
SUBSTITUTE HOUSE BILL 2077

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Government Administration (originally sponsored by Representatives D. Schmidt, Scott and D. Sommers)

Read first time 03/05/97.

1 AN ACT Relating to competitive bidding; amending RCW 35.22.620,
2 35.23.352, 36.32.270, 52.14.110, 53.08.120, 54.04.070, and 70.44.140;
3 reenacting and amending RCW 57.08.050; and adding a new section to
4 chapter 39.04 RCW.

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

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

8 This section provides uniform exemptions to competitive bidding
9 procedures utilized by municipalities when awarding contracts for
10 public works and contracts for purchases. The statutes governing a
11 specific type of municipality may also include other exemptions from
12 competitive bidding procedures. The purpose of this section is to
13 supplement and not to limit the current powers of any municipality to
14 provide exemptions from competitive bidding procedures.

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

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

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

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

21 (d) Purchases of insurance or bonds; and

1 (e) Public works in the event of an emergency.

2 (2)(a) The waiver of competitive bidding procedures under
3 subsection (1) of this section may be by resolution or by the terms of
4 written policies adopted by the municipality, at the option of the
5 governing body of the municipality. If the governing body elects to
6 waive competitive bidding procedures by the terms of written policies
7 adopted by the municipality, immediately after the award of any
8 contract, the contract and the factual basis for the exception must be
9 recorded and open to public inspection.

10 If a resolution is adopted by a governing body to waive competitive
11 bidding procedures under (b) of this subsection, the resolution must
12 recite the factual basis for the exception. This subsection (2)(a)
13 does not apply in the event of an emergency.

14 (b) If an emergency exists, the person or persons designated by the
15 governing body of the municipality to act in the event of an emergency
16 may declare an emergency situation exists, waive competitive bidding
17 requirements, and award all necessary contracts on behalf of the
18 municipality to address the emergency situation. If a contract is
19 awarded without competitive bidding due to an emergency, a written
20 finding of the existence of an emergency must be made by the governing
21 body or its designee and duly entered of record no later than two weeks
22 following the award of the contract.

23 (3) For purposes of this section:

24 (a) "Emergency" means unforeseen circumstances beyond the control
25 of the municipality that either: (i) Present a real, immediate threat
26 to the proper performance of essential functions; or (ii) will likely
27 result in material loss or damage to property, bodily injury, or loss
28 of life if immediate action is not taken.

29 (b) "Municipality" means any city, code city, town, county, port
30 district, fire district, public utility district, public hospital
31 district, or water-sewer district.

32 **Sec. 2.** RCW 35.22.620 and 1993 c 198 s 9 are each amended to read
33 as follows:

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

36 (2) A first class city may have public works performed by contract
37 pursuant to public notice and call for competitive bids. As limited by
38 subsection (3) of this section, a first class city may have public

1 works performed by city employees in any annual or biennial budget
2 period equal to a dollar value not exceeding ten percent of the public
3 works construction budget, including any amount in a supplemental
4 public works construction budget, over the budget period. The amount
5 of public works that a first class city has a county perform for it
6 under RCW 35.77.020 shall be included within this ten percent
7 limitation.

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

20 Whenever a first class city has had public works performed in any
21 budget period up to the maximum permitted amount for that budget
22 period, all remaining public works within that budget period shall be
23 done by contract pursuant to public notice and call for competitive
24 bids.

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

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

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

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

22 After September 1, 1987, each first class city with a population of
23 one hundred fifty thousand or less shall use the form required by RCW
24 43.09.205 to account and record costs of public works in excess of five
25 thousand dollars that are not let by contract.

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

30 ~~(6) ((When any emergency shall require the immediate execution of
31 such public work, upon the finding of the existence of such emergency
32 by the authority having power to direct such public work to be done and
33 duly entered of record, publication of description and estimate may be
34 made within seven days after the commencement of the work. Within two
35 weeks of the finding that such an emergency existed, the city council
36 shall adopt a resolution certifying the existence of this emergency
37 situation.))~~ The competitive bidding requirements of this section may
38 be waived by the city legislative authority pursuant to section 1 of

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

3 (7) In lieu of the procedures of subsections (2) and (6) of this
4 section, a first class city may use ((a)) the small works roster
5 process ((and)) in RCW 39.04.155 to award contracts for public works
6 projects with an estimated value of one hundred thousand dollars or
7 less ((as provided in RCW 39.04.155)).

