

## **Management Support**

### **Purchasing: Bid Requirements and Contracts Procedures**

The district is subject to both state and federal procurement laws for the acquisition of goods, services and public works projects. State laws govern the majority of procurement activity; however, where the procurement utilizes federal funding (in whole or in part) purchases must comply with Federal procurement regulations as well as applicable state procurement requirements.

The district will take necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible, in compliance with 2 CFR § 200.321.

This procedure identifies the state and federal requirements for procurements at the various dollar thresholds identified by law.

"Purchase" means the school district's purchase per RCW 28A.335.190(2) of furniture, equipment, or supplies, except books, and is not applicable to contracts for Public Works. This section does not apply to the direct purchase of school buses by the district in accordance with RCW 28A.160.195 or Washington grown food per definition in RCW 15.64.060.

#### **I. State Funding Procurement Furniture, Equipment or Supplies**

Whenever the estimated cost of purchasing furniture, equipment or supplies, except items exempted by law, equals or exceeds \$75,000 the formal bid process described in these procedures must be followed. When the estimated cost of purchasing furniture, equipment or supplies, except items exempted by law, equals or exceeds \$40,000 but is less than \$75,000, the Superintendent or designee will solicit quotes on a competitive basis, but does not have to go through the formal bid process. Solicitation of quotations will be requested through telephone, electronic or written means from at least three different vendors. Sources are recorded for public perusal. When the estimated cost of purchasing furniture, equipment or supplies are anticipated to cost under \$40,000, except items exempted by law, obtaining competitive quotes are recommended but not required so long as pricing in the best interest of the district is obtained.

Brand names and manufacturer's catalog numbers used in specifications are for the purpose of identification and to establish a standard of quality. Bids on items determined by the district to be "equal" may be considered providing the bidder specifies brand and model, furnishes descriptive literature, and complies with any procedural requirements of the bid solicitation. The acceptance of alternative "equal" items will be conditioned on the district's determination that performance and quality are comparable to a specified item.

An acceptable bid and a district purchase order will constitute the only contract necessary for the purchase of furniture, equipment and supplies. The successful bidder will meet all conditions included in the specifications.

## **II. Federal Funding Procurement**

### **A. Procurement of Goods Using Federal Funds**

When federal funds are used for procurement of **goods** (furniture, supplies, equipment, and textbooks):

1. Purchases of \$10,000 or less (or \$40,000 or less if the district has completed the low-risk auditee self-certification process) do not require quotes. However, the District must consider price to be reasonable, and, to the extent practical, distribute purchases equitably among suppliers.
2. Purchases between \$10,000 (or \$40,000 if the district has completed the low-risk auditee self-certification process) and \$75,000 must be procured using price or rate quotations from three or more qualified sources.
3. Purchases of \$75,000 or more must be publicly solicited using sealed bids or request for proposals.
4. When the district uses federal funds for procurement of textbooks, the allowable self-certification is \$50,000.

### **B. Procurement for Services using Federal Funds**

When federal funds are used for procurement of **services**:

1. Services of \$10,000 or less (or \$50,000 or less if the district has completed the low-risk auditee self-certification process) do not require quotes. However, the District must consider price to be reasonable, and, to the extent practical, distribute purchases equitably among suppliers.
2. Services between \$10,000 (or \$50,000 if the district has completed the low-risk auditee self-certification process) and \$250,000 must be procured using price or rate quotations from a reasonable number of qualified sources.
3. Services of \$250,000 or more must be publicly solicited using sealed bids or request for proposals.

## **III. Public Works**

Public Works projects are defined as work, construction, alteration, repair, or improvement of any amount other than ordinary maintenance executed at the cost of the district. Maintenance performed by purchase order or contract is subject to prevailing wage regulations. Public Works Projects estimated to cost less than \$75,000 may be performed by the district's maintenance department. Public works projects not performed by the district's own forces will be awarded using a competitive process to the lowest responsible bidder. The competitive process may vary depending upon the estimated cost as follows:

Dollar Amount	Description	Procurement Method	Statutory Authority	Number of Quotes/Bids
Under \$50,000	Public Work Projects	Limited Public Works	RCW 28A.335.190 and 39.04.155	3
\$50,000-\$250,000	Public Work Projects	Small Works Roster may be used	RCW 39.04.155	5
\$150,000-\$350,000	Public Work Projects	Small Works Roster may be used	RCW 28A.335.190 and 39.04.155	All appropriate contractors on the roster.
\$250,000-\$350,000	Public Work Projects	Formal Bid Process must be used unless Small Works Roster Used	RCW 28A.335.190 and 39.26.160	
Over \$350,000	Public Work Projects	Formal Bid Process must be used	RCW 39.26.160	

1. Public Works Projects estimated to cost in excess of \$350,000 will be awarded through the formal bid process described in these procedures.
2. Public Works Projects estimated to cost at least \$50,000 but not exceeding \$350,000 may be accomplished through either of the following methods:
  - a. Bids may be called for using the formal bid process described in these procedures; or
  - b. Quotations may be requested using the small works roster process in these procedures.
3. For Public Works projects estimated to cost less than \$50,000, the Superintendent or designee will request electronic or written quotes from a minimum of three contractors from the appropriate small works roster and if an award of the contract is made, it is to the lowest responsive and responsible bidder.

### **Small Works Roster Process**

RCW 39.04.155 authorizes the use of a Small Works Roster to award contracts for construction, building, renovation, remodeling, alteration, repair or improvement of real property in lieu of other procedures to award contracts for such work with an estimated cost of \$350,000 or less.

- A. For Public Works projects estimated to cost less than \$350,000, the district may solicit bids by telephone, electronic means and/or written quotations from contractors who have requested to be placed on the small works roster. The district will not break a project into units or phases in order to come within the scope of the small works roster. The small works roster will be revised at least once each year by publishing a notice of such opportunity in at

least one newspaper of general circulation in the district. Also, responsible contractors will be added to the small works roster any time they submit a written request and necessary records. The application form be designed to collect such information as (1) name of contractor, (2) state of Washington contractor's license number, (3) bonding verification, (4) liability coverage, (5) related contracts completed, and (6) references (bond and clients). Contractors desiring to be placed on or remain on the small works roster are required to keep current records of applicable licenses, certifications, registrations, bonding and insurance on file with the district.

The following steps will be employed to engage a contractor for a small works project:

1. Project description will be prepared which describe the work to be completed and the materials to be used. Completion date; contractor's assurances (prevailing wages, fair employment, etc.); bid and performance bond requirements; opportunity to visit the work site; closing date; and quote form may be provided. Detailed plans and specifications may or may not be included in the invitation;
2. When using the small works roster, for work estimated between \$50,000 and \$250,000 the district will solicit quotations from at least five contractors on the appropriate small works roster and will equitably distribute opportunity to submit a quote. For work estimated to cost between \$250,000 and \$350,000 all appropriate contractors on the small works roster must be notified that bids are being sought for the project. Such notice may be accomplished by a direct contact via mail or electronic means or publication in a newspaper of general circulation within the District. A non-response from a vendor or contractor is also considered a quote invitation. Public works projects estimated to cost in excess of \$350,000 will be awarded through the formal bid process described in the Formal Bid Solicitation section of this procedure.
3. After the closing time, quotes will be opened, recorded and made available for inspection or telephone inquiry; and
4. If an award is made, the district will award the contract to the lowest responsive and responsible bidder as defined in RCW 39.04.010. The district will make available a list of contracts awarded for public inspection.

The district may utilize a small works roster maintained by another agency provided that the lead agency implements the requirements of RCW 39.04.155. An interlocal agreement or other contract between the two entities will identify the responsibilities of the lead agency to comply with the provisions of RCW 39.04.155.

### **Limited Public Works Projects**

The district may award a contract for work, construction, alteration, repair, or improvement projects estimated to cost less than \$50,000 using the Limited Public Works Project (LPWP) provided under RCW 39.04.155. For LPWP projects, the district is to solicit electronic or written

quotations from a minimum of three contractors from the appropriate small work roster and must award the contract to the lowest responsive and responsible bidder.

