

# Conservation District Handbook

Guidelines for Purchasing,  
Bidding, and Contracting in  
Washington State Districts



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## **CONSERVATION DISTRICTS HANDBOOK: GUIDELINES FOR PURCHASING, BIDDING, AND CONTRACTING IN WASHINGTON STATE DISTRICTS**

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### **ACKNOWLEDGMENTS**

This publication is designed to assist conservation districts in determining whether competitive bids are required for purchases or when contracting for public works. Special recognition is given to John Carpita, former MRSC public works consultant, as the principal editor of the original guidelines document.

### **DISCLAIMER**

The content of this publication is for informational purposes only and is not intended as legal advice, nor as a substitute for the legal advice of an attorney. You should contact your district's legal counsel if you have a question regarding any legal issue.

These guidelines are permissive and discretionary and are applicable to all conservation districts. Where the guidelines indicate possible practices using such terms as "should" or "may," the suggestion is permissive and not mandatory. In addition, districts must also consider their own Board of Supervisors resolutions, policies, and procedures to determine what requirements are truly mandatory for a given contracting scenario. Case law, new regulations, or audit findings for one type of municipal corporation will not necessarily apply to all municipal corporations since enabling statutes may differ.

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2601 4th Avenue, Suite 800  
Seattle, WA 98121-1280

(206) 625-1300  
(800) 933-6772

[www.MRSC.org](http://www.MRSC.org)

# Revision History

MRSC does our best to update this publication every year to reflect any new legislation or other relevant information impacting city and town revenues. Below is a summary of significant recent changes. If you are aware of any other sections that you think need to be updated or clarified, please contact [mrsc@mrsc.org](mailto:mrsc@mrsc.org). To make sure you have the most recent version, please go to [mrsc.org/publications](http://mrsc.org/publications).

DATE	SUMMARY
September 2022	Entire document reviewed, re-written, and re-published in its entirety.

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# Introduction

Conservation districts are formed under [Chapter 89.08 RCW](#), which establishes how districts are formed and sets forth their general powers. In most cases, a district and its employees will accomplish all activities for which funds are expended. In the event the district decides to acquire goods and/or services, or assign work or services through a contract, policies and procedures are necessary to ensure the process is consistently applied following the district's preferences.

This handbook is based on policy guidance developed by Washington State Conservation Commission staff in 2003 and updated with current Washington State purchasing and public works contracting statutes. Conservation districts will also want to adopt a small works roster procedure and utilize MRSC's [Small Works Roster: A Guide for Washington's Local Governments](#).

## WHAT'S IN THESE GUIDELINES?

These guidelines explain general practices and procedures conservation districts would use when acquiring goods and/or services to complete projects using conservation commission funds. It also includes an explanation of public works and prevailing wage statutes and how they apply to conservation districts.

## WHY IT IS IMPORTANT TO REVIEW THESE GUIDELINES

These guidelines are intended to ensure that quality projects, goods and services are acquired at the least cost. Other goals are to eliminate the impact of favoritism in procurement and to prevent fraud.

Competitive bidding, which requires open advertisements to all qualified bidders and public opening of bids, has been determined by the legislature to be the best way to accomplish these goals. Unfortunately, following competitive bid laws is often counterproductive for small projects, can be confusing, and is sometimes expensive. Recognizing this problem, the state legislature has, over the years, established and modified dollar amounts (commonly referred to as bid limits) below which competitive bids are not required, and has provided exemptions and alternatives to the competitive bidding process.

Since the statutes under which conservation districts are formed do not include this same guidance for bid limits and bidding procedures, districts must establish their own policies for guidance. The information that follows is intended to assist districts with examples and suggestions that will contribute to the decisions in setting such policies.

## WHAT IS REQUIRED WHEN PURCHASING, BIDDING, OR CONTRACTING?

This chart shows how the statutes apply to conservation districts:

### Applicable Statutes for Conservation Districts

Bid threshold for Purchases	Applicable RCW
None; established by policy	<a href="#">Ch. 89.08 RCW</a>
Bid threshold for Public Works	Applicable RCW
None; established by policy	<a href="#">Ch. 89.08 RCW</a> *

\* [Chapter 39.04 RCW](#) directs that most public works projects be competitively bid, but does not specify the process or thresholds that must be used to do so. When the entity's enacting statutes also do not specify the thresholds or process, the entity should establish its own policy regarding competitive bidding.

# Expectations When Acquiring Goods and/or Services

In general, the Washington State Conservation Commission expects districts will:

## 1. Use sound business judgment

The district will use sound business judgment and fair administrative procedures in acquiring goods and services. This applies to invitations to bid, requests for proposals, solicitation of subcontractors or vendors, and awards of subcontracts or purchase contracts.

## 2. Select responsible subcontractors

The district will award subcontracts only to responsible subcontractors with the ability to perform successfully under the terms of a contract referring to [RCW 39.04.350](#). The district should consider such matters as subcontractor 's ability to perform the work, compliance with agency policy, and record of past performance.

## 3. Competitive procurement

The district will award subcontracts through a competitive process if required by state law and/or agency policy.

## 4. Ensure subcontractor compliance

Districts will ensure that all subcontractors comply with all applicable federal, state, and local laws and regulations related to discrimination, labor and job safety, and environmental protection; and that subcontractors perform in accordance with the terms and conditions of their contracts. Where deviation from those terms is permitted by a district, the responsibility for any extra costs incurred as a result of the deviation may not be allowed by the Commission.

## 5. Provide a written contract document

Subcontracts must be written, enforceable and legally sound, and must include appropriate general conditions (i.e., verbal contracts are not permitted). When subcontracting, the district is responsible for:

- Including specified provisions of any grant contract, where applicable, in any subcontract or agreement it enters into
- Seeking administrative, contractual, or legal remedies in instances where subcontractors violate or breach contract terms

## 6. Maintain complete subcontracting records

- The district is required to submit to the Commission, on request, all signed subcontracts, or interagency agreements it awards.
- The district is required to keep a complete written record of the procedures leading up to the award of any subcontract or Interagency Agreement.
- The district may be required to forward to the Commission copies of financial and activity reports, and records pertaining to any and all subcontracts and interagency agreements.



## **7. Maintain standards of ethical conduct**

Districts will maintain a code of conduct governing the performance of their representatives including employees engaged in the award and administration of subcontracts. No employee, officer, or agent of the district will participate in the award or administration of a subcontract under any contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when there is a financial or other interest in the firm selected by:

- The employee, officer, or agent
- Any member of their immediate family
- Their partner, or
- An organization that employs, or is about to employ, any of the above and has a financial or other interest in the firm selected

The district's officers, employees, or agents must not solicit or accept gratuities, favors, or anything of monetary value from subcontractors, potential subcontractors, or other parties to subcontracts. Districts may set minimum rules where the financial interest is not substantial, or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by state or local law or regulations, the district's code of conduct will provide for penalties, sanctions, or other disciplinary actions for violations by its employees or agents, or by its subcontractor's employees or agents.

## **8. Analyze purchases for cost-effectiveness**

Districts will avoid purchase of unnecessary or duplicate items and consolidate or break out purchases as appropriate to obtain a more economical price. Where applicable, the district will analyze lease versus purchase alternatives in determining the most economical approach.

## **9. Consider cooperating with other local governmental units**

To foster greater economy and efficiency, districts are encouraged to consider entering into agreements with other public agencies for joint or cooperative action, pursuant to Chapter 39.34 RCW, the Interlocal Cooperation Act.

## **10. Use state or federal surplus property when possible**

Districts are encouraged to use federal or state excess and/or surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces projects costs.

## **11. Resolve disputes promptly and fairly**

Districts are responsible for the fair and just settlement of all contractual and administrative issues related to subcontracts for goods and services. Such issues include, but are not limited to, source evaluation, protests, disputes, and claims. This does not imply that the district is to be relieved of any contractual responsibilities under subcontracts.

## **12. Protest procedure required**

The district will include a protest procedure for handling disputes in its subcontracts and interagency agreements and will disclose all information regarding protests to the Commission at the request of the project officer. A protester must exhaust all administrative remedies with the district before pursuing a

protest with the Commission. The Commission will limit its review of protests to violations of state law, regulations, or the standards of a grant contract, and violations of the district's protest procedures in its failure to review a complaint. The Commission will refer all other protests to the district and will not substitute its judgment for that of the district unless the matter is primarily a Commission concern.

