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**SENATE BILL 5268**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators Hasegawa, Warnick, Hunt, Keiser, Kuderer, Nguyen, Nobles, Saldaña, Valdez, Wagoner, and C. Wilson

Read first time 01/11/23. Referred to Committee on State Government & Elections.

1 AN ACT Relating to equity and efficiencies in public works  
2 procurement including modifying small works roster requirements;  
3 amending RCW 39.04.010, 39.19.030, 39.10.200, 39.10.210, 39.10.220,  
4 39.10.230, 39.10.240, 39.10.330, 39.10.360, 39.10.380, 39.10.385,  
5 39.10.908, 28A.335.190, 28B.10.350, 28B.50.330, 35.22.620, 35.23.352,  
6 35.61.135, 35.82.076, 36.32.235, 36.32.250, 36.77.075, 39.04.200,  
7 39.04.380, 39.12.040, 52.14.110, 53.08.120, 54.04.070, 57.08.050,  
8 70.44.140, 87.03.436, and 43.131.408; adding new sections to chapter  
9 39.04 RCW; creating a new section; repealing RCW 39.04.155 and  
10 39.04.156; providing effective dates; and declaring an emergency.

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

12 NEW SECTION. **Sec. 1.** The legislature finds the need to increase  
13 equity and efficiencies in public works procurement. The legislature  
14 further finds that small, minority, women, and veteran-owned  
15 businesses are essential to a robust and high-functioning economy,  
16 which provides high quality living wage jobs throughout the state.  
17 The legislature further finds that public works contracting agencies  
18 need a streamlined and effective method for delivering small public  
19 works projects while protecting worker rights. Therefore, the  
20 legislature intends to provide a small business definition, best  
21 practices to be included in inclusion plans, and to update and revise

1 the small and limited works roster process to increase administrative  
2 efficiency, to encourage greater participation and utilization by  
3 women, minority, and veteran-owned businesses and small business  
4 entities, and continue to protect the rights of workers engaging in  
5 public works projects.

6 **Sec. 2.** RCW 39.04.010 and 2008 c 130 s 16 are each amended to  
7 read as follows:

8 The definitions in this section apply throughout this chapter  
9 unless the context clearly requires otherwise.

10 (1) "Authorized local government" means a political subdivision  
11 of the state, school district, or special purpose district with  
12 public works authority.

13 (2) "Award" means the formal decision by the state or  
14 municipality notifying a responsible bidder with the lowest  
15 responsive bid of the state's or municipality's acceptance of the bid  
16 and intent to enter into a contract with the bidder.

17 ~~((2))~~ (3) "Contract" means a contract in writing for the  
18 execution of public work for a fixed or determinable amount duly  
19 awarded after advertisement and competitive bid, or a contract  
20 awarded under the small works roster process in ~~((RCW 39.04.155))~~  
21 sections 14 through 16 of this act.

22 ~~((3))~~ (4) "Municipality" means every city, county, town, port  
23 district, district, or other public agency authorized by law to  
24 require the execution of public work, except drainage districts,  
25 diking districts, diking and drainage improvement districts, drainage  
26 improvement districts, diking improvement districts, consolidated  
27 diking and drainage improvement districts, consolidated drainage  
28 improvement districts, consolidated diking improvement districts,  
29 irrigation districts, or other districts authorized by law for the  
30 reclamation or development of waste or undeveloped lands.

31 ~~((4))~~ (5) "Public work" means all work, construction,  
32 alteration, repair, or improvement other than ordinary maintenance,  
33 executed at the cost of the state or of any municipality, or which is  
34 by law a lien or charge on any property therein. All public works,  
35 including maintenance when performed by contract shall comply with  
36 chapter 39.12 RCW. "Public work" does not include work, construction,  
37 alteration, repair, or improvement performed under contracts entered  
38 into under RCW 36.102.060(4) or under development agreements entered

1 into under RCW 36.102.060(7) or leases entered into under RCW  
2 36.102.060(8).

3 ~~((5))~~ (6) "Responsible bidder" means a contractor who meets the  
4 criteria in RCW 39.04.350.

5 ~~((6))~~ (7) "Small business" means a business meeting  
6 certification criteria for size, ownership, control, and personal net  
7 worth adopted by the office of minority and women's business  
8 enterprises in accordance with RCW 39.19.030.

9 (8) "State" means the state of Washington and all departments,  
10 supervisors, commissioners, and agencies of the state.

11 (9) "State agency" means the department of enterprise services,  
12 the state parks and recreation commission, the department of natural  
13 resources, the department of fish and wildlife, the department of  
14 transportation, any institution of higher education as defined under  
15 RCW 28B.10.016, and any other state agency delegated authority by the  
16 department of enterprise services to engage in construction,  
17 building, renovation, remodeling, alteration, improvement, or repair  
18 activities.

19 **Sec. 3.** RCW 39.19.030 and 1996 c 69 s 5 are each amended to read  
20 as follows:

21 There is hereby created the office of minority and women's  
22 business enterprises. The governor shall appoint a director for the  
23 office, subject to confirmation by the senate. The director may  
24 employ a deputy director and a confidential secretary, both of which  
25 shall be exempt under chapter 41.06 RCW, and such staff as are  
26 necessary to carry out the purposes of this chapter.

27 The office shall consult with the minority and women's business  
28 enterprises advisory committee to:

29 (1) Develop, plan, and implement programs to provide an  
30 opportunity for participation by qualified minority and women-owned  
31 and controlled businesses in public works and the process by which  
32 goods and services are procured by state agencies and educational  
33 institutions from the private sector;

34 (2) Develop a comprehensive plan insuring that qualified minority  
35 and women-owned and controlled businesses are provided an opportunity  
36 to participate in public contracts for public works and goods and  
37 services;

1 (3) Identify barriers to equal participation by qualified  
2 minority and women-owned and controlled businesses in all state  
3 agency and educational institution contracts;

4 (4) Establish annual overall goals for participation by qualified  
5 minority and women-owned and controlled businesses for each state  
6 agency and educational institution to be administered on a contract-  
7 by-contract basis or on a class-of-contracts basis;

8 (5) Develop and maintain a central minority and women's business  
9 enterprise certification list for all state agencies and educational  
10 institutions. No business is entitled to certification under this  
11 chapter unless it meets the definition of small business concern as  
12 established by the office. All applications for certification under  
13 this chapter shall be sworn under oath;

14 (6) Develop, implement, and operate a system of monitoring  
15 compliance with this chapter;

16 (7) Adopt rules under chapter 34.05 RCW, the Administrative  
17 Procedure Act, governing: (a) Establishment of agency goals; (b)  
18 development and maintenance of a central minority and women's  
19 business enterprise certification program and a public works small  
20 business certification program, including a definition of "small  
21 business concern" which shall be consistent with the small business  
22 requirements defined under section 3 of the Small Business Act, 15  
23 U.S.C. Sec. 632, and its implementing regulations as guidance; (c)  
24 procedures for monitoring and enforcing compliance with goals,  
25 regulations, contract provisions, and this chapter; (d) utilization  
26 of standard clauses by state agencies and educational institutions,  
27 as specified in RCW 39.19.050; and (e) determination of an agency's  
28 or educational institution's goal attainment consistent with the  
29 limitations of RCW 39.19.075;

30 (8) Submit an annual report to the governor and the legislature  
31 outlining the progress in implementing this chapter;

32 (9) Investigate complaints of violations of this chapter with the  
33 assistance of the involved agency or educational institution; and

34 (10) Cooperate and act jointly or by division of labor with the  
35 United States or other states, and with political subdivisions of the  
36 state of Washington and their respective minority, socially and  
37 economically disadvantaged and women business enterprise programs to  
38 carry out the purposes of this chapter. However, the power which may  
39 be exercised by the office under this subsection permits  
40 investigation and imposition of sanctions only if the investigation

1 relates to a possible violation of chapter 39.19 RCW, and not to  
2 violation of local ordinances, rules, regulations, however  
3 denominated, adopted by political subdivisions of the state.

4 **Sec. 4.** RCW 39.10.200 and 2010 1st sp.s. c 21 s 2 are each  
5 amended to read as follows:

6 The legislature finds that the traditional process of awarding  
7 public works contracts in lump sum to the lowest responsible bidder  
8 is a fair and objective method of selecting a contractor. However,  
9 under certain circumstances, alternative public works contracting  
10 procedures may best serve the public interest if such procedures are  
11 implemented in an open and fair process based on objective and  
12 equitable criteria. In addition, alternative public works contracting  
13 can provide increased access to contracting opportunities for women,  
14 minority, and veteran-owned businesses and small business entities.  
15 The purpose of this chapter is to authorize the use of certain  
16 supplemental alternative public works contracting procedures, to  
17 prescribe appropriate requirements to ensure that such contracting  
18 procedures serve the public interest and advance contracting  
19 opportunities for women, minority, and veteran-owned businesses and  
20 small business entities to the extent permitted by law, and to  
21 establish a process for evaluation of such contracting procedures. It  
22 is the intent of the legislature to establish that, unless otherwise  
23 specifically provided for in law, public bodies may use only those  
24 alternative public works contracting procedures specifically  
25 authorized in this chapter, subject to the requirements of this  
26 chapter. It is also the intent of the legislature that inclusion  
27 plans required by this chapter may include, with public body approval  
28 and to the extent permitted by law, features to improve access to  
29 opportunities, including outreach and mentorship, capital including,  
30 modified payment provisions, training, and other features intended to  
31 maximize the participation and success of women, minority, and  
32 veteran-owned businesses and small business entities.

33 **Sec. 5.** RCW 39.10.210 and 2021 c 230 s 1 are each amended to  
34 read as follows:

35 Unless the context clearly requires otherwise, the definitions in  
36 this section apply throughout this chapter.

37 (1) "Alternative public works contracting procedure" means the  
38 design-build, general contractor/construction manager, and job order

1 contracting procedures authorized in RCW 39.10.300, 39.10.340, and  
2 39.10.420, respectively.

3 (2) "Board" means the capital projects advisory review board.

4 (3) "Budget contingencies" means contingencies established by a  
5 public body outside of the design-build or general contractor/  
6 construction manager contract for payment of project costs that are  
7 not the responsibility of the design-builder or general contractor/  
8 construction manager under the respective contract.

9 (4) "Certified public body" means a public body certified to use  
10 design-build or general contractor/construction manager contracting  
11 procedures, or both, under RCW 39.10.270.

12 (5) "Coefficient" means the job order contractor's competitively  
13 bid numerical factor applied to the public body's prices as published  
14 in the unit price book.

15 (6) "Committee," unless otherwise noted, means the project review  
16 committee.

17 (7) "Design-build procedure" means a contract between a public  
18 body and another party in which the party agrees to both design and  
19 build the facility, portion of the facility, or other item specified  
20 in the contract.

21 (~~(8)~~) (~~"Disadvantaged business enterprise" means any business~~  
22 ~~entity certified with the office of minority and women's business~~  
23 ~~enterprises under chapter 39.19 RCW.~~

24 (~~(9)~~) "General contractor/construction manager" means a firm with  
25 which a public body has selected to provide services during the  
26 design phase and negotiated a maximum allowable construction cost to  
27 act as construction manager and general contractor during the  
28 construction phase.

29 (~~(10)~~) (9) "Heavy civil construction project" means a civil  
30 engineering project, the predominant features of which are  
31 infrastructure improvements.

32 (~~(11)~~) (10) "Job order contract" means a contract in which the  
33 contractor agrees to a fixed period, indefinite quantity delivery  
34 order contract which provides for the use of work orders for public  
35 works as defined in RCW 39.04.010.

36 (~~(12)~~) (11) "Job order contractor" means a registered or  
37 licensed contractor awarded a job order contract.

38 (~~(13)~~) (12) "Maximum allowable construction cost" means the  
39 maximum cost of the work to construct the project including a

1 percentage for risk contingency, negotiated support services, and  
2 approved change orders.

3 ~~((14))~~ (13) "Negotiated support services" means items a general  
4 contractor would normally manage or perform on a construction project  
5 including, but not limited to surveying, hoisting, safety  
6 enforcement, provision of toilet facilities, temporary heat, cleanup,  
7 and trash removal, and that are negotiated as part of the maximum  
8 allowable construction cost.

9 ~~((15))~~ (14) "Percent fee" means the percentage amount to be  
10 earned by the general contractor/construction manager as overhead and  
11 profit.

12 ~~((16))~~ (15) "Price-related factor" means an evaluation factor  
13 that impacts costs which may include, but is not limited to overhead  
14 and profit, lump sum or guaranteed maximum price for the entire or a  
15 portion of the project, operating costs, or other similar factors  
16 that may apply to the project.

17 ~~((17))~~ (16) "Public body" means any general or special purpose  
18 government in the state of Washington, including but not limited to  
19 state agencies, institutions of higher education, counties, cities,  
20 towns, ports, school districts, and special purpose districts.

21 ~~((18))~~ (17) "Public works project" means any work for a public  
22 body within the definition of "public work" in RCW 39.04.010.

23 ~~((19))~~ (18) "Risk contingency" means a contingency for use as  
24 defined in the contract and established as part of the maximum  
25 allowable construction cost for unexpected cost of work items that  
26 have not otherwise been included or addressed in the maximum  
27 allowable construction cost.

28 ~~((20))~~ (19) "Small business (~~entity~~)" means a small business  
29 as defined in RCW ~~((39.26.010))~~ 39.04.010.

30 ~~((21))~~ (20) "Total contract cost" means the fixed amount for  
31 the detailed specified general conditions work, the negotiated  
32 maximum allowable construction cost, and the percent fee on the  
33 negotiated maximum allowable construction cost.

34 ~~((22))~~ (21) "Total project cost" means the cost of the project  
35 less financing and land acquisition costs.

36 ~~((23))~~ (22) "Unit price book" means a book containing specific  
37 prices, based on generally accepted industry standards and  
38 information, where available, for various items of work to be  
39 performed by the job order contractor.

1       (~~(24)~~) (23) "Work order" means an order issued for a definite  
2 scope of work to be performed pursuant to a job order contract.

3       **Sec. 6.** RCW 39.10.220 and 2021 c 230 s 2 are each amended to  
4 read as follows:

5       (1) The board is created in the department of enterprise services  
6 to provide an evaluation of public capital projects construction  
7 processes, including the impact of contracting methods on project  
8 outcomes, and to advise the legislature on policies related to public  
9 works delivery methods.

