

1 ~~those municipalities that are authorized to use a small works roster in~~
2 ~~lieu of the requirements for formal sealed bidding. The state statutes~~
3 ~~governing a specific type of municipality shall establish the maximum~~
4 ~~dollar thresholds of the contracts that can be awarded under this~~
5 ~~process, and may include other matters concerning the small works~~
6 ~~roster process, for the municipality)) construction, building,~~
7 renovation, remodeling, alteration, repair, or improvement of real
8 property that may be used by state agencies and by any local government
9 that is expressly authorized to use these provisions. These provisions
10 may be used in lieu of other procedures to award contracts for such
11 work with an estimated cost of two hundred thousand dollars or less.

12 (2) (~~Such municipalities)) A state agency or authorized local~~
13 government may create a single general small works roster, or may
14 create a small works roster for different specialties or categories of
15 anticipated work. Where applicable, small works rosters may make
16 distinctions between contractors based upon different geographic areas
17 served by the contractor. The small works roster or rosters shall
18 consist of all responsible contractors who have requested to be on the
19 list, and where required by law are properly licensed or registered to
20 perform such work in this state. A state agency or local government
21 establishing a small works roster or rosters may require eligible
22 contractors desiring to be placed on a roster or rosters to keep
23 current records of any applicable licenses, certifications,
24 registrations, bonding, insurance, or other appropriate matters on file
25 with the state agency or local government as a condition of being
26 placed on a roster or rosters. At least (~~twice)) once~~ a year, the
27 (~~municipality)) state agency or local government shall publish in a~~
28 newspaper of general circulation within the jurisdiction a notice of
29 the existence of the roster or rosters and solicit the names of
30 contractors for such roster or rosters. In addition, responsible
31 contractors shall be added to an appropriate roster or rosters at any
32 time they submit a written request and necessary records. Master
33 contracts may be required to be signed that become effective when a
34 specific award is made using a small works roster.

35 (~~The governing body of the municipality shall establish a)) (3) A~~
36 state agency establishing a small works roster or rosters shall adopt
37 rules implementing this section. A local government establishing a
38 small works roster or rosters shall adopt an ordinance or resolution
39 implementing this section. Procedures included in rules adopted by the

1 department of general administration in implementing this section must
2 be included in any rules providing for a small works roster or rosters
3 that is adopted by another state agency, if the authority for that
4 state agency to engage in these activities has been delegated to it by
5 the department of general administration under chapter 43.19 RCW. An
6 interlocal contract or agreement between two or more state agencies or
7 local governments establishing a small works roster or rosters to be
8 used by the parties to the agreement or contract must clearly identify
9 the lead entity that is responsible for implementing the provisions of
10 this section.

11 (4) Procedures shall be established for securing telephone ((or)),
12 written, or electronic quotations from the contractors on the
13 ((general)) applicable small works roster((, or a specific small works
14 roster for the appropriate category of work,)) to assure that a
15 competitive price is established and to award contracts to the lowest
16 responsive and responsible bidder, as defined in RCW 43.19.1911. Such
17 invitations for quotations shall include an estimate of the scope and
18 nature of the work to be performed as well as materials and equipment
19 to be furnished. However, detailed plans and specifications need not
20 be included in the invitation. This section does not eliminate other
21 requirements for architectural or engineering approvals as to quality
22 and compliance with building codes. ((Whenever possible)) A state
23 agency or local government soliciting bids using a small works roster
24 must solicit bids from either: (a) At least five contractors ((shall
25 be invited to submit bids. Once a contractor has been afforded an
26 opportunity to submit a proposal, that contractor shall not be offered
27 another opportunity until all other appropriate contractors on the
28 small works roster have been afforded an opportunity to submit a
29 proposal on a contract. Proposals may be invited from)) on the
30 appropriate roster who have indicated the capability of performing the
31 kind of work being contracted, in a manner that will equitably
32 distribute the opportunity among those contractors; or (b) all
33 appropriate contractors on the small works roster.

34 (5) A contract awarded from a small works roster under this section
35 need not be advertised.

36 (6) Immediately after an award is made, the bid quotations obtained
37 shall be recorded, open to public inspection, and available by
38 telephone inquiry.

1 (7) The breaking of any project into units or accomplishing any
2 projects by phases is prohibited if it is done for the purpose of
3 avoiding the maximum dollar amount of a contract that may be let using
4 the small works roster process.

