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**SUBSTITUTE SENATE BILL 6347**

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**State of Washington**

**56th Legislature**

**2000 Regular Session**

**By** Senate Committee on State & Local Government (originally sponsored by Senators Patterson, Winsley and Gardner)

Read first time 02/04/2000.

1 AN ACT Relating to small works rosters; amending RCW 39.04.155,  
2 39.04.010, 39.04.200, 28A.335.190, 28B.10.350, 35.22.620, 35.23.352,  
3 36.32.235, 36.32.250, 36.77.075, 52.14.110, 53.08.120, 54.04.070,  
4 57.08.050, and 70.44.140; adding a new section to chapter 39.04 RCW;  
5 adding a new section to chapter 35.82 RCW; creating new sections; and  
6 repealing RCW 28B.10.355, 35.82.075, and 39.04.150.

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

8 NEW SECTION. **Sec. 1.** The purpose of this act is to establish a  
9 common small works roster procedure that state agencies and local  
10 governments may use to award contracts for construction, building,  
11 renovation, remodeling, alteration, repair, or improvement of real  
12 property.

13 **PART I - COMMON SMALL WORKS ROSTER PROCEDURE**

14 **Sec. 101.** RCW 39.04.155 and 1998 c 278 s 12 are each amended to  
15 read as follows:

16 (1) This section provides ((a)) uniform ((process)) small works  
17 roster provisions to award contracts for ((public works projects by

1 ~~those municipalities that are authorized to use a small works roster in~~  
2 ~~lieu of the requirements for formal sealed bidding. The state statutes~~  
3 ~~governing a specific type of municipality shall establish the maximum~~  
4 ~~dollar thresholds of the contracts that can be awarded under this~~  
5 ~~process, and may include other matters concerning the small works~~  
6 ~~roster process, for the municipality)) construction, building,~~  
7 renovation, remodeling, alteration, repair, or improvement of real  
8 property that may be used by state agencies and by any local government  
9 that is expressly authorized to use these provisions. These provisions  
10 may be used in lieu of other procedures to award contracts for such  
11 work with an estimated cost of two hundred thousand dollars or less.

12 (2) (~~Such municipalities)) A state agency or authorized local~~  
13 government may create a single general small works roster, or may  
14 create a small works roster for different specialties or categories of  
15 anticipated work. Where applicable, small works rosters may make  
16 distinctions between contractors based upon different geographic areas  
17 served by the contractor. The small works roster or rosters shall  
18 consist of all responsible contractors who have requested to be on the  
19 list, and where required by law are properly licensed or registered to  
20 perform such work in this state. A state agency or local government  
21 establishing a small works roster or rosters may require eligible  
22 contractors desiring to be placed on a roster or rosters to keep  
23 current records of any applicable licenses, certifications,  
24 registrations, bonding, insurance, or other appropriate matters on file  
25 with the state agency or local government as a condition of being  
26 placed on a roster or rosters. At least (~~twice)) once~~ a year, the  
27 (~~municipality)) state agency or local government shall publish in a~~  
28 newspaper of general circulation within the jurisdiction a notice of  
29 the existence of the roster or rosters and solicit the names of  
30 contractors for such roster or rosters. In addition, responsible  
31 contractors shall be added to an appropriate roster or rosters at any  
32 time they submit a written request and necessary records. Master  
33 contracts may be required to be signed that become effective when a  
34 specific award is made using a small works roster.

35 (~~The governing body of the municipality shall establish a)) (3) A~~  
36 state agency establishing a small works roster or rosters shall adopt  
37 rules implementing this section. A local government establishing a  
38 small works roster or rosters shall adopt an ordinance or resolution  
39 implementing this section. Procedures included in rules adopted by the

1 department of general administration in implementing this section must  
2 be included in any rules providing for a small works roster or rosters  
3 that is adopted by another state agency, if the authority for that  
4 state agency to engage in these activities has been delegated to it by  
5 the department of general administration under chapter 43.19 RCW. An  
6 interlocal contract or agreement between two or more state agencies or  
7 local governments establishing a small works roster or rosters to be  
8 used by the parties to the agreement or contract must clearly identify  
9 the lead entity that is responsible for implementing the provisions of  
10 this section.

