
SUBSTITUTE HOUSE BILL 2690

State of Washington 65th Legislature 2018 Regular Session

By House Capital Budget (originally sponsored by Representatives Peterson and Griffey)

READ FIRST TIME 02/02/18.

1 AN ACT Relating to clarifying the authority and procedures for
2 contracting by public port districts; amending RCW 53.08.120; and
3 creating a new section.

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

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

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

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

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

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

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

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

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

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

34 (c) Any port district may construct any public work, as defined
35 in RCW 39.04.010, by contract without calling for bids whenever the
36 estimated cost of the work or improvement, including cost of
37 materials, supplies, and equipment, will not exceed the sum of forty
38 thousand dollars. A "public works project" means a complete project.
39 The restrictions in this subsection do not permit the division of the

1 project into units of work or classes of work to avoid calling for
2 bids.

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

7 (b) For the purposes of this section, unit priced contract means
8 a competitively bid contract in which public works are anticipated on
9 a recurring basis to meet the business or operational needs of a port
10 district, under which the contractor agrees to a fixed period
11 indefinite quantity delivery of work, at a defined unit price, for
12 each category of work.

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

17 (d) Invitations for unit priced bids shall include, for purposes
18 of the bid evaluation, estimated quantities of the anticipated types
19 of work or trades, and specify how the port district will issue or
20 release work assignments, work orders, or task authorizations
21 pursuant to a unit priced contract for projects, tasks, or other work
22 based on the hourly rates or unit prices bid by the contractor.
23 Contracts must be awarded to the lowest responsible bidder as per RCW
24 39.04.010.

25 (e) Unit priced contractors shall pay prevailing wages for all
26 work that would otherwise be subject to the requirements of chapter
27 39.12 RCW. Prevailing wages for all work performed pursuant to each
28 work order must be the prevailing wage rates in effect at the
29 beginning date for each contract year. Unit priced contracts shall
30 have prevailing wage rates updated annually. Intents and affidavits
31 for prevailing wages paid shall be submitted annually for all work
32 completed within the previous twelve-month period of the unit priced
33 contract.

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