

# **CAPITAL PROJECTS ADVISORY REVIEW BOARD**

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## **Standardizing Local Government Procurement Rules Recommendations on SHB 1621**

**Report to the Legislature  
December 20, 2024**

## CAPITAL PROJECTS ADVISORY REVIEW BOARD

The Capital Projects Advisory Review Board (CPARB), authorized by RCW 39.10, reviews public works contracting procedures and provides guidance to state policymakers on ways to further enhance the quality, efficiency and accountability of all public works contracting methods.

### EXECUTIVE SUMMARY

The 2023 Legislature passed Substitute House Bill 1621 standardizing a number of issues and limits for multiple public entities, including first and second-class cities, water-sewer districts, and fire districts. The bill borrowed existing statutory language from the Public Utility District (PUD) procurement process and applied this language to the SHB 1621 entities. The effective date of the bill was delayed to June 30, 2024, to allow time for CPARB to review and make recommendations to the legislature by December 31, 2023.

CPARB created the SHB 1621 Review Committee with members of the public, private industry, and stakeholders to consider the impacts of this bill and identify recommendations. The committee met biweekly from June to December 2023 and submitted their recommendations to CPARB.

CPARB made recommendations to the legislature in the December 31, 2023 report and initiated SB 6167 that did not move through the legislature. The result: SHB 1621, as originally written, went into effect on June 30, 2024. CPARB and the SHB 1621 Review Committee have continued meeting throughout 2024, continuing the stakeholder work associated with this bill. CPARB has successfully completed the stakeholder work and has identified recommendations to be incorporated into the RCWs via the upcoming 2025 Legislative session.

### CPARB MAKES THE FOLLOWING RECOMMENDATIONS:

- Eliminate the alternate bidder responsibility provisions and reference RCW 39.04.350 for guidance on Bidder Responsibility Criteria. The alternate language creates confusion for contractors. There was full consensus from the committee and CPARB.
- Eliminate the exceptions to work or exclusions of material and equipment from the project \$300K threshold. This change needs to ensure all project costs are included for cities in the \$300K threshold. Dollar figure thresholds throughout public contracting provisions of the RCWs most commonly include “*all project costs*” and for consistency project dollar limits should include all costs. The Committee majority supported this recommendation 9 to 2. The minority position remained in support of allowing the exclusions. *(Please see Appendix A for stakeholder information and Appendix B for committee voting matrix.)*
- Replace the term and use of self-performed Prudent Utility Management (PUM) with a new term and definition of Exigent<sup>1</sup> circumstances for when the \$300K self-performed work can occur. The PUM definition within SHB 1621 was very broad and may not adequately align with the needs of all the SHB 1621 public entities. The Committee majority supported this recommendation 8 to 3. The minority position preferred maintaining the PUM definition. *(Please see Appendix A for stakeholder information and Appendix B for committee voting matrix.)*
- Add an annual limit for total number of \$300K of self-performed projects not to exceed 10% of the public entity’s annual budget. The public/private balance of impact related to this bill is critical to manage. The 10% cumulative annual dollar value limit based on each individual city’s size is therefore appropriate to create a limit for the number of times it can be utilized in any single annual cycle. The Committee majority supported this recommendation 8 to 3. The minority position preferred no annual limit. *(Please see Appendix A for stakeholder information and Appendix B for committee voting matrix.)*

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<sup>1</sup> Exigent public works needs are due to unforeseen circumstances that result in situations that compromise the proper performance of essential government functions and there is a need to avoid, prevent or alleviate serious impacts (financial or otherwise), harm or injury, and the use of a competitive procurement would prevent the urgent action required to address the situation.

## **APPENDICES**

- A. Stakeholder Work Summary
- B. SHB 1621 Committee Voting Matrix
- C. SHB 1621 Committee Member Individual Statements – Open call, 3 responses: PUD, Water & Sewer, and General Contractors
- D. CPARB Members & SHB 1621 Review Committee Members & Stakeholders
- E. DRAFT Amended SHB 1621 with changes noted November 21, 2024
- F. CPARB SHB 1621 Report Recommendations dated December 31, 2023 (not adopted)

## STAKEHOLDER WORK BY CPARB – BASIS FOR RECOMMENDATIONS.

1. SHB 1621 includes bidder responsibility determinations outside of criteria already set forth in RCW 39.04.010 and 39.04.350. CPARB Recommends eliminating these alternate bidder responsibility determinations and instead referencing RCW 39.04.010 for guidance on these determinations.

Basis for recommendation: SHB 1621 uses language currently granted to second-class cities, allowing them to refuse low bids by means of a responsibility determination, and extends the concept to PUDs, first-class cities, water/sewer districts, and fire districts.