11 (4) Procedures shall be established for securing telephone ((or)),  
12 written, or electronic quotations from ((the)) contractors on the  
13 ((general)) appropriate small works roster((, or a specific small works  
14 roster for the appropriate category of work,)) to assure that a  
15 competitive price is established and to award contracts to the lowest  
16 responsible bidder, as defined in RCW 43.19.1911. ((Such)) Invitations  
17 for quotations shall include an estimate of the scope and nature of the  
18 work to be performed as well as materials and equipment to be  
19 furnished. However, detailed plans and specifications need not be  
20 included in the invitation. This section does not eliminate other  
21 requirements for architectural or engineering approvals as to quality  
22 and compliance with building codes. ((Whenever possible at least five  
23 contractors shall be invited to submit bids. Once a contractor has  
24 been afforded an opportunity to submit a proposal, that contractor  
25 shall not be offered another opportunity until all other appropriate  
26 contractors on the small works roster have been afforded an opportunity  
27 to submit a proposal on a contract. Proposals)) Quotations may be  
28 invited from all appropriate contractors on the appropriate small works  
29 roster. As an alternative, quotations may be invited from at least  
30 five contractors on the appropriate small works roster who have  
31 indicated the capability of performing the kind of work being  
32 contracted, in a manner that will equitably distribute the opportunity  
33 among the contractors on the appropriate roster. However, if the  
34 estimated cost of the work is from one hundred thousand dollars to two  
35 hundred thousand dollars, a state agency or local government, other  
36 than a port district, that chooses to solicit bids from less than all  
37 the appropriate contractors on the appropriate small works roster must  
38 also notify the remaining contractors on the appropriate small works  
39 roster that quotations on the work are being sought. The government

1 has the sole option of determining whether this notice to the remaining  
2 contractors is made by: (a) Publishing notice in a legal newspaper in  
3 general circulation in the area where the work is to be done; (b)  
4 mailing a notice to these contractors; or (c) sending a notice to these  
5 contractors by facsimile or other electronic means. For purposes of  
6 this subsection, "equitably distribute" means that a state agency or  
7 local government soliciting bids may not favor certain contractors on  
8 the appropriate small works roster over other contractors on the  
9 appropriate small works roster who perform similar services.

10 (5) A contract awarded from a small works roster under this section  
11 need not be advertised.

12 (6) Immediately after an award is made, the bid quotations obtained  
13 shall be recorded, open to public inspection, and available by  
14 telephone inquiry.

15 (7) The breaking of any project into units or accomplishing any  
16 projects by phases is prohibited if it is done for the purpose of  
17 avoiding the maximum dollar amount of a contract that may be let using  
18 the small works roster process.

19 (8) As used in this section, "state agency" means the department of  
20 general administration, the state parks and recreation commission, the  
21 department of natural resources, the department of fish and wildlife,  
22 the department of transportation, any institution of higher education  
23 as defined under RCW 28B.10.016, and any other state agency delegated  
24 authority by the department of general administration to engage in  
25 construction, building, renovation, remodeling, alteration,  
26 improvement, or repair activities.

27 **Sec. 102.** RCW 39.04.010 and 1997 c 220 s 402 are each amended to  
28 read as follows:

29 The term state shall include the state of Washington and all  
30 departments, supervisors, commissioners and agencies thereof.

31 The term municipality shall include every city, county, town,  
32 district or other public agency thereof which is authorized by law to  
33 require the execution of public work, except drainage districts, diking  
34 districts, diking and drainage improvement districts, drainage  
35 improvement districts, diking improvement districts, consolidated  
36 diking and drainage improvement districts, consolidated drainage  
37 improvement districts, consolidated diking improvement districts,  
38 irrigation districts or any such other districts as shall from time to

1 time be authorized by law for the reclamation or development of waste  
2 or undeveloped lands.

3 The term public work shall include all work, construction,  
4 alteration, repair, or improvement other than ordinary maintenance,  
5 executed at the cost of the state or of any municipality, or which is  
6 by law a lien or charge on any property therein. All public works,  
7 including maintenance when performed by contract shall comply with the  
8 provisions of RCW 39.12.020. The term does not include work,  
9 construction, alteration, repair, or improvement performed under  
10 contracts entered into under RCW 36.102.060(4) or under development  
11 agreements entered into under RCW 36.102.060(7) or leases entered into  
12 under RCW 36.102.060(8).

13 The term contract shall mean a contract in writing for the  
14 execution of public work for a fixed or determinable amount duly  
15 awarded after advertisement and competitive bid. However, a contract  
16 which is awarded from a small works roster (~~((under the authority of RCW  
17 39.04.150, 35.22.620, 28B.10.355, 35.82.075, and 57.08.050))~~) need not  
18 be advertised.

19 **Sec. 103.** RCW 39.04.200 and 1993 c 198 s 3 are each amended to  
20 read as follows:

21 Any (~~((municipality that utilizes the small works roster process  
22 established in RCW 39.04.155 to award contracts for public works  
23 projects, or))~~) local government using the uniform process established  
24 in RCW 39.04.190 to award contracts for purchases((~~7~~)) must post a list  
25 of the contracts awarded under ((RCW 39.04.155 and 39.04.190)) that  
26 process at least once every two months. Any state agency or local  
27 government using the small works roster process established in RCW  
28 39.04.155 to award contracts for construction, building, renovation,  
29 remodeling, alteration, repair, or improvement of real property must  
30 make available a list of the contracts awarded under that process at  
31 least once every year. The list shall contain the name of the  
32 contractor or vendor awarded the contract, the amount of the contract,  
33 a brief description of the type of work performed or items purchased  
34 under the contract, and the date it was awarded. The list shall also  
35 state the location where the bid quotations for these contracts are  
36 available for public inspection.

