Procedure - Bid or Request for Proposal Requirements

Informal Competitive Bidding

For purchases of goods or services, other than public works, that fall within the district's range for informal bidding, the following process will be used.

1. The district will reach out to various sources to obtain quotations for the goods or services to be purchased.
2. The district will get quotations from no less than three different sources.
3. If there are not three sources available, the district will record the attempts to contact all available sources and document the limited number of sources.
4. Quotations shall be documented and be available for the public to review following the awarding of the contract.

Formal Competitive Bidding Process

The following procedures will be in effect for purchasing and public works through the bidding or request for proposal process:

1. The district will prepare clear and definite plans or specifications for the goods or services to be purchased.
2. The district will provide notice of the call for formal bids by publication in at least one newspaper of general circulation in the district once a week for two consecutive weeks.
    1. The notice will direct potential bidders to full bid requirements.
    2. The notice will provide notice of how sealed bids are to be received.
    3. The notice will also include information about the date, time, and place where bids will be opened.
3. The district will publicly open and read formal bids on the date, time, and place named in the notice and then will file the bids for public inspection. Any interested member of the public may attend the bid opening. It will be the bidder's sole responsibility to see that the district receives his/her bid prior to the time set for opening of bids. The district will return any bid received after the time set for opening the bids to the bidder unopened and without consideration. The district will accept proposals in the place named and no later than the date and time named in the notice;
4. Formal bid or proposal tabulations may be presented at a meeting of the board for study purposes;
5. The board will award a formal contract on the basis of staff recommendations;
6. Specifications using brand names and manufacturers' catalog numbers are for identifying and establishing a quality standard. The board may consider bids or proposals on equal items providing the bidder or proposer specifies brand and model and furnishes descriptive literature. The board will condition its acceptance of alternative "equal" items upon its inspection and testing after receipt. If the board does not find the items to be equal, the board will return the items at the seller's expense and cancel the contract;
7. The district will reserve the right to reject any or all bids or proposals, waive any formalities, and/or irregularities, and cancel the solicitation, if a reason exists;

1. The district may reject bids by resolution; and
2. Provide notice of acceptable of further bids in the same manner as the original notice.

8. On construction projects, the bidder will include a notarized statement agreeing to comply with prevailing wage and affirmative action requirements. The bidder will also provide payment and performance bonds.
9. For public works projects estimated to cost $350,000 or less, the superintendent or designee may solicit bids by telephone, electronic or written quotations from contractors on the appropriate 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 process or limited public works process. Each year, the district will publish a notice of opportunity regarding the small works roster in at least one newspaper of general circulation in the district and then revise the small works roster accordingly. The district will also add responsible contractors to the small works roster any time a contractor submits a written request and necessary records. The application form shall be designed to collect such information as (l) name of contractor, (2) state of Washington contractor's license number, (3) bonding verification, (4) liability insurance 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, insurance, or other appropriate matters on file with the district.

Small Works Process

For public works contracts that are below the thresholds established in RCW 39.04.152, the district may utilize a small works roster for the project.

In establishing the small works roster, the district must require contractors wishing to be placed on the roster to indicate if they are women, minority, or veteran-owned, or meet statutory definitions of a small business. The district will either create its own small works roster or it may, through interlocal agreements, use small works rosters created by another district or governmental entity.

All solicitation for bids or direct contracts shall include a scope of work that includes the nature of the work as well as materials and equipment to be furnished. It is not necessary to have detailed plans and specifications.

For any work being done through a small works roster, the district will secure written or electronic quotations to ensure that a competitive price is obtained. The district will award the contract to the lowest responsible and responsive bidder. For small works contracts under $150,000 not including sales taxes, the district may directly contract with a contractor meeting the statutory definition of a small business as follows:

1. If the district’s small works roster has six or more small businesses, the district must rotate through the businesses on the roster and must utilize different contractors for different projects.
2. If there are five or fewer small businesses on the roster, the district may choose to directly contract with any of the businesses.
3. In all cases, the district must contact any small, minority, women, or veteran-owned businesses on the roster when using this method.

If the contract is under $5,000, there is no requirement for retainage or performance bonds. For any other small works process, the district may waive or reduce the retention

requirements by assuming the liability for any non-payment of labors, mechanics, subcontractors, materialpersons, suppliers, taxes and any penalties relating to these.

The following will be in effect for purchasing and public works awards:

A. The contract for the work or purchase shall be awarded to the lowest responsible bidder as described in RCW 39.26.160(2), but the board may by resolution reject any and all bids and make further calls for bids in the same manner as the original call. In determining whether the bidder is a responsible bidder under RCW 39.26.160(2), the district must consider the following elements:

    1. The ability, capacity, and skill of the bidder to perform the contract or provide the service required;
    2. The character, integrity, reputation, judgment, experience, and efficiency of the bidder;
    3. Whether the bidder can perform the contract within the time specified;
    4. The quality of performance of previous contracts or services;
    5. The previous and existing compliance by the bidder with laws relating to the contract or services;
    6. Whether, within the three-year period immediately preceding the date of the bid solicitation, the bidder has 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 any provision of chapter 49.46, 49.48, or 49.52 RCW, as defined in RCW 49.48.082. Before awarded a contract, a bidder shall 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 of RCW; and
    7. The district may secure such other information as may have bearing on the decision to award the contract.

