursuant to RCW 39.04.280 if
30 an exemption contained within that section applies to the purchase or
31 public work.

32 (b) For all contracts related to work meeting the definition of
33 "public work" in RCW 39.04.010(4) (~~that are estimated at three~~
34 ~~hundred thousand dollars or less~~), a port district may let contracts
35 using the small works roster process under ((~~RCW 39.04.155~~)) sections
36 2 through 5 of this act in lieu of advertising for bids. Whenever
37 possible, the managing official shall invite at least one proposal
38 from a minority contractor who shall otherwise qualify under this
39 section.

1 When awarding such a contract for work, when utilizing proposals
2 from the small works roster, the managing official shall give weight
3 to the contractor submitting the lowest and best proposal, and
4 whenever it would not violate the public interest, such contracts
5 shall be distributed equally among contractors, including minority
6 contractors, on the small works roster.

7 **Sec. 22.** RCW 54.04.070 and 2008 c 216 s 2 are each amended to
8 read as follows:

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

17 (2) Any work ordered by a district commission, the estimated cost
18 of which is in excess of twenty-five thousand dollars, exclusive of
19 sales tax, shall be by contract. However, a district commission may
20 have its own regularly employed personnel perform work which is an
21 accepted industry practice under prudent utility management without a
22 contract. For purposes of this section, "prudent utility management"
23 means performing work with regularly employed personnel utilizing
24 material of a worth not exceeding one hundred fifty thousand dollars
25 in value without a contract. This limit on the value of material
26 being utilized in work being performed by regularly employed
27 personnel shall not include the value of individual items of
28 equipment purchased or acquired and used as one unit of a project.

29 (3) Before awarding a contract required under subsection (1) or
30 (2) of this section, the commission shall publish a notice once or
31 more in a newspaper of general circulation in the district at least
32 thirteen days before the last date upon which bids will be received,
33 inviting sealed proposals for the work or materials. Plans and
34 specifications for the work or materials shall at the time of
35 publication be on file at the office of the district and subject to
36 public inspection. Any published notice ordering work to be performed
37 for the district shall be mailed at the time of publication to any
38 established trade association which files a written request with the
39 district to receive such notices. The commission may, at the same

1 time and as part of the same notice, invite tenders for the work or
2 materials upon plans and specifications to be submitted by the
3 bidders.

4 (4) As an alternative to the competitive bidding requirements of
5 this section and RCW 54.04.080, a district may let contracts using
6 the small works roster process under (~~RCW 39.04.155~~) sections 2
7 through 5 of this act.

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

14 (6) Pursuant to RCW 39.04.280, the commission may waive the
15 competitive bidding requirements of this section and RCW 54.04.080 if
16 an exemption contained within RCW 39.04.280 applies to the purchase
17 or public work.

18 **Sec. 23.** RCW 57.08.050 and 2015 c 136 s 1 are each amended to
19 read as follows:

20 (1) All work ordered, the estimated cost of which is in excess of
21 fifty thousand dollars, shall be let by contract and competitive
22 bidding. Before awarding any such contract the board of commissioners
23 shall publish a notice in a newspaper of general circulation where
24 the district is located at least once thirteen days before the last
25 date upon which bids will be received, inviting sealed proposals for
26 such work, plans and specifications which must at the time of
27 publication of such notice be on file in the office of the board of
28 commissioners subject to the public inspection. The notice shall
29 state generally the work to be done and shall call for proposals for
30 doing the same to be sealed and filed with the board of commissioners
31 on or before the day and hour named therein.

32 Each bid shall be accompanied by a certified or cashier's check
33 or postal money order payable to the order of the county treasurer
34 for a sum not less than five percent of the amount of the bid, or
35 accompanied by a bid bond in an amount not less than five percent of
36 the bid with a corporate surety licensed to do business in the state,
37 conditioned that the bidder will pay the district as liquidated
38 damages the amount specified in the bond, unless the bidder enters
39 into a contract in accordance with the bidder's bid, and no bid shall

1 be considered unless accompanied by such check, cash or bid bond. At
2 the time and place named such bids shall be publicly opened and read
3 and the board of commissioners shall proceed to canvass the bids and
4 may let such contract to the lowest responsible bidder upon plans and
5 specifications on file or to the best bidder submitting the bidder's
6 own plans and specifications. The board of commissioners may reject
7 all bids for good cause and readvertise and in such case all checks,
8 cash or bid bonds shall be returned to the bidders. If the contract
9 is let, then all checks, cash, or bid bonds shall be returned to the
10 bidders, except that of the successful bidder, which shall be
11 retained until a contract shall be entered into for doing the work,
12 and a bond to perform such work furnished with sureties satisfactory
13 to the board of commissioners in the full amount of the contract
14 price between the bidder and the commission in accordance with the
15 bid. If the bidder fails to enter into the contract in accordance
16 with the bid and furnish the bond within ten days from the date at
17 which the bidder is notified that the bidder is the successful
18 bidder, the check, cash, or bid bonds and the amount thereof shall be
19 forfeited to the district. If the bidder fails to enter into a
20 contract in accordance with the bidder's bid, and the board of
21 commissioners deems it necessary to take legal action to collect on
22 any bid bond required by this section, then the district shall be
23 entitled to collect from the bidder any legal expenses, including
24 reasonable attorneys' fees occasioned thereby. A low bidder who
25 claims error and fails to enter into a contract is prohibited from
26 bidding on the same project if a second or subsequent call for bids
27 is made for the project.