1        NEW SECTION.    **Sec. 104.**    A new section is added to chapter 39.04  
2 RCW to read as follows:

3        The department of community, trade, and economic development, in  
4 cooperation with the municipal research and services center, shall  
5 prepare a small works roster manual and periodically notify the  
6 different types of local government authorized to use a small works  
7 roster process about this authority.

8        NEW SECTION.    **Sec. 105.**    A report on the use of the small works  
9 roster shall be made to the independent oversight committee established  
10 under RCW 39.10.110 prior to the 2003 legislative session.

11                            **PART II - REFERENCES TO SMALL WORKS ROSTER PROCEDURE**

12        **Sec. 201.**    RCW 28A.335.190 and 1995 1st sp.s. c 10 s 3 are each  
13 amended to read as follows:

14        (1) When, in the opinion of the board of directors of any school  
15 district, the cost of any furniture, supplies, equipment, building,  
16 improvements, or repairs, or other work or purchases, except books,  
17 will equal or exceed the sum of fifty thousand dollars, complete plans  
18 and specifications for such work or purchases shall be prepared and  
19 notice by publication given in at least one newspaper of general  
20 circulation within the district, once each week for two consecutive  
21 weeks, of the intention to receive bids therefor and that  
22 specifications and other information may be examined at the office of  
23 the board or any other officially designated location: PROVIDED, That  
24 the board without giving such notice may make improvements or repairs  
25 to the property of the district through the shop and repair department  
26 of such district when the total of such improvements or repair does not  
27 exceed the sum of (a) fifteen thousand dollars, for districts with  
28 fifteen thousand five hundred or more full-time equivalent students; or  
29 (b) for districts with fewer than fifteen thousand five hundred full-  
30 time equivalent students, fifteen thousand dollars if more than one  
31 craft or trade is involved with the school district improvement or  
32 repair, or ten thousand dollars if a single craft or trade is involved  
33 with the school district improvement or repair. The cost of any public  
34 work, improvement or repair for the purposes of this section shall be  
35 the aggregate of all amounts to be paid for labor, material, and  
36 equipment on one continuous or interrelated project where work is to be

1 performed simultaneously or in close sequence. The bids shall be in  
2 writing and shall be opened and read in public on the date and in the  
3 place named in the notice and after being opened shall be filed for  
4 public inspection.

5 (2) Every purchase of furniture, equipment or supplies, except  
6 books, the cost of which is estimated to be in excess of fifteen  
7 thousand dollars, shall be on a competitive basis. The board of  
8 directors shall establish a procedure for securing telephone and/or  
9 written quotations for such purchases. Whenever the estimated cost is  
10 from fifteen thousand dollars up to fifty thousand dollars, the  
11 procedure shall require quotations from at least three different  
12 sources to be obtained in writing or by telephone, and recorded for  
13 public perusal. Whenever the estimated cost is in excess of fifty  
14 thousand dollars, the public bidding process provided in subsection (1)  
15 of this section shall be followed.

16 (3) Every building, improvement, repair or other public works  
17 project, the cost of which is estimated to be in excess of (a) fifteen  
18 thousand dollars, for districts with fifteen thousand five hundred or  
19 more full-time equivalent students; or (b) for districts with fewer  
20 than fifteen thousand five hundred full-time equivalent students,  
21 fifteen thousand dollars if more than one craft or trade is involved  
22 with the school district improvement or repair, or ten thousand dollars  
23 if a single craft or trade is involved with the school district  
24 improvement or repair, shall be on a competitive bid process. ((All  
25 such projects estimated to be less than fifty thousand dollars may be  
26 awarded to a contractor on the small works roster. The small works  
27 roster shall be comprised of all responsible contractors who have  
28 requested to be on the list. The board of directors shall establish a  
29 procedure for securing telephone and/or written quotations from the  
30 contractors on the small works roster to assure establishment of a  
31 competitive price and for awarding contracts to the lowest responsible  
32 bidder. Such procedure shall require that a good faith effort be made  
33 to request quotations from all contractors on the small works roster  
34 who have indicated the capability of performing the kind of public  
35 works being contracted. Immediately after an award is made, the bid  
36 quotations obtained shall be recorded, open to public inspection, and  
37 available by telephone inquiry. The small works roster shall be  
38 revised at least once each year by publishing notice of such  
39 opportunity in at least one newspaper of general circulation in the

1 ~~district. Responsible contractors shall be added to the list at any~~  
2 ~~time they submit a written request.))~~ Whenever the estimated cost of  
3 a public works project is fifty thousand dollars or more, the public  
4 bidding process provided in subsection (1) of this section shall be  
5 followed unless the contract is let using the small works roster  
6 process in RCW 39.04.155 or under any other procedure authorized for  
7 school districts. One or more school districts may authorize an  
8 educational service district to establish and operate a small works  
9 roster for the school district under the provisions of RCW 39.04.155.

10 (4) The contract for the work or purchase shall be awarded to the  
11 lowest responsible bidder as defined in RCW 43.19.1911 but the board  
12 may by resolution reject any and all bids and make further calls for  
13 bids in the same manner as the original call. On any work or purchase  
14 the board shall provide bidding information to any qualified bidder or  
15 the bidder's agent, requesting it in person.

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

25 (6) This section does not apply to the direct purchase of school  
26 buses by school districts and educational services in accordance with  
27 RCW 28A.160.195.

28 **Sec. 202.** RCW 28B.10.350 and 1993 c 379 s 109 are each amended to  
29 read as follows:

30 (1) When the cost to The Evergreen State College, any regional  
31 university, or state university, of any building, construction,  
32 renovation, remodeling, or demolition other than maintenance or repairs  
33 will equal or exceed the sum of twenty-five thousand dollars, complete  
34 plans and specifications for such work shall be prepared and such work  
35 shall be put out for public bids and the contract shall be awarded to  
36 the lowest responsible bidder if in accordance with the bid  
37 specifications: PROVIDED, That when the estimated cost of such  
38 building, construction, renovation, remodeling, or demolition equals or



1 exceeds the sum of twenty-five thousand dollars, such project shall be  
2 deemed a public works and "the prevailing rate of wage," under chapter  
3 39.12 RCW shall be applicable thereto: PROVIDED FURTHER, That when  
4 such building, construction, renovation, remodeling, or demolition  
5 involves one trade or craft area and the estimated cost exceeds ten  
6 thousand dollars, complete plans and specifications for such work shall  
7 be prepared and such work shall be put out for public bids, and the  
8 contract shall be awarded to the lowest responsible bidder if in  
9 accordance with the bid specifications. This subsection shall not  
10 apply when a contract is awarded by the small works roster procedure  
11 authorized in RCW ((28B.10.355)) 39.04.155 or under any other procedure  
12 authorized for an institution of higher education.

13 (2) The Evergreen State College, any regional university, or state  
14 university may require a project to be put to public bid even when it  
15 is not required to do so under subsection (1) of this section.

16 (3) Where the estimated cost to The Evergreen State College, any  
17 regional university, or state university of any building,  
18 construction, renovation, remodeling, or demolition is less than  
19 twenty-five thousand dollars or the contract is awarded by the small  
20 works roster procedure authorized in RCW ((28B.10.355)) 39.04.155, the  
21 publication requirements of RCW 39.04.020 shall be inapplicable.

22 (4) In the event of any emergency when the public interest or  
23 property of The Evergreen State College, regional university, or state  
24 university would suffer material injury or damage by delay, the  
25 president of such college or university may declare the existence of  
26 such an emergency and reciting the facts constituting the same may  
27 waive the requirements of this section with reference to any contract  
28 in order to correct the condition causing the emergency: PROVIDED,  
29 That an "emergency," for the purposes of this section, means a  
30 condition likely to result in immediate physical injury to persons or  
31 to property of such college or university in the absence of prompt  
32 remedial action or a condition which immediately impairs the  
33 institution's ability to perform its educational obligations.

34 **Sec. 203.** RCW 35.22.620 and 1998 c 278 s 2 are each amended to  
35 read as follows:

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

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

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

23 Whenever a first class city has had public works performed in any  
24 budget period up to the maximum permitted amount for that budget  
25 period, all remaining public works within that budget period shall be  
26 done by contract pursuant to public notice and call for competitive  
27 bids.

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

32 (3) In addition to the percentage limitation provided in subsection  
33 (2) of this section, a first class city with a population in excess of  
34 one hundred fifty thousand shall not have public employees perform a  
35 public works project in excess of fifty thousand dollars if more than  
36 a single craft or trade is involved with the public works project, or  
37 a public works project in excess of twenty-five thousand dollars if  
38 only a single craft or trade is involved with the public works project  
39 or the public works project is street signalization or street lighting.

1 In addition to the percentage limitation provided in subsection (2) of  
2 this section, a first class city with a population of one hundred fifty  
3 thousand or less shall not have public employees perform a public works  
4 project in excess of thirty-five thousand dollars if more than one  
5 craft or trade is involved with the public works project, or a public  
6 works project in excess of twenty thousand dollars if only a single  
7 craft or trade is involved with the public works project or the public  
8 works project is street signalization or street lighting. A public  
9 works project means a complete project. The restrictions in this  
10 subsection do not permit the division of the project into units of work  
11 or classes of work to avoid the restriction on work that may be  
12 performed by day labor on a single project.

