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**SUBSTITUTE HOUSE BILL 1621**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Local Government (originally sponsored by Representatives Ryu, Duerr, Pollet, Kloba, and Senn)

READ FIRST TIME 02/14/23.

1 AN ACT Relating to standardizing local government procurement  
2 rules among special purpose districts, first-class and second-class  
3 cities, and public utility districts; and amending RCW 54.04.070,  
4 35.23.352, 35.22.620, 57.08.050, and 52.14.110.

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

6 **Sec. 1.** RCW 54.04.070 and 2019 c 434 s 7 are each amended to  
7 read as follows:

8 (1) Any item, or items of the same kind of materials, equipment,  
9 or supplies purchased, the estimated cost of which is in excess of  
10 (~~thirty thousand dollars~~) \$30,000, exclusive of sales tax, shall be  
11 by contract. However, a district may make purchases of the same kind  
12 of items of materials, equipment, and supplies not exceeding (~~twelve~~  
13 ~~thousand dollars~~) \$12,000 in any calendar month without a contract,  
14 purchasing any excess thereof over (~~twelve thousand dollars~~)  
15 \$12,000 by contract.

16 (2) Any work ordered by a district commission, the estimated cost  
17 of which is in excess of (~~fifty thousand dollars, exclusive of sales~~  
18 ~~tax~~) \$150,000 exclusive of sales tax if more than a single craft or  
19 trade is involved with the public works project, or a public works  
20 project in excess of \$75,500 exclusive of sales tax if only a single  
21 craft or trade is involved with the public works project, shall be by

1 contract. However, a district commission may have its own regularly  
2 employed personnel perform work which is an accepted industry  
3 practice under prudent utility management without a contract. For  
4 purposes of this section, "prudent utility management" means  
5 performing work with regularly employed personnel utilizing material  
6 of a worth not exceeding (~~three hundred thousand dollars~~) \$300,000  
7 in value without a contract. This limit on the value of material  
8 being utilized in work being performed by regularly employed  
9 personnel shall not include the value of individual items of  
10 equipment. For the purposes of this section, the term "equipment"  
11 includes but is not limited to conductor, cabling, wire, pipe, or  
12 lines used for electrical, water, fiber optic, or telecommunications.

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

27 (4) As an alternative to the competitive bidding requirements of  
28 this section and RCW 54.04.080, a district may let contracts using  
29 the small works roster process under RCW 39.04.155.

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

36 (6) Pursuant to RCW 39.04.280, the commission may waive the  
37 competitive bidding requirements of this section and RCW 54.04.080 if  
38 an exemption contained within RCW 39.04.280 applies to the purchase  
39 or public work.

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

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

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

15 (d) Invitations for unit price bids shall include, for purposes  
16 of the bid evaluation, estimated quantities of the anticipated types  
17 of work or trades, and specify how the district will issue or release  
18 work assignments, work orders, or task authorizations pursuant to a  
19 unit priced contract for projects, tasks, or other work based on the  
20 hourly rates or unit prices bid by the contractor. Where electrical  
21 facility construction or improvement work is anticipated, contractors  
22 on a unit priced contract shall comply with the requirements under  
23 RCW 54.04.085 (1) through (5). Contracts must be awarded to the  
24 lowest responsible bidder as per RCW 39.04.010.

25 (e) Unit price contractors shall pay prevailing wages for all  
26 work that would otherwise be subject to the requirements of chapter  
27 39.12 RCW. Prevailing wages for all work performed pursuant to each  
28 work order must be the prevailing wage rates in effect at the  
29 beginning date for each contract year. Unit priced contracts must  
30 have prevailing wage rates updated annually. Intents and affidavits  
31 for prevailing wages paid must be submitted annually for all work  
32 completed within the previous (~~twelve-month~~) 12-month period of the  
33 unit priced contract.