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

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

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

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

19 **Sec. 3.** RCW 35.23.352 and 1996 c 18 s 2 are each amended to read
20 as follows:

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

33 Whenever the cost of the public work or improvement, including
34 materials, supplies and equipment, will exceed these figures, the same
35 shall be done by contract. All such contracts shall be let at public
36 bidding upon publication of notice calling for sealed bids upon the
37 work. The notice shall be published in the official newspaper, or a
38 newspaper of general circulation most likely to bring responsive bids,

1 at least thirteen days prior to the last date upon which bids will be
2 received. The notice shall generally state the nature of the work to
3 be done that plans and specifications therefor shall then be on file in
4 the city or town hall for public inspections, and require that bids be
5 sealed and filed with the council or commission within the time
6 specified therein. Each bid shall be accompanied by a bid proposal
7 deposit in the form of a cashier's check, postal money order, or surety
8 bond to the council or commission for a sum of not less than five
9 percent of the amount of the bid, and no bid shall be considered unless
10 accompanied by such bid proposal deposit. The council or commission of
11 the city or town shall let the contract to the lowest responsible
12 bidder or shall have power by resolution to reject any or all bids and
13 to make further calls for bids in the same manner as the original call.

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

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

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

34 (3) In lieu of the procedures of subsection (1) of this section, a
35 second class city or a town may use the small works roster process
36 provided in RCW 39.04.155 to award public works contracts with an
37 estimated value of one hundred thousand dollars or less.

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

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

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

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

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

18 (8) For advertisement and formal sealed bidding to be dispensed
19 with as to purchases between seven thousand five hundred and fifteen
20 thousand dollars, the council or commission must authorize by
21 resolution, use of the uniform procedure provided in RCW 39.04.190.

22 (~~(9) ((These requirements for purchasing may be waived by resolution
23 of the city or town council or commission which declared that the
24 purchase is clearly and legitimately limited to a single source or
25 supply within the near vicinity, or the materials, supplies, equipment,
26 or services are subject to special market conditions, and recites why
27 this situation exists. Such actions are subject to RCW 39.30.020.))~~)
28 The city or town legislative authority may waive the competitive
29 bidding requirements of this section pursuant to section 1 of this act
30 if an exemption contained within that section applies to the purchase
31 or public work.

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

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

1 **Sec. 4.** RCW 36.32.270 and 1963 c 4 s 36.32.270 are each amended to
2 read as follows:

3 ~~((In the event of an emergency when the public interest or property~~
4 ~~of the county would suffer material injury or damage by delay, upon~~
5 ~~resolution of the board of county commissioners declaring the existence~~
6 ~~of such emergency and reciting the facts constituting the same, the~~
7 ~~board)) The county legislative authority may waive the competitive~~
8 ~~bidding requirements of this chapter ((with reference to any)) pursuant~~
9 ~~to section 1 of this act if an exemption contained within that section~~
10 ~~applies to the purchase or ((contract)) public work.~~

11 **Sec. 5.** RCW 52.14.110 and 1993 c 198 s 11 are each amended to read
12 as follows:

13 Insofar as practicable, purchases and any public works by the
14 district shall be based on competitive bids. A formal sealed bid
15 procedure shall be used as standard procedure for purchases and
16 contracts for purchases executed by the board of commissioners. Formal
17 sealed bidding shall not be required for:

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

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

27 ~~((3))~~ (2) Contracting for work to be done involving the
28 construction or improvement of a fire station or other buildings where
29 the estimated cost will not exceed the sum of two thousand five hundred
30 dollars, which includes the costs of labor, material, and equipment.
31 However, whenever the estimated cost is from two thousand five hundred
32 dollars up to ten thousand dollars, the commissioner may by resolution
33 use the small works roster process provided in RCW 39.04.155; and

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

1 ~~(5) Purchases of insurance and bonds.)~~ (3) Any contract for
2 purchases or public work pursuant to section 1 of this act if an
3 exemption contained within that section applies to the purchase or
4 public work.

5 **Sec. 6.** RCW 53.08.120 and 1993 c 198 s 13 are each amended to read
6 as follows:

7 All material required by a port district may be procured in the
8 open market or by contract and all work ordered may be done by contract
9 or day labor. All such contracts for work, the estimated cost of which
10 exceeds one hundred thousand dollars, shall be let at public bidding
11 upon notice published in a newspaper of general circulation in the
12 district at least thirteen days before the last date upon which bids
13 will be received, calling for sealed bids upon the work, plans and
14 specifications for which shall then be on file in the office of the
15 commission for public inspection. The same notice may call for bids on
16 such work or material based upon plans and specifications submitted by
17 the bidder. The competitive bidding requirements for purchases or
18 public works may be waived pursuant to section 1 of this act if an
19 exemption contained within that section applies to the purchase or
20 public work.

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

28 When awarding such a contract for work, when utilizing proposals
29 from the small works roster, the managing official shall give weight to
30 the contractor submitting the lowest and best proposal, and whenever it
31 would not violate the public interest, such contracts shall be
32 distributed equally among contractors, including minority contractors,
33 on the small works roster.