10       (2) Members of the board identified in (a) through (f) of this  
11 subsection must be knowledgeable or have experience in public works  
12 procurement and contracting, including state and federal laws, rules,  
13 and best practices concerning public contracting for minority, women,  
14 and veteran-owned businesses and small businesses, and are appointed  
15 as follows:

16       (a) Two representatives from construction general contracting;  
17 one representative from the architectural profession; one  
18 representative from the engineering profession; two representatives  
19 from construction specialty subcontracting; two representatives from  
20 construction trades labor organizations; one representative from the  
21 office of minority and women's business enterprises; one  
22 representative from a higher education institution; one  
23 representative from the department of enterprise services; one  
24 individual representing Washington cities; two representatives from  
25 private industry; one individual from the private sector representing  
26 the interests of the (~~(disadvantaged business enterprises)~~) small and  
27 women, minority, or veteran-owned businesses community; and one  
28 representative of a domestic insurer authorized to write surety bonds  
29 for contractors in Washington state, each appointed by the governor.  
30 The board must reflect the gender, racial, ethnic, and geographic  
31 diversity of the state, including the interests of persons with  
32 disabilities. If a vacancy occurs, the governor shall fill the  
33 vacancy for the unexpired term;

34       (b) One member representing counties, selected by the Washington  
35 state association of counties;

36       (c) One member representing public ports, selected by the  
37 Washington public ports association;

38       (d) One member representing public hospital districts, selected  
39 by the association of Washington public hospital districts;



1 (e) One member representing school districts, selected by the  
2 Washington state school directors' association;

3 (f) One member representing transit, selected by the Washington  
4 state transit association; and

5 (g) Two members of the house of representatives, one from each  
6 major caucus, appointed by the speaker of the house of  
7 representatives, and two members of the senate, one from each major  
8 caucus, appointed by the president of the senate. Legislative members  
9 are nonvoting.

10 (3) Members selected under subsection (2)(a) of this section  
11 shall serve for terms of four years, with the terms expiring on June  
12 30th on the fourth year of the term.

13 (4) The board chair is selected from among the appointed members  
14 by the majority vote of the voting members.

15 (5) Legislative members of the board shall be reimbursed for  
16 travel expenses in accordance with RCW 44.04.120. Nonlegislative  
17 members of the board, project review committee members, and committee  
18 chairs shall be reimbursed for travel expenses as provided in RCW  
19 43.03.050 and 43.03.060.

20 (6) Vacancies are filled in the same manner as appointed. Members  
21 of the board may be removed for malfeasance or misfeasance in office,  
22 upon specific written charges by the governor, under chapter 34.05  
23 RCW.

24 (7) The board shall meet as often as necessary.

25 (8) Board members are expected to consistently attend board  
26 meetings. The chair of the board may ask the governor to remove any  
27 member who misses more than two meetings in any calendar year without  
28 cause.

29 (9) The department of enterprise services shall provide staff  
30 support as may be required for the proper discharge of the function  
31 of the board.

32 (10) The board may establish committees as it desires and may  
33 invite nonmembers of the board to serve as committee members.

34 (11) The board shall provide opportunities for persons and  
35 entities not represented on the board to participate and provide  
36 insights on matters of interest to the board, particularly with  
37 respect to the experiences of minority, women, and veteran-owned  
38 businesses and small businesses.

1       **Sec. 7.** RCW 39.10.230 and 2021 c 230 s 3 are each amended to  
2 read as follows:

3       The board has the following powers and duties:

4       (1) Develop and recommend to the legislature policies to  
5 encourage competition and to further enhance the quality, efficiency,  
6 and accountability of and equitable participation by (~~disadvantaged~~  
7 ~~business enterprises~~) small and women, minority, or veteran-owned  
8 businesses in capital construction projects through the use of  
9 traditional and alternative delivery methods in Washington, and make  
10 recommendations regarding best practices, expansion, continuation,  
11 elimination, or modification of the alternative public works  
12 contracting methods, including specific recommendations for reducing  
13 barriers for and increasing participation by (~~disadvantaged business~~  
14 ~~enterprises~~) small and women, minority, or veteran-owned businesses;

15       (2) Evaluate the use of existing contracting procedures and the  
16 potential future use of other alternative contracting procedures  
17 including competitive negotiation contracts;

18       (3) Submit recommendations to the appropriate committees of the  
19 legislature evaluating alternative contracting procedures that are  
20 not authorized under this chapter;

21       (4) Appoint members of committees; and

22       (5) Direct the department of enterprise services to collect  
23 quantitative and qualitative data on alternative public works  
24 contracting procedures to support the board's work in meeting the  
25 purpose established in RCW 39.10.220(1).

26       **Sec. 8.** RCW 39.10.240 and 2021 c 230 s 4 are each amended to  
27 read as follows:

28       (1) The board shall establish a project review committee to  
29 review and approve public works projects using the design-build and  
30 general contractor/construction manager contracting procedures  
31 authorized in RCW 39.10.300 and 39.10.340 and to certify public  
32 bodies as provided in RCW 39.10.270.

33       (2) The board shall, by a majority vote of the board, appoint  
34 persons to the committee who are knowledgeable in the use of the  
35 design-build and general contractor/construction manager contracting  
36 procedures. Appointments must represent a balance of public and  
37 private sector representatives of the board listed in RCW 39.10.220,  
38 and must include at least one member representing the interests of

1 ((disadvantaged business enterprises)) small and women, minority, or  
2 veteran-owned businesses.

3 (a) Each member of the committee shall be appointed for a term of  
4 three years. However, for initial appointments, the board shall  
5 stagger the appointment of committee members so that the first  
6 members are appointed to serve terms of one, two, or three years from  
7 the date of appointment. Appointees may be reappointed to serve more  
8 than one term.

9 (b) The committee shall, by a majority vote, elect a chair and  
10 vice chair for the committee.

11 (c) The committee chair may select a person or persons on a  
12 temporary basis as a nonvoting member if project specific expertise  
13 is needed to assist in a review.

14 (3) The chair of the committee, in consultation with the vice  
15 chair, may appoint one or more panels of at least six committee  
16 members to carry out the duties of the committee. Each panel shall  
17 have balanced representation of the private and public sector  
18 representatives serving on the committee, and shall include a member  
19 representing the interests of ((disadvantaged business enterprises))  
20 small and women, minority, or veteran-owned businesses.

21 (4) Any member of the committee directly or indirectly affiliated  
22 with a submittal before the committee must recuse himself or herself  
23 from the committee consideration of that submittal.

24 (5) Any person who sits on the committee or panel is not  
25 precluded from subsequently bidding on or participating in projects  
26 that have been reviewed by the committee.

27 (6) The committee shall meet as often as necessary to ensure that  
28 certification and approvals are completed in a timely manner.

29 **Sec. 9.** RCW 39.10.330 and 2021 c 230 s 7 are each amended to  
30 read as follows:

31 (1) Contracts for design-build services shall be awarded through  
32 a competitive process using public solicitation of proposals for  
33 design-build services. At a minimum, the public body shall publish at  
34 least once in a legal newspaper of general circulation published in,  
35 or as near as possible to, that part of the county in which the  
36 public work will be done, a notice of its request for qualifications  
37 from proposers for design-build services, and the availability and  
38 location of the request for proposal documents. The public body is  
39 encouraged to post the design-build opportunity in additional areas,

1 such as websites for business associations or the office of minority  
2 and women's business enterprises, to further publicize the  
3 opportunity for qualified design-build teams. The request for  
4 qualifications documents shall include:

5 (a) A description of the project including the estimated design-  
6 build contract value and the intended use of the project;

7 (b) The reasons for using the design-build procedure;

8 (c) A description of the qualifications to be required of the  
9 proposer;

10 (d) A description of the process the public body will use to  
11 evaluate qualifications and finalists' proposals, including  
12 evaluation factors and the relative weight of factors and any  
13 specific forms to be used by the proposers;

14 (i) Evaluation factors for qualifications shall include technical  
15 qualifications, such as specialized experience and technical  
16 competence of the firms and the key design and construction  
17 personnel; capacity to perform; the proposer's past performance in  
18 utilization of ~~((disadvantaged business enterprises))~~ business  
19 entities certified with the office of minority and women's business  
20 enterprises, including small businesses and business entities  
21 certified with the department of veterans affairs, to the extent  
22 permitted by law; ability to provide a performance and payment bond  
23 for the project; and other appropriate factors. ~~((Evaluation factors~~  
24 ~~must also include, but are not limited to, the proposer's past~~  
25 ~~performance in utilization of small business entities.))~~ Cost or  
26 price-related factors are not permitted in the request for  
27 qualifications phase;

28 (ii) Evaluation factors for finalists' proposals shall include  
29 the management plan to meet time and budget requirements and one or  
30 more price-related factors. Evaluation factors must include a  
31 proposer's inclusion plan for ~~((small business entities and~~  
32 ~~disadvantaged business enterprises))~~ business entities certified with  
33 the office of minority and women's business enterprises, including  
34 small businesses and business entities certified with the department  
35 of veterans affairs as subconsultants, subcontractors, and suppliers  
36 for the project, to the extent permitted by law. Evaluation factors  
37 may also include, but not be limited to, the technical approach or  
38 the design concept;

39 (e) Protest procedures including time limits for filing a  
40 protest, which in no event may limit the time to file a protest to

1 fewer than four business days from the date the proposer was notified  
2 of the selection decision;

3 (f) The proposed contract;

4 (g) The honorarium to be paid to finalists submitting responsive  
5 proposals and who are not awarded a design-build contract;

6 (h) The schedule for the procurement process and the project; and

7 (i) Other information relevant to the project.

8 (2) The public body shall establish an evaluation committee to  
9 evaluate the responses to the request for qualifications based solely  
10 on the factors, weighting, and process identified in the request for  
11 qualifications and any addenda issued by the public body. Based on  
12 the evaluation committee's findings, the public body shall select not  
13 more than five responsive and responsible finalists to submit  
14 proposals. The public body may, in its sole discretion, reject all  
15 proposals and shall provide its reasons for rejection in writing to  
16 all proposers.

17 (3) The public body must notify all proposers of the finalists  
18 selected to move to the next phase of the selection process. The  
19 process may not proceed to the next phase until two business days  
20 after all proposers are notified of the committee's selection  
21 decision. At the request of a proposer not selected as a finalist,  
22 the public body must provide the requesting proposer with a scoring  
23 summary of the evaluation factors for its proposal. Proposers filing  
24 a protest on the selection of the finalists must file the protest in  
25 accordance with the published protest procedures. The selection  
26 process may not advance to the next phase of selection until two  
27 business days after the final protest decision is transmitted to the  
28 protestor.

29 (4) Upon selection of the finalists, the public body shall issue  
30 a request for proposals to the finalists. The request for proposal  
31 documents shall include:

32 (a) Any specific forms to be used by the finalists; and

33 (b) Submission of a summary of the finalist's accident prevention  
34 program and an overview of its implementation.

35 (5) The public body shall establish an evaluation committee to  
36 evaluate the proposals submitted by the finalists. The finalists'  
37 proposals shall be evaluated and scored based solely on the factors,  
38 weighting, and process identified in the request for qualifications,  
39 the request for proposals, and in any addenda published by the public  
40 body. Public bodies may request best and final proposals from

1 finalists. The public body may initiate negotiations with the  
2 finalist submitting the highest scored proposal. If the public body  
3 is unable to execute a contract with the finalist submitting the  
4 highest scored proposal, negotiations with that finalist may be  
5 suspended or terminated and the public body may proceed to negotiate  
6 with the next highest scored finalist. Public bodies shall continue  
7 in accordance with this procedure until a contract agreement is  
8 reached or the selection process is terminated.

9 (6) The public body shall notify all finalists of the selection  
10 decision and make a selection summary of the final proposals  
11 available to all proposers within two business days of such  
12 notification. If the public body receives a timely written protest  
13 from a finalist firm, the public body may not execute a contract  
14 until two business days after the final protest decision is  
15 transmitted to the protestor. The protestor must submit its protest  
16 in accordance with the published protest procedures.

17 (7) The firm awarded the contract shall provide a performance and  
18 payment bond for the contracted amount.

19 (8) Any contract must require the firm awarded the contract to  
20 track and report to the public body and to the office of minority and  
21 women's business enterprises its utilization of the office of  
22 minority and women's business enterprises certified businesses and  
23 veteran certified businesses.

24 (9) The public body shall provide appropriate honorarium payments  
25 to finalists submitting responsive proposals that are not awarded a  
26 design-build contract. Honorarium payments shall be sufficient to  
27 generate meaningful competition among potential proposers on design-  
28 build projects. In determining the amount of the honorarium, the  
29 public body shall recognize the level of effort required to meet the  
30 selection criteria.

31 **Sec. 10.** RCW 39.10.360 and 2021 c 230 s 9 are each amended to  
32 read as follows:

33 (1) Public bodies should select general contractor/construction  
34 managers at a time in the project when the general contractor/  
35 construction manager's participation provides value.

36 (2) Contracts for the services of a general contractor/  
37 construction manager under this section shall be awarded through a  
38 competitive process requiring the public solicitation of proposals  
39 for general contractor/construction manager services. At a minimum,

1 the public body shall publish at least once in a legal newspaper of  
2 general circulation published in, or as near as possible to, that  
3 part of the county in which the public work will be performed, a  
4 notice of its request for qualifications from proposers for general  
5 contractor/construction manager services, and the availability and  
6 location of the request for proposal documents. The public body is  
7 encouraged to post the general contractor/construction manager  
8 opportunity in additional areas, such as websites for business  
9 associations or the office of minority and women's business  
10 enterprises, to further publicize the opportunity for qualified  
11 general contractors/construction managers. The public solicitation of  
12 proposals shall include:

13 (a) A description of the project, including programmatic,  
14 performance, and technical requirements and specifications when  
15 available;

16 (b) The reasons for using the general contractor/construction  
17 manager procedure;

18 (c) A description of the qualifications to be required of the  
19 firm, including submission of the firm's accident prevention program;

20 (d) A description of the process the public body will use to  
21 evaluate qualifications and proposals, including evaluation factors,  
22 the relative weight of factors, and protest procedures including time  
23 limits for filing a protest, which in no event may limit the time to  
24 file a protest to fewer than four business days from the date the  
25 proposer was notified of the selection decision;

26 (e) The form of the contract, including any contract for  
27 preconstruction services, to be awarded;

28 (f) The estimated maximum allowable construction cost; and

29 (g) The bid instructions to be used by the general contractor/  
30 construction manager finalists.

