

Contracting for Purchased Services

Presented by:

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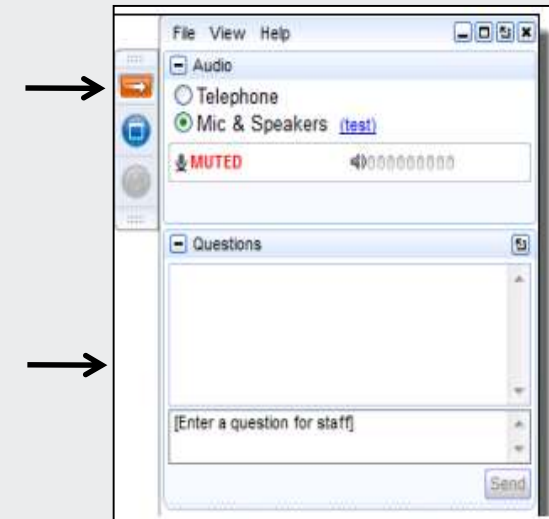


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Where We're Going Today



- Webinar Operation - John Carpita
5 minutes (+/-)
- Introductions - John Carpita
3 minutes (+/-)
- Presentation by John, Sue, and Laura
40 minutes (+/-)
- Questions from Webinar Participants
20 minutes (+/-)
- Wrap-up and Available Resources
5 minutes (+/-)

Introductions



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Introductions



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Introductions



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About MRSC



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Agenda



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- **What kind of service am I contracting for?**

Item
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- **Is my contract a purchased service or a public works/maintenance contract?**

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- **Contracting for purchased services**

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- **Levels of Competitive Solicitation**

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- **Questions**



What kind of service am I contracting for?



Item
1



A/E Professional Services Definition



Professional services rendered by a consultant or any person, other than as an employee of the agency to perform activities within the scope of the general definition of professional practice in RCW chapters:

- [18.08](#) (Architects)
- [18.43](#) (Engineers and Land Surveyors)
- [18.96](#) (Landscape Architects)
- Services are procured using the qualifications based selection (QBS) requirements in Chapter 39.80 RCW.
- These services may reasonably be required in connection with a public works project meeting the definition in [RCW 39.04.010\(4\)](#).
- Licenses or certification by State agencies are required.

Personal Services Definition



Technical expertise provided by a consultant to accomplish a specific study, project, task, or other work statement.

- ✓ Personal services do not include purchased services or professional services procured using the competitive selection requirements in [Chapter 39.80 RCW](#) (A/E).
- ✓ These services may or may not reasonably be required in connection with a public works project meeting the definition in [RCW 39.04.010\(4\)](#).
- ✓ Activity or product is mostly intellectual in nature.
- ✓ Licenses or certification by State agencies may or may not be required, depending on the type of personal service required.

Purchased Services Definition



Purchased services are those provided by vendors for routine, necessary and continuing functions of a local agency, mostly relating to physical activities and are repetitive, routine, or mechanical in nature:

- ✓ following established or standardized procedures
- ✓ contribute to the day-to-day business operations
- ✓ completion of an assigned and specific tasks
- ✓ decision-making is routine or perfunctory in nature
- ✓ may require payment of prevailing wages



Purchased Services Examples



Examples include:

- ✓ delivery/courier service
- ✓ landscaping and building maintenance (janitorial)
- ✓ herbicide application service
- ✓ recycling/disposal/litter pickup service
- ✓ vehicle inspection, lubricating and repair services
- ✓ HVAC system maintenance service
- ✓ office furnishings installation, refurbishment and repair service





Request for Proposals (*RFP*)

A process through which written or electronic proposals are solicited from service providers for purchased service contracts in which price may not be the primary basis for consideration and contract award.

Invitation to Bid (*ITB*)

A process through which written or electronic bids are solicited from contractors for public works or purchased service providers in which price is the basis for consideration and contract award.