## **TRANSACTION CATEGORIES**

Conservation district purchases or contracts are generally categorized as:

- Public Work
- Professional Service (Architecture and Engineering (A&E) Consultant)
- Equipment, Material, Supplies
- Purchased Service
- Personal Service

Note: See graphic [Appendix A: Purchasing and Contracting Limits for Conservation Districts](#).

# Transaction Details: Public Work

## DEFINITION

Public work means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any other local public agency, or which is by law a lien or charge on any property therein ([RCW 39.04.010](#)). This includes, but is not limited to, demolition, remodeling, renovation, and building construction, under [RCW 39.04.010](#).

## SOLICITING FOR PUBLIC WORK

[RCW 39.04.010](#) requires competitive bids for public works projects (except for emergencies under [RCW 39.04.280](#)). However, state law does not provide a bid threshold for which competitive bidding must be utilized for conservation districts. These thresholds will be established by district policy.

## RESPONSIBLE BIDDER

Regardless of the contract monetary amount, a conservation district must award public works contracts only to responsible bidders that meet the minimum requirements of [RCW 39.04.350\(1\)](#).

[RCW 39.04.350\(3\)](#) allows an agency to establish relevant supplemental bidder responsibility criteria if warranted. Most small public works roster projects do not warrant development and use of supplemental criteria. For more information and sample criteria, see the [Suggested Guidelines for Bidder Responsibility](#) (2019) approved by CPARB.

## COMPETITIVE PROCESSES FOR PUBLIC WORK

Most agencies are required to use the formal competitive bidding process for projects costing over \$350,000. Conservation districts are not required by statute to use a formal competitive bidding process, although it is recommended that the districts use \$350,000 as the threshold for when a project should utilize formal competitive bids.

### **Competitively Bid Public Works Projects - Over \$350,000** (But can be for smaller projects)

- Formal advertisement
- Bid bonds
- Sealed bids
- Public bid opening
- Formal award
- P/P bonds required
- Retainage required
- Insurance

Performance and payment bonds are required for all public works contracts under [Chapter 39.08 RCW](#), except as noted below under the limited public works process. In addition, 5% retainage is required under [Chapter 60.28 RCW](#), except as noted below. Insurance is not required by the statutes but is essential to protect the district's assets from crippling claims. Your district's risk manager and/or attorney can best advise you on the proper limits and types of insurance.

## **SMALL WORKS ROSTER PROCESS**

Conservation districts do not have direct statutory authority to use small works roster procedures under [RCW 39.04.155](#), nor do they have "bid limits", as do most other units of local government. However, as most district public works projects are under \$350,000, formal bids for each project place an unwarranted administrative burden on district staff. Therefore, each conservation district board of supervisors should adopt by reference the small works roster process in [RCW 39.04.155](#). Conservation districts will also want to utilize MRSC's [Small Works Roster: A Guide for Washington's Local Governments](#).

The small works roster process utilizes a competition following notification to some or all public works contractors who have requested placement on a roster kept by the local governmental unit. This differs from competitive bids in which there is competition following advertisement in designated legal newspapers and other media that is open to all public works contractors. A small works roster lists contractors who have requested placement on the roster and who are properly licensed or registered to perform work in this state.

Conservation districts may create their own small works roster. They may not, however, use the small works roster of another governmental unit through a negotiated, interlocal agreement. Use of a contracted service provider, such as MRSC Rosters, is permitted, however, as there is no interlocal agreement involved.

### **Small Public Works Roster (SPWR) Projects - Under \$350,000**

- Request for quote to all interested contractors on SPWR
- No advertisement required, just notice to SPWR
- Bid bonds optional
- Electronic, or telephone quotes allowed
- Informal quote opening(s) award can be delegated
- Payment/performance bonds required
- Retainage can be waived
- Insurance

## **LIMITED PUBLIC WORKS PROCESS**

A subset of the small works roster process – available only if a conservation district has established a small works roster – is the limited public works process under [RCW 39.04.155\(3\)](#) for work, construction, alteration, repair, or an improvement project estimated to cost less than \$50,000. Advantages to using the limited public works process are that the district may waive retainage and performance/payment bond requirements and use a combined intent and affidavit form for prevailing wages under [RCW 39.12.040\(2\)](#).

### **Limited Public Works Projects - Less than \$50,000**

- SPWR required
- Three or more quotes required
- No advertisement required, just notice to SPWR
- Bid bonds optional
- Electronic, or telephone quotes allowed
- Informal quote opening(s)
- Award can be delegated
- P/P bonds can be waived
- Retainage can be waived
- Notices of completion not required if final cost of project is under \$35K
- Notices of completion required if final cost of project is over \$35K

### **SMALL PUBLIC WORKS PROJECTS**

Almost all municipalities (other than conservation districts) have statutory “bid limits” for public works projects, below which they can simply contract without using either the competitive bid processes or the small public works process. A conservation district may adopt such a policy. Districts may want to model a policy after code cities where there is an upper limit of \$75,500. The district would also need to describe in policy how procurements below \$75,500 are to be acquired.

### **Small Public Works Projects - Less than \$75,500**

- Three or more quotes recommended
- No SPWR required
- No advertisement required
- Bid bonds optional
- Electronic, or telephone quotes allowed
- Informal quote opening(s)
- Award can be delegated
- P/P bonds required
- Retainage required
- Notices of completion not required if final cost of project is under \$35K
- Notices of completion required if project is over \$35K

## PREVAILING WAGES

See [Appendix C – District Operations Brief: Prevailing Wages](#)

### WHEN CONSERVATION DISTRICTS HAVE TO PAY IT AND WHEN THEY DON'T

The Washington State Public Works Act, also known as the "Prevailing Wage Law," is a worker protection act that requires that workers be paid prevailing wages when employed on public works projects. Public works projects include all work, construction, alteration, repair, or improvement that is executed at the cost of the state or of any municipality. There is no minimum dollar amount below which prevailing wages need not be paid.

District subcontracts involving services which are reimbursed using Commission funding are classified as public work projects and are subject to the prevailing wage law. Primarily developed for "blue collar" job classifications, the prevailing wage law does not apply to work that is clerical, executive, administrative or professional in nature; nor does it apply to work done by district employees.

Prevailing wages are the hourly wage, usual benefits, and overtime, paid in the largest city in each county, to the majority of workers, laborers and mechanics. Prevailing wages are established by the Department of Labor and Industries (L&I) for each trade and occupation employed in the performance of public work. They are established separately for each county and reflect local wage conditions. (For specific county information contact your local [L&I office](#).)

L&I advises that parties involved in public works contracts must include prevailing wage requirements in bid documents and contracts. The parties include: the awarding agency; the prime contractor; and subcontractors at all levels. Items that must be in bidding documents include prevailing wage rates. Wage rates can be communicated one of two ways in your bid and contract documents:

1. A printed list of the wage rates that identifies the effective date and the county in which the public works project is located.
2. A link to L&I's [prevailing wage rates lookup](#) page, with the following:
  - a) Identify the exact wage publication date to use (the effective date).
  - b) List the county in which the public works project is located (Note: Off-site work will use the rates for the county where that off-site work is performed).
  - c) Provide a statement indicating a printed copy of the wage rates are available for viewing in your office.
  - d) Explain that your agency will mail a hard copy upon request. See [RCW 39.12.030](#) and [WAC 296-127-010\(9\)](#). Retain a printed version of the rates as part of your record.

Failure to comply with the provisions under the Prevailing Wage Law may subject the district to liability for all unpaid prevailing wages and penalties. A district must stipulate - both in the solicitation document and in the subcontract - that workers will receive the prevailing rate of wage and include applicable prevailing wage rates.

After the subcontract is awarded by the district, the subcontractor submits a Statement of Intent to Pay Prevailing Wages to the Department of Labor and Industries. The district may not make any payments to the subcontractor until they receive evidence that the Intent form has been approved by L&I.

After the work is completed, the subcontractor submits the Affidavit of Wages Paid to the Department of Labor and Industries. The district may not make the final payment to the subcontractor until they receive evidence that the Affidavit form has been certified by L&I.

There could be instances in which prevailing wages are not required. See excerpt from [Appendix C – District Operations Brief: Prevailing Wages](#).