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

25 (~~After September 1, 1987,~~) Each first class city with a  
26 population of one hundred fifty thousand or less shall use the form  
27 required by RCW 43.09.205 to account and record costs of public works  
28 in excess of five thousand dollars that are not let by contract.

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

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

37 (7) In lieu of the procedures of subsections (2) and (6) of this  
38 section, a first class city may (~~use~~) let contracts using the small  
39 works roster process in RCW 39.04.155 (~~to award contracts for public~~

1 ~~works projects with an estimated value of one hundred thousand dollars~~  
2 ~~or less)).~~

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

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

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

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

14 **Sec. 204.** RCW 35.23.352 and 1998 c 278 s 3 are each amended to  
15 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (9) The city or town legislative authority may waive the  
17 competitive bidding requirements of this section pursuant to RCW  
18 39.04.280 if an exemption contained within that section applies to the  
19 purchase or public work.

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

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

26 NEW SECTION. **Sec. 205.** A new section is added to chapter 35.82  
27 RCW to read as follows:

28 A housing authority may establish and use a small works roster for  
29 awarding contracts under RCW 39.04.155.

30 **Sec. 206.** RCW 36.32.235 and 1997 c 220 s 401 are each amended to  
31 read as follows:

32 (1) In each county with a population of one million or more which  
33 by resolution establishes a county purchasing department, the  
34 purchasing department shall enter into leases of personal property on  
35 a competitive basis and purchase all supplies, materials, and equipment  
36 on a competitive basis, for all departments of the county, as provided  
37 in this chapter and chapter 39.04 RCW, except that the county

1 purchasing department is not required to make purchases that are paid  
2 from the county road fund or equipment rental and revolving fund.

3 (2) As used in this section, "public works" has the same definition  
4 as in RCW 39.04.010.

5 (3) Except as otherwise specified in this chapter or in chapter  
6 36.77 RCW, all counties subject to these provisions shall contract on  
7 a competitive basis for all public works after bids have been submitted  
8 to the county upon specifications therefor. Such specifications shall  
9 be in writing and shall be filed with the clerk of the county  
10 legislative authority for public inspection.

11 (4) An advertisement shall be published in the county official  
12 newspaper stating the time and place where bids will be opened, the  
13 time after which bids will not be received, the character of the work  
14 to be done, the materials and equipment to be furnished, and that  
15 specifications therefor may be seen at the office of the clerk of the  
16 county legislative authority. An advertisement shall also be published  
17 in a legal newspaper of general circulation in or as near as possible  
18 to that part of the county in which such work is to be done. If the  
19 county official newspaper is a newspaper of general circulation  
20 covering at least forty percent of the residences in that part of the  
21 county in which such public works are to be done, then the publication  
22 of an advertisement of the applicable specifications in the county  
23 official newspaper is sufficient. Such advertisements shall be  
24 published at least once at least thirteen days prior to the last date  
25 upon which bids will be received.

26 (5) The bids shall be in writing, shall be filed with the clerk,  
27 shall be opened and read in public at the time and place named therefor  
28 in the advertisements, and after being opened, shall be filed for  
29 public inspection. No bid may be considered for public work unless it  
30 is accompanied by a bid deposit in the form of a surety bond, postal  
31 money order, cash, cashier's check, or certified check in an amount  
32 equal to five percent of the amount of the bid proposed.

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

38 (7) If the bidder to whom the contract is awarded fails to enter  
39 into the contract and furnish the contractor's bond as required within

1 ten days after notice of the award, exclusive of the day of notice, the  
2 amount of the bid deposit shall be forfeited to the county and the  
3 contract awarded to the next lowest and best bidder. The bid deposit  
4 of all unsuccessful bidders shall be returned after the contract is  
5 awarded and the required contractor's bond given by the successful  
6 bidder is accepted by the county legislative authority. Immediately  
7 after the award is made, the bid quotations obtained shall be recorded  
8 and open to public inspection and shall be available by telephone  
9 inquiry.

10 (8) As limited by subsection (10) of this section, a county subject  
11 to these provisions may have public works performed by county employees  
12 in any annual or biennial budget period equal to a dollar value not  
13 exceeding ten percent of the public works construction budget,  
14 including any amount in a supplemental public works construction  
15 budget, over the budget period.

16 Whenever a county subject to these provisions has had public works  
17 performed in any budget period up to the maximum permitted amount for  
18 that budget period, all remaining public works except emergency work  
19 under subsection (12) of this section within that budget period shall  
20 be done by contract pursuant to public notice and call for competitive  
21 bids as specified in subsection (3) of this section. The state auditor  
22 shall report to the state treasurer any county subject to these  
23 provisions that exceeds this amount and the extent to which the county  
24 has or has not reduced the amount of public works it has performed by  
25 public employees in subsequent years.