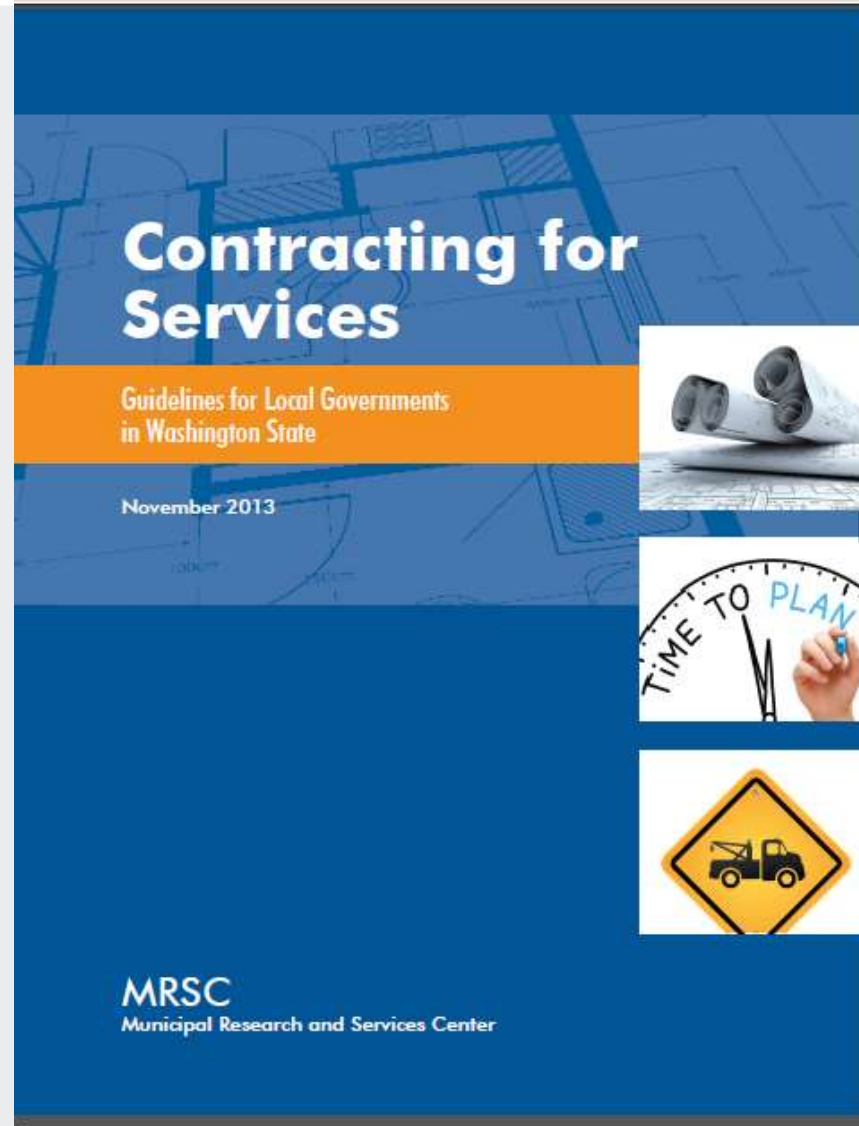
Purchased Service or Public Works?



Item
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- There are a number of services that hover over that thin gray line between purchased services and public works contracting*.
- Some purchased services require prevailing wages to be paid, but are not public works contracts.
 - See RCW 39.012.030 (
- If a particular contract is very near the gray line, the conservative approach is to consider it a public works contract.
- **You can always call/email MRSC or L&I if you have questions!!!!**

*Note that the scope of the prevailing wage statute, Chapter 39.12 RCW, is much broader than just public works contracting



<http://www.mrsc.org/publications/cfsg13.pdf>

Distinguishing Public Works from Purchased Services



The next two slides are from *Contracting for Services*

- The table has three columns for contracts:
 - ✓ Subject to Both Bid Laws and Prevailing Wages (Public Works)
 - ✓ Subject to Prevailing Wages Only
 - ✓ Not Subject to Bid Laws and Prevailing Wages
- Items shown in the table are those that we at MRSC and L&I have identified as recurring and problematic “grayline” areas.
- Please note the facts of any given situation may change which side of the gray line any given contract falls on.

Subject to Both Bid Laws and Prevailing Wages (Public Works)	Subject to Prevailing Wages Only	Not Subject to Bid Laws or Prevailing Wages
HVAC Maintenance		Remote Computer HVAC Monitoring/Adj.
	Building Maintenance Services	
Construction Street Sweeping	Street Sweeping	
Landscaping/Construction Maintenance	Groundskeeping	
Tree Removal and Disposal		Tree Removal and Disposal
Tree Trimming, Removal, and Disposal under Power Lines		
Street/Road Striping		
Elevator Repairs		Elevator Inspection
Electrical, Plumbing, and Painting		
Vactoring, Sewer/Storm Sewer Cleaning		

Subject to Both Bid Laws and Prevailing Wages (Public Works)	Subject to Prevailing Wages Only	Not Subject to Bid Laws or Prevailing Wages
	Traffic Control (Flagging)	Non-Construction Traffic Control (Flagging)
		Furniture Delivery
Building Generator Repair and Maintenance		Mobile Generator Repair and Maintenance
		Moving Services
Shoveling Snow off Building Roof		Snowplowing on Streets
Snowplowing at a PW Construction Site		
	Fire Extinguisher, Service and Replacement	Fire Extinguisher, Inspection Only

L&I Website



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Washington State Department of Labor & Industries

Safety & Health Claims & Insurance Work

Home Trades & Licensing Prevailing Wage Prevailing Wage Policies & Determinations

- Prevailing Wage
- Getting Started
- Prevailing Wage Rates
- Intents & Affidavits
- Weatherization
- Retainage Release
- Employer Responsibilities
- Awarding Agencies
- Advisory Committee
- Prevailing Wage Policies & Determinations**
- Forms & Publications

Prevailing Wage Policies & Determinations


Search Policies & Determinations

This is an initial list of current public works policies and determinations regarding prevailing wage.

Prevailing Wage Policies & Determinations

Get help downloading files. These files are all in Acrobat (.PDF) format.

Number	Subject	Date	PDF Size
11231993	Keystone Block Retaining Wall	11-23-93	37 KB
09091998	Silt Fence — Construction Laborer — Not Fence Erector	9-09-98	31 KB
08051999	Utilities Construction—Not Landscape Construction	8-05-99	64 KB
10151999	Brick Pavers	10-15-99	66 KB
10182000	Utilities Construction — Not Landscape Construction #2	10-18-00	41KB
09252002	Erosion Control — Not Landscape Construction	9-25-02	42 KB
03102004	Silt Fence — Construction Barrier Fence	3-10-04	31 KB



PREVAILING WAGE POLICY MEMORANDUM

DATE: March 10, 2009

TO: All Interested Parties

FROM: David J. Soma, Industrial Statistician; Prevailing Wage Program Manager

SUBJECT: Prevailing Wage for Service and Repair of Fire Extinguishers

Prevailing Wages and Public Works Issues



Public Works Contracts	Purchased Service Contracts
Bid limits apply	No bid/purchasing limits
Advertisement method required/specified in many enabling statutes	Advertisement method not required or specified
Bid and performance/payment bonds required	Bid and performance/payment bonds not required
Retainage required	Retainage not required
Prevailing wages required	Prevailing wages may be required
Approved Intents and Affidavits required	Approved Intents and Affidavits may or may not be required
Responsible contractor (RCW 39.04.350) required	Contractor license may or may not be required
Releases from Depts. of Employment Security, Revenue and Industrial Insurance required for contracts over \$35K	Releases not required

Q & A Example: Snow



Q What about snowplowing a street? * Shoveling snow off a roof? * Shoveling sidewalks by hand?

A

- **A contract for snowplowing streets and roads is a purchased service, service not subject to bid laws, and not subject to the prevailing wage law since it is not a contract for "construction, reconstruction, maintenance or repair" as those words are used in RCW 39.12.030**
- **A contract for shoveling snow off a roof is maintaining the asset (the building) and is subject to prevailing wages**
- **A contract for shoveling sidewalks by hand is a purchased service not subject to prevailing wages or bid laws since it is not a contract for "construction, reconstruction, maintenance or repair" as those words are used in RCW 39.12.030**



Q & A Example: Street Sweeping



Q What is the difference between “Construction Street Sweeping” and “Street Sweeping”?

A Construction street sweeping is sweeping done in conjunction with a public works construction contract. Street sweeping is when an agency contracts with a private company to sweep its streets on a regular basis.

Q We have a bid out for street sweeping services in 2013. A business who would like to bid is on the MRSC roster and is registered with DOR and ESD but does not have a contractor’s license. Does street sweeping require someone with a contractor’s license?

A Street sweeping is one of those really strange animals. It is a purchased service – not a public works – so no retainage or Notices of Completion (NOC) for DOR, L&I Industrial Insurance, or ESD are required. However, prevailing wages are required per WAC 296-127-01393 (Street sweepers (nonconstruction), so intents and affidavits are required.

Contracting for Purchased Services



Item
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An agency:

- ✓ determines the need for such service
- ✓ develops specifications for the performance and frequency of the services
- ✓ establishes minimum qualifications that the service contractor must meet (financial capability, experience, language skills, licenses, equipment, etc.)





continued

- ✓ develops a bid form and other elements of an invitation to bid (ITB) or request for proposals (RFP)
- ✓ A reasonable time is given for prospective bidders to respond, bids are opened, and the contract is awarded to the qualified bidder with the lowest price for the services.
- ✓ The exact process varies with the size and complexity of the contract for services.

Cost or Price Considerations



- Cost or price will often be the main consideration in purchased service solicitations.
- In an ITB, price is the only consideration, and award is to a qualified (meets all established criteria) bidder with the lowest price.
- In an RFP, price may not be the sole consideration, and award is to a proposer who is ranked the highest on the basis of a price/qualification comparison.

Basic RFP Criteria



Item
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Basic criteria to consider MAY include:

CRITERIA	MAXIMUM POINTS
Fees or costs	25
Experience and reputation	20
Quality of previous performance	10
Ability to meet deadlines for contract performance	10
Responsiveness to solicitation requirements	15
Staff readily available for the project	15
Compliance with statutes and rules relating to contracts or services	5
TOTAL	100

27



Ranking vs. Weighted Criteria



Ranking:

- ✓ For basic RFPs, evaluators may simply rank proposals 1st, 2nd, and 3rd, etc. based on the proposal's overall quality, price, and reference checks.
- ✓ A simple ranking process presumes that all criteria are weighted equally.
- ✓ However, it does not work well if certain individual criteria are deemed to be more important.



Weighted Criteria:

- ✓ For more complex procurements, an agency may want to assign differing weights to certain quality and price factors.
- ✓ Evaluations may include both a score and a weight to be assigned to each factor.
- ✓ Weighted scoring of proposals should extend to the interview process as well.

Weighted Cost Proposals



Proposal	A	B	C
Experience - 20 pts. Max.	15	20	20
Schedule - 20 pts. Max.	15	20	20
Interview – 20 pts. Max.	15	20	20
Proposal Costs	\$135 K	\$170K	\$200K
Ratio of Lowest Proposal to Actual Proposal Cost	1.00	0.794	0.675
Costs – 40 pts. Max.	40	32	27
Total Percentage points	85	92	87

What Level of Competitive Solicitation Should I Use?



Item
4



- ✓ Agencies generally have wide latitude in determining how they will solicit competition for a purchased service contract (statutes vs policies).
- ✓ If the project includes grant funding, the conditions of the grant may require a specific method of advertisement for the purchased service contract.
- ✓ A general guideline is that the more complex or expensive the purchased service contract, the more formal the process for soliciting competition should be.

