
HOUSE BILL 2321

State of Washington 53rd Legislature 1994 Regular Session

By Representatives Springer, H. Myers, Edmondson, Johanson and Jones

Read first time 01/14/94. Referred to Committee on Local Government.

1 AN ACT Relating to standardizing competitive bidding procedures;
2 amending RCW 28A.335.190, 35.22.620, 35.23.352, 36.32.270, 52.14.110,
3 53.08.120, 54.04.070, 70.44.140, 87.03.435, and 87.03.436; reenacting
4 and amending RCW 56.08.070 and 57.08.050; and adding a new section to
5 chapter 39.04 RCW.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 39.04 RCW
8 to read as follows:

9 This section creates uniform exemptions to competitive bidding
10 procedures utilized by municipalities when awarding contracts for
11 public works and contracts for purchases. The state statutes governing
12 a specific type of municipality may also include other exemptions from
13 competitive bidding procedures.

14 (1) Competitive bidding procedures may be waived by resolution of
15 the governing body of the municipality for:

16 (a) Purchases that are clearly and legitimately limited to a single
17 source of supply;

18 (b) Purchases involving special facilities, services, or market
19 conditions;

1 (c) Purchases in the event of an emergency;

2 (d) Purchases of insurance or bonds;

3 (e) Purchases of computer systems; and

4 (f) Public works in the event of an emergency.

5 (2)(a) A resolution adopted by a governing body to waive
6 competitive bidding procedures pursuant to subsection (1) of this
7 section must recite the reasons why the situation exists, and the
8 economic or health-related justifications for the waiver. The
9 resolution must be adopted by the municipality prior to the final award
10 of the contract except in the event of an emergency.

11 (b) If an emergency exists, the person or persons designated by the
12 governing body of the municipality to act in the event of the emergency
13 may let all necessary contracts to address the emergency situation. If
14 a contract is let without competitive bidding due to an emergency, the
15 governing body of the municipality must adopt the resolution required
16 pursuant to (a) of this subsection at its next regularly scheduled
17 meeting.

18 (3) For purposes of this section, "emergency" means unforeseen
19 circumstances beyond the control of the municipality that either: (a)
20 Present a real, immediate threat to the proper performance of essential
21 functions; or (b) may result in material loss or damage to property,
22 bodily injury, or loss of life if immediate action is not taken.

23 **Sec. 2.** RCW 28A.335.190 and 1990 c 33 s 362 are each amended to
24 read as follows:

25 (1) When, in the opinion of the board of directors of any school
26 district, the cost of any furniture, supplies, equipment, building,
27 improvements, or repairs, or other work or purchases, except books,
28 will equal or exceed the sum of twenty thousand dollars, complete plans
29 and specifications for such work or purchases shall be prepared and
30 notice (~~(by publication given)~~) published in at least one newspaper of
31 general circulation within the district(~~(, once each week for two~~
32 ~~consecutive weeks,)~~) of the intention to receive bids therefor (~~(and)~~).
33 The notice must include a statement that specifications and other
34 information may be examined at the office of the board or any other
35 officially designated location(~~(: PROVIDED, That)~~). The notice shall
36 be published at least once at least thirteen days prior to the last
37 date upon which bids will be received. The board, however, without
38 giving such notice may make improvements or repairs to the property of

1 the district through the shop and repair department of such district
2 when the total of such improvements or repair does not exceed the sum
3 of seventy-five hundred dollars. The cost of any public work,
4 improvement or repair for the purposes of this section shall be the
5 aggregate of all amounts to be paid for labor, material, and equipment
6 on one continuous or interrelated project where work is to be performed
7 simultaneously or in close sequence. The bids shall be in writing and
8 shall be opened and read in public on the date and in the place named
9 in the notice and after being opened shall be filed for public
10 inspection.

11 (2) Every purchase of furniture, equipment or supplies, except
12 books, the cost of which is estimated to be in excess of seventy-five
13 hundred dollars, shall be on a competitive basis. ~~((The board of
14 directors shall establish a procedure for securing telephone and/or
15 written quotations for such purchases.))~~ Whenever the estimated cost
16 is from seventy-five hundred dollars up to twenty thousand dollars, the
17 ~~((procedure shall require quotations from at least three different
18 sources to be obtained in writing or by telephone, and recorded for
19 public perusal))~~ board may by resolution use the uniform process
20 provided in RCW 39.04.190 to award contracts. Whenever the estimated
21 cost is in excess of twenty thousand dollars, the public bidding
22 process provided in subsection (1) of this section shall be followed.

