
SENATE BILL 5533

State of Washington

55th Legislature

1997 Regular Session

By Senators Haugen and Jacobsen

Read first time 01/30/97. Referred to Committee on Government Operations.

1 AN ACT Relating to revising certain competitive bid dollar amounts
2 to account for inflation; and amending RCW 35.22.620 and 35.23.352.

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

4 **Sec. 1.** RCW 35.22.620 and 1993 c 198 s 9 are each amended to read
5 as follows:

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

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

18 If a first class city has public works performed by public
19 employees in any budget period that are in excess of this ten percent

1 limitation, the amount in excess of the permitted amount shall be
2 reduced from the otherwise permitted amount of public works that may be
3 performed by public employees for that city in its next budget period.
4 Twenty percent of the motor vehicle fuel tax distributions to that city
5 shall be withheld if two years after the year in which the excess
6 amount of work occurred, the city has failed to so reduce the amount of
7 public works that it has performed by public employees. The amount so
8 withheld shall be distributed to the city when it has demonstrated in
9 its reports to the state auditor that the amount of public works it has
10 performed by public employees has been so reduced.

11 Whenever a first class city has had public works performed in any
12 budget period up to the maximum permitted amount for that budget
13 period, all remaining public works within that budget period shall be
14 done by contract pursuant to public notice and call for competitive
15 bids.

16 The state auditor shall report to the state treasurer any first
17 class city that exceeds this amount and the extent to which the city
18 has or has not reduced the amount of public works it has performed by
19 public employees in subsequent years.

20 (3) In addition to the percentage limitation provided in subsection
21 (2) of this section, a first class city with a population in excess of
22 one hundred fifty thousand shall not have public employees perform a
23 public works project in excess of (~~(fifty)~~) sixty thousand dollars if
24 more than a single craft or trade is involved with the public works
25 project, or a public works project in excess of (~~(twenty-five)~~) thirty
26 thousand dollars if only a single craft or trade is involved with the
27 public works project or the public works project is street
28 signalization or street lighting. In addition to the percentage
29 limitation provided in subsection (2) of this section, a first class
30 city with a population of one hundred fifty thousand or less shall not
31 have public employees perform a public works project in excess of
32 (~~(thirty-five)~~) forty thousand dollars if more than one craft or trade
33 is involved with the public works project, or a public works project in
34 excess of (~~(twenty)~~) twenty-five thousand dollars if only a single
35 craft or trade is involved with the public works project or the public
36 works project is street signalization or street lighting. A public
37 works project means a complete project. The restrictions in this
38 subsection do not permit the division of the project into units of work

1 or classes of work to avoid the restriction on work that may be
2 performed by day labor on a single project.

3 (4) In addition to the accounting and record-keeping requirements
4 contained in RCW 39.04.070, every first class city annually shall
5 prepare a report for the state auditor indicating the total public
6 works construction budget and supplemental public works construction
7 budget for that year, the total construction costs of public works
8 performed by public employees for that year, and the amount of public
9 works that is performed by public employees above or below ten percent
10 of the total construction budget. However, if a city budgets on a
11 biennial basis, this annual report shall indicate the amount of public
12 works that is performed by public employees within the current biennial
13 period that is above or below ten percent of the total biennial
14 construction budget.

15 After September 1, 1987, each first class city with a population of
16 one hundred fifty thousand or less shall use the form required by RCW
17 43.09.205 to account and record costs of public works in excess of five
18 thousand dollars that are not let by contract.

19 (5) The cost of a separate public works project shall be the costs
20 of materials, supplies, equipment, and labor on the construction of
21 that project. The value of the public works budget shall be the value
22 of all the separate public works projects within the budget.

23 (6) When any emergency shall require the immediate execution of
24 such public work, upon the finding of the existence of such emergency
25 by the authority having power to direct such public work to be done and
26 duly entered of record, publication of description and estimate may be
27 made within seven days after the commencement of the work. Within two
28 weeks of the finding that such an emergency existed, the city council
29 shall adopt a resolution certifying the existence of this emergency
30 situation.