34 **Sec. 7.** RCW 54.04.070 and 1993 c 198 s 14 are each amended to read
35 as follows:

36 Any item, or items of the same kind of materials, equipment, or
37 supplies purchased, the estimated cost of which is in excess of five

1 thousand dollars, exclusive of sales tax shall be by contract:
2 PROVIDED, That a district may make purchases of the same kind of items
3 of materials, equipment and supplies not exceeding five thousand
4 dollars in any calendar month without a contract, purchasing any excess
5 thereof over five thousand dollars by contract. Any work ordered by a
6 district commission, the estimated cost of which is in excess of ten
7 thousand dollars exclusive of sales tax, shall be by contract, except
8 that a district commission may have its own regularly employed
9 personnel perform work which is an accepted industry practice under
10 prudent utility management without a contract. Prudent utility
11 management means performing work with regularly employed personnel
12 utilizing material of a worth not exceeding fifty thousand dollars in
13 value without a contract: PROVIDED, That such limit on the value of
14 material being utilized in work being performed by regularly employed
15 personnel shall not include the value of individual items of equipment
16 purchased or acquired and used as one unit of a project. Before
17 awarding such a contract, the commission shall publish a notice once or
18 more in a newspaper of general circulation in the district at least
19 thirteen days before the last date upon which bids will be received,
20 inviting sealed proposals for the work or materials; plans and
21 specifications of which shall at the time of the publication be on file
22 at the office of the district subject to public inspection. Any
23 published notice ordering work to be performed for the district shall
24 be mailed at the time of publication to any established trade
25 association which files a written request with the district to receive
26 such notices. The commission may at the same time and as part of the
27 same notice, invite tenders for the work or materials upon plans and
28 specifications to be submitted by the bidders.

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

34 Whenever equipment or materials required by a district are held by
35 a governmental agency and are available for sale but such agency is
36 unwilling to submit a proposal, the commission may ascertain the price
37 of such items and file a statement of such price supported by the sworn
38 affidavit of one member of the commission and may consider such price
39 as a bid without a deposit or bond. (~~In the event of an emergency~~

1 when the public interest or property of the district would suffer
2 material injury or damage by delay, upon resolution of the commission,
3 or proclamation of an official designated by the board to act for the
4 board during such emergencies, declaring the existence of such
5 emergency and reciting the facts constituting the same, the board, or
6 the official acting for the board, may waive the requirements of this
7 chapter with reference to any purchase or contract, after having taken
8 precautions to secure the lowest price practicable under the
9 circumstances.

10 After determination by the commission during a public meeting that
11 a particular purchase is available clearly and legitimately only from
12 a single source of supply, the bidding requirements of this section may
13 be waived by the commission.))

14 The commission may waive the competitive bidding requirements of
15 this section pursuant to section 1 of this act if an exemption
16 contained within that section applies to the purchase or public work.

17 **Sec. 8.** RCW 57.08.050 and 1996 c 230 s 311 and 1996 c 18 s 14 are
18 each reenacted and amended to read as follows:

19 (1) All work ordered, the estimated cost of which is in excess of
20 five thousand dollars, shall be let by contract. All contract
21 projects, the estimated cost of which is in excess of five thousand
22 dollars but less than fifty thousand dollars, may be awarded to a
23 contractor using the small works roster process provided in RCW
24 39.04.155. The board of commissioners may set up uniform procedures to
25 prequalify contractors for inclusion on the small works roster. All
26 contract projects equal to or in excess of fifty thousand dollars shall
27 be let by competitive bidding. Before awarding any such contract the
28 board of 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 sealed
31 proposals for such work((~~7~~)). The plans and specifications ((which))
32 for such work must at the time of publication of such notice be on file
33 in the office of the board of commissioners ((~~subject to the~~)) and be
34 available for public inspection. The notice shall state generally the
35 work to be done and shall call for proposals for doing the same to be
36 sealed and filed with the board of ((~~water~~)) commissioners on or before
37 the day and hour named therein.

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

36 (2) Any purchase of materials, supplies, or equipment, with an
37 estimated cost in excess of ten thousand dollars, shall be by contract.
38 Any purchase of materials, supplies, or equipment, with an estimated
39 cost of from (~~five~~) ten thousand dollars to less than fifty thousand

1 dollars shall be made using the process provided in RCW ((39.04.155))
2 39.04.190 or by competitive bidding following the procedure for letting
3 contracts for projects under subsection (1) of this section. Any
4 purchase of materials, supplies, or equipment with an estimated cost of
5 fifty thousand dollars or more shall be made by competitive bidding
6 following the procedure for letting contracts for projects under
7 subsection (1) of this section.

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

23 **Sec. 9.** RCW 70.44.140 and 1996 c 18 s 15 are each amended to read
24 as follows:

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

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

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

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

1 (4) The commission may waive the competitive bidding requirements
2 of this section pursuant to section 1 of this act if an exemption
3 contained within that section applies to the purchase or public work.

--- END ---