

ESSB 6329 - H COMM AMD  
By Committee on Capital Budget

ADOPTED 02/28/2018

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that unit  
4 priced contracting is a decades old, proven practice used at ports  
5 for competitively bid maintenance and repair work that is common but  
6 unpredictable in its timing and scope. Unit priced contracting is an  
7 efficient mechanism to maintain essential services to port customers,  
8 often on short notice or in emergency situations.

9 (2) The legislature also finds that unit priced contracting  
10 ensures that necessary work is performed safely and at a competitive  
11 rate by qualified contractors, and also saves public money because of  
12 additional costs that would be incurred by bidding each work order  
13 separately.

14 (3) The legislature also finds that, in order to avoid litigation  
15 and audit risk, statutory clarification is needed regarding the  
16 authority for port districts to engage in unit priced contracting.

17 (4) The legislature also finds that flexibility for small  
18 projects produces a more efficient process.

19 **Sec. 2.** RCW 53.08.120 and 2009 c 74 s 2 are each amended to read  
20 as follows:

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

25 (2)(a) All such contracts for work meeting the definition of  
26 "public work" in RCW 39.04.010(4), the estimated cost of which  
27 exceeds three hundred thousand dollars, shall be awarded using a  
28 competitive bid process. The contract must be awarded at public  
29 bidding upon notice published in a newspaper of general circulation  
30 in the district at least thirteen days before the last date upon

1 which bids will be received, calling for bids upon the work, plans  
2 and specifications for which shall then be on file in the office of  
3 the commission for public inspection. The same notice may call for  
4 bids on such work or material based upon plans and specifications  
5 submitted by the bidder. The competitive bidding requirements for  
6 purchases or public works may be waived pursuant to RCW 39.04.280 if  
7 an exemption contained within that section applies to the purchase or  
8 public work.

9 (b) For all contracts related to work meeting the definition of  
10 "public work" in RCW 39.04.010(4) that are estimated at three hundred  
11 thousand dollars or less, a port district may let contracts using the  
12 small works roster process under RCW 39.04.155 in lieu of advertising  
13 for bids. Whenever possible, the managing official shall invite at  
14 least one proposal from a minority contractor who shall otherwise  
15 qualify under this section.

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

22 (c) Any port district may construct any public work, as defined  
23 in RCW 39.04.010, by contract without calling for bids whenever the  
24 estimated cost of the work or improvement, including cost of  
25 materials, supplies, and equipment, will not exceed the sum of forty  
26 thousand dollars. A "public works project" means a complete project.  
27 The restrictions in this subsection do not permit the division of the  
28 project into units of work or classes of work to avoid calling for  
29 bids. The port district managing official shall make his or her best  
30 effort to reach out to qualified contractors, including certified  
31 minority and woman-owned contractors.

32 (3)(a) A port district may procure public works with a unit  
33 priced contract under this section or RCW 39.04.010(2) for the  
34 purpose of completing anticipated types of work based on hourly rates  
35 or unit pricing for one or more categories of work or trades.

36 (b) For the purposes of this section, unit priced contract means  
37 a competitively bid contract in which public works are anticipated on  
38 a recurring basis to meet the business or operational needs of a port  
39 district, under which the contractor agrees to a fixed period

1 indefinite quantity delivery of work, at a defined unit price, for  
2 each category of work.

3 (c) Unit priced contracts must be executed for an initial  
4 contract term not to exceed three years, with the port district  
5 having the option of extending or renewing the unit priced contract  
6 for one additional year.

7 (d) Invitations for unit priced bids shall include, for purposes  
8 of the bid evaluation, estimated quantities of the anticipated types  
9 of work or trades, and specify how the port district will issue or  
10 release work assignments, work orders, or task authorizations  
11 pursuant to a unit priced contract for projects, tasks, or other work  
12 based on the hourly rates or unit prices bid by the contractor.  
13 Contracts must be awarded to the lowest responsible bidder as per RCW  
14 39.04.010. Whenever possible, the port district must invite at least  
15 one proposal from a minority or woman contractor who otherwise  
16 qualifies under this section.

17 (e) Unit priced contractors shall pay prevailing wages for all  
18 work that would otherwise be subject to the requirements of chapter  
19 39.12 RCW. Prevailing wages for all work performed pursuant to each  
20 work order must be the prevailing wage rates in effect at the  
21 beginning date for each contract year. Unit priced contracts shall  
22 have prevailing wage rates updated annually. Intents and affidavits  
23 for prevailing wages paid shall be submitted annually for all work  
24 completed within the previous twelve-month period of the unit priced  
25 contract."

26 Correct the title.

EFFECT: Adds authority for the Ports to use unit price contracting.

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