

---

**SUBSTITUTE SENATE BILL 5268**

---

**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senate State Government & Elections (originally sponsored by Senators Hasegawa, Warnick, Hunt, Keiser, Kuderer, Nguyen, Nobles, Saldaña, Valdez, Wagoner, and C. Wilson)

READ FIRST TIME 01/30/23.

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

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

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

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

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

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

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

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

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

21 ~~((3))~~ (4) "Municipality" means every city, county, town, port  
22 district, district, or other public agency authorized by law to  
23 require the execution of public work, except drainage districts,  
24 diking districts, diking and drainage improvement districts, drainage  
25 improvement districts, diking improvement districts, consolidated  
26 diking and drainage improvement districts, consolidated drainage  
27 improvement districts, consolidated diking improvement districts,  
28 irrigation districts, or other districts authorized by law for the  
29 reclamation or development of waste or undeveloped lands.

30 ~~((4))~~ (5) "Public work" means all work, construction,  
31 alteration, repair, or improvement other than ordinary maintenance,  
32 executed at the cost of the state or of any municipality, or which is  
33 by law a lien or charge on any property therein. All public works,  
34 including maintenance when performed by contract shall comply with  
35 chapter 39.12 RCW. "Public work" does not include work, construction,  
36 alteration, repair, or improvement performed under contracts entered  
37 into under RCW 36.102.060(4) or under development agreements entered  
38 into under RCW 36.102.060(7) or leases entered into under RCW  
39 36.102.060(8).

1       (~~(5)~~) (6) "Responsible bidder" means a contractor who meets the  
2 criteria in RCW 39.04.350.

3       (~~(6)~~) (7) "Small business" means a business meeting  
4 certification criteria for size, ownership, control, and personal net  
5 worth adopted by the office of minority and women's business  
6 enterprises in accordance with RCW 39.19.030.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (10) Cooperate and act jointly or by division of labor with the  
32 United States or other states, and with political subdivisions of the  
33 state of Washington and their respective minority, socially and  
34 economically disadvantaged and women business enterprise programs to  
35 carry out the purposes of this chapter. However, the power which may  
36 be exercised by the office under this subsection permits  
37 investigation and imposition of sanctions only if the investigation  
38 relates to a possible violation of chapter 39.19 RCW, and not to  
39 violation of local ordinances, rules, regulations, however  
40 denominated, adopted by political subdivisions of the state.

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

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

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

31       Unless the context clearly requires otherwise, the definitions in  
32 this section apply throughout this chapter.

33       (1) "Alternative public works contracting procedure" means the  
34 design-build, general contractor/construction manager, and job order  
35 contracting procedures authorized in RCW 39.10.300, 39.10.340, and  
36 39.10.420, respectively.

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

38       (3) "Budget contingencies" means contingencies established by a  
39 public body outside of the design-build or general contractor/

1 construction manager contract for payment of project costs that are  
2 not the responsibility of the design-builder or general contractor/  
3 construction manager under the respective contract.

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

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

10 (6) "Committee," unless otherwise noted, means the project review  
11 committee.

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

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

19 ~~(9))~~ "General contractor/construction manager" means a firm with  
20 which a public body has selected to provide services during the  
21 design phase and negotiated a maximum allowable construction cost to  
22 act as construction manager and general contractor during the  
23 construction phase.

24 (~~(10))~~ (9) "Heavy civil construction project" means a civil  
25 engineering project, the predominant features of which are  
26 infrastructure improvements.

27 (~~(11))~~ (10) "Job order contract" means a contract in which the  
28 contractor agrees to a fixed period, indefinite quantity delivery  
29 order contract which provides for the use of work orders for public  
30 works as defined in RCW 39.04.010.

31 (~~(12))~~ (11) "Job order contractor" means a registered or  
32 licensed contractor awarded a job order contract.

33 (~~(13))~~ (12) "Maximum allowable construction cost" means the  
34 maximum cost of the work to construct the project including a  
35 percentage for risk contingency, negotiated support services, and  
36 approved change orders.

37 (~~(14))~~ (13) "Negotiated support services" means items a general  
38 contractor would normally manage or perform on a construction project  
39 including, but not limited to surveying, hoisting, safety  
40 enforcement, provision of toilet facilities, temporary heat, cleanup,

1 and trash removal, and that are negotiated as part of the maximum  
2 allowable construction cost.

3 ~~((15))~~ (14) "Percent fee" means the percentage amount to be  
4 earned by the general contractor/construction manager as overhead and  
5 profit.

6 ~~((16))~~ (15) "Price-related factor" means an evaluation factor  
7 that impacts costs which may include, but is not limited to overhead  
8 and profit, lump sum or guaranteed maximum price for the entire or a  
9 portion of the project, operating costs, or other similar factors  
10 that may apply to the project.

11 ~~((17))~~ (16) "Public body" means any general or special purpose  
12 government in the state of Washington, including but not limited to  
13 state agencies, institutions of higher education, counties, cities,  
14 towns, ports, school districts, and special purpose districts.

15 ~~((18))~~ (17) "Public works project" means any work for a public  
16 body within the definition of "public work" in RCW 39.04.010.

17 ~~((19))~~ (18) "Risk contingency" means a contingency for use as  
18 defined in the contract and established as part of the maximum  
19 allowable construction cost for unexpected cost of work items that  
20 have not otherwise been included or addressed in the maximum  
21 allowable construction cost.

22 ~~((20))~~ (19) "Small business (~~entity~~)" means a small business  
23 as defined in RCW ~~((39.26.010))~~ 39.04.010.

24 ~~((21))~~ (20) "Total contract cost" means the fixed amount for  
25 the detailed specified general conditions work, the negotiated  
26 maximum allowable construction cost, and the percent fee on the  
27 negotiated maximum allowable construction cost.

28 ~~((22))~~ (21) "Total project cost" means the cost of the project  
29 less financing and land acquisition costs.

30 ~~((23))~~ (22) "Unit price book" means a book containing specific  
31 prices, based on generally accepted industry standards and  
32 information, where available, for various items of work to be  
33 performed by the job order contractor.

34 ~~((24))~~ (23) "Work order" means an order issued for a definite  
35 scope of work to be performed pursuant to a job order contract.

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

38 (1) The board is created in the department of enterprise services  
39 to provide an evaluation of public capital projects construction

1 processes, including the impact of contracting methods on project  
2 outcomes, and to advise the legislature on policies related to public  
3 works delivery methods.

4 (2) Members of the board identified in (a) through (f) of this  
5 subsection must be knowledgeable or have experience in public works  
6 procurement and contracting, including state and federal laws, rules,  
7 and best practices concerning public contracting for small, minority,  
8 women, and veteran-owned businesses (~~(and small businesses)~~), and are  
9 appointed as follows:

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

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

30 (c) One member representing public ports, selected by the  
31 Washington public ports association;

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

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

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

38 (g) Two members of the house of representatives, one from each  
39 major caucus, appointed by the speaker of the house of  
40 representatives, and two members of the senate, one from each major



1 caucus, appointed by the president of the senate. Legislative members  
2 are nonvoting.

3 (3) Members selected under subsection (2)(a) of this section  
4 shall serve for terms of four years, with the terms expiring on June  
5 30th on the fourth year of the term.

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

8 (5) Legislative members of the board shall be reimbursed for  
9 travel expenses in accordance with RCW 44.04.120. Nonlegislative  
10 members of the board, project review committee members, and committee  
11 chairs shall be reimbursed for travel expenses as provided in RCW  
12 43.03.050 and 43.03.060.

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

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

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

22 (9) The department of enterprise services shall provide staff  
23 support as may be required for the proper discharge of the function  
24 of the board.

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

27 (11) The board shall provide opportunities for persons and  
28 entities not represented on the board to participate and provide  
29 insights on matters of interest to the board, particularly with  
30 respect to the experiences of small, minority, women, and veteran-  
31 owned businesses (~~and small businesses~~).

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

34 The board has the following powers and duties:

35 (1) Develop and recommend to the legislature policies to  
36 encourage competition and to further enhance the quality, efficiency,  
37 and accountability of and equitable participation by (~~disadvantaged~~  
38 ~~business—enterprises~~) small, minority, women, or veteran-owned  
39 businesses in capital construction projects through the use of

1 traditional and alternative delivery methods in Washington, and make  
2 recommendations regarding best practices, expansion, continuation,  
3 elimination, or modification of the alternative public works  
4 contracting methods, including specific recommendations for reducing  
5 barriers for and increasing participation by (~~disadvantaged business~~  
6 ~~enterprises~~) small, minority, women, or veteran-owned businesses;

7 (2) Evaluate the use of existing contracting procedures and the  
8 potential future use of other alternative contracting procedures  
9 including competitive negotiation contracts;

10 (3) Submit recommendations to the appropriate committees of the  
11 legislature evaluating alternative contracting procedures that are  
12 not authorized under this chapter;

13 (4) Appoint members of committees; and

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

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

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

25 (2) The board shall, by a majority vote of the board, appoint  
26 persons to the committee who are knowledgeable in the use of the  
27 design-build and general contractor/construction manager contracting  
28 procedures. Appointments must represent a balance of public and  
29 private sector representatives of the board listed in RCW 39.10.220,  
30 and must include at least one member representing the interests of  
31 (~~disadvantaged business enterprises~~) small, minority, women, or  
32 veteran-owned businesses.

33 (a) Each member of the committee shall be appointed for a term of  
34 three years. However, for initial appointments, the board shall  
35 stagger the appointment of committee members so that the first  
36 members are appointed to serve terms of one, two, or three years from  
37 the date of appointment. Appointees may be reappointed to serve more  
38 than one term.

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

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

6 (3) The chair of the committee, in consultation with the vice  
7 chair, may appoint one or more panels of at least six committee  
8 members to carry out the duties of the committee. Each panel shall  
9 have balanced representation of the private and public sector  
10 representatives serving on the committee, and shall include a member  
11 representing the interests of ~~((disadvantaged business enterprises))~~  
12 small, minority, women, or veteran-owned businesses.

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

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

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

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

23 (1) Contracts for design-build services shall be awarded through  
24 a competitive process using public solicitation of proposals for  
25 design-build services. At a minimum, the public body shall publish at  
26 least once in a legal newspaper of general circulation published in,  
27 or as near as possible to, that part of the county in which the  
28 public work will be done, a notice of its request for qualifications  
29 from proposers for design-build services, and the availability and  
30 location of the request for proposal documents. The public body is  
31 encouraged to post the design-build opportunity in additional areas,  
32 such as websites for business associations or the office of minority  
33 and women's business enterprises, to further publicize the  
34 opportunity for qualified design-build teams. The request for  
35 qualifications documents shall include:

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

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

1 (c) A description of the qualifications to be required of the  
2 proposer;

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

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

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

32 (e) Protest procedures including time limits for filing a  
33 protest, which in no event may limit the time to file a protest to  
34 fewer than four business days from the date the proposer was notified  
35 of the selection decision;

36 (f) The proposed contract;

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

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

40 (i) Other information relevant to the project.

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

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

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

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

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

28 (5) The public body shall establish an evaluation committee to  
29 evaluate the proposals submitted by the finalists. The finalists'  
30 proposals shall be evaluated and scored based solely on the factors,  
31 weighting, and process identified in the request for qualifications,  
32 the request for proposals, and in any addenda published by the public  
33 body. Public bodies may request best and final proposals from  
34 finalists. The public body may initiate negotiations with the  
35 finalist submitting the highest scored proposal. If the public body  
36 is unable to execute a contract with the finalist submitting the  
37 highest scored proposal, negotiations with that finalist may be  
38 suspended or terminated and the public body may proceed to negotiate  
39 with the next highest scored finalist. Public bodies shall continue

1 in accordance with this procedure until a contract agreement is  
2 reached or the selection process is terminated.

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

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

13 (8) Any contract must require the firm awarded the contract to  
14 track and report to the public body and to the office of minority and  
15 women's business enterprises its utilization of the office of  
16 minority and women's business enterprises certified businesses and  
17 veteran certified businesses.

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

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

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

30 (2) Contracts for the services of a general contractor/  
31 construction manager under this section shall be awarded through a  
32 competitive process requiring the public solicitation of proposals  
33 for general contractor/construction manager services. At a minimum,  
34 the public body shall publish at least once in a legal newspaper of  
35 general circulation published in, or as near as possible to, that  
36 part of the county in which the public work will be performed, a  
37 notice of its request for qualifications from proposers for general  
38 contractor/construction manager services, and the availability and  
39 location of the request for proposal documents. The public body is

1 encouraged to post the general contractor/construction manager  
2 opportunity in additional areas, such as websites for business  
3 associations or the office of minority and women's business  
4 enterprises, to further publicize the opportunity for qualified  
5 general contractors/construction managers. The public solicitation of  
6 proposals shall include:

7 (a) A description of the project, including programmatic,  
8 performance, and technical requirements and specifications when  
9 available;

10 (b) The reasons for using the general contractor/construction  
11 manager procedure;

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

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

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

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

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

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

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

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

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

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

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

35 (f) The proposer's past performance in utilization of  
36 ~~((disadvantaged business enterprises and small business entities))~~  
37 business entities certified with the office of minority and women's  
38 business enterprises, including small businesses and business  
39 entities certified with the department of veterans affairs and the  
40 inclusion plan for ~~((small business entities and disadvantaged~~

1 ~~business enterprises))~~ business entities certified with the office of  
2 minority and women's business enterprises, including small businesses  
3 and business entities certified with the department of veterans  
4 affairs as subconsultants, subcontractors, and suppliers for the  
5 project, to the extent permitted by law.

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

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

31 (6) Public bodies may contract with the selected firm to provide  
32 services during the design phase that may include life-cycle cost  
33 design considerations, value engineering, scheduling, cost  
34 estimating, constructability, alternative construction options for  
35 cost savings, and sequencing of work, and to act as the construction  
36 manager and general contractor during the construction phase.

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



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

29 (2) All subcontract bid packages in which bidder eligibility was  
30 not determined in advance shall include the specific objective  
31 criteria that will be used by the general contractor/construction  
32 manager and the public body to evaluate bidder responsibility. If the  
33 lowest bidder submitting a responsive bid is determined by the  
34 general contractor/construction manager and the public body not to be  
35 responsible, the general contractor/construction manager and the  
36 public body must provide written documentation to that bidder  
37 explaining their intent to reject the bidder as not responsible and  
38 afford the bidder the opportunity to establish that it is a  
39 responsible bidder. Responsibility shall be determined in accordance  
40 with criteria listed in the bid documents. Protests concerning bidder

1 responsibility determination by the general contractor/construction  
2 manager and the public body shall be in accordance with subsection  
3 (4) of this section.

4 (3) All subcontractors who bid work over \$300,000 shall post a  
5 bid bond. All subcontractors who are awarded a contract over \$300,000  
6 shall provide a performance and payment bond for the contract amount.  
7 All other subcontractors shall provide a performance and payment bond  
8 if required by the general contractor/construction manager.

