
SENATE BILL 6167

State of Washington

68th Legislature

2024 Regular Session

By Senator Hasegawa

1 AN ACT Relating to adopting the recommendations of the capital
2 projects advisory review board regarding local government procurement
3 rules among special purpose districts, first-class and second-class
4 cities, and public utility districts; reenacting and amending RCW
5 54.04.070, 35.23.352, 35.22.620, 57.08.050, and 52.14.110; creating a
6 new section; and providing an effective date.

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

8 **Sec. 1.** RCW 54.04.070 and 2023 c 395 s 32 and 2023 c 255 s 1 are
9 each reenacted and amended to read as follows:

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

17 (2) ~~((Any))~~ (a) Until July 1, 2026, any work ordered by a
18 district commission, the estimated cost of which is in excess of
19 \$150,000 exclusive of sales tax if more than a single craft or trade
20 is involved with the public works project, or a public works project
21 in excess of \$75,500 exclusive of sales tax if only a single craft or

1 trade is involved with the public works project, shall be by
2 contract. (~~However~~) Beginning July 1, 2026, any work ordered by a
3 district commission the cost of which is in excess of \$50,000
4 exclusive of sales tax shall be by contract.

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

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

31 (4) As an alternative to the competitive bidding requirements of
32 this section and RCW 54.04.080, a district may let contracts using
33 the small works roster process under RCW 39.04.151 through 39.04.154.

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

1 (6) Pursuant to RCW 39.04.280, the commission may waive the
2 competitive bidding requirements of this section and RCW 54.04.080 if
3 an exemption contained within RCW 39.04.280 applies to the purchase
4 or public work.

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

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

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

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

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

38 (8) (a) For the purposes of this section, "lowest responsible
39 bidder" means a bid that meets the criteria under RCW 39.04.350 and
40 has the lowest bid; provided, that if the district commission issues

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

8 (b) This subsection (8) does not apply until July 1, 2025.

9 **Sec. 2.** RCW 35.23.352 and 2023 c 395 s 21 and 2023 c 255 s 2 are
10 each reenacted and amended to read as follows:

11 (1) (~~Any~~) (a) Until July 1, 2026, any second-class city or any
12 town may construct any public works, as defined in RCW 39.04.010, by
13 contract or day labor without calling for bids therefor whenever the
14 estimated cost of the work or improvement, including cost of
15 materials, supplies and equipment will not exceed the sum of \$150,000
16 if more than one craft or trade is involved with the public works, or
17 \$75,500 if a single craft or trade is involved with the public works
18 or the public works project is street signalization or street
19 lighting. A public works project means a complete project. The
20 restrictions in this subsection do not permit the division of the
21 project into units of work or classes of work to avoid the
22 restriction on work that may be performed by day labor on a single
23 project. (~~However~~)

24 (b) Beginning July 1, 2026, Any second class city or any town may
25 construct any public works, as defined in RCW 39.04.010, by contract
26 or day labor without calling for bids therefor whenever the estimated
27 cost of the work or improvement, including cost of materials,
28 supplies, and equipment will not exceed the sum of \$116,155 if more
29 than one craft or trade is involved with the public works, or \$75,500
30 if a single craft or trade is involved with the public works or the
31 public works project is street signalization or street lighting.

32 (c) Notwithstanding (a) of this subsection, beginning July 1,
33 2025, a second-class city or any town may have its own regularly
34 employed personnel perform work which is an accepted industry
35 practice under prudent utility management without a contract. For
36 purposes of this section, "prudent utility management" means
37 performing work with regularly employed personnel utilizing material
38 of a worth not exceeding \$300,000 in value without a contract. This
39 limit on value of material being utilized in work being performed by

1 regularly employed personnel shall not include the value of
2 individual items of equipment. For purposes of this section,
3 "equipment" includes, but is not limited to, conductor, cabling,
4 wire, pipe, or lines used for electrical, water, fiber optic, or
5 telecommunications.

6 Whenever the cost of the public work or improvement, including
7 materials, supplies and equipment, will exceed these figures, the
8 same shall be done by contract. All such contracts shall be let at
9 public bidding upon publication of notice calling for sealed bids
10 upon the work. The notice shall be published in the official
11 newspaper, or a newspaper of general circulation most likely to bring
12 responsive bids, at least 13 days prior to the last date upon which
13 bids will be received. The notice shall generally state the nature of
14 the work to be done that plans and specifications therefor shall then
15 be on file in the city or town hall for public inspections, and
16 require that bids be sealed and filed with the council or commission
17 within the time specified therein. Each bid shall be accompanied by a
18 bid proposal deposit in the form of a cashier's check, postal money
19 order, or surety bond to the council or commission for a sum of not
20 less than five percent of the amount of the bid, and no bid shall be
21 considered unless accompanied by such bid proposal deposit. The
22 council or commission of the city or town shall let the contract to
23 the lowest responsible bidder or shall have power by resolution to
24 reject any or all bids and to make further calls for bids in the same
25 manner as the original call.

26 When the contract is let then all bid proposal deposits shall be
27 returned to the bidders except that of the successful bidder which
28 shall be retained until a contract is entered into and a bond to
29 perform the work furnished, with surety satisfactory to the council
30 or commission, in accordance with RCW 39.08.030. If the bidder fails
31 to enter into the contract in accordance with his or her bid and
32 furnish a bond within 10 days from the date at which he or she is
33 notified that he or she is the successful bidder, the check or postal
34 money order and the amount thereof shall be forfeited to the council
35 or commission or the council or commission shall recover the amount
36 of the surety bond. A low bidder who claims error and fails to enter
37 into a contract is prohibited from bidding on the same project if a
38 second or subsequent call for bids is made for the project.

39 If no bid is received on the first call the council or commission
40 may readvertise and make a second call, or may enter into a contract

1 without any further call or may purchase the supplies, material or
2 equipment and perform the work or improvement by day labor.

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

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

16 (4) In lieu of the procedures of subsection (1) of this section,
17 a second-class city or a town may let contracts using the small works
18 roster process provided in RCW 39.04.151 through 39.04.154.

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

22 (5) The form required by RCW 43.09.205 shall be to account and
23 record costs of public works in excess of \$5,000 that are not let by
24 contract.

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

28 (7) Any purchase of supplies, material, or equipment, except for
29 public work or improvement, with an estimated cost in excess of
30 \$40,000, shall be by contract. Any purchase of materials, supplies,
31 or equipment with an estimated cost of less than \$50,000 shall be
32 made using the process provided in RCW 39.04.190.

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

38 (9) For advertisement and formal sealed bidding to be dispensed
39 with as to purchases with an estimated value of \$15,000 or less, the

1 council or commission must authorize by resolution, use of the
2 uniform procedure provided in RCW 39.04.190.

3 (10) The city or town legislative authority may waive the
4 competitive bidding requirements of this section pursuant to RCW
5 39.04.280 if an exemption contained within that section applies to
6 the purchase or public work.

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

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

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

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

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

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

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

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

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

12 **Sec. 3.** RCW 35.22.620 and 2023 c 395 s 20 and 2023 c 255 s 3 are
13 each reenacted and amended to read as follows:

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

16 (2) A first-class city may have public works performed by
17 contract pursuant to public notice and call for competitive bids. As
18 limited by subsection (3) of this section, a first-class city may
19 have public works performed by city employees in any annual or
20 biennial budget period equal to a dollar value not exceeding 10
21 percent of the public works construction budget, including any amount
22 in a supplemental public works construction budget, over the budget
23 period. The amount of public works that a first-class city has a
24 county perform for it under RCW 35.77.020 shall be included within
25 this 10 percent limitation.

26 If a first-class city has public works performed by public
27 employees in any budget period that are in excess of this 10 percent
28 limitation, the amount in excess of the permitted amount shall be
29 reduced from the otherwise permitted amount of public works that may
30 be performed by public employees for that city in its next budget
31 period. Twenty percent of the motor vehicle fuel tax distributions to
32 that city shall be withheld if two years after the year in which the
33 excess amount of work occurred, the city has failed to so reduce the
34 amount of public works that it has performed by public employees. The
35 amount so withheld shall be distributed to the city when it has
36 demonstrated in its reports to the state auditor that the amount of
37 public works it has performed by public employees has been so
38 reduced.