5 (8) As used in this section, "state agency" means the department of
6 general administration, the state parks and recreation commission, the
7 department of natural resources, the department of fish and wildlife,
8 the department of transportation, any institution of higher education
9 as defined under RCW 28B.10.016, and any other state agency delegated
10 authority by the department of general administration to engage in
11 construction, building, renovation, remodeling, alteration,
12 improvement, or repair activities.

13 **Sec. 102.** RCW 39.04.010 and 1997 c 220 s 402 are each amended to
14 read as follows:

15 The term state shall include the state of Washington and all
16 departments, supervisors, commissioners and agencies thereof.

17 The term municipality shall include every city, county, town,
18 district or other public agency thereof which is authorized by law to
19 require the execution of public work, except drainage districts, diking
20 districts, diking and drainage improvement districts, drainage
21 improvement districts, diking improvement districts, consolidated
22 diking and drainage improvement districts, consolidated drainage
23 improvement districts, consolidated diking improvement districts,
24 irrigation districts or any such other districts as shall from time to
25 time be authorized by law for the reclamation or development of waste
26 or undeveloped lands.

27 The term public work shall include all work, construction,
28 alteration, repair, or improvement other than ordinary maintenance,
29 executed at the cost of the state or of any municipality, or which is
30 by law a lien or charge on any property therein. All public works,
31 including maintenance when performed by contract shall comply with the
32 provisions of RCW 39.12.020. The term does not include work,
33 construction, alteration, repair, or improvement performed under
34 contracts entered into under RCW 36.102.060(4) or under development
35 agreements entered into under RCW 36.102.060(7) or leases entered into
36 under RCW 36.102.060(8).

37 The term contract shall mean a contract in writing for the
38 execution of public work for a fixed or determinable amount duly

1 awarded after advertisement and competitive bid. However, a contract
2 which is awarded from a small works roster (~~((under the authority of RCW
3 39.04.150, 35.22.620, 28B.10.355, 35.82.075, and 57.08.050))~~) need not
4 be advertised.

5 **Sec. 103.** RCW 39.04.200 and 1993 c 198 s 3 are each amended to
6 read as follows:

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

23 NEW SECTION. **Sec. 104.** A new section is added to chapter 39.04
24 RCW to read as follows:

25 The department of community, trade, and economic development, in
26 cooperation with the municipal research and services center, shall
27 prepare a small works roster manual and periodically notify the
28 different types of local government authorized to use a small works
29 roster process about this authority.

30 NEW SECTION. **Sec. 105.** A report on the use of the small works
31 roster shall be made to the independent oversight committee established
32 under RCW 39.10.110 prior to the 2003 legislative session.

33 **PART II - REFERENCES TO SMALL WORKS ROSTER PROCEDURE**

1 **Sec. 201.** RCW 28A.335.190 and 1995 1st sp.s. c 10 s 3 are each
2 amended to 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 sum of fifty thousand dollars, complete plans
7 and specifications for such work or purchases shall be prepared and
8 notice by publication given in at least one newspaper of general
9 circulation within the district, once each week for two consecutive
10 weeks, of the intention to receive bids therefor and that
11 specifications and other information may be examined at the office of
12 the board or any other officially designated location: PROVIDED, That
13 the board without giving such notice may make improvements or repairs
14 to the property of the district through the shop and repair department
15 of such district when the total of such improvements or repair does not
16 exceed the sum of (a) fifteen thousand dollars, for districts with
17 fifteen thousand five hundred or more full-time equivalent students; or
18 (b) for districts with fewer than fifteen thousand five hundred full-
19 time equivalent students, fifteen thousand dollars if more than one
20 craft or trade is involved with the school district improvement or
21 repair, or ten thousand dollars if a single craft or trade is involved
22 with the school district improvement or repair. The cost of any public
23 work, improvement or repair for the purposes of this section shall be
24 the aggregate of all amounts to be paid for labor, material, and
25 equipment on one continuous or interrelated project where work is to be
26 performed simultaneously or in close sequence. The bids shall be in
27 writing and shall be opened and read in public on the date and in the
28 place named in the notice and after being opened shall be filed for
29 public inspection.