The inclusion of additional Lowest Responsible Bidder criteria in SHB 1621 expands the responsibility criteria outside of the current statute governing general public works provisions for bidder responsibility in RCW 39.04.350. This additional language creates confusion for contractors. While this language pre-exists for the second-class cities in RCW 35.23.352(2), members of the committee expressed concerns regarding the provision to allow for the rejection of a low bidder in light of an issue with a bidder's responsibility or lack thereof.

- **Consensus** - All eleven SHB 1621 committee members agree with this recommendation.

2. Exceptions to the public employee work thresholds on projects up to \$300k. SHB 1621 includes exceptions to what is included in the self-perform \$300K project limit. Notably materials and equipment defined and then excluded from the project costs. The Board recommends eliminating these exceptions and modify the language to state all project costs are included in the \$300K threshold.

Basis for recommendation: Dollar figure thresholds throughout public contracting provisions of the RCW most commonly include “*all project costs*” and for consistency, this option for public entities included in SHB 1621 with respect to what is included in the \$300K project limit should include all costs.

- SHB 1621 Committee Voting: 9 committee members agree with this recommendation, 2 did not.
- The minority position is they prefer the existing language in their statute.

3. Prudent Utility Management definition as applied to cities, water-sewer districts and fire districts.

The Board recommends modifying Prudent Utility Management as the definition for when the \$300K self-performed work can occur and instead include a new definition of Exigent circumstances in its place.

*Exigent public works needs are due to unforeseen circumstances that result in situations that compromise the proper performance of essential government functions and there is a need to avoid, prevent or alleviate serious impacts (financial or otherwise), harm or injury, and the use of a competitive procurement would prevent the urgent action required to address the situation.*

Basis for recommendation: The circumstances in which public entities can choose to exercise the option to self-perform projects up to \$300K in value should be properly defined. The definition of when this can occur within SHB 1621 was very broad and may or may not adequately align with the needs of each public entity these RCW provisions apply to. Based on this the exigent definition as the definition of when this option can be utilized is improved through this recommendation.

- SHB 1621 Committee Voting: 8 committee members agree with this recommendation, 3 did not.
- The minority position is they prefer the Prudent Utility Management definition.

4. The Board recommends adding an annual maximum dollar limit threshold for the cumulative amount of individual \$300K self-performed projects the public entity can perform of no more than 10% of the entity's annual capital budget.

Basis for recommendation: The \$300K self-performed project option for public entities is essentially a new category of self-performance work by public entities at a substantially higher dollar value limit than existing options. Based on this, the public/private balance of impact related to this bill is critical to manage. The 10% cumulative annual dollar value limit based on each individual entities' size is therefore appropriate to create a limit for the number of times it can be utilized in any single annual year cycle.

- SHB 1621 Committee Voting: 8 committee members agree with this recommendation, 3 did not.
- The minority position is they prefer no annual limit.

**SHB 1621 REVIEW COMMITTEE VOTING MATRIX**

**CPARB SHB 1621 Committee Votes**

	1	2	3	4	5	6	7	8	9	10	11
	Mark N/Maggie Y	Linda DB	Diane P	Roger F	Keith M	Sharon H	Bruce H	Mark R/Josh S	Michael T	Liz A	Steve R
SHB 1621 Recommendations	1st Class Cities	2nd Class Cities	W&S Districts	Fire Districts	General Contractors	OMWBE	Arch	Labor	MCA (subs)	PUD	Subs

<b>1) Bidder Responsibility determinations.</b>	<b>Total Votes</b>										
Option 1: Maintain as written in 1621											
Option 2: Eliminate bidder responsibility provision, instead reference 39.04.350 for process.	11	x	x	x	x	x	x	x	x	x	x
<b>2) Exceptions to work threshold up to 300K</b>											
Option 1: Maintain material and equipment definition and exclusion of same within 300K limit.	2		x							x	
Option 2: Remove exclusion - change to All Project Costs within 300K	9	x	x	x	x	x	x	x	x		x
<b>3) PUM - Prudent Utility Management definition</b>											
Option 1: Maintain PUM definition	3		x	x						x	
Option 2: Change to Exigent definition *	8	x	x		x	x	x	x	x		x
<b>4) Annual 10% of Budget</b>											
Option 1: Maintain - no annual limit on # of individual 300K projects	3		x	x						x	
Option 2: Add annual limit for total number of 300K projects not to exceed 10% of entities annual budget.	8	x	x		x	x	x	x	x		x