34 (8) For the purposes of this section, "lowest responsible bidder"  
35 means a bid that meets the criteria under RCW 39.04.350 and has the  
36 lowest bid; provided, that if the district commission issues a  
37 written finding that the lowest bidder has delivered a project to the  
38 district within the last three years which was late, over budget, or  
39 did not meet specifications, and the commission does not find in  
40 writing that such bidder has shown how they would improve performance

1 to be likely to meet project specifications then the commission may  
2 choose the second lowest bidder whose bid is within five percent of  
3 the lowest bid and meets the same criteria as the lowest bidder.

4 **Sec. 2.** RCW 35.23.352 and 2019 c 434 s 1 are each amended to  
5 read as follows:

6 (1) Any second-class city or any town may construct any public  
7 works, as defined in RCW 39.04.010, by contract or day labor without  
8 calling for bids therefor whenever the estimated cost of the work or  
9 improvement, including cost of materials, supplies and equipment will  
10 not exceed the sum of (~~one hundred sixteen thousand one hundred~~  
11 ~~fifty-five dollars~~) \$150,000 if more than one craft or trade is  
12 involved with the public works, or (~~seventy-five thousand five~~  
13 ~~hundred dollars~~) \$75,500 if a single craft or trade is involved with  
14 the public works or the public works project is street signalization  
15 or street lighting. A public works project means a complete project.  
16 The restrictions in this subsection do not permit the division of the  
17 project into units of work or classes of work to avoid the  
18 restriction on work that may be performed by day labor on a single  
19 project. However, a second-class city or any town may have its own  
20 regularly employed personnel perform work which is an accepted  
21 industry practice under prudent utility management without a  
22 contract. For purposes of this section, "prudent utility management"  
23 means performing work with regularly employed personnel utilizing  
24 material of a worth not exceeding \$300,000 in value without a  
25 contract. This limit on value of material being utilized in work  
26 being performed by regularly employed personnel shall not include the  
27 value of individual items of equipment. For purposes of this section,  
28 "equipment" includes, but is not limited to, conductor, cabling,  
29 wire, pipe, or lines used for electrical, water, fiber optic, or  
30 telecommunications.

31 Whenever the cost of the public work or improvement, including  
32 materials, supplies and equipment, will exceed these figures, the  
33 same shall be done by contract. All such contracts shall be let at  
34 public bidding upon publication of notice calling for sealed bids  
35 upon the work. The notice shall be published in the official  
36 newspaper, or a newspaper of general circulation most likely to bring  
37 responsive bids, at least (~~thirteen~~) 13 days prior to the last date  
38 upon which bids will be received. The notice shall generally state  
39 the nature of the work to be done that plans and specifications

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

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

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

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

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

4 (4) In lieu of the procedures of subsection (1) of this section,  
5 a second-class city or a town may let contracts using the small works  
6 roster process provided in RCW 39.04.155.

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

10 (5) The form required by RCW 43.09.205 shall be to account and  
11 record costs of public works in excess of (~~five thousand dollars~~)  
12 \$5,000 that are not let by contract.

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

16 (7) Any purchase of supplies, material, or equipment, except for  
17 public work or improvement, (~~where the cost thereof exceeds seven  
18 thousand five hundred dollars shall be made upon call for bids~~) with  
19 an estimated cost in excess of \$40,000, shall be by contract. Any  
20 purchase of materials, supplies, or equipment with an estimated cost  
21 of less than \$50,000 shall be made using the process provided in RCW  
22 39.04.190.

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

28 (9) For advertisement and formal sealed bidding to be dispensed  
29 with as to purchases with an estimated value of (~~fifteen thousand  
30 dollars~~) \$15,000 or less, the council or commission must authorize  
31 by resolution, use of the uniform procedure provided in RCW  
32 39.04.190.

33 (10) The city or town legislative authority may waive the  
34 competitive bidding requirements of this section pursuant to RCW  
35 39.04.280 if an exemption contained within that section applies to  
36 the purchase or public work.

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

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

4 (13)(a) Any second-class city or any town may procure public  
5 works with a unit priced contract under this section for the purpose  
6 of completing anticipated types of work based on hourly rates or unit  
7 pricing for one or more 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 city or town, under which the contractor agrees to a  
12 fixed period indefinite quantity delivery of work, at a defined unit  
13 price for each category of work.