30 (2) Every purchase of furniture, equipment or supplies, except
31 books, the cost of which is estimated to be in excess of fifteen
32 thousand dollars, shall be on a competitive basis. The board of
33 directors shall establish a procedure for securing telephone and/or
34 written quotations for such purchases. Whenever the estimated cost is
35 from fifteen thousand dollars up to fifty thousand dollars, the
36 procedure shall require quotations from at least three different
37 sources to be obtained in writing or by telephone, and recorded for
38 public perusal. Whenever the estimated cost is in excess of fifty

1 thousand dollars, the public bidding process provided in subsection (1)
2 of this section shall be followed.

3 (3) Every building, improvement, repair or other public works
4 project, the cost of which is estimated to be in excess of (a) fifteen
5 thousand dollars, for districts with fifteen thousand five hundred or
6 more full-time equivalent students; or (b) for districts with fewer
7 than fifteen thousand five hundred full-time equivalent students,
8 fifteen thousand dollars if more than one craft or trade is involved
9 with the school district improvement or repair, or ten thousand dollars
10 if a single craft or trade is involved with the school district
11 improvement or repair, shall be on a competitive bid process. ((All
12 such projects estimated to be less than fifty thousand dollars may be
13 awarded to a contractor on the small works roster. The small works
14 roster shall be comprised of all responsible contractors who have
15 requested to be on the list. The board of directors shall establish a
16 procedure for securing telephone and/or written quotations from the
17 contractors on the small works roster to assure establishment of a
18 competitive price and for awarding contracts to the lowest responsible
19 bidder. Such procedure shall require that a good faith effort be made
20 to request quotations from all contractors on the small works roster
21 who have indicated the capability of performing the kind of public
22 works being contracted. Immediately after an award is made, the bid
23 quotations obtained shall be recorded, open to public inspection, and
24 available by telephone inquiry. The small works roster shall be
25 revised at least once each year by publishing notice of such
26 opportunity in at least one newspaper of general circulation in the
27 district. Responsible contractors shall be added to the list at any
28 time they submit a written request.)) Whenever the estimated cost of
29 a public works project is fifty thousand dollars or more, the public
30 bidding process provided in subsection (1) of this section shall be
31 followed unless the contract is let using the small works roster
32 process in RCW 39.04.155 or under any other procedure authorized for
33 school districts. One or more school districts may authorize an
34 educational service district to establish and operate a small works
35 roster for the school district under the provisions of RCW 39.04.155.

36 (4) The contract for the work or purchase shall be awarded to the
37 lowest responsible bidder as defined in RCW 43.19.1911 but the board
38 may by resolution reject any and all bids and make further calls for
39 bids in the same manner as the original call. On any work or purchase

1 the board shall provide bidding information to any qualified bidder or
2 the bidder's agent, requesting it in person.

3 (5) In the event of any emergency when the public interest or
4 property of the district would suffer material injury or damage by
5 delay, upon resolution of the board declaring the existence of such an
6 emergency and reciting the facts constituting the same, the board may
7 waive the requirements of this section with reference to any purchase
8 or contract: PROVIDED, That an "emergency", for the purposes of this
9 section, means a condition likely to result in immediate physical
10 injury to persons or to property of the school district in the absence
11 of prompt remedial action.

12 (6) This section does not apply to the direct purchase of school
13 buses by school districts and educational services in accordance with
14 RCW 28A.160.195.

15 **Sec. 202.** RCW 28B.10.350 and 1993 c 379 s 109 are each amended to
16 read as follows:

17 (1) When the cost to The Evergreen State College, any regional
18 university, or state university, of any building, construction,
19 renovation, remodeling, or demolition other than maintenance or repairs
20 will equal or exceed the sum of twenty-five thousand dollars, complete
21 plans and specifications for such work shall be prepared and such work
22 shall be put out for public bids and the contract shall be awarded to
23 the lowest responsible bidder if in accordance with the bid
24 specifications: PROVIDED, That when the estimated cost of such
25 building, construction, renovation, remodeling, or demolition equals or
26 exceeds the sum of twenty-five thousand dollars, such project shall be
27 deemed a public works and "the prevailing rate of wage," under chapter
28 39.12 RCW shall be applicable thereto: PROVIDED FURTHER, That when
29 such building, construction, renovation, remodeling, or demolition
30 involves one trade or craft area and the estimated cost exceeds ten
31 thousand dollars, complete plans and specifications for such work shall
32 be prepared and such work shall be put out for public bids, and the
33 contract shall be awarded to the lowest responsible bidder if in
34 accordance with the bid specifications. This subsection shall not
35 apply when a contract is awarded by the small works roster procedure
36 authorized in RCW ((28B.10.355)) 39.04.155 or under any other procedure
37 authorized for an institution of higher education.