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

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

23 (6) The general contractor/construction manager may negotiate  
24 with the lowest responsible and responsive bidder to negotiate an  
25 adjustment to the lowest bid or proposal price to reduce cost based  
26 upon agreed changes to the contract plans and specifications under  
27 the following conditions:

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

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

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

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

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

38 The selection process in this section may be used by public  
39 bodies certified under RCW 39.10.270. It may also be used by

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

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

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

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

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

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

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

26 (a) A description of the project, including programmatic,  
27 performance, and technical requirements and specifications when  
28 available, along with a description of the project's unique aspects,  
29 complexities, and challenges;

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

31 (c) A description of the minimum qualifications required of the  
32 firm;

33 (d) A description of the process used to evaluate qualifications  
34 and proposals, including evaluation factors and the relative weight  
35 of factors;

36 (e) Protest procedures;

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

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

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

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

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

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

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

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

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

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

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

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

20 (i) The firm's safety history;

21 (j) If interviews are part of the selection process, the  
22 solicitation shall describe how interviews will be scored or  
23 evaluated, and evaluations shall be included in the written selection  
24 summary; and

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

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

34 (5) The general contractor/construction manager must notify all  
35 proposers of the most qualified firms that will move to the next  
36 phase of the selection process. The process may not proceed to the  
37 next phase until two business days after all proposers are notified  
38 of the committee's selection decision. At the request of a proposer,  
39 the general contractor/construction manager must provide the  
40 requesting proposer with a scoring summary of the evaluation factors

1 for its proposal. Proposers filing a protest on the selection of the  
2 most qualified finalists must file the protest with the public body  
3 in accordance with the published protest procedures. The selection  
4 process may not advance to the next phase of selection until two  
5 business days after the final protest decision issued by the public  
6 body is transmitted to the protestor.

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

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

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

36 (9) With the approval of the public body, the general contractor/  
37 construction manager may contract with the selected firm to provide  
38 preconstruction services during the design phase that may include  
39 life-cycle cost design considerations, value engineering, scheduling,  
40 cost estimating, constructability, alternative construction options

1 for cost savings, and sequencing of work; and to act as the  
2 subcontractor during the construction phase.

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

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

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

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

35 In addition to the general contractor/construction manager  
36 requirements established in this chapter, public bodies utilizing the  
37 general contractor/construction manager method for a heavy civil  
38 construction project must also comply with the following  
39 requirements:

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

3 (a) Provide the reasons for using the general contractor/  
4 construction manager procedure, including a clear statement that the  
5 public body is electing to procure the project as a heavy civil  
6 construction project;

7 (b) Indicate the minimum percentage of the cost of the work to  
8 construct the project that will constitute the negotiated self-  
9 perform portion of the project;

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

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

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

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

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

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

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

34 (3) The public body and general contractor/construction manager  
35 may negotiate the scopes of work to be procured by bid and the price  
36 and scope of work for the negotiated self-perform portion of the  
37 project, if any;

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



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

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

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

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

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

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

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

35 (b) A state agency or authorized local government establishing a  
36 small works roster must require contractors desiring to be placed on  
37 the roster to indicate if they meet the definition of women and  
38 minority-owned business as described in RCW 39.19.030(7)(b), veteran-  
39 owned business as defined in RCW 43.60A.010, or small business as

1 defined in RCW 39.04.010, and to keep current records of any  
2 applicable licenses, certifications, registrations, bonding,  
3 insurance, or other appropriate matters on file with the appropriate  
4 agency as a condition of being placed on the roster and award of  
5 contract.

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

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

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

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

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

30 (3) The department of commerce shall provide funding to the  
31 municipal research and services center as appropriated to maintain  
32 and publicize a small works roster and work with the municipal  
33 research and services center to notify state and local governments  
34 authorized to use small works rosters of the statewide roster  
35 authority and to provide guidance on how to use the authority. The  
36 guidance may take the form of a manual provided to local governments.

37 (4) A state agency establishing a small works roster shall adopt  
38 rules implementing this section. A local government establishing a  
39 small works roster shall adopt an ordinance or resolution  
40 implementing this section. Procedures included in rules adopted by

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

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

25 (2) State agencies and authorized local governments must document  
26 good faith efforts annually implementing subsections (6) and (7) of  
27 this section.

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

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

37 (a)(i) For small works roster projects with an estimated cost  
38 less than \$350,000, not including sales tax, state agencies and  
39 authorized local governments may contract by securing written or

1 electronic quotations to assure that a competitive price is  
2 established and to award contracts to the responsible bidder with the  
3 lowest responsive bid.

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

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

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

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

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

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

39 (5) For small public works contracts under \$5,000, there is no  
40 requirement for retainage or performance bonds. Small public works

1 contracts valued at more than \$5,000 shall be subject to performance  
2 bond requirements set forth in chapter 39.08 RCW and retainage  
3 requirements set forth in RCW 60.28.011(1)(a), provided, however,  
4 that the awarding state agency or local government may reduce or  
5 waive retainage requirements, thereby assuming the liability for the  
6 contractor's nonpayment of: (a) Laborers, mechanics, subcontractors,  
7 materialpersons, and suppliers; and (b) taxes, increases, and  
8 penalties pursuant to Titles 50, 51, and 82 RCW that may be due from  
9 the contractor for the project. Any such waiver will not affect the  
10 rights of the state agency or local government to recover against the  
11 contractor for any payments made on the contractor's behalf. For  
12 small public works contracts awarded through a bid solicitation,  
13 notice of any retainage reduction or waiver must be provided in bid  
14 solicitations.

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

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

20 NEW SECTION. **Sec. 16.** Beginning in 2025 and every five years  
21 thereafter, the capital projects advisory review board must review  
22 construction cost escalation data for Washington state, readily  
23 available in industry publications, roster utilization, and other  
24 appropriate data and metrics, and make recommendations to the  
25 appropriate committees of the legislature on adjustments to the  
26 contracting thresholds described in section 15 of this act.

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

29 (1) When, in the opinion of the board of directors of any school  
30 district, the cost of any furniture, supplies, equipment, building,  
31 improvements, or repairs, or other work or purchases, except books,  
32 will equal or exceed the threshold levels specified in subsections

33 (2) and (4) of this section, complete plans and specifications for  
34 such work or purchases shall be prepared and notice by publication  
35 given in at least one newspaper of general circulation within the  
36 district, once each week for two consecutive weeks, of the intention  
37 to receive bids and that specifications and other information may be  
38 examined at the office of the board or any other officially

1 designated location. The cost of any public work, improvement, or  
2 repair for the purposes of this section shall be the aggregate of all  
3 amounts to be paid for labor, material, and equipment on one  
4 continuous or interrelated project where work is to be performed  
5 simultaneously or in close sequence. The bids shall be in writing and  
6 shall be opened and read in public on the date and in the place named  
7 in the notice and after being opened shall be filed for public  
8 inspection.

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

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

30 (4) The board may make improvements or repairs to the property of  
31 the district through a department within the district without  
32 following the public bidding process provided in subsection (1) of  
33 this section when the total of such improvements or repairs does not  
34 exceed the sum of (~~seventy-five thousand dollars~~) \$75,000. Whenever  
35 the estimated cost of a building, improvement, repair, or other  
36 public works project is one hundred thousand dollars or more, the  
37 public bidding process provided in subsection (1) of this section  
38 shall be followed unless the contract is let using the small works  
39 roster process in (~~RCW 39.04.155~~) sections 14 through 16 of this  
40 act or under any other procedure authorized for school districts. One

1 or more school districts may authorize an educational service  
2 district to establish and operate a small works roster for the school  
3 district under the provisions of ((RCW 39.04.155)) sections 14  
4 through 16 of this act.

