
ENGROSSED SUBSTITUTE SENATE BILL 6072

State of Washington

65th Legislature

2018 Regular Session

By Senate Local Government (originally sponsored by Senators Takko, Chase, and Short)

READ FIRST TIME 01/12/18.

1 AN ACT Relating to clarifying the authority and procedures for
2 unit priced contracting by public port districts; amending RCW
3 53.08.120; and 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 **Sec. 2.** RCW 53.08.120 and 2009 c 74 s 2 are each amended to read
20 as follows:

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

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

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

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

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

36 (b) For the purposes of this section, unit priced contract means
37 a competitively bid contract in which public works are anticipated on
38 a recurring basis to meet the business or operational needs of a port
39 district, under which the contractor agrees to a fixed period

1 indefinite quantity delivery of work, at a defined unit price, for
2 each category of work.

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

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

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

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