**When is a conservation district acting as an excepted agency and when as a municipality?**

- As an excepted agency when the work under a contract is conservation of resources as described in [RCW 89.08.010](#) and reclamation of waste or undeveloped lands. For these activities, a CD is acting in the same capacity of an excepted agency per [RCW 89.16.040](#):

[...] and such other districts as are authorized by law for the reclamation or development of waste or undeveloped lands or the rehabilitation of existing reclamation projects, and all such districts and improvement districts shall, for the purposes of this chapter be known as reclamation districts.

- As a municipality for all other work.

Note the following table, but also see the more detailed table in the [Appendix C – District Operation Brief: Prevailing Wages](#).

Type of Activity	Prevailing Wages Must Be Paid	Subcontractor must submit Statement of Intent to Pay Prevailing Wages to L&I	Subcontractor must submit Affidavit of Wages Paid to L&I
District hires full-time or part-time permanent staff who provide technical assistance to landowners in the field	No	Not applicable	Not applicable
District requests bids and awards a contract to a work crew for seasonal work (if stream restoration only, district may pay the lower rates established by L&I)	Yes	Yes	Yes
District hires its own intermittent or temporary work crew for seasonal work	No	Not Applicable	Not Applicable
District solicits and awards a contract for heavy equipment work to a contractor who is a sole proprietor and who actually performs the work	No	Yes	Yes
District solicits and awards a contract for heavy equipment work to a contractor who uses employees to carry out the work, whether or not they perform any of the work	Yes	Yes	Yes
Landowner hires a crew or an individual to install a cost shared project	No	No	No

# Transaction Details: Professional Service (Architecture and Engineering (A&E) Consultant)

## DEFINITION

Professional services (A&E) are services rendered by any person, other than as an employee of the agency, contracting to perform activities within the scope of the general definition of professional practice in [Chapters 18.08 RCW](#) (Architects), [18.43](#) (Engineers and Land Surveyors), or [18.96](#) (Landscape Architects). See [RCW 39.80.020\(5\)](#). Services are procured using the qualifications-based selection requirements in [Chapter 39.80 RCW](#).

## SOLICITING FOR PROFESSIONAL SERVICES (A&E CONSULTANT)

The chart below outlines the required procedures for procurement of professional services reasonably required in connection with a public works project. Unlike procurement of personal services, which may be acquired pursuant to the district's internal policy, professional services reasonably required in connection with a public works project must be obtained using the qualification based selection (QBS) procedures of [Chapter 39.80 RCW](#). [Chapter 39.80 RCW](#) requires selection for services of professional architects, engineers, surveying and landscape architects on the basis of qualifications of the firm or individual. [AGO 1988 No. 4](#) notes:

1. A public agency may not, in procuring architectural or engineering services, consider proposed price or cost in determining which firm is most highly qualified to provide services.
2. When a public agency selects a firm to perform architectural or engineering services, price and cost may be considered only after the most qualified firm has been selected, at which time the law provides for negotiation of a "fair and reasonable" price.

[RCW 39.80.030](#) requires advance publication of an agency's requirement for professional services. Two methods of compliance are noted:

- An announcement for each project (project-based selection)
- Or a general announcement of projected requirements for any category or type of professional services

A district should have a written policy outlining the procedures that will be used for A&E selection. The following is an example of a procedure that might be followed:



Dollar Threshold	Competitive Process	Major Activities
Less than \$10,000	Minimal competition	<ul style="list-style-type: none"> <li>• Develop a list of firms from telephone listings, professional societies and periodicals, internet listings, a published legal notice requesting information on available services, etc.               <ul style="list-style-type: none"> <li>• OR select from roster (must have written policy describing when and how a roster process will be used).</li> </ul> </li> <li>• Review qualifications. Select the most qualified firm from those who have qualifications on file. District is encouraged to send the selected firms on a roster a request to update qualifications.</li> <li>• Negotiate a contract with the firm deemed most highly qualified from either method.</li> </ul>
\$10,000 to \$40,000	Informal Competition	<ul style="list-style-type: none"> <li>• Develop a list of firms from telephone listings, professional societies and periodicals, internet listings, a published legal notice requesting information on available services, etc.</li> <li>• Prepare a written solicitation document/letter including at a minimum: description of services required, project schedule, request for consultant's qualifications and/or non-price proposal and due date for the responses.</li> <li>• Send to the available list. May be emailed to firms and responses may be emailed to the district to expedite processing.</li> <li>• Evaluate responses and select the most qualified firm.</li> <li>• Negotiate contract with most qualified firm.</li> <li>• Documentation for file: names of firms solicited, copies of firm's responses, basis for award decision, and copy of contract.</li> </ul>