Levels of Competitive Solicitation Definition

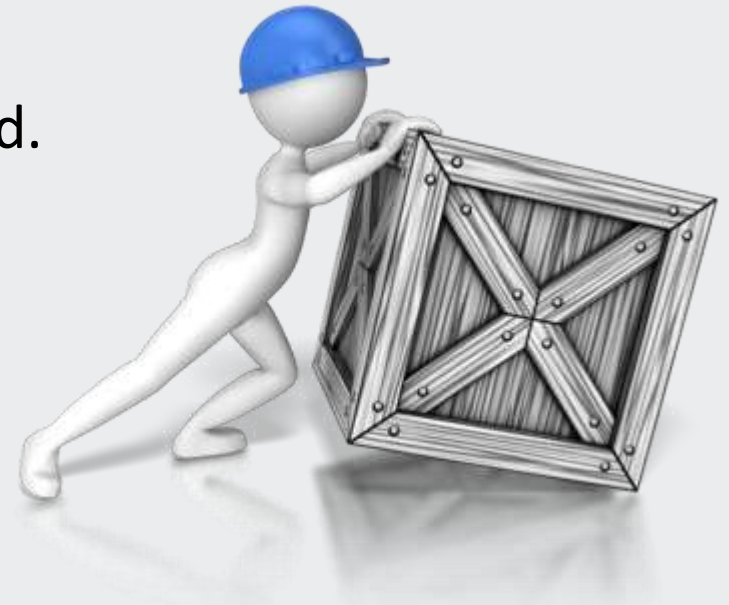


Differing levels of effort and procedure in selecting a service provider based on:

- ✓ estimated contract price;
- ✓ complexity; and
- ✓ type of project or work to be accomplished.

Levels of competition are:

- ✓ formal;
- ✓ informal; and
- ✓ minimal.





An agency may wish to establish an upper dollar limit ('X') and level of complexity above which a structured ITB/RFP process and advertisement (web and/or print) is required.

- ✓ Develop fairly detailed criteria and prepare ITB and or RFP
- ✓ Advertise on the agency web site, in local papers, and in the Daily Journal of Commerce.
- ✓ Evaluate RFP submittals and short list 4-6 firms for further consideration.
- ✓ Request detailed proposals from short listed firms
- ✓ Hold interviews and check references.
- ✓ Evaluate proposals and make award decision.



Select a dollar range ('X' to 'Y') in which a less structured process is followed and selection of potential firms from a roster or other sources is allowed with no advertisement.

- ✓ Develop fairly detailed criteria and prepare ITB/RFP documents
- ✓ Go to the appropriate service provider or agency maintained roster, using the criteria and select 3-5 firms to submit a proposal in response to an RFP

OR

- ✓ Send an ITB out to all firms on a roster or other list of qualified bidders .
- ✓ Evaluate proposals or bids and make award decision.

Minimal Competition



Use a lower dollar limit (“Y”), below which agency staff could simply solicit ITBs or proposals.

- ✓ Go to the appropriate service provider roster or other sources with a simple set of criteria and select 1-3 firms to submit a proposal.
- ✓ Select directly from the rosters or other sources for small projects.



Recommended Levels of Competitive Solicitation by Service Type:



- ✓ These tables are available in the MRSC publication *Contracting for Services*:
 - [Soliciting for Professional Services](#)
 - [Soliciting for Personal Services](#)
 - [Soliciting for Purchased Services](#)
- ✓ Agencies have great latitude in setting their own policies and procedures, except for Port Districts, who must follow [chapter 53.19 RCW](#) for personal service contracts.
- ✓ Threshold dollar amounts in these three tables can be modified by an agency to fit its comfort level.
- ✓ Recognition should also be given to federal procurement limits, and conditions of a grant or funding agency policies may require advertising for each project.

Contracting for Purchased Services



Questions





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