### **Formal Bid Solicitation**

Public Works projects estimated to cost in excess of \$350,000 will be awarded through the formal bid process. The following procedures will be in effect for purchasing through the formal competitive bidding process, unless a purchase is otherwise exempted:

1. Complete plans and specifications will be prepared for all formal bid solicitations.
2. Notice will be given in at least one newspaper of general circulation within the District, once each week for two consecutive weeks of the intention to receive bids and that specifications and other information is available to interested parties as required by law.
3. Brand names and manufacturers' catalog numbers used in specifications are for the purpose of identification and to establish a standard of quality. Bids on items determined to be "equal" may be considered providing the bidder specifies brand and model, furnishes descriptive literature, and complies with any procedural requirements of the bid solicitation. The acceptance of alternative "equal" items will be conditioned on the District's determination that performance and quality are comparable to a specified item.
4. For Public Works contract expected to exceed \$1,000,000; the district will require the following and include the following requirements on the bid solicitation.
  - a. That bidders, within one hour after the published bid submittal time, submit the names of subcontractors who will perform the heating, ventilation and air conditioning, plumbing and electrical work, or list the prime contract bidder to perform the work; and
  - b. That bidders, within forty-eight hours after the published bid submittal time, submit the names of subcontractors who will perform the work of structural steel installation and rebar installation.

Failure to name a subcontractor or the bidder for each category of work renders such bids nonresponsive and therefore void. Naming more than one subcontractor for a category of work, except to the extent authorized in RCW 39.30.060, also voids such bids.

5. Formal bids will be opened at the time and place stated in the official advertisement for bids, and any interested member of the public may attend the bid opening. It will be the bidder's sole responsibility to see that such bid is delivered to the district prior to the time set for opening of bids. Any bid received after the time set for opening the bids will be returned to the bidder unopened and will not receive consideration by the district.
6. Bid results will be presented to the Board for consideration of award in a timely manner. Formal bid awards will be made by the Board on the basis of staff recommendations, to the lowest responsible bidder meeting the district's specifications.

7. If an award is made, contracts will be awarded to the lowest responsive and responsible bidder meeting the specifications. The following factors to be considered in determining the lowest responsible bidder in addition to cost include:
- a. The ability, capacity, and skill of bidder to perform the contract or provide the service required;
  - b. The character, integrity, reputation, judgment, experience, and efficiency of the bidder;
  - c. The ability of the low bidder to perform the work in the time specified;
  - d. The quality of performance of previous contracts or services;
  - e. The previous and existing compliance of the bidder with laws relating to Public Works;
  - f. Such other information related to the performance of the contract as the Superintendent deems advisable; and
  - g. Public Works projects are subject to the following responsibility criteria outlined in RCW 39.04.350 (1)
    - The bidder must have at the time of bid submittal, a certificate of registration in compliance with RCW 18.27.
    - The bidder must have a current state unified business identifier number.
    - If applicable, the bidder must have industrial insurance coverage for bidder's employees working in Washington as required in RCW 51, an employment security department number as required in RCW 50 and a state excise tax registration number as required in RCW 82.
    - The bidder must not be disqualified from bidding on any Public Works contract under RCW 39.06.101 or 39.12.065(3).
    - The bidder must not be in violation of apprenticeship requirements in RCW 39.04.320, and have not been found out of compliance by the Washington state apprenticeship and training council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes as outline in their standards of apprenticeship under chapter 49.04 RCW for the one-year period immediately preceding the date of the bid solicitation.
    - The bidder must have received training on the requirements related to Public Works and prevailing wage under chapter 39.04 RCW and chapter 39.12 RCW. The bidder must designate a person or persons to be trained on these requirements. The training must be provided by the Department of Labor and Industries. Bidders that have completed three or more Public Works projects and have had a valid business license in Washington for three or more years are exempt from this requirement. The Department of Labor and Industries keeps records of entities that have satisfied the training requirement or are exempt and make the records available on its web site.
    - Within the three-year period immediately preceding the date of the bid solicitation, not have been determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of

chapter 49.46, 49.48, or 49.52 RCW (before award of contract, a bidder will submit to the district a signed statement in accordance with RCW 9A.72.085 verifying under penalty of perjury that the bidder is in compliance with the responsible bidder criteria requirement of this subsection.

- h. In addition to the bidder responsibility criteria, the district may adopt relevant supplemental criteria in accordance with RCW 39.04.350(3) for determining bidder responsibility, applicable to a particular project with which the bidder must meet.
- 8. The district will reserve the right to reject any or all formal bids by Board resolution or waive minor informalities and make the award in its best interests, subject to applicable legal requirements.

