
HOUSE BILL 1966

State of Washington

69th Legislature

2025 Regular Session

By Representatives Zahn and Tharinger

Read first time 02/13/25. Referred to Committee on Local Government.

1 AN ACT Relating to public works contracting; and reenacting and
2 amending RCW 54.04.070, 35.23.352, 35.22.620, 57.08.050, and
3 52.14.110.

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

5 **Sec. 1.** RCW 54.04.070 and 2023 c 395 s 32 and 2023 c 255 s 1 are
6 each reenacted and amended to read as follows:

7 (1) Any item, or items of the same kind of materials, equipment,
8 or supplies purchased, the estimated cost of which is in excess of
9 \$30,000, exclusive of sales tax, shall be by contract. However, a
10 district may make purchases of the same kind of items of materials,
11 equipment, and supplies not exceeding \$12,000 in any calendar month
12 without a contract, purchasing any excess thereof over \$12,000 by
13 contract.

14 (2) Any work ordered by a district commission, the estimated cost
15 of which is in excess of \$150,000 exclusive of sales tax if more than
16 a single craft or trade is involved with the public works project, or
17 a public works project in excess of \$75,500 exclusive of sales tax if
18 only a single craft or trade is involved with the public works
19 project, 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

1 contract. For purposes of this section, "prudent utility management"
2 means performing work with regularly employed personnel utilizing
3 material of a worth not exceeding \$300,000 in value without a
4 contract. This limit on the value of material being utilized in work
5 being performed by regularly employed personnel shall not include the
6 value of individual items of equipment. For the purposes of this
7 section, the term "equipment" includes but is not limited to
8 conductor, cabling, wire, pipe, or lines used for electrical, water,
9 fiber optic, or telecommunications.

10 (3) Before awarding a contract required under subsection (1) or
11 (2) of this section, the commission shall publish a notice once or
12 more in a newspaper of general circulation in the district at least
13 13 days before the last date upon which bids will be received,
14 inviting sealed proposals for the work or materials. Plans and
15 specifications for the work or materials shall at the time of
16 publication be on file at the office of the district and subject to
17 public inspection. Any published notice ordering work to be performed
18 for the district shall be mailed at the time of publication to any
19 established trade association which files a written request with the
20 district to receive such notices. The commission may, at the same
21 time and as part of the same notice, invite tenders for the work or
22 materials upon plans and specifications to be submitted by the
23 bidders.

24 (4) As an alternative to the competitive bidding requirements of
25 this section and RCW 54.04.080, a district may let contracts using
26 the small works roster process under RCW 39.04.151 through 39.04.154.

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

33 (6) Pursuant to RCW 39.04.280, the commission may waive the
34 competitive bidding requirements of this section and RCW 54.04.080 if
35 an exemption contained within RCW 39.04.280 applies to the purchase
36 or public work.

37 (7)(a) A district may procure public works with a unit priced
38 contract under this section, RCW 54.04.080, or 54.04.085 for the
39 purpose of completing anticipated types of work based on hourly rates
40 or unit pricing for one or more categories of work or trades.

1 (b) For the purposes of this section, unit priced contract means
2 a competitively bid contract in which public works are anticipated on
3 a recurring basis to meet the business or operational needs of a
4 district, under which the contractor agrees to a fixed period
5 indefinite quantity delivery of work, at a defined unit price, for
6 each category of work.

7 (c) Unit priced contracts must be executed for an initial
8 contract term not to exceed three years, with the district having the
9 option of extending or renewing the unit priced contract for one
10 additional year.

11 (d) Invitations for unit price bids shall include, for purposes
12 of the bid evaluation, estimated quantities of the anticipated types
13 of work or trades, and specify how the district will issue or release
14 work assignments, work orders, or task authorizations pursuant to a
15 unit priced contract for projects, tasks, or other work based on the
16 hourly rates or unit prices bid by the contractor. Where electrical
17 facility construction or improvement work is anticipated, contractors
18 on a unit priced contract shall comply with the requirements under
19 RCW 54.04.085 (1) through (5). Contracts must be awarded to the
20 lowest responsible bidder as per RCW 39.04.010.

21 (e) Unit price contractors shall pay prevailing wages for all
22 work that would otherwise be subject to the requirements of chapter
23 39.12 RCW. Prevailing wages for all work performed pursuant to each
24 work order must be the prevailing wage rates in effect at the
25 beginning date for each contract year. Unit priced contracts must
26 have prevailing wage rates updated annually. Intents and affidavits
27 for prevailing wages paid must be submitted annually for all work
28 completed within the previous 12-month period of the unit priced
29 contract.