*\*Exigent public works needs are due to unforeseen circumstances that result in situations that compromise the proper performance of essential government functions and there is a need to avoid, prevent or alleviate serious impacts (financial or otherwise), harm or injury, and the use of a competitive procurement would prevent the urgent action required to address the situation.*

**Committee Members:**

Keith Michel (General Contractors) - Co-Chair	Mark Nakagawara (Cities) - Co-Chair	- Maggie Yuse (Proxy for MN, Cities)
Liz Anderson (WA PUD Assoc)	Diane Pottinger (Water Districts)	
Linda De Boldt (Cities)	Mark Riker (Labor)	- Josh Swanson (Proxy for MR Labor)
Roger Ferris (Fire Districts)	Steve Russo, (Specialty Contractors)	
Sharon Harvey (OMWBE)	Michael Transue (MCA)	
Bruce Hyashi (Architects)		

## SHB 1621 COMMITTEE MEMBER INDIVIDUAL STATEMENTS – Open call, 3 responses: PUD, Water & Sewer Districts, and General Contractors

### WASHINGTON PUBLIC UTILITY DISTRICTS ASSOCIATION

The majority of the SHB 1621 Advisory Committee recommends modifying existing language enacted with the passage of SHB 1621 specific to all the CPARB recommendations. *Additionally, the advisory committee unanimously agreed that the public utility district statutory language that pre-dated the passage of SHB 1621 by many years is specific to and necessary for the operations of public utility districts and therefore should not be modified.*

#### Minority statement from WPUDA on vote:

SHB 1621 retained key pre-existing provisions of the PUD's statutory language, which is specific to the unique operational needs of public utility districts. WPUDA appreciated the Advisory Committee's recognition and support for not altering the underlying PUD statute related to prudent utility management. WPUDA supported proposed changes to SHB 1621 language applied to the cities' statute. The cities requested the changes to SHB 1621 relating to their statute and the changes were vetted by the committee. Based on discussions, WPUDA believes there was general consensus around this recommendation, however without the ability to vote in favor of changes requested by the cities while not advancing suggested changes for the water & sewer districts and fire districts which were controversial, WPUDA voted to retain the existing provisions in SHB 1621.

Liz Anderson, Executive Director  
Washington Public Utility Districts Association

### WATER & SEWAR DISTRICTS

Water and Sewer Districts were happy with SHB 1621 which included a review by CPARB. One of the key objectives of the bill was to have the same limits for all cities, PUDs, Fire Districts as well as Water and Sewer Districts. We participated in the review process in good faith as provided by the bill and did not come to a mutual agreement about any changes. The report was submitted to the legislature in December, making that provision of the bill complete.

The changes now being proposed go against a key objective of the bill; it creates new dissimilarities between types of jurisdictions, and at the same time is more complex. While Water and Sewer Districts are happy with the language with the law that went into effect July 1, 2024, **we also support the proposed language made by the cities to the city's statute.** This draft language is what we have discussed during our bimonthly meetings this year. Water and Sewer Districts **oppose** any proposed changes to the Water and Sewer Districts, Fire Districts and PUD's statutes at this time. Water and Sewer Districts will continue backing bill SHB 1621 as passed and refrain from any other changes other than those mentioned above until we see how the bill is working.

Diane Pottinger, P.E. District Manager  
North City Water District

### GENERAL CONTRACTORS

SHB 1621 passed, and effective June 30, 2024, has drastically impacted a critical balance between public and private interests in public works statewide. It will potentially ELIMINATE or greatly reduce a huge amount of public bid opportunities anywhere between \$75,500 and \$1,000,000 (guess, ambiguity exists) dollars. ALL this work which used to be bid, can now be self-performed by public entities.

These sizes of project are critical to small, minority, women, veteran and disadvantaged owned businesses across our state. The governor, legislature, CPARB, BE/DBI Committee, OMWBE, and countless other individuals and organizations have prioritized increasing the use of and developing them within the public works market. **The community and economic impacts of this bill are catastrophic and work directly against this important priority.**

***Let me explain:***

Prior to June 30, 2024, the public entities included in the bill, 1st and 2nd Class Cities, Water & Sewer Districts, Fire Districts, all had a \$50,000 threshold to self-perform work without a contract. Above this threshold, they were obligated to offer public bids, soliciting to private industry to perform work under a public works contract.

