
SUBSTITUTE SENATE BILL 6393

State of Washington

64th Legislature

2016 Regular Session

By Senate Commerce & Labor (originally sponsored by Senators Warnick, Hasegawa, Dammeier, Liiias, and Chase)

READ FIRST TIME 02/04/16.

1 AN ACT Relating to modifying and updating small works roster
2 construction and limited public works requirements; amending RCW
3 28A.335.190, 28B.10.350, 28B.50.330, 35.22.620, 35.23.352, 35.61.135,
4 35.82.076, 36.32.235, 36.32.250, 36.77.075, 39.04.010, 39.04.200,
5 39.04.350, 39.04.380, 39.12.040, 52.14.110, 53.08.120, 54.04.070,
6 57.08.050, 70.44.140, and 87.03.436; adding new sections to chapter
7 39.04 RCW; creating a new section; and repealing RCW 39.04.155 and
8 39.04.156.

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

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

19 NEW SECTION. **Sec. 2.** (1) State agencies and any expressly
20 authorized local government may use a uniform small works roster to

1 award contracts for construction, building, renovation, remodeling,
2 alteration, repair, or improvement of real property with an estimated
3 cost of five hundred thousand dollars or less.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (7) For projects awarded under the small works roster process
33 established under sections 2 and 3 of this act, a state agency or
34 authorized local government may waive the retainage requirements of
35 RCW 60.28.011(1)(a), thereby assuming the liability for the
36 contractor's nonpayment of: (a) Laborers, mechanics, subcontractors,
37 materialpersons, and suppliers; and (b) taxes, increases, and
38 penalties pursuant to Titles 50, 51, and 82 RCW that may be due from
39 the contractor for the project. However, the state agency or local

1 government has the right of recovery against the contractor for any
2 payments made on the contractor's behalf.

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

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

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

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

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

32 (5) For limited public works projects awarded under this section,
33 a state agency or authorized local government may waive the payment
34 and performance bond requirements of chapter 39.08 RCW and may waive
35 the retainage requirements of RCW 60.28.011(1)(a), thereby assuming
36 the liability for the contractor's nonpayment of: (a) Laborers,
37 mechanics, subcontractors, materialpersons, and suppliers; and (b)
38 taxes, increases, and penalties imposed pursuant to Titles 50, 51,
39 and 82 RCW that may be due from the contractor for the limited public

1 works project. However, the state agency or local government has the
2 right of recovery against the contractor for any payments made on the
3 contractor's behalf.

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

8 (a) Name of the contractor;

9 (b) Contractor's registration number;

10 (c) Amount of the contract;

11 (d) Brief description of the type of work performed; and

12 (e) Date the contract was awarded.

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

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

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

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

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

38 (5) The breaking of any project into units or accomplishing any
39 project by phases is prohibited if it is done for the purposes of

1 avoiding the maximum dollar amount of a contract that may be let
2 using the small works roster process or the limited public works
3 process.

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

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

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

35 (3) Any school district may purchase goods produced or provided
36 in whole or in part from class II inmate work programs operated by
37 the department of corrections pursuant to RCW 72.09.100, including
38 but not limited to furniture, equipment, or supplies. School
39 districts are encouraged to set as a target to contract, beginning

1 after June 30, 2006, to purchase up to one percent of the total goods
2 required by the school districts each year, goods produced or
3 provided in whole or in part from class II inmate work programs
4 operated by the department of corrections.

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (5) In the event of any emergency when the public interest or
38 property of The Evergreen State College or a regional or state
39 university would suffer material injury or damage by delay, the

1 president of such college or university may declare the existence of
2 an emergency and, reciting the facts constituting the same, may waive
3 the requirements of this section with reference to any contract in
4 order to correct the condition causing the emergency. For the
5 purposes of this section, "emergency" means a condition likely to
6 result in immediate physical injury to persons or to property of the
7 college or university in the absence of prompt remedial action or a
8 condition which immediately impairs the institution's ability to
9 perform its educational obligations.

10 (6) This section does not apply when a contract is awarded by the
11 small works roster procedure authorized in (~~RCW 39.04.155~~) sections
12 2 through 5 of this act or under any other procedure authorized for
13 an institution of higher education.

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

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

36 (2) This section does not apply when a contract is awarded by the
37 small works roster procedure authorized in (~~RCW 39.04.155~~) sections
38 2 through 5 of this act.