1 (2) The Evergreen State College, any regional university, or state
2 university may require a project to be put to public bid even when it
3 is not required to do so under subsection (1) of this section.

4 (3) Where the estimated cost to The Evergreen State College, any
5 regional university, or state university of any building,
6 construction, renovation, remodeling, or demolition is less than
7 twenty-five thousand dollars or the contract is awarded by the small
8 works roster procedure authorized in RCW ((28B.10.355)) 39.04.155, the
9 publication requirements of RCW 39.04.020 shall be inapplicable.

10 (4) In the event of any emergency when the public interest or
11 property of The Evergreen State College, regional university, or state
12 university would suffer material injury or damage by delay, the
13 president of such college or university may declare the existence of
14 such an emergency and reciting the facts constituting the same may
15 waive the requirements of this section with reference to any contract
16 in order to correct the condition causing the emergency: PROVIDED,
17 That an "emergency," for the purposes of this section, means a
18 condition likely to result in immediate physical injury to persons or
19 to property of such college or university in the absence of prompt
20 remedial action or a condition which immediately impairs the
21 institution's ability to perform its educational obligations.

22 **Sec. 203.** RCW 35.22.620 and 1998 c 278 s 2 are each amended to
23 read as follows:

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

26 (2) A first class city may have public works performed by contract
27 pursuant to public notice and call for competitive bids. As limited by
28 subsection (3) of this section, a first class city may have public
29 works performed by city employees in any annual or biennial budget
30 period equal to a dollar value not exceeding ten percent of the public
31 works construction budget, including any amount in a supplemental
32 public works construction budget, over the budget period. The amount
33 of public works that a first class city has a county perform for it
34 under RCW 35.77.020 shall be included within this ten percent
35 limitation.

36 If a first class city has public works performed by public
37 employees in any budget period that are in excess of this ten percent
38 limitation, the amount in excess of the permitted amount shall be

1 reduced from the otherwise permitted amount of public works that may be
2 performed by public employees for that city in its next budget period.
3 Twenty percent of the motor vehicle fuel tax distributions to that city
4 shall be withheld if two years after the year in which the excess
5 amount of work occurred, the city has failed to so reduce the amount of
6 public works that it has performed by public employees. The amount so
7 withheld shall be distributed to the city when it has demonstrated in
8 its reports to the state auditor that the amount of public works it has
9 performed by public employees has been so reduced.

10 Whenever a first class city has had public works performed in any
11 budget period up to the maximum permitted amount for that budget
12 period, all remaining public works within that budget period shall be
13 done by contract pursuant to public notice and call for competitive
14 bids.

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

19 (3) In addition to the percentage limitation provided in subsection
20 (2) of this section, a first class city with a population in excess of
21 one hundred fifty thousand shall not have public employees perform a
22 public works project in excess of fifty thousand dollars if more than
23 a single craft or trade is involved with the public works project, or
24 a public works project in excess of twenty-five thousand dollars if
25 only a single craft or trade is involved with the public works project
26 or the public works project is street signalization or street lighting.
27 In addition to the percentage limitation provided in subsection (2) of
28 this section, a first class city with a population of one hundred fifty
29 thousand or less shall not have public employees perform a public works
30 project in excess of thirty-five thousand dollars if more than one
31 craft or trade is involved with the public works project, or a public
32 works project in excess of twenty thousand dollars if only a single
33 craft or trade is involved with the public works project or the public
34 works project is street signalization or street lighting. A public
35 works project means a complete project. The restrictions in this
36 subsection do not permit the division of the project into units of work
37 or classes of work to avoid the restriction on work that may be
38 performed by day labor on a single project.

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

13 (~~After September 1, 1987,~~) Each first class city with a
14 population of one hundred fifty thousand or less shall use the form
15 required by RCW 43.09.205 to account and record costs of public works
16 in excess of five thousand dollars that are not let by contract.