30 (8) For the purposes of this section, "lowest responsible bidder"
31 means a bid that meets the criteria under RCW 39.04.350 and has the
32 lowest bid(~~(; provided, that if the district commission issues a~~
33 ~~written finding that the lowest bidder has delivered a project to the~~
34 ~~district within the last three years which was late, over budget, or~~
35 ~~did not meet specifications, and the commission does not find in~~
36 ~~writing that such bidder has shown how they would improve performance~~
37 ~~to be likely to meet project specifications then the commission may~~
38 ~~choose the second lowest bidder whose bid is within five percent of~~
39 ~~the lowest bid and meets the same criteria as the lowest bidder)).~~

1 **Sec. 2.** RCW 35.23.352 and 2023 c 395 s 21 and 2023 c 255 s 2 are
2 each reenacted and amended to read as follows:

3 (1) Any second-class city or any town may construct any public
4 works, as defined in RCW 39.04.010, by contract or day labor without
5 calling for bids therefor whenever the estimated cost of the work or
6 improvement, including cost of materials, supplies and equipment will
7 not exceed the sum of \$150,000 if more than one craft or trade is
8 involved with the public works, or \$75,500 if a single craft or trade
9 is involved with the public works or the public works project is
10 street signalization or street lighting. A public works project means
11 a complete project. The restrictions in this subsection do not permit
12 the division of the project into units of work or classes of work to
13 avoid the restriction on work that may be performed by day labor on a
14 single project. (~~However, a second-class city or any town may have
15 its own regularly employed personnel perform work which is an
16 accepted industry practice under prudent utility management without a
17 contract. For purposes of this section, "prudent utility management"
18 means performing work with regularly employed personnel utilizing
19 material of a worth not exceeding \$300,000 in value without a
20 contract. This limit on value of material being utilized in work
21 being performed by regularly employed personnel shall not include the
22 value of individual items of equipment. For purposes of this section,
23 "equipment" includes, but is not limited to, conductor, cabling,
24 wire, pipe, or lines used for electrical, water, fiber optic, or
25 telecommunications.~~)

26 (2)(a) Second-class cities and towns may address exigent public
27 works needs through the use of their own regularly employed in-house
28 personnel up to a project cost of \$300,000. Project costs must
29 include all labor, materials, supplies, and equipment. A project may
30 not be divided into units or classes of work in order to avoid this
31 restriction. A declaration of exigent public works circumstances may
32 be established by an action of the governing body of the city or
33 town, or pursuant to written policies and procedures adopted by the
34 city or town. Whenever a second-class city or any town determines
35 there is an exigency, it must document the factual basis for the
36 decision, and must make this documentation open to public inspection
37 within two weeks of the beginning of the project.

38 (b) The amount of exigent public works needs addressed through
39 personnel is limited to a dollar value not exceeding 10 percent of
40 the public works construction budget over the city's or town's annual

1 or biannual budget period. The amount of public works that a second-
2 class city or any town has a county perform for it under RCW
3 35.77.020 must be included within this 10 percent limitation. If a
4 second-class city has public works performed by public employees in
5 any budget period that are in excess of this 10 percent limitation,
6 the amount in excess of the permitted amount is reduced from the
7 otherwise permitted amount of public works that may be performed by
8 public employees for that city in its next budget period. The state
9 auditor shall report to the state treasurer any second-class city or
10 any town that exceeds this amount and the extent to which the city or
11 town has or has not reduced the amount of public works it has
12 performed by public employees in subsequent years.

13 (c) In addition to the accounting and recordkeeping requirements
14 contained in RCW 39.04.070, every second-class city or any town must
15 annually prepare a report subject to review by the state auditor
16 indicating the total public works construction budget and
17 supplemental public works construction budget for that year, the
18 total construction costs of public works performed by public
19 employees for that year, and the amount of public works that is
20 performed by public employees above or below 10 percent of the total
21 construction budget. However, if a second-class city or any town
22 budgets on a biennial basis, this annual report may indicate the
23 amount of public works that is performed by public employees within
24 the current biennial period that is above or below 10 percent of the
25 total biennial construction budget.