After SHB 1621, effective June 30, 2024, the following is true for the entities included:

1. The \$50,000 threshold has been INCREASED to \$75,500 for a single craft project or \$150,000 for a multiple craft project. They can self-perform, any project they want, below these increased thresholds. This REDUCES public bid opportunities so critical to small businesses throughout our state active in the public works market.
2. The bill borrowed language from separate PUD statute and then applied it to more public entities under the idea of consistency. This category of “self-performance” by the public entities at a stated \$300,000 threshold limit as long as the work was considered “Prudent Utility Management”. My opinion: This is a vague way of saying, “Whatever they want, whenever they want”.
  - a. The \$300,00 threshold also includes a blatant and glaring inaccuracy with respect to normal definitions of material and equipment. It further EXCLUDES these items from the threshold. Rendering the threshold COMPLETELY useless and vague. Here is the quote from the bill:
 

*“This limit on the value of material being utilized in work being performed by regularly employed personnel shall not include the value of individual items of equipment. For the purposes of this section, the term “equipment” includes but is not limited to conductor, cabling, wire, pipe, or lines used for electrical, water, fiber optic, or telecommunications.”*
3. There is no limit to how many of these new Prudent Utility Management 300K projects can be performed in any given year.

Therefore, my position, and recommendation are as follows:

- I support the increased lower limit of \$75,500/\$150,000. Public entities need flexibility to react and perform with the work needed to support public interest. This increase is substantial, 3x’s what it was previously. That helps with market conditions, escalation, material costs, etc. that are reasons to evaluate and raise thresholds on a case-by-case basis within the RCW. The bill includes this, and the committee work validated by consensus is appropriate.
- I support the CHANGE needed to define ALL PROJECT COSTS are included in the \$300,000 new category of self-performance work. Thresholds should be clear, and defined, not vague with inaccurately written exclusions to what is included. The majority of the committee agrees.
- I support the CHANGE to the “exigent” definition of work for this category. This is a narrower, but appropriate modification and move away from the overly broad, Prudent Utility Management terms included in the original bill. The majority of the committee agrees.
- I support imposing an annual limit, 10% of each entity’s annual budget, to cap the annual use of the new Exigent, \$300,000 all project costs projects. The majority of the committee agrees.

Keith Michel

General Contractor Representative – 11/13/2024

**CPARB MEMBERS AND SHB 1621 REVIEW COMMITTEE MEMBERS AND STAKEHOLDERS****Committee Members:**

[Keith Michel](#), General Contractors, - Co-Chair  
[Mark Nakagawara](#), Cities, - Co-Chair  
[Liz Anderson](#), Public Utility Districts  
[Sharon Harvey](#), OMWBE  
[Linda De Boldt](#), Cities  
[Roger Ferris](#), Fire Districts  
[Bruce Hyashi](#), Architects  
[Diane Pottinger](#), Water Districts  
[Mark Riker](#), Construction Trades & Labor  
[Steve Russo](#), Specialty Contractors  
[Michael Transue](#), Mechanical Contractors

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**Committee Stakeholders:**

Eric Alozie, NWE Construction Co.  
 Logan Bahr, Tacoma Public Utilities  
 Randy Black, Lakewood Water District  
 George Caan, WA PUD Association  
 Bill Clark, WA PUD Association  
 Joren Clowers, Sno-King Water District Coalition  
 Linda De Boldt, City of Bellevue  
 Brandy DeLange, Association of WA Cities

Judi Gladstone, WA Assoc. of Sewer and Water Districts  
 Scott Middleton, Mech. Contractors Assoc. Western WA  
 Paul Richart, Alderwood Water & Wastewater District  
 Ryan Spiller, Fire Districts  
 Abigail Vizcarra Perez, MetroParks Tacoma  
 Rob Wettleson, Forma Construction  
 Maggie Yuse, Seattle Public Utilities  
 Janice Zahn, Port of Seattle

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**CPARB Members:**

Linneth Riley Hall (Chair), Transit  
 Keith Michel (Vice-Chair), General Contractors  
 Lekha Fernandes, OMWBE  
 Bobby Forch, Jr., Disadvantaged Businesses  
 Bill Frare, State-DES  
 Sen. Bob Hasegawa, Senate (D)  
 Bruce Hayashi, Architects  
 Santosh Kuruvilla, Engineers  
 Karen Mooseker, School Districts  
 Mark Nakagawara, Cities  
 Matt Rasmussen, Counties  
 Irene Reyes, Private Industry

Mark Riker, Construction Trades Labor  
 Steven Russo, Specialty Contractors  
 John Salinas, II, Specialty Contractors  
 Kara Skinner, Insurance/Surety Industry  
 Rep. Mike Steele, House of Representatives (R)  
 Robin Strom, General Contractors  
 Josh Swanson, Construction Trades Labor  
 Rep. Steve Tharinger, House of Representatives (D)  
 Robynne Thaxton, Private Industry  
 Sen. Judy Warnick, Senate (R)  
 Olivia Yang, Higher Education  
 Janice Zahn, Ports



**DRAFT AMENDED SHB 1621 BILL WITH CHANGES**

## CPARB SHB 1621 PL 1621 – Recommended Changes to Legislation from the Committee 11/21/2024

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

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

(2) Any work ordered by a district commission, the estimated cost of which is in excess of \$150,000 exclusive of sales tax if more than a single craft or trade is involved with the public works project, or a public works project in excess of \$75,500 exclusive of sales tax if only a single craft or trade is involved with the public works project, shall be by contract. However, a district commission may have its own regularly employed personnel perform work which is an accepted industry practice under prudent utility management without a contract. For purposes of this section, "prudent utility management" means performing work with regularly employed personnel utilizing material of a worth not exceeding \$300,000 in value without a contract. This limit on the value of material being utilized in work being performed by regularly employed personnel shall not include the value of individual items of equipment. For the purposes of this section, the term "equipment" includes but is not limited to conductor, cabling, wire, pipe, or lines used for electrical, water, fiber optic, or telecommunications.

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

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

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

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

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

(b) For the purposes of this section, unit priced contract means a competitively bid contract in which public works are anticipated on a recurring

basis to meet the business or operational needs of a district, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price, for each category of work.

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

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

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

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

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

(1) Any second-class city or any town may construct any public works, as defined in RCW [39.04.010](#), by contract or day labor without calling for bids therefor whenever the estimated cost of the work or improvement, including cost of materials, supplies and equipment will not exceed the sum of \$150,000 if more than one craft or trade is involved with the public works, or \$75,500 if a single craft or trade is involved with the public works or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project. ~~However, a second-class city or any town may have its own regularly employed personnel perform work which is an accepted industry practice under prudent utility management without a contract. For purposes of this section, "prudent utility management" means performing work with regularly employed personnel utilizing material of a worth not exceeding \$300,000 in value without a contract. This limit on value of material being utilized in work being performed by regularly employed personnel shall not include the value of individual items of equipment. For purposes of this section, "equipment" includes, but is not limited to, conductor, cabling, wire, pipe, or lines used for electrical, water, fiber optic, or telecommunications.~~

(2) (a) Second-class cities and towns may address exigent public works needs, defined as unforeseen circumstances that result in situations that

compromise the proper performance of essential government functions and there is a need to avoid, prevent or alleviate serious impacts (financial or otherwise), harm or injury, and the use of a competitive procurement would prevent the urgent action required to address the situation, through the use of its own regularly employed in-house personnel up to \$300,000. Project costs shall include all labor, materials, supplies, and equipment. The division of the project into units of work or classes of work to avoid this restriction are prohibited.

(b) In addition, the amount of exigent public works needs addressed through the use of a second-class city's or town's own regularly employed in-house personnel shall be limited to a dollar value not exceeding 10 percent of the public works construction budget, over the budget period. The amount of public works that a second-class city or town has a county perform for it under RCW 35.77.020 shall be included within this 10 percent limitation. If a second-class city or town has public works performed by public employees in any budget period that are in excess of this 10 percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that city in its next budget period. The state auditor shall report to the state treasurer any second-class city or town that exceeds this amount and the extent to which the city or town has or has not reduced the amount of public works it has performed by public employees in subsequent years.

(c) In addition to the accounting and recordkeeping requirements contained in RCW 39.04.070, every second-class city or any town annually must prepare a report subject to review by the state auditor indicating the total public works construction budget and supplemental public works construction budget for that year, the total construction costs of public works performed by public employees for that year, and the amount of public works that is performed by public employees above or below 10 percent of the total construction budget. However, if a second-class city or any town budgets on a biennial basis, this annual report may indicate the amount of public works that is performed by public employees within the current biennial period that is above or below 10 percent of the total biennial construction budget.

(d) Declaration of exigent public works circumstances for public works defined under subsection (2a) of this section may be established by individual action of the governing body or by written policies and procedures adopted by the second-class city or any town. In either case, when the second-class city or town elects to declare an exigency, it must document the factual basis for the decision, which must be open to public inspection no later than two weeks from the beginning of the project.

(e) Whenever a second-class city or town has had public works performed by city labor in any budget period up to the maximum permitted amount under this subsection for that budget period, all remaining public works within that budget period must be done pursuant to public notice and call for competitive bids.