Dollar Threshold	Competitive Process	Major Activities
\$40,000 or more	Formal Competition	<ul style="list-style-type: none"> <li>• Prepare formal solicitation document, e.g., Request for Qualifications (RFQ). Include all requirements in order for proposers to understand what the district needs and how the district will evaluate responses.</li> <li>• Publish legal notice in major daily newspapers to notify firms of the solicitation. Identify where interested firms can locate and download the solicitation (e.g., agency website or online bidding platform)</li> <li>• Post the solicitation document on district website (suggested).</li> <li>• Develop score sheets for use by evaluators.</li> <li>• Conduct a preproposal conference (optional) to clarify the extent of the work and permit prospective bidders to ask questions if desired.</li> <li>• Provide answers to bidders' questions via addenda to all who receive the RFQ; advise firms to check the website for any addenda that may have been posted.</li> <li>• Date and time stamp responses received.</li> <li>• Electronic proposals will have the date and time automatically noted.</li> <li>• Evaluate and score qualifications strictly against criteria set forth in the RFQ. It is recommended to use a minimum of three evaluators for scoring and to score responses using score sheets. Tabulate scores and determine ranking of firms.</li> <li>• Schedule and conduct oral interviews of top finalists, if desired.</li> <li>• Determine final scoring and select apparent successful firm.</li> <li>• Negotiate contract with most qualified firm.</li> <li>• Notify unsuccessful firms.</li> <li>• Conduct debriefing conferences with unsuccessful firms, if requested.</li> </ul>

# Transaction Details: Equipment, Material, Supplies, and/or Purchased Service

## DEFINITION OF EQUIPMENT, MATERIAL, SUPPLIES

Materials and supplies include articles which form a part of a finished product or support the purchase or work. Equipment is used in carrying on the work (such as tools, appliances, etc.). Materials and supplies include articles which form a part of a finished product or support the purchase or work. Materials and supplies are entirely consumed in that process and become a physical part of the product, while equipment does neither.

## DEFINITION OF PURCHASED SERVICE

Services provided to accomplish routine, continuing, and necessary functions. “Purchased service” include but are not limited to: operation of a physical plant; security; computer hardware and software maintenance; data entry; computer time sharing, contract programming, and analysis.

## SOLICITING FOR EQUIPMENT, MATERIALS, SUPPLIES, AND/OR PURCHASED SERVICE

State law does not mandate specific procedures for procuring purchased services or goods. The following chart details suggested procedures for purchased services and procurement of goods.

Dollar Threshold	Competitive Process	Major Activities
Less than \$10,000	Minimal competition	<ul style="list-style-type: none"><li>Seeking competition is always recommended, though it may not be required for this dollar range.</li><li>Telephone calls can be made to vendors describing the services desired and requesting price, schedule, and qualifications to perform. Purchases should be made based on the district’s inquiries and experience and knowledge of the market to obtain the best quality product at the best price.</li></ul>