26 (d) Whenever a second-class city or town has had public works
27 performed in any budget period up to the maximum permitted amount for
28 that budget period, all remaining public works within that budget
29 period must be done by contract pursuant to public notice and call
30 for competitive bids.

31 (3) Whenever the cost of the public work or improvement,
32 including materials, supplies and equipment, will exceed these
33 figures, the same shall be done by contract. All such contracts shall
34 be let at public bidding upon publication of notice calling for
35 sealed bids upon the work. The notice shall be published in the
36 official newspaper, or a newspaper of general circulation most likely
37 to bring responsive bids, at least 13 days prior to the last date
38 upon which bids will be received. The notice shall generally state
39 the nature of the work to be done that plans and specifications
40 therefor shall then be on file in the city or town hall for public

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

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

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

28 ~~((+2))~~ (4) For the purposes of this section ~~((7))~~:

29 (a) "~~((lowest))~~ Lowest responsible bidder" means a bid that meets
30 the criteria under RCW 39.04.350 and has the lowest bid; ~~((provided,~~
31 ~~that if the city issues a written finding that the lowest bidder has~~
32 ~~delivered a project to the city within the last three years which was~~
33 ~~late, over budget, or did not meet specifications, and the city does~~
34 ~~not find in writing that such bidder has shown how they would improve~~
35 ~~performance to be likely to meet project specifications then the city~~
36 ~~may choose the second lowest bidder whose bid is within five percent~~
37 ~~of the lowest bid and meets the same criteria as the lowest bidder))~~

38 and

39 (b) "Exigent public works needs" means those situations that
40 arise as a result of unforeseen circumstances and that result in the

1 compromise of the proper performance of essential government
2 functions, a need for action to prevent or alleviate serious impacts,
3 financial or otherwise, and in which the use of a competitive
4 procurement process would prevent the urgent action required to
5 address the situation.

6 ~~((3))~~ (5) The allocation of public works projects to be
7 performed by city or town employees shall not be subject to a
8 collective bargaining agreement.

9 ~~((4))~~ (6) In lieu of the procedures of subsection (1) of this
10 section, a second-class city or a town may let contracts using the
11 small works roster process provided in RCW 39.04.151 through
12 39.04.154.

13 Whenever possible, the city or town shall invite at least one
14 proposal from a certified minority or woman contractor who shall
15 otherwise qualify under this section.

16 ~~((5))~~ (7) The form required by RCW 43.09.205 shall be to
17 account and record costs of public works in excess of \$5,000 that are
18 not let by contract.

19 ~~((6))~~ (8) The cost of a separate public works project shall be
20 the costs of the materials, equipment, supplies, and labor on that
21 construction project.

22 ~~((7))~~ (9) Any purchase of supplies, material, or equipment,
23 except for public work or improvement, with an estimated cost in
24 excess of \$40,000, shall be by contract. Any purchase of materials,
25 supplies, or equipment with an estimated cost of less than \$50,000
26 shall be made using the process provided in RCW 39.04.190.

27 ~~((8))~~ (10) Bids shall be called annually and at a time and in
28 the manner prescribed by ordinance for the publication in a newspaper
29 of general circulation in the city or town of all notices or
30 newspaper publications required by law. The contract shall be awarded
31 to the lowest responsible bidder.

32 ~~((9))~~ (11) For advertisement and formal sealed bidding to be
33 dispensed with as to purchases with an estimated value of \$15,000 or
34 less, the council or commission must authorize by resolution, use of
35 the uniform procedure provided in RCW 39.04.190.

36 ~~((10))~~ (12) The city or town legislative authority may waive
37 the competitive bidding requirements of this section pursuant to RCW
38 39.04.280 if an exemption contained within that section applies to
39 the purchase or public work.

1 (~~(11)~~) (13) This section does not apply to performance-based
2 contracts, as defined in RCW 39.35A.020(6), that are negotiated under
3 chapter 39.35A RCW.

4 (~~(12)~~) (14) Nothing in this section shall prohibit any second-
5 class city or any town from allowing for preferential purchase of
6 products made from recycled materials or products that may be
7 recycled or reused.

8 (~~(13)~~) (15)(a) Any second-class city or any town may procure
9 public works with a unit priced contract under this section for the
10 purpose of completing anticipated types of work based on hourly rates
11 or unit pricing for one or more categories of work or trades.

12 (b) For the purposes of this section, "unit priced contract"
13 means a competitively bid contract in which public works are
14 anticipated on a recurring basis to meet the business or operational
15 needs of the city or town, under which the contractor agrees to a
16 fixed period indefinite quantity delivery of work, at a defined unit
17 price for each category of work.