(3) Whenever the cost of the public work or improvement, including materials, supplies and equipment, will exceed these figures, the same shall be done by contract. All such contracts shall be let at public bidding upon publication of notice calling for sealed bids upon the work. The notice shall be published in the official newspaper, or a newspaper of general circulation most likely to bring responsive bids, at least 13 days prior to the last date upon which bids will be received. The notice shall generally state the nature of the work to be done that plans and specifications therefor shall then be on file in the city or town hall for public inspections and require that bids be sealed and filed with the council or commission within the time specified therein. Each bid shall be accompanied by a bid proposal deposit in the form of a cashier's check, postal money order, or surety bond to the council or commission for a sum of not less than five percent of the amount of the bid, and no bid shall be considered

unless accompanied by such bid proposal deposit. The council or commission of the city or town shall let the contract to the lowest responsible bidder or shall have power by resolution to reject any or all bids and to make further calls for bids in the same manner as the original call.

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

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

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

~~(3) (5) The allocation of public works projects to be performed by city or town employees shall not be subject to a collective bargaining agreement.~~

~~(4) (6) In lieu of the procedures of subsection (1) of this section, a second-class city or a town may let contracts using the small works roster process provided in RCW [39.04.151](#) through [39.04.154](#).~~

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

~~(5) (7) The form required by RCW [43.09.205](#) shall be to account and record costs of public works in excess of \$5,000 that are not let by contract.~~

~~(6) (8) The cost of a separate public works project shall be the costs of all the materials, equipment, supplies, and labor on that construction project.~~

~~(7) (9) Any purchase of supplies, material, or equipment, except for public work or improvement, with an estimated cost in excess of \$40,000, shall be by contract. Any purchase of materials, supplies, or equipment with an estimated cost of less than \$50,000 shall be made using the process provided in RCW [39.04.190](#).~~

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

~~(9) (11) For advertisement and formal sealed bidding to be dispensed with as to purchases with an estimated value of \$15,000 or less, the council or commission must authorize by resolution, use of the uniform procedure provided in RCW [39.04.190](#).~~

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

~~(11)~~ (13) This section does not apply to performance-based contracts, as defined in RCW [39.35A.020](#) (6), that are negotiated under chapter [39.35A](#) RCW.

~~(12)~~ (14) Nothing in this section shall prohibit any second-class city or any town from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

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

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

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

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

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

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

**Sec. 3.** RCW 35.22.620 and 2023 c395 s 20 and 2023 c255 s 3 are each amended as follows:

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

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

If a first-class city has public works performed by public employees in any budget period that are in excess of this 10 percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that city in its next budget period. Twenty percent of the motor vehicle fuel tax

distributions to that city shall be withheld if two years after the year in which the excess amount of work occurred, the city has failed to so reduce the amount of public works that it has performed by public employees. The amount so withheld shall be distributed to the city when it has demonstrated in its reports to the state auditor that the amount of public works it has performed by public employees has been so reduced.

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

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

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

(4) (a) First-class cities may address exigent public works needs, defined as unforeseen circumstances that result in situations that compromise the proper performance of essential government functions and there is a need to avoid, prevent or alleviate serious impacts (financial or otherwise), harm or injury, and the use of a competitive procurement would prevent the urgent action required to address the situation, through the use of its own regularly employed in-house personnel up to \$300,000. Project costs shall include all labor, materials, supplies, and equipment. The division of the project into units of work or classes of work to avoid this restriction are prohibited.

(b) In addition, the amount of exigent public works needs addressed through the use of a first-class city's own regularly employed in-house personnel shall be limited to a dollar value not exceeding 10 percent of the public works construction budget, over the budget period. The amount of public works that a first-class city has a county perform for it under RCW 35.77.020 shall be included within this 10 percent limitation. If a first-class city has public works performed by public employees in any budget period that are in excess of this 10 percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that city in its next budget period. The state auditor shall report to the state treasurer any first-class city that exceeds this amount and the extent to which the city or town has or has not reduced the amount of public works it has performed by public employees in subsequent years.



(c) In addition to the accounting and recordkeeping requirements contained in RCW 39.04.070, every first class city must annually prepare a report subject to review by the state auditor indicating the total public works construction budget and supplemental public works construction budget for that year, the total construction costs of public works performed by public employees for that year, and the amount of public works that is performed by public employees above or below 10 percent of the total construction budget. However, if a first-class city budgets on a biennial basis, this annual report may indicate the amount of public works that is performed by public employees within the current biennial period that is above or below 10 percent of the total biennial construction budget.

(d) Declaration of exigent public works circumstances for public works defined under subsection 4(a) of this section may be established by individual action of the governing body or by written policies and procedures adopted by the first-class city. In either case, when a first-class city elects to declare an exigency, it must document the factual basis for the decision, which must be open to public inspection no later than two weeks from the beginning of the project.