31 (7) In lieu of the procedures of subsections (2) and (6) of this
32 section, a first class city may use a small works roster process and
33 award contracts for public works projects with an estimated value of
34 one hundred thousand dollars or less as provided in RCW 39.04.155.

35 Whenever possible, the city shall invite at least one proposal from
36 a minority or woman contractor who shall otherwise qualify under this
37 section.

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

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

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

7 (11) Beginning on July 1, 1999, and on July 1st of each succeeding
8 odd-numbered year, the dollar limits specified in subsection (3) of
9 this section shall be adjusted as follows: The office of financial
10 management shall calculate such limits by adjusting the previous
11 biennium's limits by the appropriate federal inflationary index
12 reflecting the rate of inflation for the previous biennium. Such
13 amounts shall be rounded to the nearest one hundred dollars.

14 **Sec. 2.** RCW 35.23.352 and 1996 c 18 s 2 are each amended to read
15 as follows:

16 (1) Any second class city or any town may construct any public
17 works, as defined in RCW 39.04.010, by contract or day labor without
18 calling for bids therefor whenever the estimated cost of the work or
19 improvement, including cost of materials, supplies, and equipment will
20 not exceed the sum of (~~thirty~~) thirty-five thousand dollars if more
21 than one craft or trade is involved with the public works, or
22 (~~twenty~~) twenty-five thousand dollars if a single craft or trade is
23 involved with the public works or the public works project is street
24 signalization or street lighting. A public works project means a
25 complete project. The restrictions in this subsection do not permit
26 the division of the project into units of work or classes of work to
27 avoid the restriction on work that may be performed by day labor on a
28 single project.

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

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

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

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

27 (2) The allocation of public works projects to be performed by city
28 or town employees shall not be subject to a collective bargaining
29 agreement.

30 (3) In lieu of the procedures of subsection (1) of this section, a
31 second class city or a town may use the small works roster process
32 provided in RCW 39.04.155 to award public works contracts with an
33 estimated value of one hundred thousand dollars or less.

34 Whenever possible, the city or town shall invite at least one
35 proposal from a minority or woman contractor who shall otherwise
36 qualify under this section.

37 (4) The form required by RCW 43.09.205 shall be to account and
38 record costs of public works in excess of five thousand dollars that
39 are not let by contract.

1 (5) The cost of a separate public works project shall be the costs
2 of the materials, equipment, supplies, and labor on that construction
3 project.

4 (6) Any purchase of supplies, material, or equipment, except for
5 public work or improvement, where the cost thereof exceeds seven
6 thousand five hundred dollars shall be made upon call for bids.

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

12 (8) For advertisement and formal sealed bidding to be dispensed
13 with as to purchases between seven thousand five hundred and fifteen
14 thousand dollars, the council or commission must authorize by
15 resolution, use of the uniform procedure provided in RCW 39.04.190.

16 (9) These requirements for purchasing may be waived by resolution
17 of the city or town council or commission which declared that the
18 purchase is clearly and legitimately limited to a single source or
19 supply within the near vicinity, or the materials, supplies, equipment,
20 or services are subject to special market conditions, and recites why
21 this situation exists. Such actions are subject to RCW 39.30.020.

22 (10) This section does not apply to performance-based contracts, as
23 defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A
24 RCW.

25 (11) Nothing in this section shall prohibit any second class city
26 or any town from allowing for preferential purchase of products made
27 from recycled materials or products that may be recycled or reused.

28 (12) Beginning on July 1, 1999, and on July 1st of each succeeding
29 odd-numbered year, the dollar limits specified in subsection (1) of
30 this section shall be adjusted as follows: The office of financial
31 management shall calculate such limits by adjusting the previous
32 biennium's limits by the appropriate federal inflationary index
33 reflecting the rate of inflation for the previous biennium. Such
34 amounts shall be rounded to the nearest one hundred dollars.

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