18 (c) Unit priced contracts must be executed for an initial
19 contract term not to exceed three years, with the city or town having
20 the option of extending or renewing the unit priced contract for one
21 additional year.

22 (d) Invitations for unit price bids shall include, for purposes
23 of the bid evaluation, estimated quantities of the anticipated types
24 of work or trades, and specify how the city or town will issue or
25 release work assignments, work orders, or task authorizations
26 pursuant to a unit priced contract for projects, tasks, or other work
27 based on the hourly rates or unit prices bid by the contractor.
28 Contracts must be awarded to the lowest responsible bidder as per RCW
29 39.04.010. Whenever possible, the city or town must invite at least
30 one proposal from a certified minority or woman contractor who
31 otherwise qualifies under this section.

32 (e) Unit price contractors shall pay prevailing wages for all
33 work that would otherwise be subject to the requirements of chapter
34 39.12 RCW. Prevailing wages for all work performed pursuant to each
35 work order must be the prevailing wage rates in effect at the
36 beginning date for each contract year. Unit priced contracts must
37 have prevailing wage rates updated annually. Intents and affidavits
38 for prevailing wages paid must be submitted annually for all work
39 completed within the previous 12-month period of the unit priced
40 contract.

1 ~~((14))~~ (16) Any second-class city or town that awards a project
2 to a bidder under the criteria described in subsection ~~((2))~~ (4) of
3 this section must make an annual report to the department of commerce
4 that includes the total number of bids awarded to certified minority
5 or women contractors and describing how notice was provided to
6 potential certified minority or women contractors.

7 **Sec. 3.** RCW 35.22.620 and 2023 c 395 s 20 and 2023 s 255 s 3 are
8 each reenacted and amended to read as follows:

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

11 (2) A first-class city may have public works performed by
12 contract pursuant to public notice and call for competitive bids. As
13 limited by subsection ~~((3))~~ (4) of this section, a first-class city
14 may have public works performed by city employees ~~((in any annual or~~
15 ~~biennial budget period equal to a dollar value not exceeding 10~~
16 ~~percent of the public works construction budget, including any amount~~
17 ~~in a supplemental public works construction budget, over the budget~~
18 ~~period. The amount of public works that a first-class city has a~~
19 ~~county perform for it under RCW 35.77.020 shall be included within~~
20 ~~this 10 percent limitation.~~

21 ~~If a first-class city has public works performed by public~~
22 ~~employees in any budget period that are in excess of this 10 percent~~
23 ~~limitation, the amount in excess of the permitted amount shall be~~
24 ~~reduced from the otherwise permitted amount of public works that may~~
25 ~~be performed by public employees for that city in its next budget~~
26 ~~period. Twenty percent of the motor vehicle fuel tax distributions to~~
27 ~~that city shall be withheld if two years after the year in which the~~
28 ~~excess amount of work occurred, the city has failed to so reduce the~~
29 ~~amount of public works that it has performed by public employees. The~~
30 ~~amount so withheld shall be distributed to the city when it has~~
31 ~~demonstrated in its reports to the state auditor that the amount of~~
32 ~~public works it has performed by public employees has been so~~
33 ~~reduced.~~

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

1 ~~The state auditor shall report to the state treasurer any~~
2 ~~first-class city that exceeds this amount and the extent to which the~~
3 ~~city has or has not reduced the amount of public works it has~~
4 ~~performed by public employees in subsequent years).~~

5 (3) In addition to the percentage limitation provided in
6 subsection ~~((2))~~ (4) of this section, a first-class city shall not
7 have public employees perform a public works project in excess of
8 \$150,000 if more than a single craft or trade is involved with the
9 public works project, or a public works project in excess of \$75,500
10 if only a single craft or trade is involved with the public works
11 project or the public works project is street signalization or street
12 lighting. A public works project means a complete project. The
13 restrictions in this subsection do not permit the division of the
14 project into units of work or classes of work to avoid the
15 restriction on work that may be performed by day labor on a single
16 project. ~~((However, a first-class city may have its own regularly~~
17 ~~employed personnel perform work which is an accepted industry~~
18 ~~practice under prudent utility management without a contract. For~~
19 ~~purposes of this section, "prudent utility management" means~~
20 ~~performing work with regularly employed personnel utilizing material~~
21 ~~of a worth not exceeding \$300,000 in value without a contract. This~~
22 ~~limit on the value of material being utilized in work being performed~~
23 ~~by regularly employed personnel shall not include the value of~~
24 ~~individual items of equipment. For purposes of this section, the term~~
25 ~~"equipment" includes, but is not limited to, conductor, cabling,~~
26 ~~wire, pipe, or lines used for electrical, water, fiber optic, or~~
27 ~~telecommunications.))~~