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

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

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

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

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

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

32 (11) As used in this section, "price percentage preference" means  
33 the percent by which a responsive bid from a responsible bidder whose  
34 product is a Washington grown food may exceed the lowest responsive  
35 bid submitted by a responsible bidder whose product is not a  
36 Washington grown food.

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

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

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

13 (3) The Evergreen State College or any regional 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. Any  
16 project publicly bid under this subsection is subject to the  
17 provisions of chapter 39.12 RCW.

18 (4) Where the estimated cost of any building, construction,  
19 renovation, remodeling, or demolition is less than (~~ninety thousand~~  
20 ~~dollars~~) \$90,000 or the contract is awarded by the small works  
21 roster procedure authorized in (~~RCW 39.04.155~~) sections 14 through  
22 16 of this act, the publication requirements of RCW 39.04.020 do not  
23 apply.

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

36 (6) This section does not apply when a contract is awarded by the  
37 small works roster procedure authorized in (~~RCW 39.04.155~~) sections  
38 14 through 16 of this act or under any other procedure authorized for  
39 an institution of higher education.



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

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

23       (2) This section does not apply when a contract is awarded by the  
24 small works roster procedure authorized in (~~RCW 39.04.155~~)) sections  
25 14 through 16 of this act.

26       (3) Where the estimated cost to any college of any building,  
27 improvements, or repairs, or other work, is less than (~~ninety~~  
28 ~~thousand dollars~~)) \$90,000, or (~~forty-five thousand dollars~~))  
29 \$45,000 if the work involves one trade or craft area, the publication  
30 requirements of RCW 39.04.020 do not apply.

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

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

35       (2) A first-class city may have public works performed by  
36 contract pursuant to public notice and call for competitive bids. As  
37 limited by subsection (3) of this section, a first-class city may  
38 have public works performed by city employees in any annual or  
39 biennial budget period equal to a dollar value not exceeding (~~ten~~))

1 10 percent of the public works construction budget, including any  
2 amount in a supplemental public works construction budget, over the  
3 budget period. The amount of public works that a first-class city has  
4 a county perform for it under RCW 35.77.020 shall be included within  
5 this (~~ten~~) 10 percent limitation.

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

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

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

28 (3) In addition to the percentage limitation provided in  
29 subsection (2) of this section, a first-class city shall not have  
30 public employees perform a public works project in excess of (~~one~~  
31 ~~hundred fifty thousand dollars~~) \$150,000 if more than a single craft  
32 or trade is involved with the public works project, or a public works  
33 project in excess of (~~seventy-five thousand five hundred dollars~~)  
34 \$75,500 if only a single craft or trade is involved with the public  
35 works project or the public works project is street signalization or  
36 street lighting. A public works project means a complete project. The  
37 restrictions in this subsection do not permit the division of the  
38 project into units of work or classes of work to avoid the  
39 restriction on work that may be performed by day labor on a single  
40 project.

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

13 Each first-class city with a population of (~~one hundred fifty~~  
14 ~~thousand~~) 150,000 or less shall use the form required by RCW  
15 43.09.205 to account and record costs of public works in excess of  
16 (~~five thousand dollars~~) \$5,000 that are not let by contract.

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

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

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

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

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

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

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

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

14 (c) Unit priced contracts must be executed for an initial  
15 contract term not to exceed three years, with the city having the  
16 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 will issue or release  
21 work assignments, work orders, or task authorizations pursuant to a  
22 unit priced contract for projects, tasks, or other work based on the  
23 hourly rates or unit prices bid by the contractor. Contracts must be  
24 awarded to the lowest responsible bidder as per RCW 39.04.010.  
25 Whenever possible, the city must invite at least one proposal from a  
26 certified minority or woman contractor who otherwise qualifies under  
27 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 **Sec. 21.** RCW 35.23.352 and 2019 c 434 s 1 are each amended to  
38 read as follows:

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

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

35 When the contract is let then all bid proposal deposits shall be  
36 returned to the bidders except that of the successful bidder which  
37 shall be retained until a contract is entered into and a bond to  
38 perform the work furnished, with surety satisfactory to the council  
39 or commission, in accordance with RCW 39.08.030. If the bidder fails  
40 to enter into the contract in accordance with his or her bid and

1 furnish a bond within (~~ten~~) 10 days from the date at which he or  
2 she is notified that he or she is the successful bidder, the check or  
3 postal money order and the amount thereof shall be forfeited to the  
4 council or commission or the council or commission shall recover the  
5 amount of the surety bond. A low bidder who claims error and fails to  
6 enter into a contract is prohibited from bidding on the same project  
7 if a second or subsequent call for bids is made for the project.

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

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

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

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

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

32 (5) The form required by RCW 43.09.205 shall be to account and  
33 record costs of public works in excess of (~~five thousand dollars~~)  
34 \$5,000 that are not let by contract.

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

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

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

6 (9) For advertisement and formal sealed bidding to be dispensed  
7 with as to purchases with an estimated value of (~~fifteen thousand~~  
8 ~~dollars~~) \$15,000 or less, the council or commission must authorize  
9 by resolution, use of the uniform procedure provided in RCW  
10 39.04.190.

11 (10) The city or town legislative authority may waive the  
12 competitive bidding requirements of this section pursuant to RCW  
13 39.04.280 if an exemption contained within that section applies to  
14 the purchase or public work.

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

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

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

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

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

35 (d) Invitations for unit price bids shall include, for purposes  
36 of the bid evaluation, estimated quantities of the anticipated types  
37 of work or trades, and specify how the city or town will issue or  
38 release work assignments, work orders, or task authorizations  
39 pursuant to a unit priced contract for projects, tasks, or other work  
40 based on the hourly rates or unit prices bid by the contractor.

1 Contracts must be awarded to the lowest responsible bidder as per RCW  
2 39.04.010. Whenever possible, the city or town must invite at least  
3 one proposal from a certified minority or woman contractor who  
4 otherwise qualifies under this section.

5 (e) Unit price contractors shall pay prevailing wages for all  
6 work that would otherwise be subject to the requirements of chapter  
7 39.12 RCW. Prevailing wages for all work performed pursuant to each  
8 work order must be the prevailing wage rates in effect at the  
9 beginning date for each contract year. Unit priced contracts must  
10 have prevailing wage rates updated annually. Intents and affidavits  
11 for prevailing wages paid must be submitted annually for all work  
12 completed within the previous (~~twelve-month~~) 12-month period of the  
13 unit priced contract.

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

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

22 (1) All work ordered, the estimated cost of which is in excess of  
23 (~~twenty thousand dollars~~) \$20,000, shall be let by contract and  
24 competitive bidding. Before awarding any such contract the board of  
25 park commissioners shall publish a notice in a newspaper of general  
26 circulation where the district is located at least once (~~thirteen~~)  
27 13 days before the last date upon which bids will be received,  
28 inviting sealed proposals for such work, plans, and specifications  
29 which must at the time of publication of such notice be on file in  
30 the office of the board of park commissioners subject to the public  
31 inspection. The notice shall state generally the work to be done and  
32 shall call for proposals for doing the same to be sealed and filed  
33 with the board of park commissioners on or before the day and hour  
34 named therein.

35 Each bid shall be accompanied by a certified or cashier's check  
36 or postal money order payable to the order of the metropolitan park  
37 district for a sum not less than five percent of the amount of the  
38 bid, or accompanied by a bid bond in an amount not less than five  
39 percent of the bid with a corporate surety licensed to do business in



1 the state, conditioned that the bidder will pay the metropolitan park  
2 district as liquidated damages the amount specified in the bond,  
3 unless the bidder enters into a contract in accordance with the  
4 bidder's bid, and no bid shall be considered unless accompanied by  
5 such check, cash, or bid bond. At the time and place named such bids  
6 shall be publicly opened and read and the board of park commissioners  
7 shall proceed to canvass the bids and may let such contract to the  
8 lowest responsible bidder upon plans and specifications on file or to  
9 the best bidder submitting the bidder's own plans and specifications.  
10 The board of park commissioners may reject all bids for good cause  
11 and readvertise and in such case all checks, cash, or bid bonds shall  
12 be returned to the bidders. If the contract is let, then all checks,  
13 cash, or bid bonds shall be returned to the bidders, except that of  
14 the successful bidder, which shall be retained until a contract is  
15 entered into for doing the work, and a bond to perform such work  
16 furnished with sureties satisfactory to the board of park  
17 commissioners in the full amount of the contract price between the  
18 bidder and the metropolitan park district in accordance with the bid.  
19 If the bidder fails to enter into the contract in accordance with the  
20 bid and furnish the bond within ten days from the date at which the  
21 bidder is notified that the bidder is the successful bidder, the  
22 check, cash, or bid bonds and the amount thereof shall be forfeited  
23 to the metropolitan park district. If the bidder fails to enter into  
24 a contract in accordance with the bidder's bid, and the board of park  
25 commissioners deems it necessary to take legal action to collect on  
26 any bid bond required by this section, then the metropolitan park  
27 district is entitled to collect from the bidder any legal expenses,  
28 including reasonable attorneys' fees occasioned thereby. A low bidder  
29 who claims error and fails to enter into a contract is prohibited  
30 from bidding on the same project if a second or subsequent call for  
31 bids is made for the project.

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

36 (3) Any purchase of materials, supplies, or equipment, with an  
37 estimated cost in excess of ~~((forty thousand dollars))~~ \$40,000, shall  
38 be by contract. Any purchase of materials, supplies, or equipment,  
39 with an estimated cost of less than ~~((fifty thousand dollars))~~  
40 \$50,000 shall be made using the process provided in RCW 39.04.190.

1 Any purchase of materials, supplies, or equipment with an estimated  
2 cost of (~~fifty thousand dollars~~) \$50,000 or more shall be made by  
3 competitive bidding following the procedure for letting contracts for  
4 projects under subsection (1) of this section.

5 (4) As an alternative to requirements under subsection (3) of  
6 this section, a metropolitan park district may let contracts for  
7 purchase of materials, supplies, or equipment with the suppliers  
8 designated on current state agency, county, city, or town purchasing  
9 rosters for the materials, supplies, or equipment, when the roster  
10 has been established in accordance with the competitive bidding law  
11 for purchases applicable to the state agency, county, city, or town.  
12 The price and terms for purchases shall be as described on the  
13 applicable roster.

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

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

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

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

24 (1) In each county which by resolution establishes a county  
25 purchasing department, the purchasing department shall enter into  
26 leases of personal property on a competitive basis and purchase all  
27 supplies, materials, and equipment on a competitive basis, for all  
28 departments of the county, as provided in this chapter and chapter  
29 39.04 RCW, except that the county purchasing department is not  
30 required to make purchases that are paid from the county road fund or  
31 equipment rental and revolving fund.

32 (2) As used in this section:

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

34 (b) "Riverine project" means a project of construction,  
35 alteration, repair, replacement, or improvement other than ordinary  
36 maintenance, executed at the cost of the state or of any  
37 municipality, or which is by law a lien or charge on any property,  
38 carried out on a river or stream and its tributaries and associated

1 floodplains, beds, banks, and waters for the purpose of improving  
2 aquatic habitat, improving water quality, restoring floodplain  
3 function, or providing flood protection.

4 (c) "Stormwater project" means a project of construction,  
5 alteration, repair, replacement, or improvement other than ordinary  
6 maintenance, executed at the cost of the state or of any  
7 municipality, or which is by law a lien or charge on any property,  
8 carried out on a municipal separate storm sewer system, and any  
9 connections to the system, that is regulated under a state-issued  
10 national pollutant discharge elimination system general municipal  
11 stormwater permit for the purpose of improving control of stormwater  
12 runoff quantity and quality from developed land, safely conveying  
13 stormwater runoff, or reducing erosion or other water quality impacts  
14 caused by municipal separate storm sewer system discharges.

15 (3) Except as otherwise specified in this chapter or in chapter  
16 36.77 RCW, all counties subject to these provisions shall contract on  
17 a competitive basis for all public works after bids have been  
18 submitted to the county upon specifications therefor. Such  
19 specifications shall be in writing and shall be filed with the clerk  
20 of the county legislative authority for public inspection.

21 (4) An advertisement shall be published in the county official  
22 newspaper stating the time and place where bids will be opened, the  
23 time after which bids will not be received, the character of the work  
24 to be done, the materials and equipment to be furnished, and that  
25 specifications therefor may be seen at the office of the clerk of the  
26 county legislative authority. An advertisement shall also be  
27 published in a legal newspaper of general circulation in or as near  
28 as possible to that part of the county in which such work is to be  
29 done. If the county official newspaper is a newspaper of general  
30 circulation covering at least (~~forty~~) 40 percent of the residences  
31 in that part of the county in which such public works are to be done,  
32 then the publication of an advertisement of the applicable  
33 specifications in the county official newspaper is sufficient. Such  
34 advertisements shall be published at least once at least (~~thirteen~~)  
35 13 days prior to the last date upon which bids will be received.

36 (5) The bids shall be in writing, may be in either hard copy or  
37 electronic form as specified by the county, shall be filed with the  
38 clerk, shall be opened and read in public at the time and place named  
39 therefor in the advertisements, and, after being opened, shall be  
40 filed for public inspection. No bid may be considered for public work

1 unless it is accompanied by a bid deposit in the form of a surety  
2 bond, postal money order, cash, cashier's check, or certified check  
3 in an amount equal to five percent of the amount of the bid proposed.

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

9 (7) If the bidder to whom the contract is awarded fails to enter  
10 into the contract and furnish the contractor's bond as required  
11 within (~~ten~~) 10 days after notice of the award, exclusive of the  
12 day of notice, the amount of the bid deposit shall be forfeited to  
13 the county and the contract awarded to the next lowest and best  
14 bidder. The bid deposit of all unsuccessful bidders shall be returned  
15 after the contract is awarded and the required contractor's bond  
16 given by the successful bidder is accepted by the county legislative  
17 authority. Immediately after the award is made, the bid quotations  
18 obtained shall be recorded and open to public inspection and shall be  
19 available by telephone inquiry.

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

26 Whenever a county subject to these provisions has had public  
27 works performed in any budget period up to the maximum permitted  
28 amount for that budget period, all remaining public works except  
29 emergency work under subsection (13) of this section within that  
30 budget period shall be done by contract pursuant to public notice and  
31 call for competitive bids as specified in subsection (3) of this  
32 section. The state auditor shall report to the state treasurer any  
33 county subject to these provisions that exceeds this amount and the  
34 extent to which the county has or has not reduced the amount of  
35 public works it has performed by public employees in subsequent  
36 years.

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

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

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

11 (c) Invitations for unit price bids shall include, for purposes  
12 of the bid evaluation, estimated quantities of the anticipated types  
13 of work or trades, and specify how the county will issue or release  
14 work assignments, work orders, or task authorizations pursuant to a  
15 unit priced contract for projects, tasks, or other work based on the  
16 hourly rates or unit prices bid by the contractor. The contract must  
17 be awarded to the lowest responsible bidder as defined under RCW  
18 39.04.010. Whenever possible, the county must invite at least one bid  
19 from a certified minority or woman contractor who otherwise qualifies  
20 under this section.

21 (d) Unit price contractors shall pay prevailing wages for all  
22 work that would otherwise be subject to the requirements of chapter  
23 39.12 RCW. Prevailing wages for all work performed pursuant to each  
24 work order must be the prevailing wage rates in effect at the  
25 beginning date for each contract year. Unit priced contracts must  
26 have prevailing wage rates updated annually. Intents and affidavits  
27 for prevailing wages paid must be submitted annually for all work  
28 completed within the previous (~~twelve-month~~) 12-month period of the  
29 unit priced contract.

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

1 that the amount of public works it has performed by public employees  
2 has been reduced as required.

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

22 The cost of a separate public works project shall be the costs of  
23 materials, supplies, equipment, and labor on the construction of that  
24 project. The value of the public works budget shall be the value of  
25 all the separate public works projects within the budget.

26 (12) In addition to the accounting and recordkeeping requirements  
27 contained in chapter 39.04 RCW, any county which uses public  
28 employees to perform public works projects under RCW 36.32.240(1)  
29 shall prepare a year-end report to be submitted to the state auditor  
30 indicating the total dollar amount of the county's public works  
31 construction budget and the total dollar amount for public works  
32 projects performed by public employees for that year.

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

36 (13) Notwithstanding any other provision in this section,  
37 counties may use public employees without any limitation for  
38 emergency work performed under an emergency declared pursuant to RCW  
39 36.32.270, and any such emergency work shall not be subject to the  
40 limitations of this section. Publication of the description and

1 estimate of costs relating to correcting the emergency may be made  
2 within seven days after the commencement of the work. Within two  
3 weeks of the finding that such an emergency existed, the county  
4 legislative authority shall adopt a resolution certifying the damage  
5 to public facilities and costs incurred or anticipated relating to  
6 correcting the emergency. Additionally this section shall not apply  
7 to architectural and engineering or other technical or professional  
8 services performed by public employees in connection with a public  
9 works project.

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

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

17 (15) The allocation of public works projects to be performed by  
18 county employees shall not be subject to a collective bargaining  
19 agreement.

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

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

26 (18) This section does not apply to contracts between the public  
27 stadium authority and a team affiliate under RCW 36.102.060(4), or  
28 development agreements between the public stadium authority and a  
29 team affiliate under RCW 36.102.060(7) or leases entered into under  
30 RCW 36.102.060(8).

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

33 No contract for public works may be entered into by the county  
34 legislative authority or by any elected or appointed officer of the  
35 county until after bids have been submitted to the county upon  
36 specifications therefor. Such specifications shall be in writing and  
37 shall be filed with the clerk of the county legislative authority for  
38 public inspection. An advertisement shall be published in the county  
39 official newspaper stating the time and place where bids will be

1 opened, the time after which bids will not be received, the character  
2 of the work to be done, the materials and equipment to be furnished,  
3 and that specifications therefor may be seen at the office of the  
4 clerk of the county legislative authority. An advertisement shall  
5 also be published in a legal newspaper of general circulation in or  
6 as near as possible to that part of the county in which such work is  
7 to be done. If the county official newspaper is a newspaper of  
8 general circulation covering at least forty percent of the residences  
9 in that part of the county in which such public works are to be done,  
10 then the publication of an advertisement of the applicable  
11 specifications in the county official newspaper shall be sufficient.  
12 Such advertisements shall be published at least once at least  
13 (~~thirteen~~) 13 days prior to the last date upon which bids will be  
14 received. The bids shall be in writing, shall be filed with the  
15 clerk, shall be opened and read in public at the time and place named  
16 therefor in the advertisements, and after being opened, shall be  
17 filed for public inspection. No bid may be considered for public work  
18 unless it is accompanied by a bid deposit in the form of a surety  
19 bond, postal money order, cash, cashier's check, or certified check  
20 in an amount equal to five percent of the amount of the bid proposed.  
21 The contract for the public work shall be awarded to the lowest  
22 responsible bidder. Any or all bids may be rejected for good cause.  
23 The county legislative authority shall require from the successful  
24 bidder for such public work a contractor's bond in the amount and  
25 with the conditions imposed by law. If the bidder to whom the  
26 contract is awarded fails to enter into the contract and furnish the  
27 contractor's bond as required within ten days after notice of the  
28 award, exclusive of the day of notice, the amount of the bid deposit  
29 shall be forfeited to the county and the contract awarded to the next  
30 lowest and best bidder. A low bidder who claims error and fails to  
31 enter into a contract is prohibited from bidding on the same project  
32 if a second or subsequent call for bids is made for the project. The  
33 bid deposit of all unsuccessful bidders shall be returned after the  
34 contract is awarded and the required contractor's bond given by the  
35 successful bidder is accepted by the county legislative authority. In  
36 the letting of any contract for public works involving less than  
37 forty thousand dollars, advertisement and competitive bidding may be  
38 dispensed with on order of the county legislative authority.  
39 Immediately after the award is made, the bid quotations obtained



1 shall be recorded and open to public inspection and shall be  
2 available by telephone inquiry.

3 As an alternative to requirements under this section, a county  
4 may let contracts using the small works roster process under ((RCW  
5 39.04.155)) sections 14 through 16 of this act.

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

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

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

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

17 Any local government using the uniform process established in RCW  
18 39.04.190 to award contracts for purchases must post a list of the  
19 contracts awarded under that process at least once every two months.  
20 Any state agency or local government using the small works roster  
21 process established in ((RCW 39.04.155)) sections 14 through 16 of  
22 this act to award contracts for construction, building, renovation,  
23 remodeling, alteration, repair, or improvement of real property must  
24 make available a list of the contracts awarded under that process at  
25 least once every year. The list shall contain the name of the  
26 contractor or vendor awarded the contract, the amount of the  
27 contract, a brief description of the type of work performed or items  
28 purchased under the contract, and the date it was awarded. The list  
29 shall also state the location where the bid quotations for these  
30 contracts are available for public inspection.

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

33 (1) ((The department of enterprise services must conduct a survey  
34 and compile the results into a list of which states provide a bidding  
35 preference on public works contracts for their resident contractors.  
36 The list must include details on the type of preference, the amount  
37 of the preference, and how the preference is applied. The list must

1 ~~be updated periodically as needed. The initial survey must be~~  
2 ~~completed by November 1, 2011, and by December 1, 2011, the~~  
3 ~~department must submit a report to the appropriate committees of the~~  
4 ~~legislature on the results of the survey. The report must include the~~  
5 ~~list and recommendations necessary to implement the intent of this~~  
6 ~~section and section 2, chapter 345, Laws of 2011.~~

7 ~~(2) The department of enterprise services must distribute the~~  
8 ~~report, along with the requirements of this section and section 2,~~  
9 ~~chapter 345, Laws of 2011, to all state and local agencies with the~~  
10 ~~authority to procure public works. The department may adopt rules and~~  
11 ~~procedures to implement the reciprocity requirements in subsection~~  
12 ~~(3) of this section. However, subsection (3) of this section does not~~  
13 ~~take effect until the department of enterprise services has adopted~~  
14 ~~the rules and procedures for reciprocity under this subsection or~~  
15 ~~announced that it will not be issuing rules or procedures pursuant to~~  
16 ~~this section.~~

17 ~~(3)) In any bidding process for public works in which a bid is~~  
18 ~~received from a nonresident contractor from a state that provides a~~  
19 ~~percentage bidding preference, a comparable percentage disadvantage~~  
20 ~~must be applied to the bid of that nonresident contractor. ((This~~  
21 ~~subsection does not apply until the department of enterprise services~~  
22 ~~has adopted the rules and procedures for reciprocity under subsection~~  
23 ~~(2) of this section, or has determined and announced that rules are~~  
24 ~~not necessary for implementation.~~

25 ~~(4)) (2) A nonresident contractor from a state that provides a~~  
26 ~~percentage bid preference means a contractor that:~~

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

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

31 ~~((5)) (3) The state of residence for a nonresident contractor~~  
32 ~~is the state in which the contractor was incorporated or, if not a~~  
33 ~~corporation, the state where the contractor's business entity was~~  
34 ~~formed.~~

35 ~~((6)) (4) This section does not apply to public works procured~~  
36 ~~pursuant to RCW ((39.04.155,)) 39.04.280, sections 14 through 16 of~~  
37 ~~this act, or any other procurement exempt from competitive bidding.~~

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

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

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

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

15           (b) Each statement of intent to pay prevailing wages must be  
16 approved by the industrial statistician of the department of labor  
17 and industries before it is submitted to the disbursing officer.  
18 Unless otherwise authorized by the department of labor and  
19 industries, each voucher claim submitted by a contractor for payment  
20 on a project estimate must state that the prevailing wages have been  
21 paid in accordance with the prefiled statement or statements of  
22 intent to pay prevailing wages on file with the public agency.  
23 Following the final acceptance of a public works project, it is the  
24 duty of the officer charged with the disbursement of public funds, to  
25 require the contractor and each and every subcontractor from the  
26 contractor or a subcontractor to submit to such officer an affidavit  
27 of wages paid before the funds retained according to the provisions  
28 of RCW 60.28.011 are released to the contractor. On a public works  
29 project where no retainage is withheld, the affidavit of wages paid  
30 must be submitted to the state, county, municipality, or other public  
31 body charged with the duty of disbursing or authorizing disbursement  
32 of public funds prior to final acceptance of the public works  
33 project. If a subcontractor performing work on a public works project  
34 fails to submit an affidavit of wages paid form, the contractor or  
35 subcontractor with whom the subcontractor had a contractual  
36 relationship for the project may file the forms on behalf of the  
37 nonresponsive subcontractor. Affidavit forms may only be filed on  
38 behalf of a nonresponsive subcontractor who has ceased operations or  
39 failed to file as required by this section. The contractor filing the  
40 affidavit must accept responsibility for payment of prevailing wages

1 unpaid by the subcontractor on the project pursuant to RCW 39.12.020  
2 and 39.12.065. Intentionally filing a false affidavit on behalf of a  
3 subcontractor subjects the filer to the same penalties as are  
4 provided in RCW 39.12.050. Each affidavit of wages paid must be  
5 certified by the industrial statistician of the department of labor  
6 and industries before it is submitted to the disbursing officer.

7 (2) As an alternate to the procedures provided for in subsection  
8 (1) of this section, for public works projects of (~~two thousand five~~  
9 ~~hundred dollars~~) \$5,000 or less (~~and for projects where the limited~~  
10 ~~public works process~~) as allowed under (~~RCW 39.04.155(3)~~) section  
11 15 of this act is followed:

12 (a) An awarding agency may authorize the contractor or  
13 subcontractor to submit the statement of intent to pay prevailing  
14 wages directly to the officer or person charged with the custody or  
15 disbursement of public funds in the awarding agency without approval  
16 by the industrial statistician of the department of labor and  
17 industries. The awarding agency must retain such statement of intent  
18 to pay prevailing wages for a period of not less than three years.

19 (b) Upon final acceptance of the public works project, the  
20 awarding agency must require the contractor or subcontractor to  
21 submit an affidavit of wages paid. Upon receipt of the affidavit of  
22 wages paid, the awarding agency may pay the contractor or  
23 subcontractor in full, including funds that would otherwise be  
24 retained according to the provisions of RCW 60.28.011. Within thirty  
25 days of receipt of the affidavit of wages paid, the awarding agency  
26 must submit the affidavit of wages paid to the industrial  
27 statistician of the department of labor and industries for approval.

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

31 (d) In the event of a wage claim and a finding for the claimant  
32 by the department of labor and industries where the awarding agency  
33 has used the alternative process provided for in this subsection (2),  
34 the awarding agency must pay the wages due directly to the claimant.  
35 If the contractor or subcontractor did not pay the wages stated in  
36 the affidavit of wages paid, the awarding agency may take action at  
37 law to seek reimbursement from the contractor or subcontractor of  
38 wages paid to the claimant, and may prohibit the contractor or  
39 subcontractor from bidding on any public works contract of the  
40 awarding agency for up to one year.

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

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

8 Insofar as practicable, purchases and any public works by the  
9 district shall be based on competitive bids. A formal sealed bid  
10 procedure shall be used as standard procedure for purchases and  
11 contracts for purchases executed by the board of commissioners.  
12 Formal sealed bidding shall not be required for:

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

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

22 (3) Contracts using the small works roster process under (~~RCW~~  
23 ~~39.04.155~~) sections 14 through 16 of this act; and

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

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

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

33 (2)(a) All such contracts for work meeting the definition of  
34 "public work" in RCW 39.04.010(~~(4)~~, ~~the estimated cost of which~~  
35 ~~exceeds three hundred thousand dollars,~~) shall be awarded using a  
36 competitive bid process. The contract must be awarded at public  
37 bidding upon notice published in a newspaper of general circulation  
38 in the district at least (~~thirteen~~) 13 days before the last date

1 upon which bids will be received, calling for bids upon the work,  
2 plans and specifications for which shall then be on file in the  
3 office of the commission for public inspection. The same notice may  
4 call for bids on such work or material based upon plans and  
5 specifications submitted by the bidder. The competitive bidding  
6 requirements for purchases or public works may be waived pursuant to  
7 RCW 39.04.280 if an exemption contained within that section applies  
8 to the purchase or public work.

9 (b) For all contracts related to work meeting the definition of  
10 "public work" in RCW 39.04.010(~~((4) that are estimated at three~~  
11 ~~hundred thousand dollars or less)), a port district may let contracts~~  
12 using the small works roster process under (~~RCW 39.04.155))~~ sections  
13 14 through 16 of this act in lieu of advertising for bids. Whenever  
14 possible, the managing official shall invite at least one proposal  
15 from a minority contractor who shall otherwise qualify under this  
16 section.

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

23 (c) Any port district may construct any public work, as defined  
24 in RCW 39.04.010, by contract without calling for bids whenever the  
25 estimated cost of the work or improvement, including cost of  
26 materials, supplies, and equipment, will not exceed the sum of  
27 (~~forty thousand dollars))~~ \$40,000. A "public works project" means a  
28 complete project. The restrictions in this subsection do not permit  
29 the division of the project into units of work or classes of work to  
30 avoid calling for bids. The port district managing official shall  
31 make his or her best effort to reach out to qualified contractors,  
32 including certified minority and woman-owned contractors.

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

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

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

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

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

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

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

28 (1) Any item, or items of the same kind of materials, equipment,  
29 or supplies purchased, the estimated cost of which is in excess of  
30 thirty thousand dollars, exclusive of sales tax, shall be by  
31 contract. However, a district may make purchases of the same kind of  
32 items of materials, equipment, and supplies not exceeding (~~twelve~~  
33 ~~thousand dollars~~) \$12,000 in any calendar month without a contract,  
34 purchasing any excess thereof over (~~twelve thousand dollars~~)  
35 \$12,000 by contract.