23 (3) Every building, improvement, repair or other public works
24 project, the cost of which is estimated to be in excess of seventy-five
25 hundred dollars, shall be ~~((on))~~ awarded by a competitive bid process.
26 ~~((All such projects))~~ The board may use the small works roster process
27 provided in RCW 39.04.155 to award contracts for public works with an
28 estimated ((to be)) value of less than twenty thousand dollars ((may be
29 awarded to a contractor on the small works roster. The small works
30 roster shall be comprised of all responsible contractors who have
31 requested to be on the list. The board of directors shall establish a
32 procedure for securing telephone and/or written quotations from the
33 contractors on the small works roster to assure establishment of a
34 competitive price and for awarding contracts to the lowest responsible
35 bidder. Such procedure shall require that a good faith effort be made
36 to request quotations from all contractors on the small works roster
37 who have indicated the capability of performing the kind of public
38 works being contracted. Immediately after an award is made, the bid
39 quotations obtained shall be recorded, open to public inspection, and

1 available by telephone inquiry. The small works roster shall be
2 revised at least once each year by publishing notice of such
3 opportunity in at least one newspaper of general circulation in the
4 district. Responsible contractors shall be added to the list at any
5 time they submit a written request)). Whenever the estimated cost of
6 a public works project is twenty thousand dollars or more, the public
7 bidding process provided in subsection (1) of this section shall be
8 followed.

9 (4) The contract for the work or purchase shall be awarded to the
10 lowest responsible bidder as defined in RCW 43.19.1911 but the board
11 may by resolution reject any and all bids and make further calls for
12 bids in the same manner as the original call. On any work or purchase
13 the board shall provide bidding information to any qualified bidder or
14 the bidder's agent, requesting it in person.

15 (5) (~~In the event of any emergency when the public interest or~~
16 ~~property of the district would suffer material injury or damage by~~
17 ~~delay, upon resolution of the board declaring the existence of such an~~
18 ~~emergency and reciting the facts constituting the same, the board may~~
19 ~~waive the requirements of this section with reference to any purchase~~
20 ~~or contract: PROVIDED, That an "emergency", for the purposes of this~~
21 ~~section, means a condition likely to result in immediate physical~~
22 ~~injury to persons or to property of the school district in the absence~~
23 ~~of prompt remedial action.)) The board may waive the requirements of
24 this section pursuant to section 1 of this act if an exemption
25 contained within that section applies to the work or contract.~~

26 **Sec. 3.** RCW 35.22.620 and 1993 c 198 s 9 are each amended to read
27 as follows:

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

30 (2) A first class city may have public works performed by contract
31 pursuant to public notice and call for competitive bids. As limited by
32 subsection (3) of this section, a first class city may have public
33 works performed by city employees in any annual or biennial budget
34 period equal to a dollar value not exceeding ten percent of the public
35 works construction budget, including any amount in a supplemental
36 public works construction budget, over the budget period. The amount
37 of public works that a first class city has a county perform for it

1 under RCW 35.77.020 shall be included within this ten percent
2 limitation.

3 If a first class city has public works performed by public
4 employees in any budget period that are in excess of this ten percent
5 limitation, the amount in excess of the permitted amount shall be
6 reduced from the otherwise permitted amount of public works that may be
7 performed by public employees for that city in its next budget period.
8 Twenty percent of the motor vehicle fuel tax distributions to that city
9 shall be withheld if two years after the year in which the excess
10 amount of work occurred, the city has failed to so reduce the amount of
11 public works that it has performed by public employees. The amount so
12 withheld shall be distributed to the city when it has demonstrated in
13 its reports to the state auditor that the amount of public works it has
14 performed by public employees has been so reduced.

15 Whenever a first class city has had public works performed in any
16 budget period up to the maximum permitted amount for that budget
17 period, all remaining public works within that budget period shall be
18 done by contract pursuant to public notice and call for competitive
19 bids.

20 The state auditor shall report to the state treasurer any first
21 class city that exceeds this amount and the extent to which the city
22 has or has not reduced the amount of public works it has performed by
23 public employees in subsequent years.