### **Contracts**

An acceptable bid and a district purchase order will constitute the only contract necessary for the purchase of supplies, equipment, and minor repairs or construction projects; except that the successful bidder will meet all conditions included in the scope of work and terms and conditions set forth in the solicitation documents. Formal written contracts will be prepared for all construction and repair projects exceeding \$50,000 and for purchases as determined by district staff.

All contracts of \$350,000 or more, and any multi-year contract anticipated to exceed \$350,000, will be signed by the Superintendent or designee on behalf of the District after the contracts have been awarded by a majority vote of the Board with action recorded in the minutes of the Board meeting. All contracts will provide that, in the event of a suit by the district to enforce the terms of the contract, venue for the suit will be laid in the county in which the district is located and that, if the district is successful in the suit, the court may order reimbursement of the district's attorney's fees and court costs in such amount as the court deems reasonable. The contract will contain a proviso requiring the contractor to prohibit any of its employees who has ever been convicted of or pled guilty to any of the child-related felonies from working where he/she has contact with public school children. The contract will also provide that failure to comply with this requirement is grounds for immediate termination of the contract.

### **Prevailing Wage:**

All Public Works contracts fall under the State Prevailing Wage Law, RCW Chapter 39.12. All contractors must comply with these requirements.

### **Bonds and Insurance:**

Each contractor will provide a certificate of insurance and performance and payment bonds prior to commencing work for the district, except as may otherwise be authorized by RCW 39.08.030. Performance and payment bonds will be in the amount 100 percent of the contract amount including sales tax. The contractor will purchase a Commercial General Liability Insurance Policy that will protect the district and the contractor from claims which may arise out of or result from the contractor's operations. This insurance will be written for not less than

the limits required by the Districts' contract documents or \$1,000,000, whichever is greater. For public works projects between \$50,000 and \$150,000 a performance and payment bond in the full amount of the contract (including sales tax) is required unless an alternate arrangement is approved by the district. If the district authorizes waiving a performance and payment bond 10% retainage will be withheld.

**Retainage:**

The district will not hold retainage on contracts or purchase orders under \$10,000. For contracts or purchase orders between \$10,000 and \$50,000 the district will hold 5% retainage. For projects between \$50,000 and \$150,000 the district will withhold 5% retainage if a performance and payment bond is submitted or 10% retainage if the district authorizes waiving a performance and payment bond for the project. For projects over \$150,000 the district will withhold 5% for retainage from the moneys earned by the contractor per RCW Chapter 60.28 except as may be specifically authorized by law, including RCW 60.28.011 (6) that allows a contractor to submit a retainage bond for all or any portion of the contract retainage in a form acceptable to the district from a bonding company meeting the standards required by the district.

**IV. Alternative Public Works:**

**GC/CM Contracting Procedure:**

1. A GC/CM contract is a contract having a maximum allowable construction cost that is negotiated with a selected firm to provide services during the design phase of a project and to act as construction manager and general contractor during the construction phase of a project per RCW 39.10.210.
2. The GC/CM contracting procedure will be used if and when the Board makes the appropriate statutory determinations and gains the required approvals per RCW Chapter 39.10.

**Design-Build Contracting Procedure:**

1. A "design-build contract" is a contract between the district and another party in which the other party agrees both to design and build the facility, portion of the facility, or other item specified in the contract per RCW 39.10.
2. The design-build contracting procedure will be used if and when the Board makes the appropriate statutory determinations and gains the required approvals per RCW Chapter 39.10.

**V. Cooperative Purchasing**

The district reserves the right to purchase through an interlocal agreement with another governmental agency or approved purchasing cooperative as authorized by and consistent with the Interlocal Cooperation Act, Chapter 39.34 RCW



## **VI. Competitive Bidding Exemption Approval Process**

The Board must determine via resolution the existence of an emergency exempting competitive bidding requirements, stating the factual basis for the emergency, no later than two weeks following the award of the contract.

The determination that any other bidding exemption condition exists will be first considered by the Executive Director of Business Services who may approve such other bidding exemptions up to \$100,000 regardless of the funding source. Approval of bidding exemptions over \$100,000 requires the approval of the Superintendent. If competitive bidding requirements are waived without a Board resolution, the contract and the factual basis for the exception must be recorded and made open to public inspection immediately following its award.

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