31 (3) Evaluation factors for qualifications of the general  
32 contractor/construction manager shall include, but not be limited to:

33 (a) Experience and technical competence of key personnel;

34 (b) The proposer's past performance with negotiated or similarly  
35 complex projects;

36 (c) The proposer's capacity to perform the work;

37 (d) The scope of work the firm proposes to self-perform and its  
38 past performance of that scope of work;

39 (e) The proposer's approach to executing the project, including  
40 ability to meet the project time and budget requirements; and

1 (f) The proposer's past performance in utilization of  
2 (~~disadvantaged business enterprises and small business entities~~)  
3 business entities certified with the office of minority and women's  
4 business enterprises, including small businesses and business  
5 entities certified with the department of veterans affairs and the  
6 inclusion plan for (~~small business entities and disadvantaged~~  
7 ~~business enterprises~~) business entities certified with the office of  
8 minority and women's business enterprises, including small businesses  
9 and business entities certified with the department of veterans  
10 affairs as subconsultants, subcontractors, and suppliers for the  
11 project, to the extent permitted by law.

12 (4) A public body shall establish a committee to evaluate the  
13 proposals. After the committee has selected the most qualified  
14 finalists, at the time specified by the public body, these finalists  
15 shall submit final proposals, which must include sealed bids for the  
16 percent fee on the estimated maximum allowable construction cost and  
17 which may include other price-related factors identified in the  
18 request for proposal. In no event shall a price-related factor  
19 include a request for overall project budget, estimate, or bid. The  
20 public body shall establish a time and place for the opening of  
21 sealed bids. At the time and place named, these bids must be publicly  
22 opened and read and the public body shall make all previous scoring  
23 available to the public. The public body shall select the firm  
24 submitting the highest scored final proposal using the evaluation  
25 factors and the relative weight of factors published in the public  
26 solicitation of proposals. A public body shall not evaluate or  
27 disqualify a proposal based on the terms of a collective bargaining  
28 agreement.

29 (5) The public body shall notify all finalists of the selection  
30 decision and make a selection summary of the final proposals  
31 available to all proposers within two business days of such  
32 notification. If the public body receives a timely written protest  
33 from a proposer, the public body may not execute a contract until two  
34 business days after the final protest decision is transmitted to the  
35 protestor. The protestor must submit its protest in accordance with  
36 the published protest procedures.

37 (6) Public bodies may contract with the selected firm to provide  
38 services during the design phase that may include life-cycle cost  
39 design considerations, value engineering, scheduling, cost  
40 estimating, constructability, alternative construction options for



1 cost savings, and sequencing of work, and to act as the construction  
2 manager and general contractor during the construction phase.

3 **Sec. 11.** RCW 39.10.380 and 2021 c 230 s 11 are each amended to  
4 read as follows:

5 (1) All subcontract work and equipment and material purchases  
6 shall be competitively bid with public bid openings and require the  
7 public solicitation of the bid documents. At a minimum, the general  
8 contractor/construction manager shall publish at least once in a  
9 legal newspaper of general circulation published in, or as near as  
10 possible to, that part of the county in which the subcontract work  
11 will be performed, a notice of its request for bid, and the  
12 availability and location of the bid documents. The general  
13 contractor/construction manager is encouraged to post the subcontract  
14 opportunity in additional areas beyond the legal newspaper as  
15 required by this subsection, such as websites for business  
16 associations, the office of minority and women's business  
17 enterprises, and other locations and mediums that will further  
18 publicize the opportunity for qualified subcontractors. Subcontract  
19 bid packages and equipment and materials purchases shall be awarded  
20 to the responsible bidder submitting the lowest responsive bid. In  
21 preparing subcontract bid packages, the general contractor/  
22 construction manager shall not be required to violate or waive terms  
23 of a collective bargaining agreement. Individual bid packages are to  
24 be prepared with trades separated in the manner consistent with  
25 industry practice to maximize participation and competition across  
26 all trades. Bundling of trades not normally combined into one bid  
27 package is not allowed without justification and specific approval by  
28 the public body. Bid packages must be prepared to reduce barriers for  
29 and increase participation by ~~((disadvantaged business enterprises))~~  
30 business entities certified with the office of minority and women's  
31 business enterprises, including small businesses and business  
32 entities certified with the department of veterans affairs.

33 (2) All subcontract bid packages in which bidder eligibility was  
34 not determined in advance shall include the specific objective  
35 criteria that will be used by the general contractor/construction  
36 manager and the public body to evaluate bidder responsibility. If the  
37 lowest bidder submitting a responsive bid is determined by the  
38 general contractor/construction manager and the public body not to be  
39 responsible, the general contractor/construction manager and the

1 public body must provide written documentation to that bidder  
2 explaining their intent to reject the bidder as not responsible and  
3 afford the bidder the opportunity to establish that it is a  
4 responsible bidder. Responsibility shall be determined in accordance  
5 with criteria listed in the bid documents. Protests concerning bidder  
6 responsibility determination by the general contractor/construction  
7 manager and the public body shall be in accordance with subsection  
8 (4) of this section.

9 (3) All subcontractors who bid work over \$300,000 shall post a  
10 bid bond. All subcontractors who are awarded a contract over \$300,000  
11 shall provide a performance and payment bond for the contract amount.  
12 All other subcontractors shall provide a performance and payment bond  
13 if required by the general contractor/construction manager.

14 (4) If the general contractor/construction manager receives a  
15 written protest from a subcontractor bidder or an equipment or  
16 material supplier, the general contractor/construction manager shall  
17 not execute a contract for the subcontract bid package or equipment  
18 or material purchase order with anyone other than the protesting  
19 bidder without first providing at least two full business days'  
20 written notice to all bidders of the intent to execute a contract for  
21 the subcontract bid package. The protesting bidder must submit  
22 written notice of its protest no later than two full business days  
23 following the bid opening. Intermediate Saturdays, Sundays, and legal  
24 holidays are not counted.

25 (5) A low bidder who claims error and fails to enter into a  
26 contract is prohibited from bidding on the same project if a second  
27 or subsequent call for bids is made for the project.

28 (6) The general contractor/construction manager may negotiate  
29 with the lowest responsible and responsive bidder to negotiate an  
30 adjustment to the lowest bid or proposal price to reduce cost based  
31 upon agreed changes to the contract plans and specifications under  
32 the following conditions:

33 (a) All responsive bids or proposal prices exceed the published  
34 bid package estimates; and

35 (b) The apparent low responsive bid or proposal does not exceed  
36 the published bid package estimates by more than 10 percent.

37 (7) If the negotiation is unsuccessful, the subcontract work or  
38 equipment or material purchases must be rebid.

39 (8) The general contractor/construction manager must provide a  
40 written explanation to the public body if all bids are rejected.

1       **Sec. 12.** RCW 39.10.385 and 2021 c 230 s 12 are each amended to  
2 read as follows:

3       The selection process in this section may be used by public  
4 bodies certified under RCW 39.10.270. It may also be used by  
5 noncertified public bodies if this selection process has been  
6 approved for the project by the project review committee. As an  
7 alternative to the subcontractor selection process outlined in RCW  
8 39.10.380, a general contractor/construction manager may, with the  
9 approval of the public body, select one or more subcontractors using  
10 the process outlined in this section. This alternative selection  
11 process may only be used when the anticipated value of the  
12 subcontract will exceed (~~three million dollars~~) \$3,000,000. When  
13 using the alternative selection process, the general contractor/  
14 construction manager should select the subcontractor early in the  
15 life of the public works project.

16       (1) In order to use this alternative selection process, the  
17 general contractor/construction manager and the public body must  
18 determine that it is in the best interest of the public. In making  
19 this determination the general contractor/construction manager and  
20 the public body must:

21       (a) Publish a notice of intent to use this alternative selection  
22 process in the same legal newspaper where the public solicitation of  
23 proposals is published. The general contractor/construction manager  
24 and public body are encouraged to post the notice in additional areas  
25 beyond the legal newspaper as required under this subsection, such as  
26 websites for business associations, the office of minority and  
27 women's business enterprises, and other locations and mediums that  
28 will further publicize the intent to use this alternative selection  
29 process. Notice must be published at least (~~fourteen~~) 14 calendar  
30 days before conducting a public hearing. The notice must include the  
31 date, time, and location of the hearing; a statement justifying the  
32 basis and need for the alternative selection process; (~~and~~) and  
33 how interested parties may, prior to the hearing, obtain the  
34 following: (i) The evaluation criteria and applicable weight given to  
35 each criteria that will be used for evaluation, including clear  
36 definitions of what should be considered specified general conditions  
37 work and what should be considered the fee; and (ii) protest  
38 procedures including time limits for filing a protest, which may, in  
39 no event, limit the time to file a protest to fewer than four  
40 business days from the date the proposer was notified of the

1 selection decision. The evaluation criteria, weights assigned to each  
2 criteria, and justification for using this selection process must be  
3 made available upon request at least seven calendar days before the  
4 public hearing;

5 (b) Conduct a hearing and provide an opportunity for any  
6 interested party to submit written and verbal comments regarding the  
7 justification for using this selection process, the evaluation  
8 criteria, weights for each criteria, and protest procedures;

9 (c) After the public hearing, consider the written and verbal  
10 comments received and determine if using this alternative selection  
11 process is in the best interests of the public; and

12 (d) Issue a written final determination to all interested  
13 parties. The final determination shall state the reasons the  
14 alternative selection process is determined to be in the best  
15 interests of the public and shall reasonably address the comments  
16 received regarding the criteria and weights for each criterion. Any  
17 modifications to the criteria, weights, and protest procedures based  
18 on comments received during the public hearing process must be  
19 included in the final determination. All protests of the decision to  
20 use the alternative selection process must be in writing and  
21 submitted to the public body within seven calendar days of the final  
22 determination. The public body shall not proceed with the selection  
23 process until after responding in writing to the protest.

24 (2) Contracts for the services of a subcontractor under this  
25 section must be awarded through a competitive process requiring a  
26 public solicitation of proposals. Notice of the public solicitation  
27 of proposals must be provided to the office of minority and women's  
28 business enterprises. The public solicitation of proposals must  
29 include:

30 (a) A description of the project, including programmatic,  
31 performance, and technical requirements and specifications when  
32 available, along with a description of the project's unique aspects,  
33 complexities, and challenges;

34 (b) The reasons for using the alternative selection process;

35 (c) A description of the minimum qualifications required of the  
36 firm;

37 (d) A description of the process used to evaluate qualifications  
38 and proposals, including evaluation factors and the relative weight  
39 of factors;

40 (e) Protest procedures;

1 (f) The form of the contract, including any contract for  
2 preconstruction services, to be awarded;

3 (g) The estimated maximum allowable subcontract cost; and

4 (h) The bid instructions to be used by the finalists.

5 (3) Evaluation factors for selection of the subcontractor must  
6 include, but not be limited to:

7 (a) Ability of the firm's professional personnel to deliver  
8 projects similar in size, scope, or complexity;

9 (b) The firm's past performance on projects similar in size,  
10 scope, or complexity;

11 (c) The firm's ability to meet time and budget requirements on  
12 projects similar in size, scope, or complexity;

13 (d) The scope of work the firm proposes to perform with its own  
14 forces and its ability to perform that work;

15 (e) The firm's plan for inclusion of (~~disadvantaged business~~  
16 ~~enterprises~~) business entities certified with the office of minority  
17 and women's business enterprises, including small businesses and  
18 business entities certified with the department of veterans affairs,  
19 to the extent permitted by law;

20 (f) The firm's proximity to the project location;

21 (g) The firm's approach to executing the project based on its  
22 delivery of other projects similar in size, scope, or complexity;

23 (h) The firm's approach to safety on the project;

24 (i) The firm's safety history;

25 (j) If interviews are part of the selection process, the  
26 solicitation shall describe how interviews will be scored or  
27 evaluated, and evaluations shall be included in the written selection  
28 summary; and

29 (k) If the firm is selected as one of the most qualified  
30 finalists, the firm's fee and cost proposal.

31 (4) The general contractor/construction manager shall establish a  
32 committee to evaluate the proposals. At least one representative from  
33 the public body shall serve on the committee. Final proposals,  
34 including sealed bids for the percent fee on the estimated maximum  
35 allowable subcontract cost, and the fixed amount for the subcontract  
36 general conditions work specified in the request for proposal, will  
37 be requested from the most qualified firms.

38 (5) The general contractor/construction manager must notify all  
39 proposers of the most qualified firms that will move to the next  
40 phase of the selection process. The process may not proceed to the

1 next phase until two business days after all proposers are notified  
2 of the committee's selection decision. At the request of a proposer,  
3 the general contractor/construction manager must provide the  
4 requesting proposer with a scoring summary of the evaluation factors  
5 for its proposal. Proposers filing a protest on the selection of the  
6 most qualified finalists must file the protest with the public body  
7 in accordance with the published protest procedures. The selection  
8 process may not advance to the next phase of selection until two  
9 business days after the final protest decision issued by the public  
10 body is transmitted to the protestor.

11 (6) The general contractor/construction manager and the public  
12 body shall select the firm submitting the highest scored final  
13 proposal using the evaluation factors and the relative weight of  
14 factors identified in the solicitation of proposals. Scoring of the  
15 nonprice factors shall be added to the scoring of the fee and cost  
16 proposals to determine the highest scored firm. The scoring of the  
17 nonprice factors must be made available at the public opening of the  
18 fee and cost proposals. The general contractor/construction manager  
19 shall notify all proposers of the selection decision and make a  
20 selection summary of the final proposals, which shall be available to  
21 all proposers within two business days of such notification. The  
22 general contractor/construction manager may not evaluate or  
23 disqualify a proposal based on the terms of a collective bargaining  
24 agreement.

25 (7) If the public body receives a timely written protest from a  
26 "most qualified firm," the general contractor/construction manager  
27 may not execute a contract for the protested subcontract work until  
28 two business days after the final protest decision issued by the  
29 public body is transmitted to the protestor. The protestor must  
30 submit its protest in accordance with the published protest  
31 procedures.

32 (8) If the general contractor/construction manager is unable to  
33 negotiate a satisfactory maximum allowable subcontract cost with the  
34 firm selected deemed by public body and the general contractor/  
35 construction manager to be fair, reasonable, and within the available  
36 funds, negotiations with that firm must be formally terminated and  
37 the general contractor/construction manager may negotiate with the  
38 next highest scored firm until an agreement is reached or the process  
39 is terminated.

1 (9) With the approval of the public body, the general contractor/  
2 construction manager may contract with the selected firm to provide  
3 preconstruction services during the design phase that may include  
4 life-cycle cost design considerations, value engineering, scheduling,  
5 cost estimating, constructability, alternative construction options  
6 for cost savings, and sequencing of work; and to act as the  
7 subcontractor during the construction phase.