B. Before award of a public works contract, a bidder must meet the following responsibility criteria to be a responsible bidder and qualified for award of a public works project. The bidder must:

    1. At the time of bid submittal, have a certificate of registration in compliance with chapter 18.27 RCW;
    2. Have a current state unified business identifier number;
    3. If applicable, have industrial insurance coverage for the bidder's employees working in Washington as required in Title 51 RCW; an employment security department number, as required in Title 50 RCW; and a state excise tax registration number, as required in Title 82 RCW;
    4. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3);
    5. If bidding on a public works project subject to the apprenticeship utilization requirements in RCW 39.04.320, not have 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 outlined in their standards of apprenticeship under chapter 49.04 RCW for the one-year period immediately preceding the date of the bid solicitation;
    6. Until December 31, 2013, not have violated RCW 39.04.370 more than one time as determined by the Department of Labor and Industries; and

7. 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 a contract, a bidder shall 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).

C. For any public works contract, the district shall retain a portion of the amount paid to the contractor, based on the following guidelines:
   1. For any contract awarded using the small works roster procedure that is valued under $5,000, the district may waive retainage.
   2. For any contract under $150,000, the district may retain ten percent (10%) of the contract in lieu of a payment and performance bond.
   3. For any other contract, the district will retain five percent (5%) of the contract until such time as the project has been accepted as complete and all liens released.
   4. The contractor may submit a bond to cover amounts that would otherwise be retained by the district.
   5. Amounts retained by the district will either:
      a. Be held in a fund by the district;
      b. Be deposited in an interest-bearing account for the contractor; or
      c. Be deposited in an escrow account for the investment in bonds and securities as identified by the contractor.

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.

Formal written contracts will be prepared for all major construction and repair projects. After a majority of the board votes to approve a contract, the board president/chair and secretary sign the contract on behalf of the board and record the action in the minutes. All contracts will provide that, in the event that the district files suit to enforce the terms of the contract, the venue will be the county where the district is located. All contracts will also provide that if the district is successful in the suit, the court may order reimbursement of the district's attorney fees and court costs, as the court deems reasonable. Any contract for services with an entity or individual other than an employee of the district shall include a provision requiring the contractor to prohibit any of its employees who has pled guilty to or been convicted of any felony crime specified under RCW 28A.400.322 and who would have contact with children at a public school during the course of his or her employment from working at a public school. The contract shall also contain a provision that any failure to comply with this section shall be grounds for the district immediately terminating the contract.

When purchases are made with Federal funds, the district will follow these additional guidelines and procedures.

1) The district will, to the greatest extent practicable, ensure that goods, products, or materials are produced in the United States (2 CFR 200.322).
2) When bids or competitive solicitation is required, the district will ensure that the requirements are not written in such a way as to prevent competition, such as specifying a name brand of item (2 CFR 200.319).

3) The district will ensure that there are enough qualified sources to ensure maximum open and free competition, and that potential bidders are not unjustly precluded from bidding (2 CFR 200.319).
4) All contracts shall include the following provisions in the contract language, as applicable (2 CFR Appendix II to Part 200):
    A. It must address remedies for instances where contractor violate the terms of the contract.
    B. If in excess of $10,000, it must include language addressing termination for cause.
    C. It must include an Equal Employment Opportunity clause.
    D. If the contract is for a public work project, language that the Davis-Bacon Act will be followed, mandating that laborers and mechanics shall be paid at the prevailing wage rate.
    E. If the contract is in excess of $100,000, language must be included for overtime payments for laborers and mechanics who work in excess of 40 hours per week, and that they will not be required to work in unsanitary, hazardous, or dangerous conditions.
    F. If the contract is in excess of $150,000, it must include language that requires adherence to the standards of the Clean Air Act and the Federal Water Pollution Control Act.
    G. That the contractor, and any subcontractors, are not suspended or debarred from receiving Federal funding.
5) If the district is using Federal funds for a construction or public works project, the district will ensure the contractor pays prevailing wages pursuant to the Davis-Bacon Act (40 USC 3141 *et seq.*, 29 CFR 5.5). This includes receiving and retaining certified payroll records from the contractor and any subcontractor(s) on the project.

When procuring food for all child nutrition-related programs, the district will follow these additional guidelines.

1) Purchases of food should include, to the maximum extent possible, items that meet the requirements of being domestically grown or substantially produced in the United States. Substantially produced means over 51% of the processed food comes from products produced in the United States.
2) The district may include language providing for a preference for unprocessed food purchased for child nutrition program to be grown locally.
    a. "Locally" shall include "Washington grown" in accordance with RCW 15.64.060.
    b. "Unprocessed" means the food that is delivered to the district retains its inherent character, as defined in 7 CFR 210.22(g)(2), 7 CFR 215.14a(e), 7 CFR 220.16(f)(2), 7 CFR 225.17(e)(2), and 7 CFR 226.22(n)(2), as applicable to the appropriate program.
    c. Such language preference may include a provision to award contracts to companies that are not the lowest responsive, responsible bidder in an effort to meet these provisions.

To the extent it is practicable to do so, the district will ensure that materials purchases of supplies made with Federal funds contain the highest levels of recovered materials possible, under the Solid Waste Disposal Act.

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