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**SENATE BILL 6393**

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**State of Washington                      64th Legislature                      2016 Regular Session**

**By** Senators Warnick, Hasegawa, Dammeier, Llias, and Chase

Read first time 01/19/16. Referred to Committee on Commerce & Labor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



1           (1) RCW 39.04.155 (Small works roster contract procedures—Limited  
2 public works process—Definition) and 2015 c 225 s 33, 2009 c 74 s 1,  
3 & 2008 c 130 s 17; and

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

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