8 (10) The maximum allowable subcontract cost must be used to  
9 establish a total subcontract cost for purposes of a performance and  
10 payment bond. Total subcontract cost means the fixed amount for the  
11 detailed specified general conditions work, the negotiated maximum  
12 allowable subcontract cost, and the percent fee on the negotiated  
13 maximum allowable subcontract cost. Maximum allowable subcontract  
14 cost means the maximum cost to complete the work specified for the  
15 subcontract, including the estimated cost of work to be performed by  
16 the subcontractor's own forces, a percentage for risk contingency,  
17 negotiated support services, and approved change orders. The maximum  
18 allowable subcontract cost must be negotiated between the general  
19 contractor/construction manager and the selected firm when the  
20 construction documents and specifications are at least ninety percent  
21 complete. Final agreement on the maximum allowable subcontract cost  
22 is subject to the approval of the public body.

23 (11) If the work of the subcontractor is completed for less than  
24 the maximum allowable subcontract cost, any savings not otherwise  
25 negotiated as part of an incentive clause becomes part of the risk  
26 contingency included in the general contractor/construction manager's  
27 maximum allowable construction cost. If the work of the subcontractor  
28 is completed for more than the maximum allowable subcontract cost,  
29 the additional cost is the responsibility of that subcontractor. An  
30 independent audit, paid for by the public body, must be conducted to  
31 confirm the proper accrual of costs. The public body or general  
32 contractor/construction manager shall define the scope of the audit  
33 in the contract.

34 (12) A subcontractor selected under this section may perform work  
35 with its own forces. In the event it elects to subcontract some of  
36 its work, it must select a subcontractor utilizing the procedure  
37 outlined in RCW 39.10.380.

38 **Sec. 13.** RCW 39.10.908 and 2021 c 230 s 19 are each amended to  
39 read as follows:

1 In addition to the general contractor/construction manager  
2 requirements established in this chapter, public bodies utilizing the  
3 general contractor/construction manager method for a heavy civil  
4 construction project must also comply with the following  
5 requirements:

6 (1) The heavy civil construction general contractor/construction  
7 manager contract solicitation must:

8 (a) Provide the reasons for using the general contractor/  
9 construction manager procedure, including a clear statement that the  
10 public body is electing to procure the project as a heavy civil  
11 construction project;

12 (b) Indicate the minimum percentage of the cost of the work to  
13 construct the project that will constitute the negotiated self-  
14 perform portion of the project;

15 (c) Indicate whether the public body will allow the price to be  
16 paid for the negotiated self-perform portion of the project to be  
17 deemed a cost of the work to which the general contractor/  
18 construction manager's percent fee applies; and

19 (d) Require proposals to indicate the proposer's fee for the  
20 negotiated self-perform portion of the project;

21 (2) As part of the negotiation of the maximum allowable  
22 construction cost established in RCW 39.10.370(1), the general  
23 contractor/construction manager shall submit a proposed construction  
24 management and contracting plan, which must include, at a minimum:

25 (a) The scope of work and cost estimates for each bid package;

26 (b) A proposed price and scope of work for the negotiated self-  
27 perform portion of the project;

28 (c) The bases used by the general contractor/construction manager  
29 to develop all cost estimates, including the negotiated self-perform  
30 portion of the project; and

31 (d) The general contractor/construction manager's updated  
32 inclusion plan for (~~small business entities, disadvantaged business~~  
33 ~~enterprises~~) business entities certified with the office of minority  
34 and women's business enterprises, including small businesses and  
35 business entities certified with the department of veterans affairs,  
36 and any other (~~disadvantaged or~~) underutilized businesses as the  
37 public body may designate in the public solicitation of proposals, as  
38 subcontractors and suppliers for the project;

39 (3) The public body and general contractor/construction manager  
40 may negotiate the scopes of work to be procured by bid and the price



1 and scope of work for the negotiated self-perform portion of the  
2 project, if any;

3 (4) The negotiated self-perform portion of the project must not  
4 exceed 50 percent of the cost of the work to construct the project;

5 (5) Notwithstanding any contrary provision of this chapter, for a  
6 project that a public body has elected to procure as a heavy civil  
7 construction project under this chapter, at least 30 percent of the  
8 cost of the work to construct the project included in the negotiated  
9 maximum allowable construction cost must be procured through  
10 competitive sealed bidding in which bidding by the general  
11 contractor/construction manager or its subsidiaries is prohibited;

12 (6) Subject to the limitation of subsection (5) of this section,  
13 the public body may additionally negotiate with the general  
14 contractor/construction manager to determine on which scopes of work  
15 the general contractor/construction manager will be permitted to bid,  
16 if any;

17 (7) The public body and general contractor/construction manager  
18 shall negotiate, to the public body's satisfaction, a fair and  
19 reasonable inclusion plan;

20 (8) If the public body is unable to negotiate to its reasonable  
21 satisfaction a component of this section, negotiations with the firm  
22 must be terminated and the public body shall negotiate with the next  
23 highest scored firm and continue until an agreement is reached or the  
24 process is terminated; and

25 (9) For a project procured as a heavy civil construction project,  
26 an independent audit, paid for by the public body, must be conducted  
27 to confirm the proper accrual of costs as outlined in the contract.  
28 The public body shall define the scope of the audit in the contract.

29 NEW SECTION. **Sec. 14.** (1) A state agency or an authorized local  
30 government may utilize a statewide small works roster in accordance  
31 with subsection (2) of this section or create and maintain one or  
32 more small works rosters for different specialties, categories of  
33 anticipated work, or geographic areas served by contractors on the  
34 roster that have registered for inclusion on that particular roster.

35 (a) The small works roster shall consist of all responsible  
36 contractors who have requested to be on the list, and where required  
37 by law, are properly licensed or registered to perform such work in  
38 this state in accordance with RCW 39.04.350.

1 (b) A state agency or authorized local government establishing a  
2 small works roster must require contractors desiring to be placed on  
3 the roster to indicate if they meet the definition of women and  
4 minority-owned business as described in RCW 39.19.030(7)(b), veteran-  
5 owned business as defined in RCW 43.60A.010, or small business as  
6 defined in RCW 39.04.010, and to keep current records of any  
7 applicable licenses, certifications, registrations, bonding,  
8 insurance, or other appropriate matters on file with the appropriate  
9 agency as a condition of being placed on the roster and award of  
10 contract.

11 (c) At least once a year, the state agency or local government  
12 must publish in a newspaper of general circulation and provide the  
13 office of minority and women's business enterprises' directory of  
14 certified firms a notice of the existence of the roster and solicit  
15 contractors for the roster.

16 (d) Responsible contractors must be added to an appropriate  
17 roster at any time they submit a written request and the necessary  
18 records.

19 (e) The contractor must agree and be able to receive  
20 notifications and other communications via email.

21 (f) State agencies or authorized local governments using a small  
22 works roster may not break a project into units or construct a  
23 project by phases if done for the purposes of avoiding maximum dollar  
24 amounts set by this act.

25 (2) The department of commerce through the municipal research and  
26 services program shall develop a statewide small works roster in  
27 compliance with subsection (1) of this section by June 30, 2024. The  
28 municipal research and services program must develop criteria for the  
29 statewide roster with collaboration from affected state and local  
30 agencies. The statewide roster must have features to filter the  
31 roster by different specialties, categories of anticipated work, or  
32 geographic areas served by contractors. The roster must also indicate  
33 if the contractor is designated as a small business as defined in RCW  
34 39.04.010.

35 (3) The department of commerce shall provide funding to the  
36 municipal research and services program as appropriated to maintain  
37 and publicize a small works roster and work with the municipal  
38 research and services center to notify state and local governments  
39 authorized to use small works rosters of the statewide roster

1 authority and to provide guidance on how to use the authority. The  
2 guidance may take the form of a manual provided to local governments.

3 (4) A state agency establishing a small works roster shall adopt  
4 rules implementing this section. A local government establishing a  
5 small works roster shall adopt an ordinance or resolution  
6 implementing this section. Procedures included in rules adopted by  
7 the department of enterprise services in implementing this section  
8 must be included in any rules providing for a small works roster that  
9 is adopted by another state agency, if the authority for that state  
10 agency to engage in these activities has been delegated to it by the  
11 department of enterprise services under chapter 43.19 RCW. An  
12 interlocal contract or agreement between two or more state agencies  
13 or local governments establishing a small works roster to be used by  
14 the parties to the agreement or contract must clearly identify the  
15 lead entity that is responsible for implementing the provisions of  
16 this subsection.

17 NEW SECTION. **Sec. 15.** (1) This section provides uniform small  
18 works roster provisions to award contracts for construction,  
19 building, renovation, remodeling, alteration, repair, or improvement  
20 of real property that may be used by state agencies and by any local  
21 government that is expressly authorized to use these provisions.  
22 These provisions may be used in lieu of other procedures to award  
23 contracts for such work with an estimated cost of \$350,000 or less  
24 excluding state sales tax. The small works roster process includes  
25 the direct contract provisions authorized under this section and any  
26 local government authorized to award contracts using the small works  
27 roster process under this section may award contracts using the  
28 direct contract provisions of this section. State agencies and  
29 authorized local governments using small works rosters must establish  
30 procedures for implementing this act.

31 (2) State agencies and authorized local governments must document  
32 good faith efforts annually implementing subsections (6) and (7) of  
33 this section.

34 (3) Invitations for bids or direct contract negotiation must  
35 include, at a minimum, an estimate for the scope of work including  
36 the nature of the work to be performed as well as the materials and  
37 equipment to be furnished. Detailed plans and specifications need not  
38 be included.

1 (4) The department of enterprise services must develop and make  
2 available on its public-facing website templates for bid invitations,  
3 bidding, and contracting that may be used by state agencies,  
4 authorized local governments, and contractors.

5 (a) (i) For small works roster projects with an estimated cost  
6 less than \$350,000, not including sales tax, state agencies and  
7 authorized local governments may contract by securing written or  
8 electronic quotations to assure that a competitive price is  
9 established and to award contracts to the responsible bidder with the  
10 lowest responsive bid.

11 (ii) A state agency or authorized local government contracting  
12 through a small works roster shall invite bids notifying all  
13 contractors on the applicable roster that have indicated interest in  
14 performing work in the applicable geographical area.

15 (b) For small public works projects with an estimated cost less  
16 than \$150,000, not including sales tax, to increase the utilization  
17 of small businesses, state agencies and local governments are  
18 encouraged to and may direct contract with small businesses as  
19 defined in this act, before direct contracting with other contractors  
20 on the appropriate small works roster without a competitive process  
21 as follows:

22 (i) If there are six or more contractors meeting the definition  
23 of small business on the applicable roster, the state agency or  
24 authorized local government must direct contract with one of those  
25 small businesses on the applicable roster that have indicated  
26 interest in performing work in the applicable geographical area.

27 (ii) If there are five or less contractors meeting the definition  
28 of small business on the applicable roster, the state agency or  
29 authorized local government may direct contract with any contractor  
30 on the applicable roster.

31 (iii) It is the intent of the legislature to increase utilization  
32 of small, minority, women, and veteran-owned businesses. Each state  
33 agency and authorized local government shall establish a women,  
34 minority, and veteran-owned business and small business utilization  
35 plan. A state agency or authorized local government engaging in  
36 direct contracting may not favor certain contractors on the  
37 appropriate small works roster by repeatedly awarding contracts  
38 without documented attempts to direct contract with other contractors  
39 on the appropriate small works roster.

1 (iv) If the state agency or authorized local government elects  
2 not to use the methods outlined in this subsection, it may not use  
3 direct contracting and must invite bids by electronically notifying  
4 all contractors on the applicable roster that have indicated interest  
5 in performing work in the applicable geographical area as described  
6 in this section.

7 (5) For small public works contracts under \$5,000, there is no  
8 requirement for retainage or performance bonds. Small public works  
9 contracts valued at more than \$5,000 shall be subject to performance  
10 bond requirements set forth in chapter 39.08 RCW and retainage  
11 requirements set forth in RCW 60.28.011(1)(a), provided, however,  
12 that the awarding state agency or local government may reduce or  
13 waive retainage requirements, thereby assuming the liability for the  
14 contractor's nonpayment of: (a) Laborers, mechanics, subcontractors,  
15 materialpersons, and suppliers; and (b) taxes, increases, and  
16 penalties pursuant to Titles 50, 51, and 82 RCW that may be due from  
17 the contractor for the project. Any such waiver will not affect the  
18 rights of the state agency or local government to recover against the  
19 contractor for any payments made on the contractor's behalf. For  
20 small public works contracts awarded through a bid solicitation,  
21 notice of any retainage reduction or waiver must be provided in bid  
22 solicitations.

23 (6) After an award is made, the bid quotations obtained shall be  
24 recorded, publicly available, and available by request.

25 (7) Annually, a state agency or authorized local government must  
26 publish a list of small works contracts awarded and contractors  
27 contacted for direct negotiation pursuant to RCW 39.04.200.

28 NEW SECTION. **Sec. 16.** Beginning in 2025 and every five years  
29 thereafter, the capital projects advisory review board must review  
30 construction cost escalation data for Washington state, readily  
31 available in industry publications, roster utilization, and other  
32 appropriate data and metrics, and make recommendations to the  
33 appropriate committees of the legislature on adjustments to the  
34 contracting thresholds described in section 15 of this act.

35 **Sec. 17.** RCW 28A.335.190 and 2013 c 223 s 1 are each amended to  
36 read as follows:

37 (1) When, in the opinion of the board of directors of any school  
38 district, the cost of any furniture, supplies, equipment, building,

1 improvements, or repairs, or other work or purchases, except books,  
2 will equal or exceed the threshold levels specified in subsections  
3 (2) and (4) of this section, complete plans and specifications for  
4 such work or purchases shall be prepared and notice by publication  
5 given in at least one newspaper of general circulation within the  
6 district, once each week for two consecutive weeks, of the intention  
7 to receive bids and that specifications and other information may be  
8 examined at the office of the board or any other officially  
9 designated location. The cost of any public work, improvement, or  
10 repair for the purposes of this section shall be the aggregate of all  
11 amounts to be paid for labor, material, and equipment on one  
12 continuous or interrelated project where work is to be performed  
13 simultaneously or in close sequence. The bids shall be in writing and  
14 shall be opened and read in public on the date and in the place named  
15 in the notice and after being opened shall be filed for public  
16 inspection.

17 (2) Every purchase of furniture, equipment, or supplies, except  
18 books, the cost of which is estimated to be in excess of (~~forty~~  
19 ~~thousand dollars~~) \$40,000, shall be on a competitive basis. The  
20 board of directors shall establish a procedure for securing telephone  
21 and/or written quotations for such purchases. Whenever the estimated  
22 cost is from (~~forty thousand dollars~~) \$40,000 up to (~~seventy-five~~  
23 ~~thousand dollars~~) \$75,000, the procedure shall require quotations  
24 from at least three different sources to be obtained in writing or by  
25 telephone, and recorded for public perusal. Whenever the estimated  
26 cost is in excess of (~~seventy-five thousand dollars~~) \$75,000, the  
27 public bidding process provided in subsection (1) of this section  
28 shall be followed.

