

CHAPTER 89

[Engrossed Substitute Senate Bill No. 2161]

CITIES AND TOWNS—PUBLIC WORKS CONTRACTS—SMALL WORKS
ROSTER—ADVERTISEMENT AND COMPETITIVE BIDDING

AN ACT Relating to public works contracts for cities and towns; amending section 1, chapter 56, Laws of 1975 1st ex. sess. and RCW 35.22.620; and amending section 35.23.352, chapter 7, Laws of 1965 as last amended by section 1, chapter 41, Laws of 1977 ex. sess. and RCW 35.23.352; adding a new section to chapter 35A.43 RCW; adding a new section to chapter 35.22 RCW; and adding a new section to chapter 35.23 RCW.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 1, chapter 56, Laws of 1975 1st ex. sess. and RCW 35.22.620 are each amended to read as follows:

(1) Any public work or improvement of a first class city shall be done by contract pursuant to public notice and call for competitive bids, whenever the estimated cost of such work or improvement, including the cost of materials, supplies, and equipment will exceed the sum of ten thousand dollars: PROVIDED, That whenever this public work or improvement is for construction of water mains, such sum shall be fifteen thousand dollars. When any emergency shall require the immediate execution of such public work, upon the finding of the existence of such emergency by the authority having power to direct such public work to be done and duly entered of record, publication of description and estimate may be made within seven days after the commencement of the work.

(2) In addition to the procedures of subsection (1) of this section, a first class city may use a small works roster and award contracts under this subsection for contracts of thirty thousand dollars or less.

(a) The city may maintain a small works roster comprised of all contractors who have requested to be on the roster and are, where required by law, properly licensed or registered to perform such work in this state.

(b) Whenever work is done by contract, the estimated cost of which is thirty thousand dollars or less, and the city uses the small works roster, the city shall invite proposals from all appropriate contractors on the small works roster; PROVIDED, That whenever possible, the city shall invite at least one proposal from a minority contractor who shall otherwise qualify under this section. Such invitation shall include an estimate of the scope and nature of the work to be performed, and materials and equipment to be furnished.

(c) When awarding such a contract for work, the estimated cost of which is thirty thousand dollars or less, the city shall award the contract to the contractor submitting the lowest responsible bid.

Sec. 2. Section 35.23.352, chapter 7, Laws of 1965 as last amended by section 1, chapter 41, Laws of 1977 ex. sess. and RCW 35.23.352 are each amended to read as follows:

(1) Any second or third class city or any town (~~(of the second, third or fourth class)~~) may construct any public work or improvement by contract or day labor without calling for bids therefor whenever the estimated cost of such work or improvement, including cost of materials, supplies and equipment will not exceed the sum of ~~((five))~~ fifteen thousand dollars. Whenever the cost of such public work or improvement, including materials, supplies and equipment, will exceed ~~((five))~~ fifteen thousand dollars, the same shall be done by contract. All such contracts shall be let at public bidding upon posting notice calling for sealed bids upon the work. Such notice thereof shall be posted in a public place in the city or town and by publication in the official newspaper once each week for two consecutive weeks before the date fixed for opening the bids. 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. If there is no official newspaper the notice shall be published in a newspaper published or of general circulation in the city or town. The ~~((city))~~ 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 the full amount of the contract price. If the bidder fails to enter into the contract in accordance with his bid and furnish such bond within ten days from the date at which he is notified that he 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. If no bid is received on the first call the ~~((city))~~ 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 such work or improvement by day labor.

(2) In addition to the procedures of subsection (1) of this section, a second or third class city or a town may use a small works roster and award contracts under this subsection for contracts of twenty thousand dollars or less.

(a) The city or town may maintain a small works roster comprised of all contractors who have requested to be on the roster and are, where required by law, properly licensed or registered to perform such work in this state.

(b) Whenever work is done by contract, the estimated cost of which is twenty thousand dollars or less, and the city uses the small works roster, the city or town shall invite proposals from all appropriate contractors on the small works roster: PROVIDED, That whenever possible, the city or town shall invite at least one proposal from a minority contractor who shall otherwise qualify under this section. Such invitation shall include an estimate of the scope and nature of the work to be performed, and materials and equipment to be furnished.