1 Whenever a first-class city has had public works performed in any
2 budget period up to the maximum permitted amount for that budget
3 period, all remaining public works within that budget period shall be
4 done by contract pursuant to public notice and call for competitive
5 bids.

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

10 (3) (a) In addition to the percentage limitation provided in
11 subsection (2) of this section, a first-class city shall not have
12 public employees perform a public works project in excess of \$150,000
13 if more than a single craft or trade is involved with the public
14 works project, or a public works project in excess of \$75,500 if only
15 a single craft or trade is involved with the public works project or
16 the public works project is street signalization or street lighting.
17 A public works project means a complete project. The restrictions in
18 this subsection do not permit the division of the project into units
19 of work or classes of work to avoid the restriction on work that may
20 be performed by day labor on a single project. (~~However~~)

21 (b) Notwithstanding (a) of this subsection, beginning July 1,
22 2025, a first-class city may have its own regularly employed
23 personnel perform work which is an accepted industry practice under
24 prudent utility management without a contract. For purposes of this
25 section, "prudent utility management" means performing work with
26 regularly employed personnel utilizing material of a worth not
27 exceeding \$300,000 in value without a contract. This limit on the
28 value of material being utilized in work being performed by regularly
29 employed personnel shall not include the value of individual items of
30 equipment. For purposes of this section, the term "equipment"
31 includes, but is not limited to, conductor, cabling, wire, pipe, or
32 lines used for electrical, water, fiber optic, or telecommunications.

33 (4) In addition to the accounting and recordkeeping requirements
34 contained in RCW 39.04.070, every first-class city annually may
35 prepare a report for the state auditor indicating the total public
36 works construction budget and supplemental public works construction
37 budget for that year, the total construction costs of public works
38 performed by public employees for that year, and the amount of public
39 works that is performed by public employees above or below 10 percent
40 of the total construction budget. However, if a city budgets on a

1 biennial basis, this annual report may indicate the amount of public
2 works that is performed by public employees within the current
3 biennial period that is above or below 10 percent of the total
4 biennial construction budget.

5 Each first-class city with a population of 150,000 or less shall
6 use the form required by RCW 43.09.205 to account and record costs of
7 public works in excess of \$5,000 that are not let by contract.

8 (5) The cost of a separate public works project shall be the
9 costs of materials, supplies, equipment, and labor on the
10 construction of that project. The value of the public works budget
11 shall be the value of all the separate public works projects within
12 the budget.

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

17 (7) In lieu of the procedures of subsections (2) and (6) of this
18 section, a first-class city may let contracts using the small works
19 roster process in RCW 39.04.151 through 39.04.154.

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

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

26 (9) This section does not apply to performance-based contracts,
27 as defined in RCW 39.35A.020(6), that are negotiated under chapter
28 39.35A RCW.

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

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

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

1 period indefinite quantity delivery of work, at a defined unit price
2 for 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 city having the
5 option of extending or renewing the unit priced contract for one
6 additional year.

7 (d) Invitations for unit price 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 city will issue or release
10 work assignments, work orders, or task authorizations pursuant to a
11 unit priced contract for projects, tasks, or other work based on the
12 hourly rates or unit prices bid by the contractor. Contracts must be
13 awarded to the lowest responsible bidder as per RCW 39.04.010.
14 Whenever possible, the city must invite at least one proposal from a
15 certified minority or woman contractor who otherwise qualifies under
16 this section.

17 (e) Unit price 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 must
22 have prevailing wage rates updated annually. Intents and affidavits
23 for prevailing wages paid must be submitted annually for all work
24 completed within the previous 12-month period of the unit priced
25 contract.

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

36 (b) This subsection (12) does not apply until July 1, 2025.

37 **Sec. 4.** RCW 57.08.050 and 2023 c 395 s 33 and 2023 c 255 s 4 are
38 each reenacted and amended to read as follows:

1 (1) (~~All~~) (a) Until July 1, 2026, all work ordered, the
2 estimated cost of which is in excess of \$150,000 if more than a
3 single craft or trade is involved with the public works project, or a
4 public works project in excess of \$75,500 if only a single craft or
5 trade is involved with the public works project, shall be let by
6 contract and competitive bidding. Beginning July 1, 2026, all work
7 ordered, the estimated cost of which is in excess of \$50,000, shall
8 be by contract and competitive bidding.