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

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

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

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

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

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

38 The state auditor shall report to the state treasurer any
39 first-class city that exceeds this amount and the extent to which the

1 city has or has not reduced the amount of public works it has
2 performed by public employees in subsequent years.

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

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

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

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

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

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

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

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

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

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

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

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

31 Whenever the cost of the public work or improvement, including
32 materials, supplies and equipment, will exceed these figures, the
33 same shall be done by contract. All such contracts shall be let at
34 public bidding upon publication of notice calling for sealed bids
35 upon the work. The notice shall be published in the official
36 newspaper, or a newspaper of general circulation most likely to bring
37 responsive bids, at least thirteen days prior to the last date upon
38 which bids will be received. The notice shall generally state the
39 nature of the work to be done that plans and specifications therefor

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

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

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

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

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

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

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

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

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

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

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

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

23 (10) This section does not apply to performance-based contracts,
24 as defined in RCW 39.35A.020(4), that are negotiated under chapter
25 39.35A RCW.

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

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

31 (1) All work ordered, the estimated cost of which is in excess of
32 twenty thousand dollars, shall be let by contract and competitive
33 bidding. Before awarding any such contract the board of park
34 commissioners shall publish a notice in a newspaper of general
35 circulation where the district is located at least once thirteen days
36 before the last date upon which bids will be received, inviting
37 sealed proposals for such work, plans, and specifications which must
38 at the time of publication of such notice be on file in the office of
39 the board of park commissioners subject to the public inspection. The

1 notice shall state generally the work to be done and shall call for
2 proposals for doing the same to be sealed and filed with the board of
3 park commissioners on or before the day and hour named therein.

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

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

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

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

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

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

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

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

33 (1) In each county with a population of four hundred thousand or
34 more which by resolution establishes a county purchasing department,
35 the purchasing department shall enter into leases of personal
36 property on a competitive basis and purchase all supplies, materials,
37 and equipment on a competitive basis, for all departments of the
38 county, as provided in this chapter and chapter 39.04 RCW, except

1 that the county purchasing department is not required to make
2 purchases that are paid from the county road fund or equipment rental
3 and revolving fund.

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

6 (3) Except as otherwise specified in this chapter or in chapter
7 36.77 RCW, all counties subject to these provisions shall contract on
8 a competitive basis for all public works after bids have been
9 submitted to the county upon specifications therefor. Such
10 specifications shall be in writing and shall be filed with the clerk
11 of the county legislative authority for public inspection.

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

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

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

39 (7) If the bidder to whom the contract is awarded fails to enter
40 into the contract and furnish the contractor's bond as required

1 within ten days after notice of the award, exclusive of the day of
2 notice, the amount of the bid deposit shall be forfeited to the
3 county and the contract awarded to the next lowest and best bidder.
4 The bid deposit of all unsuccessful bidders shall be returned after
5 the contract is awarded and the required contractor's bond given by
6 the successful bidder is accepted by the county legislative
7 authority. Immediately after the award is made, the bid quotations
8 obtained shall be recorded and open to public inspection and shall be
9 available by telephone inquiry.

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

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

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

1 (10) In addition to the percentage limitation provided in
2 subsection (8) of this section, counties subject to these provisions
3 containing a population of four hundred thousand or more shall not
4 have public employees perform a public works project in excess of
5 ninety thousand dollars if more than a single craft or trade is
6 involved with the public works project, or a public works project in
7 excess of forty-five thousand dollars if only a single craft or trade
8 is involved with the public works project. A public works project
9 means a complete project. The restrictions in this subsection do not
10 permit the division of the project into units of work or classes of
11 work to avoid the restriction on work that may be performed by public
12 employees on a single project.

13 The cost of a separate public works project shall be the costs of
14 materials, supplies, equipment, and labor on the construction of that
15 project. The value of the public works budget shall be the value of
16 all the separate public works projects within the budget.

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

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

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

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

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

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

11 (15) This section does not apply to performance-based contracts,
12 as defined in RCW 39.35A.020(4), that are negotiated under chapter
13 39.35A RCW.

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

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

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

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

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

33 As an alternative to requirements under this section, a county
34 may let contracts using the small works roster process under ((RCW
35 ~~39.04.155~~)) sections 2 through 5 of this act.

36 This section does not apply to performance-based contracts, as
37 defined in RCW 39.35A.020(4), that are negotiated under chapter
38 39.35A RCW.

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

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

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

9 The definitions in this section apply throughout this chapter
10 unless the context clearly requires otherwise.

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

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

20 (3) "Municipality" means every city, county, town, port district,
21 district, or other public agency authorized by law to require the
22 execution of public work, except drainage districts, diking
23 districts, diking and drainage improvement districts, drainage
24 improvement districts, diking improvement districts, consolidated
25 diking and drainage improvement districts, consolidated drainage
26 improvement districts, consolidated diking improvement districts,
27 irrigation districts, or other districts authorized by law for the
28 reclamation or development of waste or undeveloped lands.

29 (4) "Public work" means all work, construction, alteration,
30 repair, or improvement other than ordinary maintenance, executed at
31 the cost of the state or of any municipality, or which is by law a
32 lien or charge on any property therein. All public works, including
33 maintenance when performed by contract shall comply with chapter
34 39.12 RCW. "Public work" does not include work, construction,
35 alteration, repair, or improvement performed under contracts entered
36 into under RCW 36.102.060(4) or under development agreements entered
37 into under RCW 36.102.060(7) or leases entered into under RCW
38 36.102.060(8).

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

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

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

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

21 **Sec. 18.** RCW 39.04.350 and 2010 c 276 s 2 are each amended to
22 read as follows:

23 (1) Before award of a public works contract, a bidder must meet
24 the following responsibility criteria to be considered a responsible
25 bidder and qualified to be awarded a public works project. The bidder
26 must:

27 (a) At the time of bid submittal, have a certificate of
28 registration in compliance with chapter 18.27 RCW;

29 (b) Have a current state unified business identifier number;

30 (c) If applicable, have industrial insurance coverage for the
31 bidder's employees working in Washington as required in Title 51 RCW;
32 an employment security department number as required in Title 50 RCW;
33 and a state excise tax registration number as required in Title 82
34 RCW;

35 (d) Not be disqualified from bidding on any public works contract
36 under RCW 39.06.010 or 39.12.065(3);

1 (e) Not have any failure to file or false filing of any affidavit
2 of wages paid form during a five-year period preceding the contract
3 award; and

4 (f) If bidding on a public works project subject to the
5 apprenticeship utilization requirements in RCW 39.04.320, not have
6 been found out of compliance by the Washington state apprenticeship
7 and training council for working apprentices out of ratio, without
8 appropriate supervision, or outside their approved work processes as
9 outlined in their standards of apprenticeship under chapter 49.04 RCW
10 for the one-year period immediately preceding the date of the bid
11 solicitation(~~(; and~~

12 ~~(f) Until December 31, 2013, not have violated RCW 39.04.370 more~~
13 ~~than one time as determined by the department of labor and~~
14 ~~industries)).~~

15 (2) In addition to the bidder responsibility criteria in
16 subsection (1) of this section, the state or municipality may adopt
17 relevant supplemental criteria for determining bidder responsibility
18 applicable to a particular project which the bidder must meet.

19 (a) Supplemental criteria for determining bidder responsibility,
20 including the basis for evaluation and the deadline for appealing a
21 determination that a bidder is not responsible, must be provided in
22 the invitation to bid or bidding documents.

23 (b) In a timely manner before the bid submittal deadline, a
24 potential bidder may request that the state or municipality modify
25 the supplemental criteria. The state or municipality must evaluate
26 the information submitted by the potential bidder and respond before
27 the bid submittal deadline. If the evaluation results in a change of
28 the criteria, the state or municipality must issue an addendum to the
29 bidding documents identifying the new criteria.

30 (c) If the bidder fails to supply information requested
31 concerning responsibility within the time and manner specified in the
32 bid documents, the state or municipality may base its determination
33 of responsibility upon any available information related to the
34 supplemental criteria or may find the bidder not responsible.

35 (d) If the state or municipality determines a bidder to be not
36 responsible, the state or municipality must provide, in writing, the
37 reasons for the determination. The bidder may appeal the
38 determination within the time period specified in the bidding
39 documents by presenting additional information to the state or
40 municipality. The state or municipality must consider the additional

1 information before issuing its final determination. If the final
2 determination affirms that the bidder is not responsible, the state
3 or municipality may not execute a contract with any other bidder
4 until two business days after the bidder determined to be not
5 responsible has received the final determination.

6 (3) The capital projects advisory review board created in RCW
7 39.10.220 shall develop suggested guidelines to assist the state and
8 municipalities in developing supplemental bidder responsibility
9 criteria. The guidelines must be posted on the board's web site.