28 (4) ~~((In addition to the accounting and recordkeeping~~
29 ~~requirements contained in RCW 39.04.070, every first-class city~~
30 ~~annually may prepare a report for the state auditor indicating the~~
31 ~~total public works construction budget and supplemental public works~~
32 ~~construction budget for that year, the total construction costs of~~
33 ~~public works performed by public employees for that year, and the~~
34 ~~amount of public works that is performed by public employees above or~~
35 ~~below 10 percent of the total construction budget. However, if a city~~
36 ~~budgets on a biennial basis, this annual report may indicate the~~
37 ~~amount of public works that is performed by public employees within~~
38 ~~the current biennial period that is above or below 10 percent of the~~
39 ~~total biennial construction budget.))~~ (a) First-class cities may
40 address exigent public works needs through the use of its own

1 regularly employed in-house personnel up to a project cost of
2 \$300,000. Project costs must include all labor, materials, supplies,
3 and equipment. A project may not be divided into units or classes of
4 work in order to avoid this restriction. A declaration of exigent
5 public works circumstances may be established by an action of the
6 governing body of the city, or pursuant to written policies and
7 procedures adopted by the city. Whenever a first-class city
8 determines there is an exigency, it must document the factual basis
9 for the decision, and must make this documentation open to public
10 inspection within two weeks of the beginning of the project.

11 (b) The amount of exigent public works needs addressed through
12 the use of the city's own regularly employed in-house personnel is
13 limited to a dollar value not exceeding 10 percent of the public
14 works construction budget over the city's annual or biannual budget
15 period. The amount of public works that a first-class city has a
16 county perform for it under RCW 35.77.020 must be included within
17 this 10 percent limitation. If a first-class city has public works
18 performed by public employees in any budget period that are in excess
19 of this 10 percent limitation, the amount in excess of the permitted
20 amount is reduced from the otherwise permitted amount of public works
21 that may be performed by public employees for that city in its next
22 budget period. The state auditor shall report to the state treasurer
23 any first-class city that exceeds this amount and the extent to which
24 the city has or has not reduced the amount of public works it has
25 performed by public employees in subsequent years.

26 (c) In addition to the accounting and recordkeeping requirements
27 contained in RCW 39.04.070, every first-class city must annually
28 prepare a report subject to review by the state auditor indicating
29 the total public works construction budget and supplemental public
30 works construction budget for that year, the total construction costs
31 of public works performed by public employees for that year, and the
32 amount of public works that is performed by public employees above or
33 below 10 percent of the total construction budget. However, if a
34 first-class city budgets on a biennial basis, this annual report may
35 indicate the amount of public works that is performed by public
36 employees within the current biennial period that is above or below
37 10 percent of the total biennial construction budget.

38 (d) Whenever a first-class city has had public works performed in
39 any budget period up to the maximum permitted amount for that budget
40 period, all remaining public works within that budget period must be

1 done by contract pursuant to public notice and call for competitive
2 bids.

3 (e) Each first-class city with a population of 150,000 or less
4 shall use the form required by RCW 43.09.205 to account and record
5 costs of public works in excess of \$5,000 that are not let by
6 contract.

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

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

16 (7) In lieu of the procedures of subsections (2) and (6) of this
17 section, a first-class city may let contracts using the small works
18 roster process in RCW 39.04.151 through 39.04.154.

19 Whenever possible, the city shall invite at least one proposal
20 from a certified minority or woman contractor who shall otherwise
21 qualify under this section.

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

25 (9) This section does not apply to performance-based contracts,
26 as defined in RCW 39.35A.020(6), that are negotiated under chapter
27 39.35A RCW.

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

31 (11)(a) Any first-class city may procure public works with a unit
32 priced contract under this section for the purpose of completing
33 anticipated types of work based on hourly rates or unit pricing for
34 one or more categories of work or trades.

35 (b) For the purposes of this section, "unit priced contract"
36 means a competitively bid contract in which public works are
37 anticipated on a recurring basis to meet the business or operational
38 needs of the city, under which the contractor agrees to a fixed
39 period indefinite quantity delivery of work, at a defined unit price
40 for each category of work.

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

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

15 (e) Unit price contractors shall pay prevailing wages for all
16 work that would otherwise be subject to the requirements of chapter
17 39.12 RCW. Prevailing wages for all work performed pursuant to each
18 work order must be the prevailing wage rates in effect at the
19 beginning date for each contract year. Unit priced contracts must
20 have prevailing wage rates updated annually. Intents and affidavits
21 for prevailing wages paid must be submitted annually for all work
22 completed within the previous 12-month period of the unit priced
23 contract.

24 (12) For the purposes of this section((7)):

25 (a) "((lowest)) Lowest responsible bidder" means a bid that meets
26 the criteria under RCW 39.04.350 and has the lowest bid; ~~((provided,~~
27 ~~that if the city issues a written finding that the lowest bidder has~~
28 ~~delivered a project to the city within the last three years which was~~
29 ~~late, over budget, or did not meet specifications, and the city does~~
30 ~~not find in writing that such bidder has shown how they would improve~~
31 ~~performance to be likely to meet project specifications then the city~~
32 ~~may choose the second lowest bidder whose bid is within five percent~~
33 ~~of the lowest bid and meets the same criteria as the lowest bidder))~~
34 and

35 (b) "Exigent public works needs" means those situations that
36 arise as a result of unforeseen circumstances and that result in the
37 compromise of the proper performance of essential government
38 functions, a need for action to prevent or alleviate serious impacts,
39 financial or otherwise, and in which the use of a competitive

1 procurement process would prevent the urgent action required to
2 address the situation.

3 **Sec. 4.** RCW 57.08.050 and 2023 c 395 s 33 and 2023 c 255 s 4 are
4 each reenacted and amended to read as follows:

5 (1) All work ordered, the estimated cost of which is in excess of
6 \$150,000 if more than a single craft or trade is involved with the
7 public works project, or a public works project in excess of \$75,500
8 if only a single craft or trade is involved with the public works
9 project, shall be let by contract and competitive bidding. Before
10 awarding any such contract the board of commissioners shall publish a
11 notice in a newspaper of general circulation where the district is
12 located at least once 13 days before the last date upon which bids
13 will be received, inviting sealed proposals for such work, plans and
14 specifications which must at the time of publication of such notice
15 be on file in the office of the board of commissioners subject to the
16 public inspection. The notice shall state generally the work to be
17 done and shall call for proposals for doing the same to be sealed and
18 filed with the board of commissioners on or before the day and hour
19 named therein.

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

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

16 (2) As an alternative to requirements under subsection (1) of
17 this section, a water-sewer district may let contracts using the
18 small works roster process under RCW 39.04.151 through 39.04.154.

19 (3) Any purchase of materials, supplies, or equipment, with an
20 estimated cost in excess of \$40,000, shall be by contract. Any
21 purchase of materials, supplies, or equipment, with an estimated cost
22 of less than \$50,000 shall be made using the process provided in RCW
23 39.04.190. Any purchase of materials, supplies, or equipment with an
24 estimated cost of \$50,000 or more shall be made by competitive
25 bidding following the procedure for letting contracts for projects
26 under subsection (1) of this section.

27 (4) As an alternative to requirements under subsection (3) of
28 this section, a water-sewer district may let contracts for purchase
29 of materials, supplies, or equipment with the suppliers designated on
30 current state agency, county, city, or town purchasing rosters for
31 the materials, supplies, or equipment, when the roster has been
32 established in accordance with the competitive bidding law for
33 purchases applicable to the state agency, county, city, or town. The
34 price and terms for purchases shall be as described on the applicable
35 roster.

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

39 (6) (a) A district may procure public works with a unit priced
40 contract under this section for the purpose of completing anticipated

1 types of work based on hourly rates or unit pricing for one or more
2 categories of work or trades.

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

9 (c) Unit priced contracts must be executed for an initial
10 contract term not to exceed one year, with the district having the
11 option of extending or renewing the unit priced contract for one
12 additional year.

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

23 (e) Unit price contractors shall pay prevailing wages for all
24 work that would otherwise be subject to the requirements of chapter
25 39.12 RCW. Prevailing wages for all work performed pursuant to each
26 work order must be the prevailing wage rates in effect at the
27 beginning date for each contract year. Unit priced contracts must
28 have prevailing wage rates updated annually. Intents and affidavits
29 for prevailing wages paid must be submitted annually for all work
30 completed within the previous 12-month period of the unit priced
31 contract.