24 (3) In addition to the percentage limitation provided in subsection
25 (2) of this section, a first class city with a population in excess of
26 one hundred fifty thousand shall not have public employees perform a
27 public works project in excess of fifty thousand dollars if more than
28 a single craft or trade is involved with the public works project, or
29 a public works project in excess of twenty-five thousand dollars if
30 only a single craft or trade is involved with the public works project
31 or the public works project is street signalization or street lighting.
32 In addition to the percentage limitation provided in subsection (2) of
33 this section, a first class city with a population of one hundred fifty
34 thousand or less shall not have public employees perform a public works
35 project in excess of thirty-five thousand dollars if more than one
36 craft or trade is involved with the public works project, or a public
37 works project in excess of twenty thousand dollars if only a single
38 craft or trade is involved with the public works project or the public
39 works project is street signalization or street lighting. A public

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

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

17 After September 1, 1987, each first class city with a population of
18 one hundred fifty thousand or less shall use the form required by RCW
19 43.09.205 to account and record costs of public works in excess of five
20 thousand dollars that are not let by contract.

21 (5) The cost of a separate public works project shall be the costs
22 of materials, supplies, equipment, and labor on the construction of
23 that project. The value of the public works budget shall be the value
24 of all the separate public works projects within the budget.

25 ~~(6) ((When any emergency shall require the immediate execution of
26 such public work, upon the finding of the existence of such emergency
27 by the authority having power to direct such public work to be done and
28 duly entered of record, publication of description and estimate may be
29 made within seven days after the commencement of the work. Within two
30 weeks of the finding that such an emergency existed, the city council
31 shall adopt a resolution certifying the existence of this emergency
32 situation.)) The board may waive the requirements of this section
33 pursuant to section 1 of this act if an exemption contained within that
34 section applies to the work or contract.~~

35 (7) In lieu of the procedures of subsection~~((s))~~ (2) ~~((and (6))~~) of
36 this section, a first class city may use ~~((a))~~ the small works roster
37 process ~~((and))~~ provided in RCW 39.04.155 to award contracts for public
38 works projects with an estimated value of one hundred thousand dollars
39 or less ~~((as provided in RCW 39.04.155))~~.

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

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

6 (9) This section does not apply to performance-based contracts, as
7 defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A
8 RCW.

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

12 **Sec. 4.** RCW 35.23.352 and 1993 c 198 s 10 are each amended to read
13 as follows:

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

26 Whenever the cost of the public work or improvement, including
27 materials, supplies and equipment, will exceed these figures, the same
28 shall be done by contract. All such contracts shall be let at public
29 bidding upon publication of notice calling for sealed bids upon the
30 work. The notice shall be published in the official newspaper, or a
31 newspaper of general circulation most likely to bring responsive bids,
32 at least thirteen days prior to the last date upon which bids will be
33 received. The notice shall generally state the nature of the work to
34 be done that plans and specifications therefor shall then be on file in
35 the city or town hall for public inspections, and require that bids be
36 sealed and filed with the council or commission within the time
37 specified therein. Each bid shall be accompanied by a bid proposal
38 deposit in the form of a cashier's check, postal money order, or surety

1 bond to the council or commission for a sum of not less than five
2 percent of the amount of the bid, and no bid shall be considered unless
3 accompanied by such bid proposal deposit. The council or commission of
4 the city or town shall let the contract to the lowest responsible
5 bidder or shall have power by resolution to reject any or all bids and
6 to make further calls for bids in the same manner as the original call.

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

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

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

25 (3) In lieu of the procedures of subsection (1) of this section, a
26 second or third class city or a town may use ((a)) the small works
27 roster process ((and)) provided in RCW 39.04.155 to award public works
28 contracts with an estimated value of one hundred thousand dollars or
29 less ((as provided in RCW 39.04.155)).

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) After September 1, 1987, each second class city, third class
34 city, and town shall use the form required by RCW 43.09.205 to account
35 and record costs of public works in excess of five thousand dollars
36 that are not let by contract.

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

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

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

10 (8) For advertisement and formal sealed bidding to be dispensed
11 with as to purchases between seven thousand five hundred and fifteen
12 thousand dollars, the city legislative authority must authorize by
13 resolution, use of the uniform procedure provided in RCW 39.04.190.