10 **Sec. 19.** RCW 39.04.380 and 2015 c 225 s 39 are each amended to
11 read as follows:

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

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

33 (3) In any bidding process for public works in which a bid is
34 received from a nonresident contractor from a state that provides a
35 percentage bidding preference, a comparable percentage disadvantage
36 must be applied to the bid of that nonresident contractor. This
37 subsection does not apply until the department of enterprise services
38 has adopted the rules and procedures for reciprocity under subsection

1 (2) of this section, or has determined and announced that rules are
2 not necessary for implementation.

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

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

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

9 (5) The state of residence for a nonresident contractor is the
10 state in which the contractor was incorporated or, if not a
11 corporation, the state where the contractor's business entity was
12 formed.

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

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

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

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

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

32 (b) Each statement of intent to pay prevailing wages must be
33 approved by the industrial statistician of the department of labor
34 and industries before it is submitted to the disbursing officer.
35 Unless otherwise authorized by the department of labor and
36 industries, each voucher claim submitted by a contractor for payment
37 on a project estimate must state that the prevailing wages have been
38 paid in accordance with the prefiled statement or statements of
39 intent to pay prevailing wages on file with the public agency.

1 Following the final acceptance of a public works project, it is the
2 duty of the officer charged with the disbursement of public funds, to
3 require the contractor and each and every subcontractor from the
4 contractor or a subcontractor to submit to such officer an affidavit
5 of wages paid before the funds retained according to the provisions
6 of RCW 60.28.011 are released to the contractor. On a public works
7 project where no retainage is withheld pursuant to chapter 60.28 RCW
8 (~~60.28.011(1)(b)~~), the affidavit of wages paid must be submitted to
9 the state, county, municipality, or other public body charged with
10 the duty of disbursing or authorizing disbursement of public funds
11 prior to final acceptance of the public works project. If a
12 subcontractor performing work on a public works project fails to
13 submit an affidavit of wages paid form, the contractor or
14 subcontractor with whom the subcontractor had a contractual
15 relationship for the project may file the forms on behalf of the
16 nonresponsive subcontractor. Affidavit forms may only be filed on
17 behalf of a nonresponsive subcontractor who has ceased operations or
18 failed to file as required by this section. The contractor filing the
19 affidavit must accept responsibility for payment of prevailing wages
20 unpaid by the subcontractor on the project pursuant to RCW 39.12.020
21 and 39.12.065. Intentionally filing a false affidavit on behalf of a
22 subcontractor subjects the filer to the same penalties as are
23 provided in RCW 39.12.050. Each affidavit of wages paid must be
24 certified by the industrial statistician of the department of labor
25 and industries before it is submitted to the disbursing officer.

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

31 (a) An awarding agency may authorize the contractor or
32 subcontractor to submit the statement of intent to pay prevailing
33 wages directly to the officer or person charged with the custody or
34 disbursement of public funds in the awarding agency without approval
35 by the industrial statistician of the department of labor and
36 industries. The awarding agency must retain such statement of intent
37 to pay prevailing wages for a period of not less than three years.

38 (b) Upon final acceptance of the public works project, the
39 awarding agency must require the contractor or subcontractor to
40 submit an affidavit of wages paid. Upon receipt of the affidavit of

1 wages paid, the awarding agency may pay the contractor or
2 subcontractor in full, including funds that would otherwise be
3 retained according to the provisions of RCW 60.28.011. Within thirty
4 days of receipt of the affidavit of wages paid, the awarding agency
5 must submit the affidavit of wages paid to the industrial
6 statistician of the department of labor and industries for approval.

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

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

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

24 **Sec. 21.** RCW 52.14.110 and 2009 c 229 s 9 are each amended to
25 read as follows:

26 Insofar as practicable, purchases and any public works by the
27 district shall be based on competitive bids. A formal sealed bid
28 procedure shall be used as standard procedure for purchases and
29 contracts for purchases executed by the board of commissioners.
30 Formal sealed bidding shall not be required for:

31 (1) The purchase of any materials, supplies, or equipment if the
32 cost will not exceed the sum of ten thousand dollars. However,
33 whenever the estimated cost does not exceed fifty thousand dollars,
34 the commissioners may by resolution use the process provided in RCW
35 39.04.190 to award contracts;

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

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

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

6 **Sec. 22.** RCW 53.08.120 and 2009 c 74 s 2 are each amended to
7 read as follows:

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

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

26 (b) For all contracts related to work meeting the definition of
27 "public work" in RCW 39.04.010(4) ((~~that are estimated at three~~
28 ~~hundred thousand dollars or less~~)), a port district may let contracts
29 using the small works roster process under ((~~RCW 39.04.155~~)) sections
30 2 through 5 of this act in lieu of advertising for bids. Whenever
31 possible, the managing official shall invite at least one proposal
32 from a minority contractor who shall otherwise qualify under this
33 section.

34 When awarding such a contract for work, when utilizing proposals
35 from the small works roster, the managing official shall give weight
36 to the contractor submitting the lowest and best proposal, and
37 whenever it would not violate the public interest, such contracts
38 shall be distributed equally among contractors, including minority
39 contractors, on the small works roster.

1 **Sec. 23.** RCW 54.04.070 and 2008 c 216 s 2 are each amended to
2 read as follows:

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

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

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

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

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

7 (6) Pursuant to RCW 39.04.280, the commission may waive the
8 competitive bidding requirements of this section and RCW 54.04.080 if
9 an exemption contained within RCW 39.04.280 applies to the purchase
10 or public work.

11 **Sec. 24.** RCW 57.08.050 and 2015 c 136 s 1 are each amended to
12 read as follows:

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

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

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

21 (2) As an alternative to requirements under subsection (1) of
22 this section, a water-sewer district may let contracts using the
23 small works roster process under (~~RCW 39.04.155~~) sections 2 through
24 5 of this act.

25 (3) Any purchase of materials, supplies, or equipment, with an
26 estimated cost in excess of forty thousand dollars, shall be by
27 contract. Any purchase of materials, supplies, or equipment, with an
28 estimated cost of less than fifty thousand dollars shall be made
29 using the process provided in RCW 39.04.190. Any purchase of
30 materials, supplies, or equipment with an estimated cost of fifty
31 thousand dollars or more shall be made by competitive bidding
32 following the procedure for letting contracts for projects under
33 subsection (1) of this section.

34 (4) As an alternative to requirements under subsection (3) of
35 this section, a water-sewer district may let contracts for purchase
36 of materials, supplies, or equipment with the suppliers designated on
37 current state agency, county, city, or town purchasing rosters for
38 the materials, supplies, or equipment, when the roster has been
39 established in accordance with the competitive bidding law for
40 purchases applicable to the state agency, county, city, or town. The

1 price and terms for purchases shall be as described on the applicable
2 roster.

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

6 **Sec. 25.** RCW 70.44.140 and 2009 c 229 s 12 are each amended to
7 read as follows:

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

1 amount to be fixed by the commission, not less than twenty-five
2 percent of contract price in any case, between the bidder and
3 commission, in accordance with the bid. If such bidder fails to enter
4 into the contract in accordance with the bid and furnish such bond
5 within ten days from the date at which the bidder is notified that he
6 or she is the successful bidder, the bid proposal security and the
7 amount thereof shall be forfeited to the public hospital district. A
8 low bidder who claims error and fails to enter into a contract is
9 prohibited from bidding on the same project if a second or subsequent
10 call for bids is made for the project.

11 (2) As an alternative to the requirements of subsection (1) of
12 this section, a public hospital district may let contracts using the
13 small works roster process under (~~RCW 39.04.155~~) sections 2 through
14 5 of this act.

15 (3) Any purchases with an estimated cost of up to fifteen
16 thousand dollars may be made using the process provided in RCW
17 39.04.190.

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

21 **Sec. 26.** RCW 87.03.436 and 2010 c 201 s 2 are each amended to
22 read as follows:

23 All contract projects, the estimated cost of which is less than
24 (~~three~~) five hundred thousand dollars, may be awarded using the
25 small works roster process under (~~RCW 39.04.155~~) sections 2 through
26 5 of this act.

27 NEW SECTION. **Sec. 27.** Sections 2 through 5 of this act are each
28 added to chapter 39.04 RCW.

29 NEW SECTION. **Sec. 28.** The following acts or parts of acts are
30 each repealed:

31 (1) RCW 39.04.155 (Small works roster contract procedures—Limited
32 public works process—Definition) and 2015 c 225 s 33, 2009 c 74 s 1,
33 & 2008 c 130 s 17; and

34 (2) RCW 39.04.156 (Small works roster manual—Notification to
35 local governments) and 2000 c 138 s 104.

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