32 (7) (a) ~~A water-sewer district may ((have its own regularly~~
33 ~~employed personnel perform work which is an accepted industry~~
34 ~~practice under prudent utility management without a contract. For~~
35 ~~purposes of this section, "prudent utility management" means~~
36 ~~performing work with regularly employed personnel utilizing material~~
37 ~~of a worth not exceeding \$300,000 in value without a contract. This~~
38 ~~limit on the value of material being utilized in work being performed~~
39 ~~by regularly employed personnel shall not include the value of~~
40 ~~individual items of equipment. For the purposes of this section, the~~

1 ~~term "equipment" includes but is not limited to conductor, cabling,~~
2 ~~wire, pipe, or lines used for electrical, water, fiber optic, or~~
3 ~~telecommunications.)~~ address exigent public works needs through the
4 use of its own regularly employed in-house personnel up to a project
5 cost of \$300,000. Project costs must include all labor, materials,
6 supplies, and equipment. A project may not be divided into units or
7 classes of work in order to avoid this restriction.

8 (b) The amount of exigent public works needs addressed through
9 the use of the water-sewer's own regularly employed in-house
10 personnel is limited to a dollar value not exceeding 10 percent of
11 the public works construction budget over the district's budget
12 period. If a water-sewer district has public works performed by
13 public employees in any budget period that are in excess of this 10
14 percent limitation, the amount in excess of the permitted amount must
15 be reduced from the otherwise permitted amount of public works that
16 may be performed by public employees for that district in its next
17 budget period. The state auditor shall report to the state treasurer
18 any water-sewer district that exceeds this amount and the extent to
19 which the water-sewer district has or has not reduced the amount of
20 public works it has performed by public employees in subsequent
21 years.

22 (c) In addition to the accounting and recordkeeping requirements
23 contained in RCW 39.04.070, every water-sewer district must annually
24 prepare a report subject to review by the state auditor indicating
25 the total public works construction budget and supplemental public
26 works construction budget for that year, the total construction costs
27 of public works performed by public employees for that year, and the
28 amount of public works that is performed by public employees above or
29 below 10 percent of the total construction budget. However, if a
30 water-sewer district budgets on a biennial basis, this annual report
31 may indicate the amount of public works that is performed by public
32 employees within the current biennial period that is above or below
33 10 percent of the total biennial construction budget.

34 (d) Each water-sewer district shall use the form required by RCW
35 43.09.205 to account and record costs of public works in excess of
36 \$5,000 that are not let by contract.

37 (8) For the purposes of this section((7)):

38 (a) "~~(lowest)~~ Lowest responsible bidder" means a bid that meets
39 the criteria under RCW 39.04.350 and has the lowest bid; (~~provided,~~
40 that if the district issues a written finding that the lowest bidder

1 ~~has delivered a project to the district within the last three years~~
2 ~~which was late, over budget, or did not meet specifications, and the~~
3 ~~district does not find in writing that such bidder has shown how they~~
4 ~~would improve performance to be likely to meet project specifications~~
5 ~~then the district may choose the second lowest bidder whose bid is~~
6 ~~within five percent of the lowest bid and meets the same criteria as~~
7 ~~the lowest bidder)) and~~

8 (b) "Exigent public works needs" means those situations that
9 arise as a result of unforeseen circumstances and that result in the
10 compromise of the proper performance of essential government
11 functions, a need for action to prevent or alleviate serious impacts,
12 financial or otherwise, and in which the use of a competitive
13 procurement process would prevent the urgent action required to
14 address the situation.

15 **Sec. 5.** RCW 52.14.110 and 2023 c 395 s 30 and 2023 c 255 s 5 are
16 each reenacted and amended to read as follows:

17 (1) Insofar as practicable, purchases and any public works by the
18 district shall be based on competitive bids. A formal sealed bid
19 procedure shall be used as standard procedure for purchases and
20 contracts for purchases executed by the board of commissioners.
21 Formal sealed bidding shall not be required for:

22 (a) The purchase of any materials, supplies, or equipment if the
23 cost will not exceed the sum of \$75,500. However, whenever the
24 estimated cost does not exceed \$150,000, the commissioners may by
25 resolution use the process provided in RCW 39.04.190 to award
26 contracts;

27 (b) Contracting for work to be done involving the construction or
28 improvement of a fire station or other buildings where the estimated
29 cost will not exceed the sum of \$150,000 if more than a single craft
30 or trade is involved with the public works project, or a public works
31 project in excess of \$75,500 if only a single craft or trade is
32 involved with the public works project;

33 (c) Contracts using the small works roster process under RCW
34 39.04.151 through 39.04.154; and

35 (d) Any contract for purchases or public work pursuant to RCW
36 39.04.280 if an exemption contained within that section applies to
37 the purchase or public work.