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

18 (d) Invitations for unit price bids shall include, for purposes  
19 of the bid evaluation, estimated quantities of the anticipated types  
20 of work or trades, and specify how the city or town will issue or  
21 release work assignments, work orders, or task authorizations  
22 pursuant to a unit priced contract for projects, tasks, or other work  
23 based on the hourly rates or unit prices bid by the contractor.  
24 Contracts must be awarded to the lowest responsible bidder as per RCW  
25 39.04.010. Whenever possible, the city or town must invite at least  
26 one proposal from a certified minority or woman contractor who  
27 otherwise qualifies 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~~) 12-month period of the  
36 unit priced contract.

37 (14) Any second-class city or town that awards a project to a  
38 bidder under the criteria described in subsection (2) of this section  
39 must make an annual report to the department of commerce that  
40 includes the total number of bids awarded to certified minority or

1 women contractors and describing how notice was provided to potential  
2 certified minority or women contractors.

3 **Sec. 3.** RCW 35.22.620 and 2019 c 434 s 11 are each amended to  
4 read as follows:

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

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

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

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

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



1 (3) In addition to the percentage limitation provided in  
2 subsection (2) of this section, a first-class city shall not have  
3 public employees perform a public works project in excess of (~~one~~  
4 ~~hundred fifty thousand dollars~~) \$150,000 if more than a single craft  
5 or trade is involved with the public works project, or a public works  
6 project in excess of (~~seventy-five thousand five hundred dollars~~)  
7 \$75,500 if only a single craft or trade is involved with the public  
8 works project or the public works project is street signalization or  
9 street lighting. A public works project means a complete project. The  
10 restrictions in this subsection do not permit the division of the  
11 project into units of work or classes of work to avoid the  
12 restriction on work that may be performed by day labor on a single  
13 project. However, a first-class city may have its own regularly  
14 employed personnel perform work which is an accepted industry  
15 practice under prudent utility management without a contract. For  
16 purposes of this section, "prudent utility management" means  
17 performing work with regularly employed personnel utilizing material  
18 of a worth not exceeding \$300,000 in value without a contract. This  
19 limit on the value of material being utilized in work being performed  
20 by regularly employed personnel shall not include the value of  
21 individual items of equipment. For purposes of this section, the term  
22 "equipment" includes, but is not limited to, conductor, cabling,  
23 wire, pipe, or lines used for electrical, water, fiber optic, or  
24 telecommunications.

25 (4) In addition to the accounting and recordkeeping requirements  
26 contained in RCW 39.04.070, every first-class city annually may  
27 prepare a report for the state auditor indicating the total public  
28 works construction budget and supplemental public works construction  
29 budget for that year, the total construction costs of public works  
30 performed by public employees for that year, and the amount of public  
31 works that is performed by public employees above or below (~~ten~~) 10  
32 percent of the total construction budget. However, if a city budgets  
33 on a biennial basis, this annual report may indicate the amount of  
34 public works that is performed by public employees within the current  
35 biennial period that is above or below (~~ten~~) 10 percent of the  
36 total biennial construction budget.

37 Each first-class city with a population of (~~one hundred fifty~~  
38 ~~thousand~~) 150,000 or less shall use the form required by RCW  
39 43.09.205 to account and record costs of public works in excess of  
40 (~~five thousand dollars~~) \$5,000 that are not let by contract.

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

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

10 (7) In lieu of the procedures of subsections (2) and (6) of this  
11 section, a first-class city may let contracts using the small works  
12 roster process in RCW 39.04.155.

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

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

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

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

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

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

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

39 (d) Invitations for unit price bids shall include, for purposes  
40 of the bid evaluation, estimated quantities of the anticipated types

1 of work or trades, and specify how the city will issue or release  
2 work assignments, work orders, or task authorizations pursuant to a  
3 unit priced contract for projects, tasks, or other work based on the  
4 hourly rates or unit prices bid by the contractor. Contracts must be  
5 awarded to the lowest responsible bidder as per RCW 39.04.010.  
6 Whenever possible, the city must invite at least one proposal from a  
7 certified minority or woman contractor who otherwise qualifies under  
8 this section.