26 (9) If a county subject to these provisions has public works  
27 performed by public employees in any budget period that are in excess  
28 of this ten percent limitation, the amount in excess of the permitted  
29 amount shall be reduced from the otherwise permitted amount of public  
30 works that may be performed by public employees for that county in its  
31 next budget period. Ten percent of the motor vehicle fuel tax  
32 distributions to that county shall be withheld if two years after the  
33 year in which the excess amount of work occurred, the county has failed  
34 to so reduce the amount of public works that it has performed by public  
35 employees. The amount withheld shall be distributed to the county when  
36 it has demonstrated in its reports to the state auditor that the amount  
37 of public works it has performed by public employees has been reduced  
38 as required.



1       (10) In addition to the percentage limitation provided in  
2 subsection (8) of this section, counties subject to these provisions  
3 containing a population of one million or more shall not have public  
4 employees perform a public works project in excess of seventy thousand  
5 dollars if more than a single craft or trade is involved with the  
6 public works project, or a public works project in excess of twenty-  
7 five thousand dollars if only a single craft or trade is involved with  
8 the public works project. A public works project means a complete  
9 project. The restrictions in this subsection do not permit the  
10 division of the project into units of work or classes of work to avoid  
11 the restriction on work that may be performed by public employees on a  
12 single project.

13       The cost of a separate public works project shall be the costs of  
14 materials, supplies, equipment, and labor on the construction of that  
15 project. The value of the public works budget shall be the value of  
16 all the separate public works projects within the budget.

17       (11) In addition to the accounting and recordkeeping requirements  
18 contained in chapter 39.04 RCW, any county which uses public employees  
19 to perform public works projects under RCW 36.32.240(1) shall prepare  
20 a year-end report to be submitted to the state auditor indicating the  
21 total dollar amount of the county's public works construction budget  
22 and the total dollar amount for public works projects performed by  
23 public employees for that year.

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

27       (12) Notwithstanding any other provision in this section, counties  
28 may use public employees without any limitation for emergency work  
29 performed under an emergency declared pursuant to RCW 36.32.270, and  
30 any such emergency work shall not be subject to the limitations of this  
31 section. Publication of the description and estimate of costs relating  
32 to correcting the emergency may be made within seven days after the  
33 commencement of the work. Within two weeks of the finding that such an  
34 emergency existed, the county legislative authority shall adopt a  
35 resolution certifying the damage to public facilities and costs  
36 incurred or anticipated relating to correcting the emergency.  
37 Additionally this section shall not apply to architectural and  
38 engineering or other technical or professional services performed by  
39 public employees in connection with a public works project.

1 (13) In lieu of the procedures of subsections (3) through (11) of  
2 this section, a county may ~~((use a))~~ let contracts using the small  
3 works roster process ~~((and award contracts for public works projects  
4 with an estimated value of ten thousand dollars up to one hundred  
5 thousand dollars as))~~ provided in RCW 39.04.155.

6 Whenever possible, the county shall invite at least one proposal  
7 from a minority or woman contractor who shall otherwise qualify under  
8 this section.

9 (14) The allocation of public works projects to be performed by  
10 county employees shall not be subject to a collective bargaining  
11 agreement.

12 (15) This section does not apply to performance-based contracts, as  
13 defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A  
14 RCW.

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

18 (17) This section does not apply to contracts between the public  
19 stadium authority and a team affiliate under RCW 36.102.060(4), or  
20 development agreements between the public stadium authority and a team  
21 affiliate under RCW 36.102.060(7) or leases entered into under RCW  
22 36.102.060(8).

23 **Sec. 207.** RCW 36.32.250 and 1996 c 18 s 3 are each amended to read  
24 as follows:

25 No contract for public works may be entered into by the county  
26 legislative authority or by any elected or appointed officer of the  
27 county until after bids have been submitted to the county upon  
28 specifications therefor. Such specifications shall be in writing and  
29 shall be filed with the clerk of the county legislative authority for  
30 public inspection. An advertisement shall be published in the county  
31 official newspaper stating the time and place where bids will be  
32 opened, the time after which bids will not be received, the character  
33 of the work to be done, the materials and equipment to be furnished,  
34 and that specifications therefor may be seen at the office of the clerk  
35 of the county legislative authority. An advertisement shall also be  
36 published in a legal newspaper of general circulation in or as near as  
37 possible to that part of the county in which such work is to be done.  
38 If the county official newspaper is a newspaper of general circulation

