

RCW 87.03.435 Construction work—Notice—Bids—Contracts—Bonds.

(1) Except as provided in subsections (2) and (3) of this section and RCW 87.03.436, whenever in the construction of the district canal or canals, or other works, or the furnishing of materials therefor, the board of directors shall determine to let a contract or contracts for the doing of the work or the furnishing of the materials, a notice calling for sealed proposals shall be published. The notice shall be published in a newspaper in the county in which the office of the board is situated, in any other newspaper which may be designated by the board, and on the irrigation district's website or on the county's website where the district is located if the district does not have a website, and for such length of time, not less than once each week for two weeks, as may be fixed by the board. At the time and place appointed in the notice for the opening of bids, the sealed proposals shall be opened in public, and as soon as convenient thereafter, the board shall let the work or the contract for the purchase of materials, either in portions or as a whole, to the lowest responsible bidder, or the board may reject any or all bids and readvertise, or may contract using the small works roster process in *RCW 39.04.155 or if no bid is received on the first call the board may readvertise and make a second call or shall solicit electronic or written quotations from a minimum of three qualified contractors and shall award the contract to the lowest responsible bidder. After an award is made, the quotations shall be open to public inspection and available by electronic request. The district shall attempt to distribute opportunities for projects equitably among contractors willing to perform in the geographic area of the work. The district shall maintain a list of contractors contacted and the contracts awarded during the previous twenty-four months. The district also may proceed to construct the work under its own superintendence. All work shall be done under the direction and to the satisfaction of the engineer of the district, and be approved by the board. The board of directors may require bidders submitting bids for the construction or maintenance for any of the works of the district, or for the furnishing of labor or material, to accompany their bids by a deposit in cash, certified check, cashier's check, or surety bond in an amount equal to five percent of the amount of the bid and a bid shall not be considered unless the deposit is enclosed with it. If the contract is let, then all the bid deposits shall be returned to the unsuccessful bidders. The bid deposit of the successful bidder shall be retained until a contract is entered into for the purchase of the materials or doing of such work, and a bond given to the district in accordance with chapter 39.08 RCW for the performance of the contract. The performance bond shall be conditioned as may be required by law and as may be required by resolution of the board, with good and sufficient sureties satisfactory to the board, payable to the district for its use, for at least twenty-five percent of the contract price. If the successful bidder fails to enter into a contract and furnish the necessary bond within twenty days from the award, exclusive of the day of the award, the bid deposit shall be forfeited to the district and the contract may then be awarded to the second lowest bidder.

(2) The provisions of this section in regard to public bidding shall not apply in cases where the board is authorized to exchange bonds of the district in payment for labor and material.

(3) The provisions of this section do not apply:

(a) In the case of any contract between the district and the United States;

(b) In the case of an emergency when the public interest or property of the district would suffer material injury or damage by delay, upon resolution of the board of directors or proclamation of an official designated by the board to act for the board during such emergencies. The resolution or proclamation shall declare the existence of the emergency and recite the facts constituting the emergency; or

(c) To purchases which are clearly and legitimately limited to a single source of supply or to purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation. [2019 c 462 s 2; 1997 c 354 s 3; 1990 c 39 s 1; 1984 c 168 s 3; 1915 c 179 s 17; 1913 c 165 s 18; 1895 c 165 s 21; 1889-90 p 689 s 35; RRS s 7452. Formerly RCW 87.08.020.]

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

Official paper for publication: RCW 87.03.020.

Public contracts—Contractor's bond: Chapter 39.08 RCW.