9 (e) Unit price contractors shall pay prevailing wages for all  
10 work that would otherwise be subject to the requirements of chapter  
11 39.12 RCW. Prevailing wages for all work performed pursuant to each  
12 work order must be the prevailing wage rates in effect at the  
13 beginning date for each contract year. Unit priced contracts must  
14 have prevailing wage rates updated annually. Intents and affidavits  
15 for prevailing wages paid must be submitted annually for all work  
16 completed within the previous (~~twelve-month~~) 12-month period of the  
17 unit priced contract.

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

28 **Sec. 4.** RCW 57.08.050 and 2019 c 434 s 10 are each amended to  
29 read as follows:

30 (1) All work ordered, the estimated cost of which is in excess of  
31 (~~fifty thousand dollars~~) \$150,000 if more than a single craft or  
32 trade is involved with the public works project, or a public works  
33 project in excess of \$75,500 if only a single craft or trade is  
34 involved with the public works project, shall be let by contract and  
35 competitive bidding. Before awarding any such contract the board of  
36 commissioners shall publish a notice in a newspaper of general  
37 circulation where the district is located at least once (~~thirteen~~)  
38 13 days before the last date upon which bids will be received,  
39 inviting sealed proposals for such work, plans and specifications

1 which must at the time of publication of such notice be on file in  
2 the office of the board of commissioners subject to the public  
3 inspection. The notice shall state generally the work to be done and  
4 shall call for proposals for doing the same to be sealed and filed  
5 with the board of commissioners on or before the day and hour named  
6 therein.

7 Each bid shall be accompanied by a certified or cashier's check  
8 or postal money order payable to the order of the county treasurer  
9 for a sum not less than five percent of the amount of the bid, or  
10 accompanied by a bid bond in an amount not less than five percent of  
11 the bid with a corporate surety licensed to do business in the state,  
12 conditioned that the bidder will pay the district as liquidated  
13 damages the amount specified in the bond, unless the bidder enters  
14 into a contract in accordance with the bidder's bid, and no bid shall  
15 be considered unless accompanied by such check, cash or bid bond. At  
16 the time and place named such bids shall be publicly opened and read  
17 and the board of commissioners shall proceed to canvass the bids and  
18 may let such contract to the lowest responsible bidder upon plans and  
19 specifications on file or to the best bidder submitting the bidder's  
20 own plans and specifications. The board of commissioners may reject  
21 all bids for good cause and readvertise and in such case all checks,  
22 cash or bid bonds shall be returned to the bidders. If the contract  
23 is let, then all checks, cash, or bid bonds shall be returned to the  
24 bidders, except that of the successful bidder, which shall be  
25 retained until a contract shall be entered into for doing the work,  
26 and a bond to perform such work furnished with sureties satisfactory  
27 to the board of commissioners in the full amount of the contract  
28 price between the bidder and the commission in accordance with the  
29 bid. If the bidder fails to enter into the contract in accordance  
30 with the bid and furnish the bond within (~~ten~~) 10 days from the  
31 date at which the bidder is notified that the bidder is the  
32 successful bidder, the check, cash, or bid bonds and the amount  
33 thereof shall be forfeited to the district. If the bidder fails to  
34 enter into a contract in accordance with the bidder's bid, and the  
35 board of commissioners deems it necessary to take legal action to  
36 collect on any bid bond required by this section, then the district  
37 shall be 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 water-sewer district may let contracts using the  
5 small works roster process under RCW 39.04.155.

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

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

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

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

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

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

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

11 (e) Unit price contractors shall pay prevailing wages for all  
12 work that would otherwise be subject to the requirements of chapter  
13 39.12 RCW. Prevailing wages for all work performed pursuant to each  
14 work order must be the prevailing wage rates in effect at the  
15 beginning date for each contract year. Unit priced contracts must  
16 have prevailing wage rates updated annually. Intents and affidavits  
17 for prevailing wages paid must be submitted annually for all work  
18 completed within the previous (~~twelve-month~~) 12-month period of the  
19 unit priced contract.