14 (9) (~~These requirements for purchasing may be waived by resolution~~
15 ~~of the city or town council which declared that the purchase is clearly~~
16 ~~and legitimately limited to a single source or supply within the near~~
17 ~~vicinity, or the materials, supplies, equipment, or services are~~
18 ~~subject to special market conditions, and recites why this situation~~
19 ~~exists. Such actions are subject to RCW 39.30.020.)) The city or town
20 council may waive the requirements of this section pursuant to section
21 1 of this act if an exemption contained within that section applies to
22 the work or contract.~~

23 (10) This section does not apply to performance-based contracts, as
24 defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A
25 RCW.

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

30 **Sec. 5.** RCW 36.32.270 and 1963 c 4 s 36.32.270 are each amended to
31 read as follows:

32 (~~In the event of an emergency when the public interest or property~~
33 ~~of the county would suffer material injury or damage by delay, upon~~
34 ~~resolution of the board of county commissioners declaring the existence~~
35 ~~of such emergency and reciting the facts constituting the same, the~~
36 ~~board)) The county legislative authority may waive the requirements of
37 this chapter with reference to any purchase or contract pursuant to~~

1 section 1 of this act if an exemption contained within that section
2 applies to the work or contract.

3 **Sec. 6.** RCW 52.14.110 and 1993 c 198 s 11 are each amended to read
4 as follows:

5 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. Formal
9 sealed bidding shall not be required for:

10 ~~(1) ((Emergency purchases if the sealed bidding procedure would~~
11 ~~prevent or hinder the emergency from being addressed appropriately.~~
12 ~~The term emergency means an occurrence that creates an immediate threat~~
13 ~~to life or property;~~

14 ~~(2))~~ The purchase of any materials, supplies, or equipment if the
15 cost will not exceed the sum of four thousand five hundred dollars.
16 However, whenever the estimated cost is from four thousand five hundred
17 dollars up to ten thousand dollars, the commissioners may by resolution
18 use the process provided in RCW 39.04.190 to award contracts;

19 ~~((3))~~ (2) Contracting for work to be done involving the
20 construction or improvement of a fire station or other buildings where
21 the estimated cost will not exceed the sum of two thousand five hundred
22 dollars, which includes the costs of labor, material, and equipment.
23 However, whenever the estimated cost is from two thousand five hundred
24 dollars up to ten thousand dollars, the commissioner may by resolution
25 use the small works roster process provided in RCW 39.04.155; and

26 ~~((4) Purchases which are clearly and legitimately limited to a~~
27 ~~single source of supply, or services, in which instances the purchase~~
28 ~~price may be best established by direct negotiation; PROVIDED, That~~
29 ~~this subsection shall not apply to purchases or contracts relating to~~
30 ~~public works as defined in chapter 39.04 RCW; and~~

31 ~~(5) Purchases of insurance and bonds))~~ (3) Any purchase or contract
32 for work if an exemption contained within section 1 of this act applies
33 to the work or contract.

34 **Sec. 7.** RCW 53.08.120 and 1993 c 198 s 13 are each amended to read
35 as follows:

36 All material required by a port district may be procured in the
37 open market or by contract and all work ordered may be done by contract

1 or day labor. All such contracts for work, the estimated cost of which
2 exceeds one hundred thousand dollars, shall be let at public bidding
3 upon notice published in a newspaper of general circulation in the
4 district at least thirteen days before the last date upon which bids
5 will be received, calling for sealed bids upon the work, plans and
6 specifications for which shall then be on file in the office of the
7 commission for public inspection. The same notice may call for bids on
8 such work or material based upon plans and specifications submitted by
9 the bidder. The requirements of this section may be waived pursuant to
10 section 1 of this act if an exemption contained within that section
11 applies to the work or contract.

12 Each port district shall maintain a small works roster, as provided
13 in RCW 39.04.155, and may use the small works roster process to award
14 contracts in lieu of calling for sealed bids whenever work is done by
15 contract, the estimated cost of which is one hundred thousand dollars
16 or less. Whenever possible, the managing official shall invite at
17 least one proposal from a minority contractor who shall otherwise
18 qualify under this section.

19 When awarding such a contract for work, when utilizing proposals
20 from the small works roster, the managing official shall give weight to
21 the contractor submitting the lowest and best proposal, and whenever it
22 would not violate the public interest, such contracts shall be
23 distributed equally among contractors, including minority contractors,
24 on the small works roster.

