

RCW 53.08.120 Contracts for labor and material—Small works

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

(2) (a) All such contracts for work meeting the definition of "public work" in RCW 39.04.010 shall be awarded using a competitive bid process. The contract must be awarded at public bidding upon notice published in a newspaper of general circulation in the district at least 13 days before the last date upon which bids will be received, calling for bids upon the work, plans and specifications for which shall then be on file in the office of the commission for public inspection. The same notice may call for bids on such work or material based upon plans and specifications submitted by the bidder. The competitive bidding requirements for purchases or public works may be waived pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

(b) (i) For all contracts related to work meeting the definition of "public work" in RCW 39.04.010:

(A) Until July 1, 2024, a port district may let contracts using the small works roster process under *RCW 39.04.155 in lieu of advertising for bids.

(B) Beginning July 1, 2024, a port district may let contracts using the small works roster process under RCW 39.04.151 through 39.04.154 in lieu of advertising for bids.

(ii) Whenever possible, the managing official shall invite at least one proposal from a minority contractor who shall otherwise qualify under this section.

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

(c) Any port district may construct any public work, as defined in RCW 39.04.010, by contract without calling for bids whenever the estimated cost of the work or improvement, including cost of materials, supplies, and equipment, will not exceed the sum of \$40,000. A "public works project" means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid calling for bids. The port district managing official shall make his or her best effort to reach out to qualified contractors, including certified minority and woman-owned contractors.

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

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

(c) Unit priced contracts must be executed for an initial contract term not to exceed three years, with the port district having

the option of extending or renewing the unit priced contract for one additional year.

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

(e) Unit priced contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts shall have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid shall be submitted annually for all work completed within the previous 12-month period of the unit priced contract. [2023 c 395 s 31; 2018 c 149 s 2; 2009 c 74 s 2; 2008 c 130 s 1; 2000 c 138 s 210; 1999 c 29 s 1; 1998 c 278 s 6; 1993 c 198 s 13; 1988 c 235 s 1; 1982 c 92 s 1; 1975 1st ex.s. c 47 s 1; 1955 c 348 s 2. Prior: 1921 c 179 s 1, part; 1911 c 92 s 5, part; RRS s 9693, part.]

***Reviser's note:** RCW 39.04.155 was repealed by 2023 c 395 s 37, effective July 1, 2024.

Effective date—2023 c 395 ss 31 and 35: "Sections 31 and 35 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2023." [2023 c 395 s 40.]

Findings—Intent—2023 c 395: See note following RCW 39.04.010.

Findings—2018 c 149: "(1) The legislature finds that unit priced contracting is a decades old, proven practice used at ports for competitively bid maintenance and repair work that is common but unpredictable in its timing and scope. Unit priced contracting is an efficient mechanism to maintain essential services to port customers, often on short notice or in emergency situations.

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

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

(4) The legislature also finds that flexibility for small projects produces a more efficient process." [2018 c 149 s 1.]

Purpose—Part headings not law—2000 c 138: See notes following RCW 39.04.010.

Severability—1955 c 348: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1955 c 348 s 7.]