9 (b) Before awarding any such contract the board of commissioners
10 shall publish a notice in a newspaper of general circulation where
11 the district is located at least once 13 days before the last date
12 upon which bids will be received, inviting sealed proposals for such
13 work, plans and specifications which must at the time of publication
14 of such notice be on file in the office of the board of commissioners
15 subject to the public inspection. The notice shall state generally
16 the work to be done and shall call for proposals for doing the same
17 to be sealed and filed with the board of commissioners on or before
18 the day and hour named therein.

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

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

14 (2) As an alternative to requirements under subsection (1) of
15 this section, a water-sewer district may let contracts using the
16 small works roster process under RCW 39.04.151 through 39.04.154.

17 (3) Any purchase of materials, supplies, or equipment, with an
18 estimated cost in excess of \$40,000, shall be by contract. Any
19 purchase of materials, supplies, or equipment, with an estimated cost
20 of less than \$50,000 shall be made using the process provided in RCW
21 39.04.190. Any purchase of materials, supplies, or equipment with an
22 estimated cost of \$50,000 or more shall be made by competitive
23 bidding following the procedure for letting contracts for projects
24 under subsection (1) of this section.

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

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

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

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

11 (d) Invitations for unit price bids must include, for purposes of
12 the bid evaluation, estimated quantities of the anticipated types of
13 work or trades, and specify how the district 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. Contracts must be
17 awarded to the lowest responsible bidder as per RCW 39.04.010.
18 Whenever possible, the district must invite at least one proposal
19 from a certified minority or woman contractor who otherwise qualifies
20 under this section.

21 (e) 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 12-month period of the unit priced
29 contract.

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

1 (b) This subsection (7) does not apply until July 1, 2025.

2 (8)(a) For the purposes of this section, "lowest responsible
3 bidder" means a bid that meets the criteria under RCW 39.04.350 and
4 has the lowest bid; provided, that if the district issues a written
5 finding that the lowest bidder has delivered a project to the
6 district within the last three years which was late, over budget, or
7 did not meet specifications, and the district does not find in
8 writing that such bidder has shown how they would improve performance
9 to be likely to meet project specifications then the district may
10 choose the second lowest bidder whose bid is within five percent of
11 the lowest bid and meets the same criteria as the lowest bidder.

12 (b) This subsection (8) does not apply until July 1, 2025.

13 **Sec. 5.** RCW 52.14.110 and 2023 c 395 s 30 and 2023 c 255 s 5 are
14 each reenacted and amended to read as follows:

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

20 (a) The purchase of any materials, supplies, or equipment if the
21 cost will not exceed the sum of \$75,500. However, whenever the
22 estimated cost does not exceed \$150,000, the commissioners may by
23 resolution use the process provided in RCW 39.04.190 to award
24 contracts;

25 ~~(b) ((Contracting))~~ (i) Until July 1, 2026, contracting for work
26 to be done involving the construction or improvement of a fire
27 station or other buildings where the estimated cost will not exceed
28 the sum of \$150,000 if more than a single craft or trade is involved
29 with the public works project, or a public works project in excess of
30 \$75,500 if only a single craft or trade is involved with the public
31 works project;

32 (ii) Beginning July 1, 2026, contracting for work to be done
33 involving the construction or improvement of a fire station or other
34 buildings where the estimated cost will not exceed the sum of
35 \$30,000;

36 (c) Contracts using the small works roster process under RCW
37 39.04.151 through 39.04.154; and

1 (d) Any contract for purchases or public work pursuant to RCW
2 39.04.280 if an exemption contained within that section applies to
3 the purchase or public work.

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

16 (b) This subsection (2) does not apply until July 1, 2025.

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

27 (b) This subsection (3) does not apply until July 1, 2025.

28 NEW SECTION. **Sec. 6.** The capital projects advisory review board
29 shall review this act and make recommendations to the appropriate
30 committees of the legislature by October 31, 2024.

31 NEW SECTION. **Sec. 7.** This act takes effect July 1, 2024.

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