25 **Sec. 8.** RCW 54.04.070 and 1993 c 198 s 14 are each amended to read
26 as follows:

27 Any item, or items of the same kind of materials, equipment, or
28 supplies purchased, the estimated cost of which is in excess of five
29 thousand dollars, exclusive of sales tax shall be by contract:
30 PROVIDED, That a district may make purchases of the same kind of items
31 of materials, equipment and supplies not exceeding five thousand
32 dollars in any calendar month without a contract, purchasing any excess
33 thereof over five thousand dollars by contract. Any work ordered by a
34 district commission, the estimated cost of which is in excess of ten
35 thousand dollars exclusive of sales tax, shall be by contract, except
36 that a district commission may have its own regularly employed
37 personnel perform work which is an accepted industry practice under
38 prudent utility management without a contract. Prudent utility

1 management means performing work with regularly employed personnel
2 utilizing material of a worth not exceeding fifty thousand dollars in
3 value without a contract: PROVIDED, That such limit on the value of
4 material being utilized in work being performed by regularly employed
5 personnel shall not include the value of individual items of equipment
6 purchased or acquired and used as one unit of a project. Before
7 awarding such a contract, the commission shall publish a notice once or
8 more in a newspaper of general circulation in the district at least
9 thirteen days before the last date upon which bids will be received,
10 inviting sealed proposals for the work or materials; plans and
11 specifications of which shall at the time of the publication be on file
12 at the office of the district subject to public inspection. Any
13 published notice ordering work to be performed for the district shall
14 be mailed at the time of publication to any established trade
15 association which files a written request with the district to receive
16 such notices. The commission may at the same time and as part of the
17 same notice, invite tenders for the work or materials upon plans and
18 specifications to be submitted by the bidders.

19 Notwithstanding any other provisions herein, all contract projects,
20 the estimated cost of which is less than one hundred thousand dollars,
21 may be awarded to a contractor using the small works roster process
22 provided in RCW 39.04.155. All contract projects equal to or in excess
23 of one hundred thousand dollars shall be let by competitive bidding.

24 Whenever equipment or materials required by a district are held by
25 a governmental agency and are available for sale but such agency is
26 unwilling to submit a proposal, the commission may ascertain the price
27 of such items and file a statement of such price supported by the sworn
28 affidavit of one member of the commission and may consider such price
29 as a bid without a deposit or bond. ~~((In the event of an emergency
30 when the public interest or property of the district would suffer
31 material injury or damage by delay, upon resolution of the commission,
32 or proclamation of an official designated by the board to act for the
33 board during such emergencies, declaring the existence of such
34 emergency and reciting the facts constituting the same, the board, or
35 the official acting for the board, may waive the requirements of this
36 chapter with reference to any purchase or contract, after having taken
37 precautions to secure the lowest price practicable under the
38 circumstances.~~

1 ~~After determination by the commission during a public meeting that~~
2 ~~a particular purchase is available clearly and legitimately only from~~
3 ~~a single source of supply, the bidding requirements of this section may~~
4 ~~be waived by the commission.))~~

5 The commission may waive the requirements of this section pursuant
6 to section 1 of this act if an exemption contained within that section
7 applies to the work or contract.

8 **Sec. 9.** RCW 56.08.070 and 1993 c 198 s 16 and 1993 c 45 s 4 are
9 each reenacted and amended to read as follows:

10 (1) All materials purchased and work ordered, the estimated cost of
11 which is in excess of five thousand dollars shall be let by contract.
12 All contract projects, the estimated cost of which is less than fifty
13 thousand dollars, may be awarded to a contractor using the small works
14 roster process provided in RCW 39.04.155 or the process provided in RCW
15 39.04.190 for purchases. The board of sewer commissioners may set up
16 uniform procedures to prequalify contractors for inclusion on the small
17 works roster. All contract projects equal to or in excess of fifty
18 thousand dollars shall be let by competitive bidding. Before awarding
19 any competitive contract the board of sewer commissioners shall publish
20 a notice in a newspaper of general circulation where the district is
21 located at least once, thirteen days before the last date upon which
22 bids will be received, inviting sealed proposals for such work, plans
23 and specifications which must at the time of publication of such notice
24 be on file in the office of the board of sewer commissioners subject to
25 public inspection. Such notice shall state generally the work to be
26 done and shall call for proposals for doing the same to be sealed and
27 filed with the board of sewer commissioners on or before the day and
28 hour named therein.