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

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

~~(5)~~(6) The cost of a separate public works project shall be the costs of materials, supplies, equipment, and labor on the construction of that project. The value of the public works budget shall be the value of all the separate public works projects within the budget.

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

~~(7)~~(8) In lieu of the procedures of subsections (2) and ~~(6)~~ (7) of this section, a first-class city may let contracts using the small works roster process in RCW [39.04.151](#) through [39.04.154](#).

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

~~(8)~~(9) The allocation of public works projects to be performed by city employees shall not be subject to a collective bargaining agreement.

~~(9)~~(10) This section does not apply to performance-based contracts, as defined in RCW [39.35A.020](#)(6), that are negotiated under chapter [39.35A](#) RCW.

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

~~(11)~~(12) (a) Any first-class city may procure public works with a unit priced contract under this section for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

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

contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price for each category of work.

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

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

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

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

**Sec. 4.** RCW 57.08.050 and 2023 c395 s33 and 2023 c 255 s4 are each amended to read:

(1) All work ordered, the estimated cost of which is in excess of \$150,000 if more than a single craft or trade is involved with the public works project, or a public works project in excess of \$75,500 if only a single craft or trade is involved with the public works project, shall be let by contract and competitive bidding. Before awarding any such contract the board of commissioners shall publish a notice in a newspaper of general circulation where the district is located at least once 13 days before the last date upon which bids will be received, inviting sealed proposals for such work, plans and specifications which must at the time of publication of such notice be on file in the office of the board of commissioners subject to the public inspection. The notice shall state generally the work to be done and shall call for proposals for doing the same to be sealed and filed with the board of commissioners on or before the day and hour named therein.

Each bid shall be accompanied by a certified or cashier's check or postal money order payable to the order of the county treasurer for a sum not less than five percent of the amount of the bid, or accompanied by a bid bond in an amount not less than five percent of the bid with a corporate surety licensed to do business in the state, conditioned that the bidder will pay the district as liquidated damages the amount specified in the bond, unless the bidder enters into a contract in accordance with the bidder's bid, and no bid shall be considered unless accompanied by such check, cash or bid bond. At the time and place named such bids shall be publicly opened and read and the board of commissioners shall proceed to canvass the bids and may let such contract to the lowest responsible bidder upon plans and specifications on file or to the best



bidder submitting the bidder's own plans and specifications. The board of commissioners may reject all bids for good cause and readvertise and in such case all checks, cash or bid bonds shall be returned to the bidders. If the contract is let, then all checks, cash, or bid bonds shall be returned to the bidders, except that of the successful bidder, which shall be retained until a contract shall be entered into for doing the work, and a bond to perform such work furnished with sureties satisfactory to the board of commissioners in the full amount of the contract price between the bidder and the commission in accordance with the bid. If the bidder fails to enter into the contract in accordance with the bid and furnish the bond within 10 days from the date at which the bidder is notified that the bidder is the successful bidder, the check, cash, or bid bonds and the amount thereof shall be forfeited to the district. If the bidder fails to enter into a contract in accordance with the bidder's bid, and the board of commissioners deems it necessary to take legal action to collect on any bid bond required by this section, then the district shall be entitled to collect from the bidder any legal expenses, including reasonable attorneys' fees occasioned thereby. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

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

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

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

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

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

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

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

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

Contracts must be awarded to the lowest responsible bidder as per RCW [39.04.010](#).

Whenever possible, the district must invite at least one proposal from a certified minority or woman contractor who otherwise qualifies under this section.

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

~~(7) A water-sewer district may have its own regularly employed personnel perform work which is an accepted industry practice under prudent utility management without a contract. For purposes of this section, "prudent utility management" means performing work with regularly employed personnel utilizing material of a worth not exceeding \$300,000 in value without a contract. This limit on the value of material being utilized in work being performed by regularly employed personnel shall not include the value of individual items of equipment. For the purposes of this section, the term "equipment" includes but is not limited to conductor, cabling, wire, pipe, or lines used for electrical, water, fiber optic, or telecommunications.~~ (a) water-sewer district may address exigent public works needs, defined as unforeseen circumstances that result in situations that compromise the proper performance of essential government functions and there is a need to avoid, prevent or alleviate serious impacts (financial or otherwise), harm or injury, and the use of a competitive procurement would prevent the urgent action required to address the situation, through the use of its own regularly employed in-house personnel up to \$300,000. Project costs shall include all labor, materials, supplies, and equipment. The division of the project into units of work or classes of work to avoid this restriction are prohibited.