1 covering at least forty percent of the residences in that part of the  
2 county in which such public works are to be done, then the publication  
3 of an advertisement of the applicable specifications in the county  
4 official newspaper shall be sufficient. Such advertisements shall be  
5 published at least once at least thirteen days prior to the last date  
6 upon which bids will be received. The bids shall be in writing, shall  
7 be filed with the clerk, shall be opened and read in public at the time  
8 and place named therefor in the advertisements, and after being opened,  
9 shall be filed for public inspection. No bid may be considered for  
10 public work unless it is accompanied by a bid deposit in the form of a  
11 surety bond, postal money order, cash, cashier's check, or certified  
12 check in an amount equal to five percent of the amount of the bid  
13 proposed. The contract for the public work shall be awarded to the  
14 lowest responsible bidder. Any or all bids may be rejected for good  
15 cause. The county legislative authority shall require from the  
16 successful bidder for such public work a contractor's bond in the  
17 amount and with the conditions imposed by law. If the bidder to whom  
18 the contract is awarded fails to enter into the contract and furnish  
19 the contractor's bond as required within ten days after notice of the  
20 award, exclusive of the day of notice, the amount of the bid deposit  
21 shall be forfeited to the county and the contract awarded to the next  
22 lowest and best bidder. A low bidder who claims error and fails to  
23 enter into a contract is prohibited from bidding on the same project if  
24 a second or subsequent call for bids is made for the project. The bid  
25 deposit of all unsuccessful bidders shall be returned after the  
26 contract is awarded and the required contractor's bond given by the  
27 successful bidder is accepted by the county legislative authority. In  
28 the letting of any contract for public works involving less than ten  
29 thousand dollars, advertisement and competitive bidding may be  
30 dispensed with on order of the county legislative authority.  
31 Immediately after the award is made, the bid quotations obtained shall  
32 be recorded and open to public inspection and shall be available by  
33 telephone inquiry.

34 ~~((For advertisement and competitive bidding to be dispensed with as  
35 to public works projects with an estimated value of ten thousand  
36 dollars up to one hundred thousand dollars, a county must use a small  
37 works roster process as provided in RCW 39.04.155.))~~

38 As an alternative to requirements under this section, a county may  
39 let contracts using the small works roster process under RCW 39.04.155.

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

4 **Sec. 208.** RCW 36.77.075 and 1991 c 363 s 81 are each amended to  
5 read as follows:

6 In lieu of the procedure for awarding contracts that is provided in  
7 RCW 36.77.020 through 36.77.040, a county may award contracts for  
8 public works projects on county roads (~~((with an estimated value of one  
9 hundred thousand dollars or less using a small works roster process as  
10 provided in))~~) using the small works roster process under RCW 39.04.155.

11 **Sec. 209.** RCW 52.14.110 and 1998 c 278 s 5 are each amended to  
12 read as follows:

13 Insofar as practicable, purchases and any public works by the  
14 district shall be based on competitive bids. A formal sealed bid  
15 procedure shall be used as standard procedure for purchases and  
16 contracts for purchases executed by the board of commissioners. Formal  
17 sealed bidding shall not be required for:

18 (1) The purchase of any materials, supplies, or equipment if the  
19 cost will not exceed the sum of four thousand five hundred dollars.  
20 However, whenever the estimated cost does not exceed ten thousand  
21 dollars, the commissioners may by resolution use the process provided  
22 in RCW 39.04.190 to award contracts;

23 (2) Contracting for work to be done involving the construction or  
24 improvement of a fire station or other buildings where the estimated  
25 cost will not exceed the sum of two thousand five hundred dollars,  
26 which includes the costs of labor, material, and equipment(~~((However,  
27 whenever the estimated cost does not exceed ten thousand dollars, the  
28 commissioner may by resolution use the small works roster process  
29 provided in))~~);

30 (3) Contracts using the small works roster process under RCW  
31 39.04.155; and

32 ~~((+3))~~ (4) Any contract for purchases or public work pursuant to  
33 RCW 39.04.280 if an exemption contained within that section applies to  
34 the purchase or public work.

35 **Sec. 210.** RCW 53.08.120 and 1999 c 29 s 1 are each amended to read  
36 as follows:

1 All material required by a port district may be procured in the  
2 open market or by contract and all work ordered may be done by contract  
3 or day labor. All such contracts for work, the estimated cost of which  
4 exceeds two hundred thousand dollars, shall be let at public bidding  
5 upon notice published in a newspaper of general circulation in the  
6 district at least thirteen days before the last date upon which bids  
7 will be received, calling for sealed bids upon the work, plans and  
8 specifications for which shall then be on file in the office of the  
9 commission for public inspection. The same notice may call for bids on  
10 such work or material based upon plans and specifications submitted by  
11 the bidder. The competitive bidding requirements for purchases or  
12 public works may be waived pursuant to RCW 39.04.280 if an exemption  
13 contained within that section applies to the purchase or public work.

14 ~~((Each port district shall maintain a small works roster, as  
15 provided in))~~ However, a port district may let contracts using the  
16 small works roster process under RCW 39.04.155~~((, and may use the small  
17 works roster process to award contracts))~~ in lieu of calling for sealed  
18 bids ~~((whenever work is done by contract, the estimated cost of which  
19 is two hundred thousand dollars or less))~~. Whenever possible, the  
20 managing official shall invite at least one proposal from a minority  
21 contractor who shall otherwise qualify under this section.