17 (5) The cost of a separate public works project shall be the costs
18 of materials, supplies, equipment, and labor on the construction of
19 that project. The value of the public works budget shall be the value
20 of all the separate public works projects within the budget.

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

25 (7) In lieu of the procedures of subsections (2) and (6) of this
26 section, a first class city may (~~use~~) let contracts using the small
27 works roster process in RCW 39.04.155 (~~to award contracts for public~~
28 ~~works projects with an estimated value of one hundred thousand dollars~~
29 ~~or less~~) or under any other procedure authorized for the city.

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

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

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

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

4 **Sec. 204.** RCW 35.23.352 and 1998 c 278 s 3 are each amended to
5 read as follows:

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

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

37 When the contract is let then all bid proposal deposits shall be
38 returned to the bidders except that of the successful bidder which

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

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

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

19 (3) In lieu of the procedures of subsection (1) of this section, a
20 second class city or a town may ~~((use))~~ let contracts using the small
21 works roster process provided in RCW 39.04.155 ~~((to award public works
22 contracts with an estimated value of one hundred thousand dollars or
23 less))~~ or under any other procedure authorized for the city or town.

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

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

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

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

36 (7) Bids shall be called annually and at a time and in the manner
37 prescribed by ordinance for the publication in a newspaper of general
38 circulation in the city or town of all notices or newspaper

1 publications required by law. The contract shall be awarded to the
2 lowest responsible bidder.

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

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

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

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

17 NEW SECTION. **Sec. 205.** A new section is added to chapter 35.82
18 RCW to read as follows:

19 A housing authority may establish and use a small works roster for
20 awarding contracts under RCW 39.04.155.

21 **Sec. 206.** RCW 36.32.235 and 1997 c 220 s 401 are each amended to
22 read as follows:

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

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

33 (3) Except as otherwise specified in this chapter or in chapter
34 36.77 RCW, all counties subject to these provisions shall contract on
35 a competitive basis for all public works after bids have been submitted
36 to the county upon specifications therefor. Such specifications shall

1 be in writing and shall be filed with the clerk of the county
2 legislative authority for public inspection.

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

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

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

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

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

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

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

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

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

1 project. The restrictions in this subsection do not permit the
2 division of the project into units of work or classes of work to avoid
3 the restriction on work that may be performed by public employees on a
4 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 employees
11 to perform public works projects under RCW 36.32.240(1) shall prepare
12 a year-end report to be submitted to the state auditor indicating the
13 total dollar amount of the county's public works construction budget
14 and the total dollar amount for public works projects performed by
15 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 by
18 RCW 43.09.205.

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

32 (13) In lieu of the procedures of subsections (3) through (11) of
33 this section, a county may ~~((use a))~~ let contracts using the small
34 works roster process ~~((and award contracts for public works projects~~
35 ~~with an estimated value of ten thousand dollars up to one hundred~~
36 ~~thousand dollars as))~~ provided in RCW 39.04.155 or under any other
37 procedure authorized for the county.

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

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

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

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

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

18 **Sec. 207.** RCW 36.32.250 and 1996 c 18 s 3 are each amended to read
19 as follows:

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

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

29 ~~((For advertisement and competitive bidding to be dispensed with as
30 to public works projects with an estimated value of ten thousand
31 dollars up to one hundred thousand dollars, a county must use a small
32 works roster process as provided in RCW 39.04.155.))~~

33 As an alternative to requirements under this section, a county may
34 let contracts using the small works roster process under RCW 39.04.155
35 or under any other procedure authorized for the county.

36 This section does not apply to performance-based contracts, as
37 defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A
38 RCW.

1 **Sec. 208.** RCW 36.77.075 and 1991 c 363 s 81 are each amended to
2 read as follows:

3 In lieu of the procedure for awarding contracts that is provided in
4 RCW 36.77.020 through 36.77.040, a county may award contracts for
5 public works projects on county roads (~~((with an estimated value of one
6 hundred thousand dollars or less using a small works roster process as
7 provided in))~~) using the small works roster process under RCW 39.04.155
8 or under any other procedure authorized for the county.

9 **Sec. 209.** RCW 52.14.110 and 1998 c 278 s 5 are each amended to
10 read as follows:

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

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

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

28 (3) Contracts using the small works roster process under RCW
29 39.04.155; and

30 ~~((+3))~~ (4) Any contract for purchases or public work pursuant to
31 RCW 39.04.280 if an exemption contained within that section applies to
32 the purchase or public work.