28 (2) As an alternative to requirements under subsection (1) of
29 this section, a water-sewer district may let contracts using the
30 small works roster process under (~~RCW 39.04.155~~) sections 2 through
31 5 of this act.

32 (3) Any purchase of materials, supplies, or equipment, with an
33 estimated cost in excess of forty thousand dollars, shall be by
34 contract. Any purchase of materials, supplies, or equipment, with an
35 estimated cost of less than fifty thousand dollars shall be made
36 using the process provided in RCW 39.04.190. Any purchase of
37 materials, supplies, or equipment with an estimated cost of fifty
38 thousand dollars or more shall be made by competitive bidding
39 following the procedure for letting contracts for projects under
40 subsection (1) of this section.

1 (4) As an alternative to requirements under subsection (3) of
2 this section, a water-sewer district may let contracts for purchase
3 of materials, supplies, or equipment with the suppliers designated on
4 current state agency, county, city, or town purchasing rosters for
5 the materials, supplies, or equipment, when the roster has been
6 established in accordance with the competitive bidding law for
7 purchases applicable to the state agency, county, city, or town. The
8 price and terms for purchases shall be as described on the applicable
9 roster.

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

13 **Sec. 24.** RCW 70.44.140 and 2009 c 229 s 12 are each amended to
14 read as follows:

15 (1) All materials purchased and work ordered, the estimated cost
16 of which is in excess of seventy-five thousand dollars, shall be by
17 contract. Before awarding any such contract, the commission shall
18 publish a notice at least thirteen days before the last date upon
19 which bids will be received, inviting sealed proposals for such work.
20 The plans and specifications must at the time of the publication of
21 such notice be on file at the office of the public hospital district,
22 subject to public inspection: PROVIDED, HOWEVER, That the commission
23 may at the same time, and as part of the same notice, invite tenders
24 for the work or materials upon plans and specifications to be
25 submitted by bidders. The notice shall state generally the work to be
26 done, and shall call for proposals for doing the same, to be sealed
27 and filed with the commission on or before the day and hour named
28 therein. Each bid shall be accompanied by bid proposal security in
29 the form of a certified check, cashier's check, postal money order,
30 or surety bond made payable to the order of the commission, for a sum
31 not less than five percent of the amount of the bid, and no bid shall
32 be considered unless accompanied by such bid proposal security. At
33 the time and place named, such bids shall be publicly opened and
34 read, and the commission shall proceed to canvass the bids, and may
35 let such contract to the lowest responsible bidder upon plans and
36 specifications on file, or to the best bidder submitting his or her
37 own plans and specifications: PROVIDED, HOWEVER, That no contract
38 shall be let in excess of the estimated cost of the materials or
39 work, or if, in the opinion of the commission, all bids are

1 unsatisfactory, they may reject all of them and readvertise, and in
2 such case all bid proposal security shall be returned to the bidders.
3 If the contract is let, then all bid proposal security shall be
4 returned to the bidders, except that of the successful bidder, which
5 is retained until a contract shall be entered into for the purchase
6 of such materials for doing such work, and a bond to perform such
7 work furnished, with sureties satisfactory to the commission, in an
8 amount to be fixed by the commission, not less than twenty-five
9 percent of contract price in any case, between the bidder and
10 commission, in accordance with the bid. If such bidder fails to enter
11 into the contract in accordance with the bid and furnish such bond
12 within ten days from the date at which the bidder is notified that he
13 or she is the successful bidder, the bid proposal security and the
14 amount thereof shall be forfeited to the public hospital district. A
15 low bidder who claims error and fails to enter into a contract is
16 prohibited from bidding on the same project if a second or subsequent
17 call for bids is made for the project.

18 (2) As an alternative to the requirements of subsection (1) of
19 this section, a public hospital district may let contracts using the
20 small works roster process under (~~RCW 39.04.155~~) sections 2 through
21 5 of this act.

22 (3) Any purchases with an estimated cost of up to fifteen
23 thousand dollars may be made using the process provided in RCW
24 39.04.190.

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

28 **Sec. 25.** RCW 87.03.436 and 2010 c 201 s 2 are each amended to
29 read as follows:

30 All contract projects(~~(, the estimated cost of which is less than~~
31 ~~three hundred thousand dollars,)) may be awarded using the small
32 works roster process under (~~RCW 39.04.155~~) sections 2 through 5 of
33 this act.~~

34 NEW SECTION. **Sec. 26.** Sections 2 through 5 of this act are each
35 added to chapter 39.04 RCW.

36 NEW SECTION. **Sec. 27.** The following acts or parts of acts are
37 each repealed:

1 (1) RCW 39.04.155 (Small works roster contract procedures—Limited
2 public works process—Definition) and 2015 c 225 s 33, 2009 c 74 s 1,
3 & 2008 c 130 s 17; and
4 (2) RCW 39.04.156 (Small works roster manual—Notification to
5 local governments) and 2000 c 138 s 104.

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