20 (7) A water-sewer district may have its own regularly employed  
21 personnel perform work which is an accepted industry practice under  
22 prudent utility management without a contract. For purposes of this  
23 section, "prudent utility management" means performing work with  
24 regularly employed personnel utilizing material of a worth not  
25 exceeding \$300,000 in value without a contract. This limit on the  
26 value of material being utilized in work being performed by regularly  
27 employed personnel shall not include the value of individual items of  
28 equipment. For the purposes of this section, the term "equipment"  
29 includes but is not limited to conductor, cabling, wire, pipe, or  
30 lines used for electrical, water, fiber optic, or telecommunications.

31 (8) For the purposes of this section, "lowest responsible bidder"  
32 means a bid that meets the criteria under RCW 39.04.350 and has the  
33 lowest bid; provided, that if the district issues a written finding  
34 that the lowest bidder has delivered a project to the district within  
35 the last three years which was late, over budget, or did not meet  
36 specifications, and the district does not find in writing that such  
37 bidder has shown how they would improve performance to be likely to  
38 meet project specifications then the district may choose the second  
39 lowest bidder whose bid is within five percent of the lowest bid and  
40 meets the same criteria as the lowest bidder.

1       **Sec. 5.** RCW 52.14.110 and 2019 c 434 s 12 are each amended to  
2 read as follows:

3       (1) Insofar as practicable, purchases and any public works by the  
4 district shall be based on competitive bids. A formal sealed bid  
5 procedure shall be used as standard procedure for purchases and  
6 contracts for purchases executed by the board of commissioners.  
7 Formal sealed bidding shall not be required for:

8       ~~((1))~~ (a) The purchase of any materials, supplies, or equipment  
9 if the cost will not exceed the sum of ~~((forty thousand dollars))~~  
10 \$75,500. However, whenever the estimated cost does not exceed  
11 ~~((seventy five thousand dollars))~~ \$150,000, the commissioners may by  
12 resolution use the process provided in RCW 39.04.190 to award  
13 contracts;

14       ~~((2))~~ (b) Contracting for work to be done involving the  
15 construction or improvement of a fire station or other buildings  
16 where the estimated cost will not exceed the sum of ~~((thirty thousand~~  
17 dollars, which includes the costs of labor, material, and equipment))  
18 \$150,000 if more than a single craft or trade is involved with the  
19 public works project, or a public works project in excess of \$75,500  
20 if only a single craft or trade is involved with the public works  
21 project;

22       ~~((3))~~ (c) Contracts using the small works roster process under  
23 RCW 39.04.155; and

24       ~~((4))~~ (d) Any contract for purchases or public work pursuant to  
25 RCW 39.04.280 if an exemption contained within that section applies  
26 to the purchase or public work.

27       (2) A fire protection district may have its own regularly  
28 employed personnel perform work which is an accepted industry  
29 practice under prudent utility management without a contract. For  
30 purposes of this section, "prudent utility management" means  
31 performing work with regularly employed personnel utilizing material  
32 of a worth not exceeding \$300,000 in value without a contract. This  
33 limit on the value of material being utilized in work being performed  
34 by regularly employed personnel shall not include the value of  
35 individual items of equipment. For the purposes of this section, the  
36 term "equipment" includes but is not limited to conductor, cabling,  
37 wire, pipe, or lines used for electrical, water, fiber optic, or  
38 telecommunications.

39       (3) For the purposes of this section, "lowest responsible bidder"  
40 means a bid that meets the criteria under RCW 39.04.350 and has the

1 lowest bid; provided, that if the district issues a written finding  
2 that the lowest bidder has delivered a project to the district within  
3 the last three years which was late, over budget, or did not meet  
4 specifications, and the district does not find in writing that such  
5 bidder has shown how they would improve performance to be likely to  
6 meet project specifications then the district may choose the second  
7 lowest bidder whose bid is within five percent of the lowest bid and  
8 meets the same criteria as the lowest bidder.

--- **END** ---