29 (3) Any school district may purchase goods produced or provided  
30 in whole or in part from class II inmate work programs operated by  
31 the department of corrections pursuant to RCW 72.09.100, including  
32 but not limited to furniture, equipment, or supplies. School  
33 districts are encouraged to set as a target to contract, beginning  
34 after June 30, 2006, to purchase up to one percent of the total goods  
35 required by the school districts each year, goods produced or  
36 provided in whole or in part from class II inmate work programs  
37 operated by the department of corrections.

38 (4) The board may make improvements or repairs to the property of  
39 the district through a department within the district without  
40 following the public bidding process provided in subsection (1) of

1 this section when the total of such improvements or repairs does not  
2 exceed the sum of (~~seventy-five thousand dollars~~) \$75,000. Whenever  
3 the estimated cost of a building, improvement, repair, or other  
4 public works project is one hundred thousand dollars or more, the  
5 public bidding process provided in subsection (1) of this section  
6 shall be followed unless the contract is let using the small works  
7 roster process in (~~RCW 39.04.155~~) sections 14 through 16 of this  
8 act or under any other procedure authorized for school districts. One  
9 or more school districts may authorize an educational service  
10 district to establish and operate a small works roster for the school  
11 district under the provisions of (~~RCW 39.04.155~~) sections 14  
12 through 16 of this act.

13 (5) The contract for the work or purchase shall be awarded to the  
14 lowest responsible bidder as described in RCW 39.26.160(2) but the  
15 board may by resolution reject any and all bids and make further  
16 calls for bids in the same manner as the original call. On any work  
17 or purchase the board shall provide bidding information to any  
18 qualified bidder or the bidder's agent, requesting it in person.

19 (6) In the event of any emergency when the public interest or  
20 property of the district would suffer material injury or damage by  
21 delay, upon resolution of the board declaring the existence of such  
22 an emergency and reciting the facts constituting the same, the board  
23 may waive the requirements of this section with reference to any  
24 purchase or contract: PROVIDED, That an "emergency," for the purposes  
25 of this section, means a condition likely to result in immediate  
26 physical injury to persons or to property of the school district in  
27 the absence of prompt remedial action.

28 (7) This section does not apply to the direct purchase of school  
29 buses by school districts and educational services in accordance with  
30 RCW 28A.160.195.

31 (8) This section does not apply to the purchase of Washington  
32 grown food.

33 (9) At the discretion of the board, a school district may develop  
34 and implement policies and procedures to facilitate and maximize to  
35 the extent practicable, purchases of Washington grown food including,  
36 but not limited to, policies that permit a percentage price  
37 preference for the purpose of procuring Washington grown food.

38 (10) As used in this section, "Washington grown" has the  
39 definition in RCW 15.64.060.

1 (11) As used in this section, "price percentage preference" means  
2 the percent by which a responsive bid from a responsible bidder whose  
3 product is a Washington grown food may exceed the lowest responsive  
4 bid submitted by a responsible bidder whose product is not a  
5 Washington grown food.

6 **Sec. 18.** RCW 28B.10.350 and 2009 c 229 s 2 are each amended to  
7 read as follows:

8 (1) When the cost to The Evergreen State College or any regional  
9 or state university of any building, construction, renovation,  
10 remodeling, or demolition, other than maintenance or repairs, will  
11 equal or exceed the sum of (~~ninety thousand dollars~~) \$90,000, or  
12 (~~forty-five thousand dollars~~) \$45,000 if the work involves one  
13 trade or craft area, complete plans and specifications for the work  
14 shall be prepared, the work shall be put out for public bid, and the  
15 contract shall be awarded to the responsible bidder who submits the  
16 lowest responsive bid.

17 (2) Any building, construction, renovation, remodeling, or  
18 demolition project that exceeds the dollar amounts in subsection (1)  
19 of this section is subject to the provisions of chapter 39.12 RCW.

20 (3) The Evergreen State College or any regional or state  
21 university may require a project to be put to public bid even when it  
22 is not required to do so under subsection (1) of this section. Any  
23 project publicly bid under this subsection is subject to the  
24 provisions of chapter 39.12 RCW.

25 (4) Where the estimated cost of any building, construction,  
26 renovation, remodeling, or demolition is less than (~~ninety thousand~~  
27 ~~dollars~~) \$90,000 or the contract is awarded by the small works  
28 roster procedure authorized in (~~RCW 39.04.155~~) sections 14 through  
29 16 of this act, the publication requirements of RCW 39.04.020 do not  
30 apply.

31 (5) In the event of any emergency when the public interest or  
32 property of The Evergreen State College or a regional or state  
33 university would suffer material injury or damage by delay, the  
34 president of such college or university may declare the existence of  
35 an emergency and, reciting the facts constituting the same, may waive  
36 the requirements of this section with reference to any contract in  
37 order to correct the condition causing the emergency. For the  
38 purposes of this section, "emergency" means a condition likely to  
39 result in immediate physical injury to persons or to property of the



1 college or university in the absence of prompt remedial action or a  
2 condition which immediately impairs the institution's ability to  
3 perform its educational obligations.

4 (6) This section does not apply when a contract is awarded by the  
5 small works roster procedure authorized in ((~~RCW 39.04.155~~)) sections  
6 14 through 16 of this act or under any other procedure authorized for  
7 an institution of higher education.

8 **Sec. 19.** RCW 28B.50.330 and 2009 c 229 s 1 are each amended to  
9 read as follows:

10 (1) The boards of trustees of college districts are empowered in  
11 accordance with the provisions of this chapter to provide for the  
12 construction, reconstruction, erection, equipping, demolition, and  
13 major alterations of buildings and other capital assets, and the  
14 acquisition of sites, rights-of-way, easements, improvements, or  
15 appurtenances for the use of the aforementioned colleges as  
16 authorized by the college board in accordance with RCW 28B.50.140; to  
17 be financed by bonds payable out of special funds from revenues  
18 hereafter derived from income received from such facilities, gifts,  
19 bequests, or grants, and such additional funds as the legislature may  
20 provide, and payable out of a bond retirement fund to be established  
21 by the respective district boards in accordance with rules of the  
22 state board. With respect to building, improvements, or repairs, or  
23 other work, where the estimated cost exceeds ((~~ninety thousand~~  
24 ~~dollars~~)) \$90,000, or ((~~forty-five thousand dollars~~)) \$45,000 if the  
25 work involves one trade or craft area, complete plans and  
26 specifications for the work shall be prepared, the work shall be put  
27 out for a public bid, and the contract shall be awarded to the  
28 responsible bidder who submits the lowest responsive bid. Any project  
29 regardless of dollar amount may be put to public bid.

30 (2) This section does not apply when a contract is awarded by the  
31 small works roster procedure authorized in ((~~RCW 39.04.155~~)) sections  
32 14 through 16 of this act.

33 (3) Where the estimated cost to any college of any building,  
34 improvements, or repairs, or other work, is less than ((~~ninety~~  
35 ~~thousand dollars~~)) \$90,000, or ((~~forty-five thousand dollars~~))  
36 \$45,000 if the work involves one trade or craft area, the publication  
37 requirements of RCW 39.04.020 do not apply.

1       **Sec. 20.** RCW 35.22.620 and 2019 c 434 s 11 are each amended to  
2 read as follows:

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

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

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

28       Whenever a first-class city has had public works performed in any  
29 budget period up to the maximum permitted amount for that budget  
30 period, all remaining public works within that budget period shall be  
31 done by contract pursuant to public notice and call for competitive  
32 bids.

33       The state auditor shall report to the state treasurer any  
34 first-class city that exceeds this amount and the extent to which the  
35 city has or has not reduced the amount of public works it has  
36 performed by public employees in subsequent years.

37       (3) In addition to the percentage limitation provided in  
38 subsection (2) of this section, a first-class city shall not have  
39 public employees perform a public works project in excess of (~~one~~  
40 ~~hundred fifty thousand dollars~~) \$150,000 if more than a single craft

1 or trade is involved with the public works project, or a public works  
2 project in excess of (~~seventy-five thousand five hundred dollars~~)  
3 \$75,500 if only a single craft or trade is involved with the public  
4 works project or the public works project is street signalization or  
5 street lighting. A public works project means a complete project. The  
6 restrictions in this subsection do not permit the division of the  
7 project into units of work or classes of work to avoid the  
8 restriction on work that may be performed by day labor on a single  
9 project.

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

22 Each first-class city with a population of (~~one hundred fifty~~  
23 ~~thousand~~) 150,000 or less shall use the form required by RCW  
24 43.09.205 to account and record costs of public works in excess of  
25 (~~five thousand dollars~~) \$5,000 that are not let by contract.

26 (5) The cost of a separate public works project shall be the  
27 costs of materials, supplies, equipment, and labor on the  
28 construction of that project. The value of the public works budget  
29 shall be the value of all the separate public works projects within  
30 the budget.

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

35 (7) In lieu of the procedures of subsections (2) and (6) of this  
36 section, a first-class city may let contracts using the small works  
37 roster process in (~~RCW 39.04.155~~) sections 14 through 16 of this  
38 act.

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

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

7 (9) This section does not apply to performance-based contracts,  
8 as defined in RCW 39.35A.020(~~((4))~~) (6), that are negotiated under  
9 chapter 39.35A RCW.

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

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

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

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

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

37 (e) Unit price contractors shall pay prevailing wages for all  
38 work that would otherwise be subject to the requirements of chapter  
39 39.12 RCW. Prevailing wages for all work performed pursuant to each  
40 work order must be the prevailing wage rates in effect at the

1 beginning date for each contract year. Unit priced contracts must  
2 have prevailing wage rates updated annually. Intents and affidavits  
3 for prevailing wages paid must be submitted annually for all work  
4 completed within the previous (~~twelve-month~~) 12-month period of the  
5 unit priced contract.

6 **Sec. 21.** RCW 35.23.352 and 2019 c 434 s 1 are each amended to  
7 read as follows:

8 (1) Any second-class city or any town may construct any public  
9 works, as defined in RCW 39.04.010, by contract or day labor without  
10 calling for bids therefor whenever the estimated cost of the work or  
11 improvement, including cost of materials, supplies and equipment will  
12 not exceed the sum of (~~one hundred sixteen thousand one hundred~~  
13 ~~fifty-five dollars~~) \$116,155 if more than one craft or trade is  
14 involved with the public works, or (~~seventy-five thousand five~~  
15 ~~hundred dollars~~) \$75,500 if a single craft or trade is involved with  
16 the public works or the public works project is street signalization  
17 or street lighting. A public works project means a complete project.  
18 The restrictions in this subsection do not permit the division of the  
19 project into units of work or classes of work to avoid the  
20 restriction on work that may be performed by day labor on a single  
21 project.

22 Whenever the cost of the public work or improvement, including  
23 materials, supplies and equipment, will exceed these figures, the  
24 same shall be done by contract. All such contracts shall be let at  
25 public bidding upon publication of notice calling for sealed bids  
26 upon the work. The notice shall be published in the official  
27 newspaper, or a newspaper of general circulation most likely to bring  
28 responsive bids, at least thirteen days prior to the last date upon  
29 which bids will be received. The notice shall generally state the  
30 nature of the work to be done that plans and specifications therefor  
31 shall then be on file in the city or town hall for public  
32 inspections, and require that bids be sealed and filed with the  
33 council or commission within the time specified therein. Each bid  
34 shall be accompanied by a bid proposal deposit in the form of a  
35 cashier's check, postal money order, or surety bond to the council or  
36 commission for a sum of not less than five percent of the amount of  
37 the bid, and no bid shall be considered unless accompanied by such  
38 bid proposal deposit. The council or commission of the city or town  
39 shall let the contract to the lowest responsible bidder or shall have

1 power by resolution to reject any or all bids and to make further  
2 calls for bids in the same manner as the original call.

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

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

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

30 (3) The allocation of public works projects to be performed by  
31 city or town employees shall not be subject to a collective  
32 bargaining agreement.

33 (4) In lieu of the procedures of subsection (1) of this section,  
34 a second-class city or a town may let contracts using the small works  
35 roster process provided in (~~(RCW 39.04.155)~~) sections 14 through 16  
36 of this act.

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

1 (5) The form required by RCW 43.09.205 shall be to account and  
2 record costs of public works in excess of (~~five thousand dollars~~)  
3 \$5,000 that are not let by contract.

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

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

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

15 (9) For advertisement and formal sealed bidding to be dispensed  
16 with as to purchases with an estimated value of (~~fifteen thousand~~  
17 ~~dollars~~) \$15,000 or less, the council or commission must authorize  
18 by resolution, use of the uniform procedure provided in RCW  
19 39.04.190.

20 (10) The city or town legislative authority may waive the  
21 competitive bidding requirements of this section pursuant to RCW  
22 39.04.280 if an exemption contained within that section applies to  
23 the purchase or public work.

24 (11) This section does not apply to performance-based contracts,  
25 as defined in RCW 39.35A.020(~~(+4)~~) (6), that are negotiated under  
26 chapter 39.35A RCW.

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

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

34 (b) For the purposes of this section, "unit priced contract"  
35 means a competitively bid contract in which public works are  
36 anticipated on a recurring basis to meet the business or operational  
37 needs of the city or town, under which the contractor agrees to a  
38 fixed period indefinite quantity delivery of work, at a defined unit  
39 price 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 or town having  
3 the 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 or town will issue or  
8 release work assignments, work orders, or task authorizations  
9 pursuant to a unit priced contract for projects, tasks, or other work  
10 based on the hourly rates or unit prices bid by the contractor.  
11 Contracts must be awarded to the lowest responsible bidder as per RCW  
12 39.04.010. Whenever possible, the city or town must invite at least  
13 one proposal from a certified minority or woman contractor who  
14 otherwise qualifies under 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 (~~twelve-month~~) 12-month period of the  
23 unit priced contract.

24 (14) Any second-class city or town that awards a project to a  
25 bidder under the criteria described in subsection (2) of this section  
26 must make an annual report to the department of commerce that  
27 includes the total number of bids awarded to certified minority or  
28 women contractors and describing how notice was provided to potential  
29 certified minority or women contractors.