36 (2) Any work ordered by a district commission, the estimated cost  
37 of which is in excess of (~~fifty thousand dollars~~) \$50,000,  
38 exclusive of sales tax, shall be by contract. However, a district  
39 commission may have its own regularly employed personnel perform work

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

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

26 (4) As an alternative to the competitive bidding requirements of  
27 this section and RCW 54.04.080, a district may let contracts using  
28 the small works roster process under (~~RCW 39.04.155~~) sections 14  
29 through 16 of this act.

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

36 (1) All work ordered, the estimated cost of which is in excess of  
37 (~~fifty thousand dollars~~) \$50,000, shall be let by contract and  
38 competitive bidding. Before awarding any such contract the board of  
39 commissioners shall publish a notice in a newspaper of general

1 circulation where the district is located at least once (~~thirteen~~)  
2 13 days before the last date upon which bids will be received,  
3 inviting sealed proposals for such work, plans and specifications  
4 which must at the time of publication of such notice be on file in  
5 the office of the board of commissioners subject to the public  
6 inspection. The notice shall state generally the work to be done and  
7 shall call for proposals for doing the same to be sealed and filed  
8 with the board of commissioners on or before the day and hour named  
9 therein.

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

1 including reasonable attorneys' fees occasioned thereby. A low bidder  
2 who claims error and fails to enter into a contract is prohibited  
3 from bidding on the same project if a second or subsequent call for  
4 bids is made for the project.

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

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

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

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

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

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

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

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

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

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

26 (1) All materials purchased and work ordered, the estimated cost  
27 of which is in excess of (~~seventy-five thousand dollars~~) \$75,000,  
28 shall be by contract. Before awarding any such contract, the  
29 commission shall publish a notice at least (~~thirteen~~) 13 days  
30 before the last date upon which bids will be received, inviting  
31 sealed proposals for such work. The plans and specifications must at  
32 the time of the publication of such notice be on file at the office  
33 of the public hospital district, subject to public inspection:  
34 PROVIDED, HOWEVER, That the commission may at the same time, and as  
35 part of the same notice, invite tenders for the work or materials  
36 upon plans and specifications to be submitted by bidders. The notice  
37 shall state generally the work to be done, and shall call for  
38 proposals for doing the same, to be sealed and filed with the  
39 commission on or before the day and hour named therein. Each bid

1 shall be accompanied by bid proposal security in the form of a  
2 certified check, cashier's check, postal money order, or surety bond  
3 made payable to the order of the commission, for a sum not less than  
4 five percent of the amount of the bid, and no bid shall be considered  
5 unless accompanied by such bid proposal security. At the time and  
6 place named, such bids shall be publicly opened and read, and the  
7 commission shall proceed to canvass the bids, and may let such  
8 contract to the lowest responsible bidder upon plans and  
9 specifications on file, or to the best bidder submitting his or her  
10 own plans and specifications. If, in the opinion of the commission,  
11 all bids are unsatisfactory, they may reject all of them and  
12 readvertise, and in such case all bid proposal security shall be  
13 returned to the bidders. If the contract is let, then all bid  
14 proposal security shall be returned to the bidders, except that of  
15 the successful bidder, which is retained until a contract shall be  
16 entered into for the purchase of such materials for doing such work,  
17 and a bond to perform such work furnished, with sureties satisfactory  
18 to the commission, in an amount to be fixed by the commission, not  
19 less than (~~twenty-five~~) 25 percent of contract price in any case,  
20 between the bidder and commission, in accordance with the bid. If  
21 such bidder fails to enter into the contract in accordance with the  
22 bid and furnish such bond within (~~ten~~) 10 days from the date at  
23 which the bidder is notified that he or she is the successful bidder,  
24 the bid proposal security and the amount thereof shall be forfeited  
25 to the public hospital district. A low bidder who claims error and  
26 fails to enter into a contract is prohibited from bidding on the same  
27 project if a second or subsequent call for bids is made for the  
28 project.

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

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

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

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

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

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

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

11       (1) RCW 39.10.200 and 2023 c . . . s 4 (section 4 of this act),  
12 2010 1st sp.s. c 21 s 2, 2007 c 494 s 1, & 1994 c 132 s 1;

13       (2) RCW 39.10.210 and 2023 c . . . s 5 (section 5 of this act),  
14 2021 c 230 s 1, 2019 c 212 s 1, 2014 c 42 s 1, & 2013 c 222 s 1;

15       (3) RCW 39.10.220 and 2023 c . . . s 6 (section 6 of this act),  
16 2021 c 230 s 2, 2013 c 222 s 2, 2007 c 494 s 102, & 2005 c 377 s 1;

17       (4) RCW 39.10.230 and 2023 c . . . s 7 (section 7 of this act),  
18 2021 c 230 s 3, 2013 c 222 s 3, 2010 1st sp.s. c 21 s 3, 2009 c 75 s  
19 1, 2007 c 494 s 103, & 2005 c 377 s 2;

20       (5) RCW 39.10.240 and 2023 c . . . s 8 (section 8 of this act),  
21 2021 c 230 s 4, 2013 c 222 s 4, & 2007 c 494 s 104;

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

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

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

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

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

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

32       (12) RCW 39.10.320 and 2019 c 212 s 5, 2013 c 222 s 10, 2007 c  
33 494 s 203, & 1994 c 132 s 7;

34       (13) RCW 39.10.330 and 2023 c . . . s 9 (section 9 of this act),  
35 2021 c 230 s 7, 2019 c 212 s 6, 2014 c 19 s 1, 2013 c 222 s 11, 2009  
36 c 75 s 5, & 2007 c 494 s 204;

37       (14) RCW 39.10.340 and 2014 c 42 s 3, 2013 c 222 s 12, & 2007 c  
38 494 s 301;

1 (15) RCW 39.10.350 and 2021 c 230 s 8, 2014 c 42 s 4, & 2007 c  
2 494 s 302;

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

6 (17) RCW 39.10.370 and 2021 c 230 s 10, 2014 c 42 s 6, & 2007 c  
7 494 s 304;

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

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

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

14 (21) RCW 39.10.400 and 2021 c 230 s 14, 2013 c 222 s 17, & 2007 c  
15 494 s 307;

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

17 (23) RCW 39.10.420 and 2019 c 212 s 7, 2017 c 136 s 1, & 2016 c  
18 52 s 1;

19 (24) RCW 39.10.430 and 2021 c 230 s 15, 2019 c 212 s 8, & 2007 c  
20 494 s 402;

21 (25) RCW 39.10.440 and 2021 c 230 s 16, 2019 c 212 s 9, 2015 c  
22 173 s 1, 2013 c 222 s 19, & 2007 c 494 s 403;

23 (26) RCW 39.10.450 and 2019 c 212 s 10, 2012 c 102 s 2, & 2007 c  
24 494 s 404;

25 (27) RCW 39.10.460 and 2021 c 230 s 17, 2012 c 102 s 3, & 2007 c  
26 494 s 405;

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

29 (29) RCW 39.10.480 and 1994 c 132 s 9;

30 (30) RCW 39.10.490 and 2021 c 230 s 18, 2013 c 222 s 20, 2007 c  
31 494 s 501, & 2001 c 328 s 5;

32 (31) RCW 39.10.900 and 1994 c 132 s 13;

33 (32) RCW 39.10.901 and 1994 c 132 s 14;

34 (33) RCW 39.10.903 and 2007 c 494 s 510;

35 (34) RCW 39.10.904 and 2007 c 494 s 512;

36 (35) RCW 39.10.905 and 2007 c 494 s 513; and

37 (36) RCW 39.10.908 and 2023 c . . . s 13 (section 13 of this act)  
38 and 2021 c 230 s 19.

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

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

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

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

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

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

--- END ---