Dollar Threshold	Competitive Process	Major Activities
\$10,000 to \$40,000	Informal Competition	<ul style="list-style-type: none"> <li>• Either written solicitation or documented telephone solicitation may be used. The solicitation should include at a minimum: a description of goods or services required, project schedule, request for qualifications (if appropriate), request for bid, and due date for responses. If solicitation is done by phone, it must be thoroughly documented.</li> <li>• Seek bids from a minimum of three vendors. If done in writing, the solicitation may be sent to vendors electronically and responses may be received electronically by the district to expedite processing. A list of vendors can be developed from telephone listings, internet listings, a published legal notice requesting information on available services, a roster, etc.</li> <li>• Evaluate responses and make award decision.</li> <li>• Negotiate service contract with successful bidder, if so defined in the solicitation. Purchases are awarded to low bidder.</li> <li>• Documentation for file: names of vendors solicited; copies or information on vendor's responses, basis for award decision, and copy of contract.</li> </ul>
\$40,000 or more	Formal Competition	<ul style="list-style-type: none"> <li>• Prepare formal solicitation document, most commonly for purchases an Invitation for Bid (IFB) is the solicitation document used by Districts. This may also be the process to contract for purchased services or a Request for Proposals (RFP) may be used. The solicitation document identifies the functional performance threshold at which the district's needs would be met, serves as the basis for the applicants to respond, and also provides the foundation for the eventual contract.</li> <li>• Publish legal notice/advertisement in major daily newspapers to notify firms of upcoming solicitation and indicate how firms can access solicitation details (e.g., agency website, electronic bidding system). Develop mailing list from firms responding to notice; send solicitation.</li> <li>• Post solicitation document on district website (suggested).</li> <li>• Conduct a preproposal conference (optional) to clarify the extent of the work and permit prospective bidders to ask questions if desired.</li> <li>• Provide answers to bidders' questions via addenda to all who receive the IFB or RFP. Post in same location as solicitation. Advise those who download the IFB or RFP from the web site to check back for any addenda that may be posted.</li> <li>• Date and time stamp proposals received by the due date. Electronic proposals will have the date and time automatically noted.</li> <li>• Evaluate and score responses strictly against the criteria that are set forth in the solicitation for services. Determine low bid for purchases. It is recommended to use a minimum of three evaluators for scoring and score responses using score sheets. Determine apparent successful bidder.</li> <li>• Notify successful and unsuccessful firms.</li> <li>• Negotiate service contract with successful contractor, if so defined in the solicitation. Purchases are awarded to low bidder.</li> <li>• Conduct debriefing conferences, if requested.</li> </ul>

# Transaction Details: Personal Service

## DEFINITION

Personal service is the professional or technical expertise provided by a consultant to accomplish a specific study, project, task, or other work statement, that is not part of a public work project. “Personal service” does not include purchased services or professional services procured using the competitive selection requirements in [Chapter 39.80 RCW](#) (A&E). Examples are consultant services to perform a study, meeting facilitation, and accounting services.

## SOLICITING FOR PERSONAL SERVICE

State law does not mandate specific procedures for personal services procurement. The chart below outlines recommended procedures for personal service procurement.

Dollar Threshold	Competitive Process	Major Activities
Less than \$10,000	Minimal competition OR Select From Roster	<ul style="list-style-type: none"> <li>Seeking competition is always recommended, though not required for this dollar range.</li> <li>Telephone calls can be made to firms or individuals describing the services desired and requesting price, schedule, and qualifications to perform.</li> <li>Subcontract is entered into upon selection of subcontractor, regardless of dollar amount.</li> </ul>
\$10,000 to \$40,000	Informal Competition	<ul style="list-style-type: none"> <li>Prepare a written solicitation document/letter including at a minimum: description of services required, project schedule, request for consultant's qualifications, request for costs or fees, and due date for responses.</li> <li>Send to a minimum of three firms/individuals. May be sent electronically and responses may be received electronically by the district to expedite processing. List of firms can be developed from telephone listings, professional societies and periodicals, internet listings, a published legal notice requesting information on available services, etc.</li> <li>Evaluate responses and make award decision.</li> <li>Negotiate subcontract with successful contractor, if so defined in solicitation.</li> <li>Documentation for file: names of firms solicited; information of firm's responses, basis for award decision, and copy of subcontract.</li> </ul>

Dollar Threshold	Competitive Process	Major Activities
\$40,000 or more	Formal Competition	<ul style="list-style-type: none"> <li>• Prepare formal solicitation document, e.g., Request for Proposals (RFP) or Request for Qualifications/Quotations (RFQQ). Include all requirements in order for proposers to understand what the district needs and how the district will evaluate responses.</li> <li>• Publish legal notice/ advertisement in major daily newspapers to notify firms of upcoming solicitation and indicate how firms can access solicitation details (e.g., agency website, electronic bidding system).</li> <li>• Post solicitation document on district website (suggested).</li> <li>• Develop score sheets for use by evaluators.</li> <li>• Conduct a preproposal conference (optional) to clarify the extent of the work and permit prospective bidders to ask questions if desired.</li> <li>• Provide answers to bidders' questions via addenda to all who receive the RFP or RFQQ. Post in same location as solicitation. Advise those who download the RFP or RFQQ to check back for any addenda that may be posted.</li> <li>• Date and time stamp proposals received. Electronic proposals will have the date and time automatically noted.</li> <li>• Evaluate and score proposals strictly against criteria set forth in the RFP or RFQQ. Recommend a minimum of three evaluators for scoring, and score proposals using score sheets. Tabulate scores and determine ranking of proposers.</li> <li>• Schedule and conduct oral interviews of top finalists, if desired.</li> <li>• Determine final scoring and select apparent successful contractor.</li> <li>• Notify successful and unsuccessful firms.</li> <li>• Award contract, or negotiate contract with apparent successful contractor, if so defined in solicitation.</li> <li>• Conduct debriefing conferences with unsuccessful proposers, if requested.</li> </ul>