30 **Sec. 22.** RCW 35.61.135 and 2009 c 229 s 10 are each amended to  
31 read as follows:

32 (1) All work ordered, the estimated cost of which is in excess of  
33 (~~twenty thousand dollars~~) \$20,000, shall be let by contract and  
34 competitive bidding. Before awarding any such contract the board of  
35 park commissioners shall publish a notice in a newspaper of general  
36 circulation where the district is located at least once (~~thirteen~~)  
37 13 days before the last date upon which bids will be received,  
38 inviting sealed proposals for such work, plans, and specifications  
39 which must at the time of publication of such notice be on file in



1 the office of the board of park commissioners subject to the public  
2 inspection. The notice shall state generally the work to be done and  
3 shall call for proposals for doing the same to be sealed and filed  
4 with the board of park commissioners on or before the day and hour  
5 named therein.

6 Each bid shall be accompanied by a certified or cashier's check  
7 or postal money order payable to the order of the metropolitan park  
8 district for a sum not less than five percent of the amount of the  
9 bid, or accompanied by a bid bond in an amount not less than five  
10 percent of the bid with a corporate surety licensed to do business in  
11 the state, conditioned that the bidder will pay the metropolitan park  
12 district as liquidated damages the amount specified in the bond,  
13 unless the bidder enters into a contract in accordance with the  
14 bidder's bid, and no bid shall be considered unless accompanied by  
15 such check, cash, or bid bond. At the time and place named such bids  
16 shall be publicly opened and read and the board of park commissioners  
17 shall proceed to canvass the bids and may let such contract to the  
18 lowest responsible bidder upon plans and specifications on file or to  
19 the best bidder submitting the bidder's own plans and specifications.  
20 The board of park commissioners may reject all bids for good cause  
21 and readvertise and in such case all checks, cash, or bid bonds shall  
22 be returned to the bidders. If the contract is let, then all checks,  
23 cash, or bid bonds shall be returned to the bidders, except that of  
24 the successful bidder, which shall be retained until a contract is  
25 entered into for doing the work, and a bond to perform such work  
26 furnished with sureties satisfactory to the board of park  
27 commissioners in the full amount of the contract price between the  
28 bidder and the metropolitan park district in accordance with the bid.  
29 If the bidder fails to enter into the contract in accordance with the  
30 bid and furnish the bond within ten days from the date at which the  
31 bidder is notified that the bidder is the successful bidder, the  
32 check, cash, or bid bonds and the amount thereof shall be forfeited  
33 to the metropolitan park district. If the bidder fails to enter into  
34 a contract in accordance with the bidder's bid, and the board of park  
35 commissioners deems it necessary to take legal action to collect on  
36 any bid bond required by this section, then the metropolitan park  
37 district is entitled to collect from the bidder any legal expenses,  
38 including reasonable attorneys' fees occasioned thereby. A low bidder  
39 who claims error and fails to enter into a contract is prohibited

1 from bidding on the same project if a second or subsequent call for  
2 bids is made for the project.

3 (2) As an alternative to requirements under subsection (1) of  
4 this section, a metropolitan park district may let contracts using  
5 the small works roster process under ((~~RCW 39.04.155~~)) sections 14  
6 through 16 of this act.

7 (3) Any purchase of materials, supplies, or equipment, with an  
8 estimated cost in excess of ((~~forty thousand dollars~~)) \$40,000, shall  
9 be by contract. Any purchase of materials, supplies, or equipment,  
10 with an estimated cost of less than ((~~fifty thousand dollars~~))  
11 \$50,000 shall be made using the process provided in RCW 39.04.190.  
12 Any purchase of materials, supplies, or equipment with an estimated  
13 cost of ((~~fifty thousand dollars~~)) \$50,000 or more shall be made by  
14 competitive bidding following the procedure for letting contracts for  
15 projects under subsection (1) of this section.

16 (4) As an alternative to requirements under subsection (3) of  
17 this section, a metropolitan park district may let contracts for  
18 purchase of materials, supplies, or equipment with the suppliers  
19 designated on current state agency, county, city, or town purchasing  
20 rosters for the materials, supplies, or equipment, when the roster  
21 has been established in accordance with the competitive bidding law  
22 for purchases applicable to the state agency, county, city, or town.  
23 The price and terms for purchases shall be as described on the  
24 applicable roster.

25 (5) The park board may waive the competitive bidding requirements  
26 of this section pursuant to RCW 39.04.280 if an exemption contained  
27 within RCW 39.04.280 applies to the purchase or public work.

28 **Sec. 23.** RCW 35.82.076 and 2000 c 138 s 205 are each amended to  
29 read as follows:

30 A housing authority may establish and use a small works roster  
31 for awarding contracts under ((~~RCW 39.04.155~~)) sections 14 through 16  
32 of this act.

33 **Sec. 24.** RCW 36.32.235 and 2019 c 434 s 8 are each amended to  
34 read as follows:

35 (1) In each county which by resolution establishes a county  
36 purchasing department, the purchasing department shall enter into  
37 leases of personal property on a competitive basis and purchase all  
38 supplies, materials, and equipment on a competitive basis, for all

1 departments of the county, as provided in this chapter and chapter  
2 39.04 RCW, except that the county purchasing department is not  
3 required to make purchases that are paid from the county road fund or  
4 equipment rental and revolving fund.

5 (2) As used in this section:

6 (a) "Public works" has the same definition as in RCW 39.04.010.

7 (b) "Riverine project" means a project of construction,  
8 alteration, repair, replacement, or improvement other than ordinary  
9 maintenance, executed at the cost of the state or of any  
10 municipality, or which is by law a lien or charge on any property,  
11 carried out on a river or stream and its tributaries and associated  
12 floodplains, beds, banks, and waters for the purpose of improving  
13 aquatic habitat, improving water quality, restoring floodplain  
14 function, or providing flood protection.

15 (c) "Stormwater project" means a project of construction,  
16 alteration, repair, replacement, or improvement other than ordinary  
17 maintenance, executed at the cost of the state or of any  
18 municipality, or which is by law a lien or charge on any property,  
19 carried out on a municipal separate storm sewer system, and any  
20 connections to the system, that is regulated under a state-issued  
21 national pollutant discharge elimination system general municipal  
22 stormwater permit for the purpose of improving control of stormwater  
23 runoff quantity and quality from developed land, safely conveying  
24 stormwater runoff, or reducing erosion or other water quality impacts  
25 caused by municipal separate storm sewer system discharges.

26 (3) Except as otherwise specified in this chapter or in chapter  
27 36.77 RCW, all counties subject to these provisions shall contract on  
28 a competitive basis for all public works after bids have been  
29 submitted to the county upon specifications therefor. Such  
30 specifications shall be in writing and shall be filed with the clerk  
31 of the county legislative authority for public inspection.

32 (4) An advertisement shall be published in the county official  
33 newspaper stating the time and place where bids will be opened, the  
34 time after which bids will not be received, the character of the work  
35 to be done, the materials and equipment to be furnished, and that  
36 specifications therefor may be seen at the office of the clerk of the  
37 county legislative authority. An advertisement shall also be  
38 published in a legal newspaper of general circulation in or as near  
39 as possible to that part of the county in which such work is to be  
40 done. If the county official newspaper is a newspaper of general

1 circulation covering at least (~~forty~~) 40 percent of the residences  
2 in that part of the county in which such public works are to be done,  
3 then the publication of an advertisement of the applicable  
4 specifications in the county official newspaper is sufficient. Such  
5 advertisements shall be published at least once at least (~~thirteen~~)  
6 13 days prior to the last date upon which bids will be received.

7 (5) The bids shall be in writing, may be in either hard copy or  
8 electronic form as specified by the county, shall be filed with the  
9 clerk, shall be opened and read in public at the time and place named  
10 therefor in the advertisements, and, after being opened, shall be  
11 filed for public inspection. No bid may be considered for public work  
12 unless it is accompanied by a bid deposit in the form of a surety  
13 bond, postal money order, cash, cashier's check, or certified check  
14 in an amount equal to five percent of the amount of the bid proposed.

15 (6) The contract for the public work shall be awarded to the  
16 lowest responsible bidder. Any or all bids may be rejected for good  
17 cause. The county legislative authority shall require from the  
18 successful bidder for such public work a contractor's bond in the  
19 amount and with the conditions imposed by law.

20 (7) If the bidder to whom the contract is awarded fails to enter  
21 into the contract and furnish the contractor's bond as required  
22 within (~~ten~~) 10 days after notice of the award, exclusive of the  
23 day of notice, the amount of the bid deposit shall be forfeited to  
24 the county and the contract awarded to the next lowest and best  
25 bidder. The bid deposit of all unsuccessful bidders shall be returned  
26 after the contract is awarded and the required contractor's bond  
27 given by the successful bidder is accepted by the county legislative  
28 authority. Immediately after the award is made, the bid quotations  
29 obtained shall be recorded and open to public inspection and shall be  
30 available by telephone inquiry.

31 (8) As limited by subsection (11) of this section, a county  
32 subject to these provisions may have public works performed by county  
33 employees in any annual or biennial budget period equal to a dollar  
34 value not exceeding ten percent of the public works construction  
35 budget, including any amount in a supplemental public works  
36 construction budget, over the budget period.

37 Whenever a county subject to these provisions has had public  
38 works performed in any budget period up to the maximum permitted  
39 amount for that budget period, all remaining public works except  
40 emergency work under subsection (13) of this section within that

1 budget period shall be done by contract pursuant to public notice and  
2 call for competitive bids as specified in subsection (3) of this  
3 section. The state auditor shall report to the state treasurer any  
4 county subject to these provisions that exceeds this amount and the  
5 extent to which the county has or has not reduced the amount of  
6 public works it has performed by public employees in subsequent  
7 years.

8 (9) A county may procure public works with a unit priced contract  
9 under this section for the purpose of completing anticipated types of  
10 work based on hourly rates or unit pricing for one or more categories  
11 of work or trades.

12 (a) 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 county, under which the contractor agrees to a fixed  
16 period indefinite quantity delivery of work, at a defined unit price  
17 for each category of work.

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

22 (c) 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 county will issue or release  
25 work assignments, work orders, or task authorizations pursuant to a  
26 unit priced contract for projects, tasks, or other work based on the  
27 hourly rates or unit prices bid by the contractor. The contract must  
28 be awarded to the lowest responsible bidder as defined under RCW  
29 39.04.010. Whenever possible, the county must invite at least one bid  
30 from a certified minority or woman contractor who otherwise qualifies  
31 under this section.

32 (d) 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 (~~twelve-month~~) 12-month period of the  
40 unit priced contract.

1 (10) If a county subject to these provisions has public works  
2 performed by public employees in any budget period that are in excess  
3 of this ten percent limitation, the amount in excess of the permitted  
4 amount shall be reduced from the otherwise permitted amount of public  
5 works that may be performed by public employees for that county in  
6 its next budget period. Ten percent of the motor vehicle fuel tax  
7 distributions to that county shall be withheld if two years after the  
8 year in which the excess amount of work occurred, the county has  
9 failed to so reduce the amount of public works that it has performed  
10 by public employees. The amount withheld shall be distributed to the  
11 county when it has demonstrated in its reports to the state auditor  
12 that the amount of public works it has performed by public employees  
13 has been reduced as required.

14 (11) In addition to the percentage limitation provided in  
15 subsection (8) of this section, counties subject to these provisions  
16 containing a population of (~~four hundred thousand~~) 400,000 or more  
17 shall not have public employees perform: A public works project in  
18 excess of (~~ninety thousand dollars~~) \$90,000 if more than a single  
19 craft or trade is involved with the public works project, a riverine  
20 project or stormwater project in excess of (~~two hundred fifty~~  
21 ~~thousand dollars~~) \$250,000 if more than a single craft or trade is  
22 involved with the riverine project or stormwater project, a public  
23 works project in excess of (~~forty-five thousand dollars~~) \$45,000 if  
24 only a single craft or trade is involved with the public works  
25 project, or a riverine project or stormwater project in excess of  
26 (~~one hundred twenty-five thousand dollars~~) \$125,000 if only a  
27 single craft or trade is involved with the riverine project or  
28 stormwater project. A public works project, a riverine project, and a  
29 stormwater project means a complete project. The restrictions in this  
30 subsection do not permit the division of the project into units of  
31 work or classes of work to avoid the restriction on work that may be  
32 performed by public employees on a single project.

33 The cost of a separate public works project shall be the costs of  
34 materials, supplies, equipment, and labor on the construction of that  
35 project. The value of the public works budget shall be the value of  
36 all the separate public works projects within the budget.

37 (12) In addition to the accounting and recordkeeping requirements  
38 contained in chapter 39.04 RCW, any county which uses public  
39 employees to perform public works projects under RCW 36.32.240(1)  
40 shall prepare a year-end report to be submitted to the state auditor

1 indicating the total dollar amount of the county's public works  
2 construction budget and the total dollar amount for public works  
3 projects performed by public employees for that year.

4 The year-end report submitted pursuant to this subsection to the  
5 state auditor shall be in accordance with the standard form required  
6 by RCW 43.09.205.

7 (13) Notwithstanding any other provision in this section,  
8 counties may use public employees without any limitation for  
9 emergency work performed under an emergency declared pursuant to RCW  
10 36.32.270, and any such emergency work shall not be subject to the  
11 limitations of this section. Publication of the description and  
12 estimate of costs relating to correcting the emergency may be made  
13 within seven days after the commencement of the work. Within two  
14 weeks of the finding that such an emergency existed, the county  
15 legislative authority shall adopt a resolution certifying the damage  
16 to public facilities and costs incurred or anticipated relating to  
17 correcting the emergency. Additionally this section shall not apply  
18 to architectural and engineering or other technical or professional  
19 services performed by public employees in connection with a public  
20 works project.

21 (14) In lieu of the procedures of subsections (3) through (12) of  
22 this section, a county may let contracts using the small works roster  
23 process provided in (~~RCW 39.04.155~~) sections 14 through 16 of this  
24 act.

25 Whenever possible, the county shall invite at least one proposal  
26 from a certified minority or woman contractor who shall otherwise  
27 qualify under this section.

28 (15) The allocation of public works projects to be performed by  
29 county employees shall not be subject to a collective bargaining  
30 agreement.

31 (16) This section does not apply to performance-based contracts,  
32 as defined in RCW 39.35A.020(~~(+4)~~) (6), that are negotiated under  
33 chapter 39.35A RCW.

34 (17) Nothing in this section prohibits any county from allowing  
35 for preferential purchase of products made from recycled materials or  
36 products that may be recycled or reused.

37 (18) This section does not apply to contracts between the public  
38 stadium authority and a team affiliate under RCW 36.102.060(4), or  
39 development agreements between the public stadium authority and a

1 team affiliate under RCW 36.102.060(7) or leases entered into under  
2 RCW 36.102.060(8).