33 **Sec. 210.** RCW 53.08.120 and 1999 c 29 s 1 are each amended to read
34 as follows:

35 All material required by a port district may be procured in the
36 open market or by contract and all work ordered may be done by contract
37 or day labor. All such contracts for work, the estimated cost of which

1 exceeds two hundred thousand dollars, shall be let at public bidding
2 upon notice published in a newspaper of general circulation in the
3 district at least thirteen days before the last date upon which bids
4 will be received, calling for sealed bids upon the work, plans and
5 specifications for which shall then be on file in the office of the
6 commission for public inspection. The same notice may call for bids on
7 such work or material based upon plans and specifications submitted by
8 the bidder. The competitive bidding requirements for purchases or
9 public works may be waived pursuant to RCW 39.04.280 if an exemption
10 contained within that section applies to the purchase or public work.

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

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

26 A report on the effectiveness of the change in the bid limit will
27 be made to the alternative works construction methods oversight
28 committee prior to the 2003 legislative session.

29 **Sec. 211.** RCW 54.04.070 and 1998 c 278 s 7 are each amended to
30 read as follows:

31 Any item, or items of the same kind of materials, equipment, or
32 supplies purchased, the estimated cost of which is in excess of five
33 thousand dollars, exclusive of sales tax shall be by contract:
34 PROVIDED, That a district may make purchases of the same kind of items
35 of materials, equipment and supplies not exceeding five thousand
36 dollars in any calendar month without a contract, purchasing any excess
37 thereof over five thousand dollars by contract. Any work ordered by a
38 district commission, the estimated cost of which is in excess of ten

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

23 ~~((Notwithstanding any other provisions herein, all contract~~
24 ~~projects, the estimated cost of which is less than one hundred thousand~~
25 ~~dollars, may be awarded to a contractor using the small works roster~~
26 ~~process provided in RCW 39.04.155.)) All contract projects equal to or
27 in excess of one hundred thousand dollars shall be let by competitive
28 bidding unless the public utility district lets contracts using the
29 small works roster process under RCW 39.04.155.~~

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

36 The commission may waive the competitive bidding requirements of
37 this section pursuant to RCW 39.04.280 if an exemption contained within
38 that section applies to the purchase or public work.

1 **Sec. 212.** RCW 57.08.050 and 1999 c 153 s 9 are each amended to
2 read as follows:

3 (1) All work ordered, the estimated cost of which is in excess of
4 five thousand dollars, shall be let by contract ~~((. All contract~~
5 ~~projects, the estimated cost of which is in excess of five thousand~~
6 ~~dollars and less than fifty thousand dollars, may be awarded to a~~
7 ~~contractor using the small works roster process provided in RCW~~
8 ~~39.04.155. The board of commissioners may set up uniform procedures to~~
9 ~~prequalify contractors for inclusion on the small works roster. All~~
10 ~~contract projects equal to or in excess of fifty thousand dollars shall~~
11 ~~be let by)) and competitive bidding. Before awarding any such contract~~
12 the board of commissioners shall publish a notice in a newspaper of
13 general circulation where the district is located at least once
14 thirteen days before the last date upon which bids will be received,
15 inviting sealed proposals for such work, plans and specifications which
16 must at the time of publication of such notice be on file in the office
17 of the board of commissioners subject to the public inspection. The
18 notice shall state generally the work to be done and shall call for
19 proposals for doing the same to be sealed and filed with the board of
20 commissioners on or before the day and hour named therein.

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

1 work furnished with sureties satisfactory to the board of commissioners
2 in the full amount of the contract price between the bidder and the
3 commission in accordance with the bid. If the bidder fails to enter
4 into the contract in accordance with the bid and furnish the bond
5 within ten days from the date at which the bidder is notified that the
6 bidder is the successful bidder, the check, cash, or bid bonds and the
7 amount thereof shall be forfeited to the district. If the bidder fails
8 to enter into a contract in accordance with the bidder's bid, and the
9 board of commissioners deems it necessary to take legal action to
10 collect on any bid bond required by this section, then the district
11 shall be entitled to collect from the bidder any legal expenses,
12 including reasonable attorneys' fees occasioned thereby. A low bidder
13 who claims error and fails to enter into a contract is prohibited from
14 bidding on the same project if a second or subsequent call for bids is
15 made for the project.