(b) In addition, the amount of exigent public works needs addressed through the use of a water-sewer district's own regularly employed in-house personnel shall be limited to a dollar value not exceeding 10 percent of the public works construction budget, over the budget period. If a water-sewer district has public works performed by public employees in any budget period that are in excess of this 10 percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that city in its next budget period. The state auditor shall report to the state treasurer any second-class city or any town that exceeds this amount and the extent to which the city or town has or has not reduced the amount of public works it has performed by public employees in subsequent years.

(c) In addition to the accounting and recordkeeping requirements contained in RCW 39.04.070, every water-sewer district annually must prepare a report subject for review by the state auditor indicating the total public works construction budget and supplemental public works construction budget for that year, the total construction costs of public works performed by public employees for that year, and the amount of public works that is performed by public employees above or below 10 percent of the total construction budget. However, if a water-sewer district budgets on a biennial basis, this annual report may indicate the amount of public works that is performed by public employees within the current biennial period that is above or below 10 percent of the total biennial construction budget.

(d) Each a water-sewer district shall use the form required by RCW 43.09.205 to account and record costs of public works in excess of \$5,000 that are not let by contract.

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

**Sec. 5.** RCW 52.14.110 and 2023 c395 s30 and 2023 c255 s5 are each amended to read as follows:

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

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

(b) Contracting for work to be done involving the construction or improvement of a fire station or other buildings where the estimated cost will not exceed the sum of \$150,000 if more than a single craft or trade is involved with the public works project, or a public works project in excess of \$75,500 if only a single craft or trade is involved with the public works project;

(c) Contracts using the small works roster process under RCW [39.04.151](#) through [39.04.154](#); and

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

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

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

(3) (a) Districts may address exigent public works needs, defined as unforeseen circumstances that result in situations that compromise the proper performance of essential government functions and there is a need to avoid, prevent or alleviate serious impacts (financial or otherwise), harm or injury, and the use of a competitive procurement would prevent the urgent action required to address the situation, through the use of its own regularly employed in-house personnel up to \$300,000. Project costs shall include all labor, materials,

supplies, and equipment. The division of the project into units of work or classes of work to avoid this restriction are prohibited.

(b) In addition, the amount of public works performed by a district in any given year, to address exigent public works needs not exceeding \$300,000, shall be limited to a dollar value not exceeding 10 percent of the public works construction budget for the annual or biennial budget period, including any amount in a supplemental public works construction budget, over the budget period. If a district has public works performed by public employees in any budget period that are in excess of this 10 percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that city in its next budget period. The state auditor shall report to the state treasurer any district that exceeds this amount and the extent to which the district has or has not reduced the amount of public works it has performed by public employees in subsequent years.

(c) In addition to the accounting and recordkeeping requirements contained in RCW 39.04.070, every first class city or any town annually must prepare a report subject to review by the state auditor indicating the total public works construction budget and supplemental public works construction budget for that year, the total construction costs of public works performed by public employees for that year, and the amount of public works that is performed by public employees above or below 10 percent of the total construction budget. However, if a district budgets on a biennial basis, this annual report may indicate the amount of public works that is performed by public employees within the current biennial period that is above or below 10 percent of the total biennial construction budget.

(d) Each district shall use the form required by RCW 43.09.205 to account and record costs of public works in excess of \$5,000 that are not let by contract.

(e) Declaration of exigent public works circumstances for public works defined under subsection (3) of this section may be established by individual action of the governing body or by written policies and procedures adopted by the districts. In either case, when the district elects to declare an exigency, it must document the factual basis for the decision, which must be open to public inspection no later than two weeks from the beginning of the project.

**CPARB SHB 1621 REPORT RECOMMENDATIONS DATED DECEMBER 31, 2023** *(not adopted)*

1. Allow the standardizing of threshold limits of \$75,500 for a single trade and \$150,000 for multiple trades for work performed by regularly employed public employees for a trial period of Two Years: July 2024 to June 2026 with a review to continue the use.

Any work above these limits will need to be sent out for bid. Raising the thresholds for PUDs, water-sewer districts and fire districts to match what exists for first and second-class cities creates uniformity amongst the agencies and accounts for inflation and price escalation factors. Some districts will see an increase to match these uniform thresholds but not all.

2. Delay implementation to July 1, 2025, of all other sections in SHB 1621 (other than recommendation #1, the \$75.5k/\$150k implementation) so that further stakeholder work can be done by CPARB with additional recommendations submitted by October 31, 2024. *(See Appendix A of the [SHB 1621 Report for December 31, 2023](#))*