3 **Sec. 25.** RCW 36.32.250 and 2009 c 229 s 8 are each amended to  
4 read as follows:

5 No contract for public works may be entered into by the county  
6 legislative authority or by any elected or appointed officer of the  
7 county until after bids have been submitted to the county upon  
8 specifications therefor. Such specifications shall be in writing and  
9 shall be filed with the clerk of the county legislative authority for  
10 public inspection. An advertisement shall be published in the county  
11 official newspaper stating the time and place where bids will be  
12 opened, the time after which bids will not be received, the character  
13 of the work to be done, the materials and equipment to be furnished,  
14 and that specifications therefor may be seen at the office of the  
15 clerk of the county legislative authority. An advertisement shall  
16 also be published in a legal newspaper of general circulation in or  
17 as near as possible to that part of the county in which such work is  
18 to be done. If the county official newspaper is a newspaper of  
19 general circulation covering at least forty percent of the residences  
20 in that part of the county in which such public works are to be done,  
21 then the publication of an advertisement of the applicable  
22 specifications in the county official newspaper shall be sufficient.  
23 Such advertisements shall be published at least once at least  
24 (~~thirteen~~) 13 days prior to the last date upon which bids will be  
25 received. The bids shall be in writing, shall be filed with the  
26 clerk, shall be opened and read in public at the time and place named  
27 therefor in the advertisements, and after being opened, shall be  
28 filed for public inspection. No bid may be considered for public work  
29 unless it is accompanied by a bid deposit in the form of a surety  
30 bond, postal money order, cash, cashier's check, or certified check  
31 in an amount equal to five percent of the amount of the bid proposed.  
32 The contract for the public work shall be awarded to the lowest  
33 responsible bidder. Any or all bids may be rejected for good cause.  
34 The county legislative authority shall require from the successful  
35 bidder for such public work a contractor's bond in the amount and  
36 with the conditions imposed by law. If the bidder to whom the  
37 contract is awarded fails to enter into the contract and furnish the  
38 contractor's bond as required within ten days after notice of the  
39 award, exclusive of the day of notice, the amount of the bid deposit



1 shall be forfeited to the county and the contract awarded to the next  
2 lowest and best bidder. A low bidder who claims error and fails to  
3 enter into a contract is prohibited from bidding on the same project  
4 if a second or subsequent call for bids is made for the project. The  
5 bid deposit of all unsuccessful bidders shall be returned after the  
6 contract is awarded and the required contractor's bond given by the  
7 successful bidder is accepted by the county legislative authority. In  
8 the letting of any contract for public works involving less than  
9 forty thousand dollars, advertisement and competitive bidding may be  
10 dispensed with on order of the county legislative authority.  
11 Immediately after the award is made, the bid quotations obtained  
12 shall be recorded and open to public inspection and shall be  
13 available by telephone inquiry.

14 As an alternative to requirements under this section, a county  
15 may let contracts using the small works roster process under ((RCW  
16 39.04.155)) sections 14 through 16 of this act.

17 This section does not apply to performance-based contracts, as  
18 defined in RCW 39.35A.020((+4)) (6), that are negotiated under  
19 chapter 39.35A RCW.

20 **Sec. 26.** RCW 36.77.075 and 2000 c 138 s 208 are each amended to  
21 read as follows:

22 In lieu of the procedure for awarding contracts that is provided  
23 in RCW 36.77.020 through 36.77.040, a county may award contracts for  
24 public works projects on county roads using the small works roster  
25 process under ((RCW 39.04.155)) sections 14 through 16 of this act.

26 **Sec. 27.** RCW 39.04.200 and 2000 c 138 s 103 are each amended to  
27 read as follows:

28 Any local government using the uniform process established in RCW  
29 39.04.190 to award contracts for purchases must post a list of the  
30 contracts awarded under that process at least once every two months.  
31 Any state agency or local government using the small works roster  
32 process established in ((RCW 39.04.155)) sections 14 through 16 of  
33 this act to award contracts for construction, building, renovation,  
34 remodeling, alteration, repair, or improvement of real property must  
35 make available a list of the contracts awarded under that process at  
36 least once every year. The list shall contain the name of the  
37 contractor or vendor awarded the contract, the amount of the  
38 contract, a brief description of the type of work performed or items

1 purchased under the contract, and the date it was awarded. The list  
2 shall also state the location where the bid quotations for these  
3 contracts are available for public inspection.

4 **Sec. 28.** RCW 39.04.380 and 2015 c 225 s 39 are each amended to  
5 read as follows:

6 (1) ~~((The department of enterprise services must conduct a survey  
7 and compile the results into a list of which states provide a bidding  
8 preference on public works contracts for their resident contractors.  
9 The list must include details on the type of preference, the amount  
10 of the preference, and how the preference is applied. The list must  
11 be updated periodically as needed. The initial survey must be  
12 completed by November 1, 2011, and by December 1, 2011, the  
13 department must submit a report to the appropriate committees of the  
14 legislature on the results of the survey. The report must include the  
15 list and recommendations necessary to implement the intent of this  
16 section and section 2, chapter 345, Laws of 2011.~~

17 ~~(2) The department of enterprise services must distribute the  
18 report, along with the requirements of this section and section 2,  
19 chapter 345, Laws of 2011, to all state and local agencies with the  
20 authority to procure public works. The department may adopt rules and  
21 procedures to implement the reciprocity requirements in subsection  
22 (3) of this section. However, subsection (3) of this section does not  
23 take effect until the department of enterprise services has adopted  
24 the rules and procedures for reciprocity under this subsection or  
25 announced that it will not be issuing rules or procedures pursuant to  
26 this section.~~

27 ~~(3))~~ In any bidding process for public works in which a bid is  
28 received from a nonresident contractor from a state that provides a  
29 percentage bidding preference, a comparable percentage disadvantage  
30 must be applied to the bid of that nonresident contractor. This  
31 subsection does not apply until the department of enterprise services  
32 has adopted the rules and procedures for reciprocity ~~((under  
33 subsection (2) of this section)),~~ or has determined and announced  
34 that rules are not necessary for implementation.

35 ~~((4))~~ (2) A nonresident contractor from a state that provides a  
36 percentage bid preference means a contractor that:

37 (a) Is from a state that provides a percentage bid preference to  
38 its resident contractors bidding on public works contracts; and

1 (b) At the time of bidding on a public works project, does not  
2 have a physical office located in Washington.

3 ((+5)) (3) The state of residence for a nonresident contractor  
4 is the state in which the contractor was incorporated or, if not a  
5 corporation, the state where the contractor's business entity was  
6 formed.

7 ((+6)) (4) This section does not apply to public works procured  
8 pursuant to RCW ((39.04.155,)) 39.04.280, sections 14 through 16 of  
9 this act, or any other procurement exempt from competitive bidding.

10 **Sec. 29.** RCW 39.12.040 and 2019 c 434 s 6 are each amended to  
11 read as follows:

12 (1)(a) Except as provided in subsection (2) of this section,  
13 before payment is made by or on behalf of the state, or any county,  
14 municipality, or political subdivision created by its laws, of any  
15 sum or sums due on account of a public works contract, it is the duty  
16 of the officer or person charged with the custody and disbursement of  
17 public funds to require the contractor and each and every  
18 subcontractor from the contractor or a subcontractor to submit to  
19 such officer a "Statement of Intent to Pay Prevailing Wages". For a  
20 contract in excess of ten thousand dollars, the statement of intent  
21 to pay prevailing wages must include:

22 (i) The contractor's registration certificate number; and

23 (ii) The prevailing rate of wage for each classification of  
24 workers entitled to prevailing wages under RCW 39.12.020 and the  
25 estimated number of workers in each classification.

26 (b) Each statement of intent to pay prevailing wages must be  
27 approved by the industrial statistician of the department of labor  
28 and industries before it is submitted to the disbursing officer.  
29 Unless otherwise authorized by the department of labor and  
30 industries, each voucher claim submitted by a contractor for payment  
31 on a project estimate must state that the prevailing wages have been  
32 paid in accordance with the prefiled statement or statements of  
33 intent to pay prevailing wages on file with the public agency.  
34 Following the final acceptance of a public works project, it is the  
35 duty of the officer charged with the disbursement of public funds, to  
36 require the contractor and each and every subcontractor from the  
37 contractor or a subcontractor to submit to such officer an affidavit  
38 of wages paid before the funds retained according to the provisions  
39 of RCW 60.28.011 are released to the contractor. On a public works

1 project where no retainage is withheld, the affidavit of wages paid  
2 must be submitted to the state, county, municipality, or other public  
3 body charged with the duty of disbursing or authorizing disbursement  
4 of public funds prior to final acceptance of the public works  
5 project. If a subcontractor performing work on a public works project  
6 fails to submit an affidavit of wages paid form, the contractor or  
7 subcontractor with whom the subcontractor had a contractual  
8 relationship for the project may file the forms on behalf of the  
9 nonresponsive subcontractor. Affidavit forms may only be filed on  
10 behalf of a nonresponsive subcontractor who has ceased operations or  
11 failed to file as required by this section. The contractor filing the  
12 affidavit must accept responsibility for payment of prevailing wages  
13 unpaid by the subcontractor on the project pursuant to RCW 39.12.020  
14 and 39.12.065. Intentionally filing a false affidavit on behalf of a  
15 subcontractor subjects the filer to the same penalties as are  
16 provided in RCW 39.12.050. Each affidavit of wages paid must be  
17 certified by the industrial statistician of the department of labor  
18 and industries before it is submitted to the disbursing officer.

19 (2) As an alternate to the procedures provided for in subsection  
20 (1) of this section, for public works projects of (~~two thousand five~~  
21 ~~hundred dollars~~)) \$5,000 or less (~~and for projects where the limited~~  
22 ~~public works process~~)) as allowed under (~~RCW 39.04.155(3)~~)) section  
23 15 of this act is followed:

24 (a) An awarding agency may authorize the contractor or  
25 subcontractor to submit the statement of intent to pay prevailing  
26 wages directly to the officer or person charged with the custody or  
27 disbursement of public funds in the awarding agency without approval  
28 by the industrial statistician of the department of labor and  
29 industries. The awarding agency must retain such statement of intent  
30 to pay prevailing wages for a period of not less than three years.

31 (b) Upon final acceptance of the public works project, the  
32 awarding agency must require the contractor or subcontractor to  
33 submit an affidavit of wages paid. Upon receipt of the affidavit of  
34 wages paid, the awarding agency may pay the contractor or  
35 subcontractor in full, including funds that would otherwise be  
36 retained according to the provisions of RCW 60.28.011. Within thirty  
37 days of receipt of the affidavit of wages paid, the awarding agency  
38 must submit the affidavit of wages paid to the industrial  
39 statistician of the department of labor and industries for approval.

1 (c) A statement of intent to pay prevailing wages and an  
2 affidavit of wages paid must be on forms approved by the department  
3 of labor and industries.

4 (d) In the event of a wage claim and a finding for the claimant  
5 by the department of labor and industries where the awarding agency  
6 has used the alternative process provided for in this subsection (2),  
7 the awarding agency must pay the wages due directly to the claimant.  
8 If the contractor or subcontractor did not pay the wages stated in  
9 the affidavit of wages paid, the awarding agency may take action at  
10 law to seek reimbursement from the contractor or subcontractor of  
11 wages paid to the claimant, and may prohibit the contractor or  
12 subcontractor from bidding on any public works contract of the  
13 awarding agency for up to one year.

14 (e) Nothing in this section may be interpreted to allow an  
15 awarding agency to subdivide any public works project of more than  
16 (~~two thousand five hundred dollars~~) \$5,000 for the purpose of  
17 circumventing the procedures required by subsection (1) of this  
18 section.

19 **Sec. 30.** RCW 52.14.110 and 2019 c 434 s 12 are each amended to  
20 read as follows:

21 Insofar as practicable, purchases and any public works by the  
22 district shall be based on competitive bids. A formal sealed bid  
23 procedure shall be used as standard procedure for purchases and  
24 contracts for purchases executed by the board of commissioners.  
25 Formal sealed bidding shall not be required for:

26 (1) The purchase of any materials, supplies, or equipment if the  
27 cost will not exceed the sum of (~~forty thousand dollars~~) \$40,000.  
28 However, whenever the estimated cost does not exceed (~~seventy-five~~  
29 ~~thousand dollars~~) \$75,000, the commissioners may by resolution use  
30 the process provided in RCW 39.04.190 to award contracts;

31 (2) Contracting for work to be done involving the construction or  
32 improvement of a fire station or other buildings where the estimated  
33 cost will not exceed the sum of (~~thirty thousand dollars~~) \$30,000,  
34 which includes the costs of labor, material, and equipment;

35 (3) Contracts using the small works roster process under (~~RCW~~  
36 ~~39.04.155~~) sections 14 through 16 of this act; and

37 (4) Any contract for purchases or public work pursuant to RCW  
38 39.04.280 if an exemption contained within that section applies to  
39 the purchase or public work.

1       **Sec. 31.** RCW 53.08.120 and 2018 c 149 s 2 are each amended to  
2 read as follows:

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

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

21       (b) For all contracts related to work meeting the definition of  
22 "public work" in RCW 39.04.010(~~((4) that are estimated at three~~  
23 ~~hundred thousand dollars or less))~~), a port district may let contracts  
24 using the small works roster process under (~~(RCW 39.04.155))~~ sections  
25 14 through 16 of this act in lieu of advertising for bids. Whenever  
26 possible, the managing official shall invite at least one proposal  
27 from a minority contractor who shall otherwise qualify under this  
28 section.

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

35       (c) Any port district may construct any public work, as defined  
36 in RCW 39.04.010, by contract without calling for bids whenever the  
37 estimated cost of the work or improvement, including cost of  
38 materials, supplies, and equipment, will not exceed the sum of  
39 (~~(forty thousand dollars))~~ \$40,000. A "public works project" means a  
40 complete project. The restrictions in this subsection do not permit

1 the division of the project into units of work or classes of work to  
2 avoid calling for bids. The port district managing official shall  
3 make his or her best effort to reach out to qualified contractors,  
4 including certified minority and woman-owned contractors.

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

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

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

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

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

38 **Sec. 32.** RCW 54.04.070 and 2019 c 434 s 7 are each amended to  
39 read as follows:

1 (1) Any item, or items of the same kind of materials, equipment,  
2 or supplies purchased, the estimated cost of which is in excess of  
3 thirty thousand dollars, exclusive of sales tax, shall be by  
4 contract. However, a district may make purchases of the same kind of  
5 items of materials, equipment, and supplies not exceeding (~~twelve~~  
6 ~~thousand dollars~~) \$12,000 in any calendar month without a contract,  
7 purchasing any excess thereof over (~~twelve thousand dollars~~)  
8 \$12,000 by contract.