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

19 (3) Any purchase of materials, supplies, or equipment, with an
20 estimated cost in excess of ten thousand dollars, shall be by contract.
21 Any purchase of materials, supplies, or equipment, with an estimated
22 cost of less than fifty thousand dollars shall be made using the
23 process provided in RCW 39.04.190. Any purchase of materials,
24 supplies, or equipment with an estimated cost of fifty thousand dollars
25 or more shall be made by competitive bidding following the procedure
26 for letting contracts for projects under subsection (1) of this
27 section.

28 ((+3)) (4) The board may waive the competitive bidding
29 requirements of this section pursuant to RCW 39.04.280 if an exemption
30 contained within that section applies to the purchase or public work.

31 **Sec. 213.** RCW 70.44.140 and 1999 c 99 s 1 are each amended to read
32 as follows:

33 (1) All materials purchased and work ordered, the estimated cost of
34 which is in excess of five thousand dollars, shall be by contract.
35 Before awarding any such contract, the commission shall publish a
36 notice at least thirteen days before the last date upon which bids will
37 be received, inviting sealed proposals for such work. The plans and
38 specifications must at the time of the publication of such notice be on

1 file at the office of the public hospital district, subject to public
2 inspection: PROVIDED, HOWEVER, That the commission may at the same
3 time, and as part of the same notice, invite tenders for the work or
4 materials upon plans and specifications to be submitted by bidders.
5 The notice shall state generally the work to be done, and shall call
6 for proposals for doing the same, to be sealed and filed with the
7 commission on or before the day and hour named therein. Each bid shall
8 be accompanied by bid proposal security in the form of a certified
9 check, cashier's check, postal money order, or surety bond made payable
10 to the order of the commission, for a sum not less than five percent of
11 the amount of the bid, and no bid shall be considered unless
12 accompanied by such bid proposal security. At the time and place
13 named, such bids shall be publicly opened and read, and the commission
14 shall proceed to canvass the bids, and may let such contract to the
15 lowest responsible bidder upon plans and specifications on file, or to
16 the best bidder submitting his or her own plans and specifications:
17 PROVIDED, HOWEVER, That no contract shall be let in excess of the
18 estimated cost of the materials or work, or if, in the opinion of the
19 commission, all bids are unsatisfactory, they may reject all of them
20 and readvertise, and in such case all bid proposal security shall be
21 returned to the bidders. If the contract is let, then all bid proposal
22 security shall be returned to the bidders, except that of the
23 successful bidder, which is retained until a contract shall be entered
24 into for the purchase of such materials for doing such work, and a bond
25 to perform such work furnished, with sureties satisfactory to the
26 commission, in an amount to be fixed by the commission, not less than
27 twenty-five percent of contract price in any case, between the bidder
28 and commission, in accordance with the bid. If such bidder fails to
29 enter into the contract in accordance with the bid and furnish such
30 bond within ten days from the date at which the bidder is notified that
31 he or she is the successful bidder, the bid proposal security and the
32 amount thereof shall be forfeited to the public hospital district. A
33 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) (~~In lieu of the procedures of subsection (1) of this section,~~
37 ~~a public hospital district may use the contracting processes provided~~
38 ~~in RCW 39.04.155; however, public hospital districts may only use the~~
39 ~~small works roster process for projects estimated to cost less than~~

1 ~~fifty thousand dollars))~~ As an alternative to the requirements of
2 subsection (1) of this section, a public hospital district may let
3 contracts using the small works roster process under RCW 39.04.155.

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

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

9

PART III - MISCELLANEOUS

10 NEW SECTION. Sec. 301. The following acts or parts of acts are
11 each repealed:

12 (1) RCW 28B.10.355 (Public works projects--Small works roster--
13 Rules--Procedures--Revisions) and 1993 c 379 s 110 & 1985 c 152 s 2;

14 (2) RCW 35.82.075 (Small works roster) and 1989 c 363 s 6; and

15 (3) RCW 39.04.150 (State agencies authorized to establish small
16 works roster--Procedure for securing quotations--Rules) and 1998 c 278
17 s 11.

18 NEW SECTION. Sec. 302. Part headings used in this act are not any
19 part of the law.

--- END ---