38 (2) (a) ~~A fire protection district may ((have its own regularly~~
39 ~~employed personnel perform work which is an accepted industry~~

1 ~~practice under prudent utility management without a contract. For~~
2 ~~purposes of this section, "prudent utility management" means~~
3 ~~performing work with regularly employed personnel utilizing material~~
4 ~~of a worth not exceeding \$300,000 in value without a contract. This~~
5 ~~limit on the value of material being utilized in work being performed~~
6 ~~by regularly employed personnel shall not include the value of~~
7 ~~individual items of equipment. For the purposes of this section, the~~
8 ~~term "equipment" includes but is not limited to conductor, cabling,~~
9 ~~wire, pipe, or lines used for electrical, water, fiber optic, or~~
10 ~~telecommunications.)~~ address exigent public works needs through the
11 use of its own regularly employed in-house personnel up to a project
12 cost of \$300,000. Project costs must include all labor, materials,
13 supplies, and equipment. A project may not be divided into units or
14 classes of work in order to avoid this restriction. A declaration of
15 exigent public works circumstances may be established by an action of
16 the governing body of the district, or pursuant to written policies
17 and procedures adopted by the district. Whenever a fire protection
18 district determines there is an exigency, it must document the
19 factual basis for the decision, and must make this documentation open
20 to public inspection within two weeks of the beginning of the
21 project.

22 (b) The amount of exigent public works needs addressed through
23 the use of the district's own regularly employed in-house personnel
24 is limited to a dollar value not exceeding 10 percent of the public
25 works construction budget over the district's annual or biannual
26 budget period, including any amount in a supplemental public works
27 construction budget. If a district city has public works performed by
28 public employees in any budget period that are in excess of this 10
29 percent limitation, the amount in excess of the permitted amount is
30 reduced from the otherwise permitted amount of public works that may
31 be performed by public employees for the district in its next budget
32 period. The state auditor shall report to the state treasurer any
33 district that exceeds this amount and the extent to which the
34 district has or has not reduced the amount of public works it has
35 performed by public employees in subsequent years.

36 (c) In addition to the accounting and recordkeeping requirements
37 contained in RCW 39.04.070, every fire protection district must
38 annually prepare a report subject to review by the state auditor
39 indicating the total public works construction budget and
40 supplemental public works construction budget for that year, the

1 total construction costs of public works performed by public
2 employees for that year, and the amount of public works that is
3 performed by public employees above or below 10 percent of the total
4 construction budget. However, if a district budgets on a biennial
5 basis, this annual report may indicate the amount of public works
6 that is performed by public employees within the current biennial
7 period that is above or below 10 percent of the total biennial
8 construction budget.

9 (d) Each fire protection district shall use the form required by
10 RCW 43.09.205 to account and record costs of public works in excess
11 of \$5,000 that are not let by contract.

12 (3) For the purposes of this section((7)):

13 (a) "~~(lowest)~~ Lowest responsible bidder" means a bid that meets
14 the criteria under RCW 39.04.350 and has the lowest bid; (~~provided,~~
15 ~~that if the district issues a written finding that the lowest bidder~~
16 ~~has delivered a project to the district within the last three years~~
17 ~~which was late, over budget, or did not meet specifications, and the~~
18 ~~district does not find in writing that such bidder has shown how they~~
19 ~~would improve performance to be likely to meet project specifications~~
20 ~~then the district may choose the second lowest bidder whose bid is~~
21 ~~within five percent of the lowest bid and meets the same criteria as~~
22 ~~the lowest bidder)~~ and

23 (b) "Exigent public works needs" means those situations that
24 arise as a result of unforeseen circumstances and that result in the
25 compromise of the proper performance of essential government
26 functions, a need for action to prevent or alleviate serious impacts,
27 financial or otherwise, and in which the use of a competitive
28 procurement process would prevent the urgent action required to
29 address the situation.

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