29 (2) Each bid shall be accompanied by a bid proposal deposit in the
30 form of a certified check, cashier's check, postal money order, or
31 surety bond payable to the order of the county treasurer for a sum not
32 less than five percent of the amount of the bid and no bid shall be
33 considered unless accompanied by such bid proposal deposit. At the
34 time and place named such bids shall be publicly opened and read and
35 the board of sewer commissioners shall proceed to canvass the bids and
36 may let such contract to the lowest responsible bidder upon plans and
37 specifications: PROVIDED, That no contract shall be let in excess of
38 the cost of the materials or work. The board of sewer commissioners

1 may reject all bids for good cause and readvertise and in such case all
2 checks, cash or bid bonds shall be returned to the bidders. If such
3 contract be let, then all checks, cash or bid bonds shall be returned
4 to the bidders, except that of the successful bidder, which shall be
5 retained until a contract shall be entered into for the purchase of
6 such materials or doing such work, and a bond to perform such work
7 furnished with sureties satisfactory to the board of sewer
8 commissioners in the full amount of the contract price between the
9 bidder and the commission in accordance with bid. If the bidder fails
10 to enter into the contract in accordance with the bid and furnish such
11 bond within ten days from the date at which the bidder is notified that
12 he or she is the successful bidder, the check, cash, or bid bonds and
13 the amount thereof shall be forfeited to the sewer district.

14 (3) (~~In the event of an emergency when the public interest or~~
15 ~~property of the sewer district would suffer material injury or damage~~
16 ~~by delay, upon resolution of the board of sewer commissioners, or~~
17 ~~proclamation of an official designated by the board to act for the~~
18 ~~board during such emergencies, declaring the existence of such~~
19 ~~emergency and reciting the facts constituting the same, the board, or~~
20 ~~the official acting for the board, may waive the requirements of this~~
21 ~~chapter with reference to any purchase or contract. In addition, these~~
22 ~~requirements may be waived for purchases which are clearly and~~
23 ~~legitimately limited to a single source of supply and purchases~~
24 ~~involving special facilities, services, or market conditions, in which~~
25 ~~instances the purchase price may be best established by direct~~
26 ~~negotiation.)) The board may waive the requirements of this section
27 pursuant to section 1 of this act if an exemption contained within that
28 section applies to the work or contract.~~

29 **Sec. 10.** RCW 57.08.050 and 1993 c 198 s 21 and 1993 c 45 s 8 are
30 each reenacted and amended to read as follows:

31 (1) The board of water commissioners shall have authority to create
32 and fill such positions and fix salaries and bonds thereof as it may by
33 resolution provide.

34 (2) All materials purchased and work ordered, the estimated cost of
35 which is in excess of five thousand dollars shall be let by contract.
36 All contract projects, the estimated cost of which is less than fifty
37 thousand dollars, may be awarded to a contractor using a small works
38 roster process provided in RCW 39.04.155 or the process provided in RCW

1 39.04.190 for purchases. The board of water commissioners may set up
2 uniform procedures to prequalify contractors for inclusion on the small
3 works roster. All contract projects equal to or in excess of fifty
4 thousand dollars shall be let by competitive bidding. Before awarding
5 any such contract the board of water commissioners shall publish a
6 notice in a newspaper of general circulation where the district is
7 located at least once thirteen days before the last date upon which
8 bids will be received, inviting sealed proposals for such work, plans
9 and specifications which must at the time of publication of such notice
10 be on file in the office of the board of water commissioners subject to
11 public inspection. Such notice shall state generally the work to be
12 done and shall call for proposals for doing the same to be sealed and
13 filed with the board of water commissioners on or before the day and
14 hour named therein.

15 (3) Each bid shall be accompanied by a certified or cashier's check
16 or postal money order payable to the order of the county treasurer for
17 a sum not less than five percent of the amount of the bid, or
18 accompanied by a bid bond in an amount not less than five percent of
19 the bid with a corporate surety licensed to do business in the state,
20 conditioned that the bidder will pay the district as liquidated damages
21 the amount specified in the bond, unless the bidder enters into a
22 contract in accordance with his or her bid, and no bid shall be
23 considered unless accompanied by such check, cash or bid bond. At the
24 time and place named such bids shall be publicly opened and read and
25 the board of water commissioners shall proceed to canvass the bids and
26 may let such contract to the lowest responsible bidder upon plans and
27 specifications on file or to the best bidder submitting his or her own
28 plans and specifications: PROVIDED, That no contract shall be let in
29 excess of the cost of the materials or work. The board of water
30 commissioners may reject all bids for good cause and readvertise and in
31 such case all checks, cash or bid bonds shall be returned to the
32 bidders. If such contract be let, then all checks, cash or bid bonds
33 shall be returned to the bidders, except that of the successful bidder,
34 which shall be retained until a contract shall be entered into for the
35 purchase of such materials or doing such work, and a bond to perform
36 such work furnished with sureties satisfactory to the board of water
37 commissioners in the full amount of the contract price between the
38 bidder and the commission in accordance with the bid. If the bidder
39 fails to enter into the contract in accordance with the bid and furnish

1 such bond within ten days from the date at which the bidder is notified
2 that he or she is the successful bidder, the check, cash, or bid bonds
3 and the amount thereof shall be forfeited to the water district:
4 PROVIDED, That if the bidder fails to enter into a contract in
5 accordance with his or her bid, and the board of water commissioners
6 deems it necessary to take legal action to collect on any bid bond
7 required herein, then the water district shall be entitled to collect
8 from the bidder any legal expenses, including reasonable attorneys'
9 fees occasioned thereby.

10 (4) (~~In the event of an emergency when the public interest or~~
11 ~~property of the water district would suffer material injury or damage~~
12 ~~by delay, upon resolution of the board of water commissioners, or~~
13 ~~proclamation of an official designated by the board to act for the~~
14 ~~board during such emergencies, declaring the existence of such~~
15 ~~emergency and reciting the facts constituting the same, the board, or~~
16 ~~official acting for the board, may waive the requirements of this~~
17 ~~chapter with reference to any purchase or contract. In addition, these~~
18 ~~requirements may be waived for purchases which are clearly and~~
19 ~~legitimately limited to a single source of supply and purchases~~
20 ~~involving special facilities, services, or market conditions, in which~~
21 ~~instances the purchase price may be best established by direct~~
22 ~~negotiation.)) The board may waive the requirements of this section
23 pursuant to section 1 of this act if an exemption contained within that
24 section applies to the work or contract.~~

25 **Sec. 11.** RCW 70.44.140 and 1993 c 198 s 22 are each amended to
26 read as follows:

27 (1) All materials purchased and work ordered, the estimated cost of
28 which is in excess of five thousand dollars, shall be by contract.
29 Before awarding any such contract, the commission shall publish a
30 notice at least thirteen days before the last date upon which bids will
31 be received, inviting sealed proposals for such work. The plans and
32 specifications must at the time of the publication of such notice be on
33 file at the office of the public hospital district, subject to public
34 inspection: PROVIDED, HOWEVER, That the commission may at the same
35 time, and as part of the same notice, invite tenders for the work or
36 materials upon plans and specifications to be submitted by bidders.
37 The notice shall state generally the work to be done, and shall call
38 for proposals for doing the same, to be sealed and filed with the

1 commission on or before the day and hour named therein. Each bid shall
2 be accompanied by bid proposal security in the form of a certified
3 check, cashier's check, postal money order, or surety bond made payable
4 to the order of the commission, for a sum not less than five percent of
5 the amount of the bid, and no bid shall be considered unless
6 accompanied by such bid proposal security. At the time and place
7 named, such bids shall be publicly opened and read, and the commission
8 shall proceed to canvass the bids, and may let such contract to the
9 lowest responsible bidder upon plans and specifications on file, or to
10 the best bidder submitting his or her own plans and specifications:
11 PROVIDED, HOWEVER, That no contract shall be let in excess of the
12 estimated cost of the materials or work, or if, in the opinion of the
13 commission, all bids are unsatisfactory, they may reject all of them
14 and readvertise, and in such case all bid proposal security shall be
15 returned to the bidders; but if such contract be let, then and in such
16 case all bid proposal security shall be returned to the bidders, except
17 that of the successful bidder, which shall be retained until a contract
18 shall be entered into for the purchase of such materials for doing such
19 work, and a bond to perform such work furnished, with sureties
20 satisfactory to the commission, in an amount to be fixed by the
21 commission, not less than twenty-five percent of contract price in any
22 case, between the bidder and commission, in accordance with the bid.
23 If such bidder fails to enter into the contract in accordance with the
24 bid and furnish such bond within ten days from the date at which the
25 bidder is notified that he or she is the successful bidder, the bid
26 proposal security and the amount thereof shall be forfeited to the
27 public hospital district.

28 (2) In lieu of the procedures of subsection (1) of this section, a
29 public hospital district may use ((a)) the small works roster process
30 ((and)) provided in RCW 39.04.155 to award public works contracts for
31 projects in excess of five thousand dollars up to fifty thousand
32 dollars ((as provided in RCW 39.04.155)).

33 (3) For advertisement and formal sealed bidding to be dispensed
34 with as to purchases between five thousand and fifteen thousand
35 dollars, the commission must authorize by resolution a procedure as
36 provided in RCW 39.04.190.

37 (4) The commission may waive the requirements of this section
38 pursuant to section 1 of this act if an exemption contained within that
39 section applies to the work or contract.

1 **Sec. 12.** RCW 87.03.435 and 1990 c 39 s 1 are each amended to read
2 as follows:

3 (1) Any person to whom a contract may have been awarded for the
4 construction of a canal or any of the works of the district, or any
5 portion thereof, or for the furnishing of labor or material, shall
6 enter into a bond with good and sufficient sureties, to be approved by
7 the board of directors, payable to the district for its use, for at
8 least twenty-five percent of the amount of the contract price,
9 conditioned for the faithful performance of said contract, and with
10 such further conditions as may be required by law in the case of
11 contracts for public work, and as may be required by resolution of the
12 board. All works shall be done under the direction and to the
13 satisfaction of the engineer of the district, and be approved by the
14 board. Except as provided in subsections (2) and (3) of this section
15 and RCW 87.03.436, whenever in the construction of the district canal
16 or canals, or other works, or the furnishing of materials therefor, the
17 board of directors shall determine to let a contract or contracts for
18 the doing of the work or the furnishing of the materials, a notice
19 calling for sealed proposals shall be published. The notice shall be
20 published in a newspaper in the county in which the office of the board
21 is situated, and in any other newspaper which may be designated by the
22 board, and for such length of time, (~~not less than once each week for~~
23 ~~two weeks~~) at least once at least thirteen days before the last date
24 upon which bids will be received, as may be fixed by the board. At the
25 time and place appointed in the notice for the opening of bids, the
26 sealed proposals shall be opened in public, and as soon as convenient
27 thereafter, the board shall let the work or the contract for the
28 purchase of materials, either in portions or as a whole, to the lowest
29 responsible bidder, or the board may reject any or all bids and
30 readvertise, or may proceed to construct the work under its own
31 superintendence.

32 (2) The provisions of this section in regard to public bidding
33 shall not apply in cases where the board is authorized to exchange
34 bonds of the district in payment for labor and material.

35 (3) The provisions of this section do not apply:

36 (a) In the case of any contract between the district and the United
37 States; or

38 (b) (~~In the case of an emergency when the public interest or~~
39 ~~property of the district would suffer material injury or damage by~~

1 delay, upon resolution of the board of directors or proclamation of an
2 official designated by the board to act for the board during such
3 emergencies. The resolution or proclamation shall declare the
4 existence of the emergency and recite the facts constituting the
5 emergency; or

6 (c) ~~To purchases which are clearly and legitimately limited to a~~
7 ~~single source of supply or to purchases involving special facilities,~~
8 ~~services, or market conditions, in which instances the purchase price~~
9 ~~may be best established by direct negotiation)) To purchases or public
10 works if an exemption contained within section 1 of this act applies to
11 the work or contract.~~

12 **Sec. 13.** RCW 87.03.436 and 1990 c 39 s 2 are each amended to read
13 as follows:

14 All contract projects, the estimated cost of which is less than one
15 hundred thousand dollars, may be awarded to a contractor ~~((on))~~ by the
16 small works roster process provided in RCW 39.04.155. ~~((The small~~
17 ~~works roster shall be comprised of all responsible contractors who have~~
18 ~~requested to be on the list. The board of directors shall authorize by~~
19 ~~resolution a procedure for securing telephone and/or written quotations~~
20 ~~from the contractors on the small works roster to assure establishment~~
21 ~~of a competitive price and for awarding contracts to the lowest~~
22 ~~responsible bidder. Such procedure shall require that a good faith~~
23 ~~effort be made to request quotations from all responsible contractors~~
24 ~~on the small works roster. Immediately after an award is made, the bid~~
25 ~~quotations obtained shall be recorded, open to public inspection, and~~
26 ~~available by telephone inquiry. The small works roster shall be~~
27 ~~revised once a year.))~~

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