9 (2) Any work ordered by a district commission, the estimated cost  
10 of which is in excess of (~~fifty thousand dollars~~) \$50,000,  
11 exclusive of sales tax, shall be by contract. However, a district  
12 commission may have its own regularly employed personnel perform work  
13 which is an accepted industry practice under prudent utility  
14 management without a contract. For purposes of this section, "prudent  
15 utility management" means performing work with regularly employed  
16 personnel utilizing material of a worth not exceeding (~~three hundred~~  
17 ~~thousand dollars~~) \$300,000 in value without a contract. This limit  
18 on the value of material being utilized in work being performed by  
19 regularly employed personnel shall not include the value of  
20 individual items of equipment. For the purposes of this section, the  
21 term "equipment" includes but is not limited to conductor, cabling,  
22 wire, pipe, or lines used for electrical, water, fiber optic, or  
23 telecommunications.

24 (3) Before awarding a contract required under subsection (1) or  
25 (2) of this section, the commission shall publish a notice once or  
26 more in a newspaper of general circulation in the district at least  
27 (~~thirteen~~) 13 days before the last date upon which bids will be  
28 received, inviting sealed proposals for the work or materials. Plans  
29 and specifications for the work or materials shall at the time of  
30 publication be on file at the office of the district and subject to  
31 public inspection. Any published notice ordering work to be performed  
32 for the district shall be mailed at the time of publication to any  
33 established trade association which files a written request with the  
34 district to receive such notices. The commission may, at the same  
35 time and as part of the same notice, invite tenders for the work or  
36 materials upon plans and specifications to be submitted by the  
37 bidders.

38 (4) As an alternative to the competitive bidding requirements of  
39 this section and RCW 54.04.080, a district may let contracts using



1 the small works roster process under ((RCW 39.04.155)) sections 14  
2 through 16 of this act.

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

9 (6) Pursuant to RCW 39.04.280, the commission may waive the  
10 competitive bidding requirements of this section and RCW 54.04.080 if  
11 an exemption contained within RCW 39.04.280 applies to the purchase  
12 or public work.

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

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

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

27 (d) Invitations for unit price bids shall include, for purposes  
28 of the bid evaluation, estimated quantities of the anticipated types  
29 of work or trades, and specify how the district will issue or release  
30 work assignments, work orders, or task authorizations pursuant to a  
31 unit priced contract for projects, tasks, or other work based on the  
32 hourly rates or unit prices bid by the contractor. Where electrical  
33 facility construction or improvement work is anticipated, contractors  
34 on a unit priced contract shall comply with the requirements under  
35 RCW 54.04.085 (1) through (5). Contracts must be awarded to the  
36 lowest responsible bidder as per RCW 39.04.010.

37 (e) Unit price contractors shall pay prevailing wages for all  
38 work that would otherwise be subject to the requirements of chapter  
39 39.12 RCW. Prevailing wages for all work performed pursuant to each  
40 work order must be the prevailing wage rates in effect at the

1 beginning date for each contract year. Unit priced contracts must  
2 have prevailing wage rates updated annually. Intents and affidavits  
3 for prevailing wages paid must be submitted annually for all work  
4 completed within the previous (~~twelve-month~~) 12-month period of the  
5 unit priced contract.

6 **Sec. 33.** RCW 57.08.050 and 2019 c 434 s 10 are each amended to  
7 read as follows:

8 (1) All work ordered, the estimated cost of which is in excess of  
9 (~~fifty thousand dollars~~) \$50,000, shall be let by contract and  
10 competitive bidding. Before awarding any such contract the board of  
11 commissioners shall publish a notice in a newspaper of general  
12 circulation where the district is located at least once (~~thirteen~~)  
13 13 days before the last date upon which bids will be received,  
14 inviting sealed proposals for such work, plans and specifications  
15 which must at the time of publication of such notice be on file in  
16 the office of the board of commissioners subject to the public  
17 inspection. The notice shall state generally the work to be done and  
18 shall call for proposals for doing the same to be sealed and filed  
19 with the board of commissioners on or before the day and hour named  
20 therein.

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

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

17 (2) As an alternative to requirements under subsection (1) of  
18 this section, a water-sewer district may let contracts using the  
19 small works roster process under (~~RCW 39.04.155~~) sections 14  
20 through 16 of this act.

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

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

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

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

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

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

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

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

37 **Sec. 34.** RCW 70.44.140 and 2016 c 51 s 1 are each amended to  
38 read as follows:

1 (1) All materials purchased and work ordered, the estimated cost  
2 of which is in excess of (~~seventy-five thousand dollars~~) \$75,000,  
3 shall be by contract. Before awarding any such contract, the  
4 commission shall publish a notice at least (~~thirteen~~) 13 days  
5 before the last date upon which bids will be received, inviting  
6 sealed proposals for such work. The plans and specifications must at  
7 the time of the publication of such notice be on file at the office  
8 of the public hospital district, subject to public inspection:  
9 PROVIDED, HOWEVER, That the commission may at the same time, and as  
10 part of the same notice, invite tenders for the work or materials  
11 upon plans and specifications to be submitted by bidders. The notice  
12 shall state generally the work to be done, and shall call for  
13 proposals for doing the same, to be sealed and filed with the  
14 commission on or before the day and hour named therein. Each bid  
15 shall be accompanied by bid proposal security in the form of a  
16 certified check, cashier's check, postal money order, or surety bond  
17 made payable to the order of the commission, for a sum not less than  
18 five percent of the amount of the bid, and no bid shall be considered  
19 unless accompanied by such bid proposal security. At the time and  
20 place named, such bids shall be publicly opened and read, and the  
21 commission shall proceed to canvass the bids, and may let such  
22 contract to the lowest responsible bidder upon plans and  
23 specifications on file, or to the best bidder submitting his or her  
24 own plans and specifications. If, in the opinion of the commission,  
25 all bids are unsatisfactory, they may reject all of them and  
26 readvertise, and in such case all bid proposal security shall be  
27 returned to the bidders. If the contract is let, then all bid  
28 proposal security shall be returned to the bidders, except that of  
29 the successful bidder, which is retained until a contract shall be  
30 entered into for the purchase of such materials for doing such work,  
31 and a bond to perform such work furnished, with sureties satisfactory  
32 to the commission, in an amount to be fixed by the commission, not  
33 less than (~~twenty-five~~) 25 percent of contract price in any case,  
34 between the bidder and commission, in accordance with the bid. If  
35 such bidder fails to enter into the contract in accordance with the  
36 bid and furnish such bond within (~~ten~~) 10 days from the date at  
37 which the bidder is notified that he or she is the successful bidder,  
38 the bid proposal security and the amount thereof shall be forfeited  
39 to the public hospital district. A low bidder who claims error and  
40 fails to enter into a contract is prohibited from bidding on the same

1 project if a second or subsequent call for bids is made for the  
2 project.

3 (2) As an alternative to the requirements of subsection (1) of  
4 this section, a public hospital district may let contracts using the  
5 small works roster process under (~~RCW 39.04.155~~) sections 14  
6 through 16 of this act.

7 (3) Any purchases with an estimated cost of up to (~~fifteen~~  
8 ~~thousand dollars~~) \$15,000 may be made using the process provided in  
9 RCW 39.04.190.

10 (4) The commission may waive the competitive bidding requirements  
11 of this section pursuant to RCW 39.04.280 if an exemption contained  
12 within that section applies to the purchase or public work.

13 **Sec. 35.** RCW 87.03.436 and 2010 c 201 s 2 are each amended to  
14 read as follows:

15 All contract projects, the estimated cost of which is less than  
16 (~~three hundred thousand dollars~~) the amount authorized, may be  
17 awarded using the small works roster process under (~~RCW 39.04.155~~)  
18 sections 14 through 16 of this act.

19 **Sec. 36.** RCW 43.131.408 and 2021 c 230 s 22 are each amended to  
20 read as follows:

21 The following acts or parts of acts, as now existing or hereafter  
22 amended, are each repealed, effective June 30, 2032:

23 (1) RCW 39.10.200 and 2023 c . . . s 4 (section 4 of this act),  
24 2010 1st sp.s. c 21 s 2, 2007 c 494 s 1, & 1994 c 132 s 1;

25 (2) RCW 39.10.210 and 2023 c . . . s 5 (section 5 of this act),  
26 2021 c 230 s 1, 2019 c 212 s 1, 2014 c 42 s 1, & 2013 c 222 s 1;

27 (3) RCW 39.10.220 and 2023 c . . . s 6 (section 6 of this act),  
28 2021 c 230 s 2, 2013 c 222 s 2, 2007 c 494 s 102, & 2005 c 377 s 1;

29 (4) RCW 39.10.230 and 2023 c . . . s 7 (section 7 of this act),  
30 2021 c 230 s 3, 2013 c 222 s 3, 2010 1st sp.s. c 21 s 3, 2009 c 75 s  
31 1, 2007 c 494 s 103, & 2005 c 377 s 2;

32 (5) RCW 39.10.240 and 2023 c . . . s 8 (section 8 of this act),  
33 2021 c 230 s 4, 2013 c 222 s 4, & 2007 c 494 s 104;

34 (6) RCW 39.10.250 and 2021 c 230 s 5, 2019 c 212 s 2, 2013 c 222  
35 s 5, 2009 c 75 s 2, & 2007 c 494 s 105;

36 (7) RCW 39.10.260 and 2013 c 222 s 6 & 2007 c 494 s 106;

37 (8) RCW 39.10.270 and 2019 c 212 s 3, 2017 c 211 s 1, 2013 c 222  
38 s 7, 2009 c 75 s 3, & 2007 c 494 s 107;

1 (9) RCW 39.10.280 and 2014 c 42 s 2, 2013 c 222 s 8, & 2007 c 494  
2 s 108;

3 (10) RCW 39.10.290 and 2007 c 494 s 109;

4 (11) RCW 39.10.300 and 2021 c 230 s 6, 2019 c 212 s 4, 2013 c 222  
5 s 9, 2009 c 75 s 4, & 2007 c 494 s 201;

6 (12) RCW 39.10.320 and 2019 c 212 s 5, 2013 c 222 s 10, 2007 c  
7 494 s 203, & 1994 c 132 s 7;

8 (13) RCW 39.10.330 and 2023 c . . . s 9 (section 9 of this act),  
9 2021 c 230 s 7, 2019 c 212 s 6, 2014 c 19 s 1, 2013 c 222 s 11, 2009  
10 c 75 s 5, & 2007 c 494 s 204;

11 (14) RCW 39.10.340 and 2014 c 42 s 3, 2013 c 222 s 12, & 2007 c  
12 494 s 301;

13 (15) RCW 39.10.350 and 2021 c 230 s 8, 2014 c 42 s 4, & 2007 c  
14 494 s 302;

15 (16) RCW 39.10.360 and 2023 c . . . s 10 (section 10 of this  
16 act), 2021 c 230 s 9, 2014 c 42 s 5, 2013 c 222 s 13, 2009 c 75 s 6,  
17 & 2007 c 494 s 303;

18 (17) RCW 39.10.370 and 2021 c 230 s 10, 2014 c 42 s 6, & 2007 c  
19 494 s 304;

20 (18) RCW 39.10.380 and 2023 c . . . s 11 (section 11 of this  
21 act), 2021 c 230 s 11, 2013 c 222 s 14, & 2007 c 494 s 305;

22 (19) RCW 39.10.385 and 2023 c . . . s 12 (section 12 of this  
23 act), 2021 c 230 s 12, 2013 c 222 s 15, & 2010 c 163 s 1;

24 (20) RCW 39.10.390 and 2021 c 230 s 13, 2014 c 42 s 7, 2013 c 222  
25 s 16, & 2007 c 494 s 306;

26 (21) RCW 39.10.400 and 2021 c 230 s 14, 2013 c 222 s 17, & 2007 c  
27 494 s 307;

28 (22) RCW 39.10.410 and 2007 c 494 s 308;

29 (23) RCW 39.10.420 and 2019 c 212 s 7, 2017 c 136 s 1, & 2016 c  
30 52 s 1;

31 (24) RCW 39.10.430 and 2021 c 230 s 15, 2019 c 212 s 8, & 2007 c  
32 494 s 402;

33 (25) RCW 39.10.440 and 2021 c 230 s 16, 2019 c 212 s 9, 2015 c  
34 173 s 1, 2013 c 222 s 19, & 2007 c 494 s 403;

35 (26) RCW 39.10.450 and 2019 c 212 s 10, 2012 c 102 s 2, & 2007 c  
36 494 s 404;

37 (27) RCW 39.10.460 and 2021 c 230 s 17, 2012 c 102 s 3, & 2007 c  
38 494 s 405;

39 (28) RCW 39.10.470 and 2019 c 212 s 11, 2014 c 19 s 2, 2005 c 274  
40 s 275, & 1994 c 132 s 10;

1 (29) RCW 39.10.480 and 1994 c 132 s 9;  
2 (30) RCW 39.10.490 and 2021 c 230 s 18, 2013 c 222 s 20, 2007 c  
3 494 s 501, & 2001 c 328 s 5;  
4 (31) RCW 39.10.900 and 1994 c 132 s 13;  
5 (32) RCW 39.10.901 and 1994 c 132 s 14;  
6 (33) RCW 39.10.903 and 2007 c 494 s 510;  
7 (34) RCW 39.10.904 and 2007 c 494 s 512;  
8 (35) RCW 39.10.905 and 2007 c 494 s 513; and  
9 (36) RCW 39.10.908 and 2023 c . . . s 13 (section 13 of this act)  
10 and 2021 c 230 s 19.

11 NEW SECTION. **Sec. 37.** The following acts or parts of acts are  
12 each repealed:

13 (1) RCW 39.04.155 (Small works roster contract procedures—Limited  
14 public works process—Definitions) and 2019 c 434 s 5, 2015 c 225 s  
15 33, 2009 c 74 s 1, & 2008 c 130 s 17; and

16 (2) RCW 39.04.156 (Small works roster manual—Notification to  
17 local governments) and 2000 c 138 s 104.

18 NEW SECTION. **Sec. 38.** Sections 14 through 16 of this act are  
19 each added to chapter 39.04 RCW.

20 NEW SECTION. **Sec. 39.** Sections 1 through 30, 32 through 34, 36,  
21 and 37 of this act take effect July 1, 2024.

22 NEW SECTION. **Sec. 40.** Sections 31 and 35 of this act are  
23 necessary for the immediate preservation of the public peace, health,  
24 or safety, or support of the state government and its existing public  
25 institutions, and take effect July 1, 2023.

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