(c) When awarding such a contract for work, the estimated cost of which is twenty thousand dollars or less, the city or town shall award the contract to the contractor submitting the lowest responsible bid.

(3) Any purchase of supplies, material, equipment or services other than professional services, except for public work or improvement, where the cost thereof exceeds two thousand dollars shall be made upon call for bids; PROVIDED, That the limitations herein shall not apply to any purchases of materials at auctions conducted by the government of the United States, any agency thereof or by the state of Washington or a political subdivision thereof ((in the same method and under the same conditions as required herein on a call for bids for public work or improvement)).

(4) Bids shall be called annually and at a time and in the manner prescribed by ordinance for the publication in a newspaper published or 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.

(5) For advertisement and competitive bidding to be dispensed with as to purchases between two thousand and four thousand dollars, the city legislative authority must authorize by resolution a procedure for securing telephone and/or written quotations from enough vendors to assure establishment of a competitive price and for awarding such contracts for purchase of materials, equipment, or services to the lowest responsible bidder. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry.

NEW SECTION. Sec. 3. There is added to chapter 35A.43 RCW a new section to read as follows:

Procedures for any public work or improvement contracts or purchases for code cities shall be governed by the following statutes, as indicated:

(1) For code cities of twenty thousand population or over, RCW 35.22-.620, as now or hereafter amended, and section 5 of this 1979 act; and

(2) For code cities under twenty thousand population; RCW 35.23.352, as now or hereafter amended, and section 6 of this 1979 act.

*** *NEW SECTION. Sec. 4. There is added to chapter 35.22 RCW a new section to read as follows:***

For any public work or improvement of a first class city, municipal work forces may be combined with those of private contractors so long as the dollar value of the city's share does not exceed seven thousand five hundred dollars.

*Sec. 4. was vetoed, see message at end of chapter.

**** NEW SECTION. Sec. 5. There is added to chapter 35.23 RCW a new section to read as follows:***

For any public work or improvement of a second or third class city or of a town, municipal work forces may be combined with those of private contractors so long as the dollar value of the city's or town's share does not exceed eleven thousand two hundred fifty dollars.

*Sec. 5. was vetoed, see message at end of chapter.

Passed the Senate April 17, 1979.

Passed the House April 11, 1979.

Approved by the Governor April 26, 1979, with the exception of Sections 4 and 5 which are vetoed.

Filed in Office of Secretary of State April 26, 1979.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to two sections of Substitute Senate Bill No. 2161 entitled:

"AN ACT Relating to public works contracts for cities and towns."

This bill provides cities and towns the needed flexibility to award low valued contracts. It provides for the establishment of small public works contractor rosters, and for second and third class cities and towns it increases from five to fifteen thousand dollars the value of a contract that may be let for public works projects and maintenance without competitive bids.

Sections 4 and 5 would permit the combining of municipal work forces with those of private contractors. These two sections fail to define the "dollar value of the city's or town's share" except in amount. This may create substantial confusion in the future with regard to labor and material costs, and equipment and overhead charges. Although the dollar amount is limited and places a significant constraint on this activity, there is a potential for future problems. There may be difficulties in finding fault, with possible protracted litigation, in the event of an accident during construction or finding of error upon completion of the project. Problems in employee relations could easily develop by having both public and private sector employees working side by side on the same job, because the wages, working hours, holiday schedules and working conditions are considerably different in the two sectors. My intention is to preclude such problems.

With the exceptions of Sections 4 and 5, which I have vetoed, the remainder of Substitute Senate Bill No. 2161 is approved."

CHAPTER 90

[Substitute House Bill No. 295]

NATIONAL GUARD EDUCATIONAL ASSISTANCE PROGRAM

AN ACT Relating to the Washington National Guard; creating new sections; and adding new sections to chapter 38.40 RCW.

Be it enacted by the Legislature of the State of Washington: