
SENATE BILL 6738

State of Washington

60th Legislature

2008 Regular Session

By Senators McDermott and Morton

Read first time 01/22/08. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to bid limits on purchases of public works
2 materials; amending RCW 35.23.352, 36.32.245, and 52.14.110; and
3 reenacting and amending RCW 57.08.050.

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

5 **Sec. 1.** RCW 35.23.352 and 2002 c 94 s 2 are each amended to read
6 as follows:

7 (1) Any second-class city or any town may construct any public
8 works, as defined in RCW 39.04.010, by contract or day labor without
9 calling for bids therefor whenever the estimated cost of the work or
10 improvement, including cost of materials, supplies and equipment will
11 not exceed the sum of forty-five thousand dollars, or sixty thousand
12 dollars after January 1, 2010, if more than one craft or trade is
13 involved with the public works, or thirty thousand dollars, or forty
14 thousand dollars after January 1, 2010, if a single craft or trade is
15 involved with the public works or the public works project is street
16 signalization or street lighting. A public works project means a
17 complete project. The restrictions in this subsection do not permit
18 the division of the project into units of work or classes of work to

1 avoid the restriction on work that may be performed by day labor on a
2 single project.

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

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

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

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

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

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

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

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

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

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

25 (8) For advertisement and formal sealed bidding to be dispensed
26 with as to purchases with an estimated value of ((~~fifteen~~)
27 seventy-five thousand dollars or less, the council or commission must
28 authorize by resolution, use of the uniform procedure provided in RCW
29 39.04.190.

30 (9) The city or town legislative authority may waive the
31 competitive bidding requirements of this section pursuant to RCW
32 39.04.280 if an exemption contained within that section applies to the
33 purchase or public work.

34 (10) This section does not apply to performance-based contracts, as
35 defined in RCW 39.35A.020(4), that are negotiated under chapter 39.35A
36 RCW.

37 (11) Nothing in this section shall prohibit any second class city

1 or any town from allowing for preferential purchase of products made
2 from recycled materials or products that may be recycled or reused.

3 **Sec. 2.** RCW 36.32.245 and 2007 c 88 s 1 are each amended to read
4 as follows:

5 (1) No contract for the purchase of materials, equipment, or
6 supplies may be entered into by the county legislative authority or by
7 any elected or appointed officer of the county until after bids have
8 been submitted to the county. Bid specifications shall be in writing
9 and shall be filed with the clerk of the county legislative authority
10 for public inspection. An advertisement shall be published in the
11 official newspaper of the county stating the time and place where bids
12 will be opened, the time after which bids will not be received, the
13 materials, equipment, supplies, or services to be purchased, and that
14 the specifications may be seen at the office of the clerk of the county
15 legislative authority. The advertisement shall be published at least
16 once at least thirteen days prior to the last date upon which bids will
17 be received.

18 (2) The bids shall be in writing and filed with the clerk. The
19 bids shall be opened and read in public at the time and place named in
20 the advertisement. Contracts requiring competitive bidding under this
21 section may be awarded only to the lowest responsible bidder.
22 Immediately after the award is made, the bid quotations shall be
23 recorded and open to public inspection and shall be available by
24 telephone inquiry. Any or all bids may be rejected for good cause.

25 (3) For advertisement and formal sealed bidding to be dispensed
26 with as to purchases between (~~five~~) fifteen thousand and
27 (~~twenty-five~~) seventy-five thousand dollars, the county legislative
28 authority must use the uniform process to award contracts as provided
29 in RCW 39.04.190. Advertisement and formal sealed bidding may be
30 dispensed with as to purchases of less than (~~five~~) fifteen thousand
31 dollars upon the order of the county legislative authority.

32 (4) This section does not apply to performance-based contracts, as
33 defined in RCW 39.35A.020(4), that are negotiated under chapter 39.35A
34 RCW; or contracts and purchases for the printing of election ballots,
35 voting machine labels, and all other election material containing the
36 names of candidates and ballot titles.

1 (5) Nothing in this section shall prohibit the legislative
2 authority of any county from allowing for preferential purchase of
3 products made from recycled materials or products that may be recycled
4 or reused.

5 (6) This section does not apply to contracting for public defender
6 services by a county.

7 **Sec. 3.** RCW 52.14.110 and 2001 c 79 s 1 are each amended to read
8 as follows:

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

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

19 (2) Contracting for work to be done involving the construction or
20 improvement of a fire station or other buildings where the estimated
21 cost will not exceed the sum of two thousand five hundred dollars,
22 which includes the costs of labor, material, and equipment;

23 (3) Contracts using the small works roster process under RCW
24 39.04.155; and

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

28 **Sec. 4.** RCW 57.08.050 and 2003 c 145 s 1 and 2003 c 60 s 1 are
29 each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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