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

28 ~~((A report on the effectiveness of the change in the bid limit will  
29 be made to the alternative works construction methods oversight  
30 committee prior to the 2003 legislative session.))~~

31 **Sec. 211.** RCW 54.04.070 and 1998 c 278 s 7 are each amended to  
32 read as follows:

33 Any item, or items of the same kind of materials, equipment, or  
34 supplies purchased, the estimated cost of which is in excess of five  
35 thousand dollars, exclusive of sales tax shall be by contract:  
36 PROVIDED, That a district may make purchases of the same kind of items  
37 of materials, equipment and supplies not exceeding five thousand  
38 dollars in any calendar month without a contract, purchasing any excess

1 thereof over five thousand dollars by contract. Any work ordered by a  
2 district commission, the estimated cost of which is in excess of ten  
3 thousand dollars exclusive of sales tax, shall be by contract, except  
4 that a district commission may have its own regularly employed  
5 personnel perform work which is an accepted industry practice under  
6 prudent utility management without a contract. Prudent utility  
7 management means performing work with regularly employed personnel  
8 utilizing material of a worth not exceeding fifty thousand dollars in  
9 value without a contract: PROVIDED, That such limit on the value of  
10 material being utilized in work being performed by regularly employed  
11 personnel shall not include the value of individual items of equipment  
12 purchased or acquired and used as one unit of a project. Before  
13 awarding such a contract, the commission shall publish a notice once or  
14 more in a newspaper of general circulation in the district at least  
15 thirteen days before the last date upon which bids will be received,  
16 inviting sealed proposals for the work or materials; plans and  
17 specifications of which shall at the time of the publication be on file  
18 at the office of the district subject to public inspection. Any  
19 published notice ordering work to be performed for the district shall  
20 be mailed at the time of publication to any established trade  
21 association which files a written request with the district to receive  
22 such notices. The commission may at the same time and as part of the  
23 same notice, invite tenders for the work or materials upon plans and  
24 specifications to be submitted by the bidders.

25 (~~Notwithstanding any other provisions herein, all contract~~  
26 ~~projects, the estimated cost of which is less than one hundred thousand~~  
27 ~~dollars, may be awarded to a contractor using the small works roster~~  
28 ~~process provided in RCW 39.04.155.)) All contract projects equal to or  
29 in excess of one hundred thousand dollars shall be let by competitive  
30 bidding unless the public utility district lets contracts using the  
31 small works roster process under RCW 39.04.155.~~

32 Whenever equipment or materials required by a district are held by  
33 a governmental agency and are available for sale but such agency is  
34 unwilling to submit a proposal, the commission may ascertain the price  
35 of such items and file a statement of such price supported by the sworn  
36 affidavit of one member of the commission and may consider such price  
37 as a bid without a deposit or bond.

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

4       **Sec. 212.** RCW 57.08.050 and 1999 c 153 s 9 are each amended to  
5 read as follows:

6       (1) All work ordered, the estimated cost of which is in excess of  
7 five thousand dollars, shall be let by contract ~~((~~All contract~~~~  
8 ~~projects, the estimated cost of which is in excess of five thousand~~  
9 ~~dollars and less than fifty thousand dollars, may be awarded to a~~  
10 ~~contractor using the small works roster process provided in RCW~~  
11 ~~39.04.155. The board of commissioners may set up uniform procedures to~~  
12 ~~prequalify contractors for inclusion on the small works roster. All~~  
13 ~~contract projects equal to or in excess of fifty thousand dollars shall~~  
14 ~~be let by))~~ and competitive bidding. Before awarding any such contract  
15 the board of commissioners shall publish a notice in a newspaper of  
16 general circulation where the district is located at least once  
17 thirteen days before the last date upon which bids will be received,  
18 inviting sealed proposals for such work, plans and specifications which  
19 must at the time of publication of such notice be on file in the office  
20 of the board of commissioners subject to the public inspection. The  
21 notice shall state generally the work to be done and shall call for  
22 proposals for doing the same to be sealed and filed with the board of  
23 commissioners on or before the day and hour named therein.

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

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

20 (2) As an alternative to requirements under subsection (1) of this  
21 section, a water-sewer district may let contracts using the small works  
22 roster process under RCW 39.04.155.

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

32 ((+3)) (4) The board may waive the competitive bidding  
33 requirements of this section pursuant to RCW 39.04.280 if an exemption  
34 contained within that section applies to the purchase or public work.

35 **Sec. 213.** RCW 70.44.140 and 1999 c 99 s 1 are each amended to read  
36 as follows:

37 (1) All materials purchased and work ordered, the estimated cost of  
38 which is in excess of five thousand dollars, shall be by contract.



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