# Distinguishing Between Personal Service and Purchased Service

As Procurement procedures are quite different for personal services, professional services and purchased services. It is important that your district clearly distinguish among the three.

Personal services differ significantly from purchased services in the degree of independence in performance of the services. Personal services are performed independently from the day-to-day control of the district. Purchased services will likely have more direction or oversight by the district. Another difference is in the level of professional or technical skill or competency. Personal services require more intellectual or technical expertise, whereas purchased services are generally more functional, routine, or repetitive in nature.

The following chart will assist in determining the distinctions between personal and purchased services.

Personal Service Characteristics	Purchased Service Characteristics
<ul style="list-style-type: none"> <li>• Services are more intellectual or technical in nature and meet more specialized district needs. Work is predominantly academic or organizational.</li> <li>• Work is independent from the day-to-day control of the district; consultant maintains control of work methods.</li> <li>• Work requires regular exercise of judgment, discretion, and decision-making; involves providing advice, opinions, or recommendations; may have policy-implications for district; often addresses management-level issues.</li> <li>• May require advanced or specialized knowledge, or expertise gained over an extensive period of time in a specialized field of experience.</li> <li>• Work may be original and creative in character in a recognized field of endeavor, the result of which may depend primarily on the individual's invention, imagination, or talent.</li> <li>• Personal service providers generally assume risk of loss if the agreed to requirements are not satisfied.</li> </ul>	<ul style="list-style-type: none"> <li>• Services are more repetitive, routine, or mechanical in nature, following established or standardized procedures generally involving completion of an assigned task, rather than an entire project.</li> <li>• Services contribute to the day-to-day business operations of the district, rather than the management or policy side of the district and may meet more general needs of the district.</li> <li>• Services generally follow established procedures, as contrasted with customary and regular exercise of discretion or independent judgment.</li> <li>• Decision-making and analysis, if required, is more routine or perfunctory in nature.</li> <li>• Services performed are generally based upon district direction.</li> </ul>

# Distinguishing between Service Types

The following chart describes what factors a district may consider when acquiring services of various types:

Purchased Service	Personal Service	Professional Service Under <a href="#">Chapter 39.80 RCW</a>
Cost or Price	Fees or costs	Qualifications first, then price - after selection
Quality of previous performance	Quality of previous performance	Quality of previous performance
Ability to meet deadlines for contract performance	Ability to meet deadlines for contract performance	Ability to meet deadlines for contract performance
Responsiveness to solicitation requirements	Responsiveness to solicitation requirements	Responsiveness to solicitation requirements
Demonstrated compliance with L&I, employment security and sales tax requirements (all as applicable)	Compliance with statutes and rules relating to contracts or services	Compliance with statutes and rules relating to contracts or services
Ability and experience	Ability and experience	Ability and experience
References	References	References
Staff readily available for the project	Staff readily available for the project	Staff readily available for the project
Meets any potential licensing requirements	Meets any potential licensing requirements	Meets applicable licensing requirements
Safety record	Safety record	Safety record
Ability to meet necessary response times for unscheduled work and emergencies	Ability to meet necessary response times for unscheduled work and emergencies	Ability to meet necessary response times for unscheduled work and emergencies
N/A	History of Errors and Omissions	History of Errors and Omissions
N/A	N/A	Construction Change Order History



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## APPENDIX A – PURCHASING AND CONTRACTING LIMITS FOR CONSERVATION DISTRICTS

	Professional Services - QBS Only	Personal Services	Purchased Services	Equipment, Materials, and Supplies	Public Works Contracts
<b>Minimal Competition OR Select From Roster</b>	Less than \$10,000	Less than \$10,000	Less than \$10,000	Less than \$10,000	Less than \$75,500 OR Less than \$50,000 & Using LPWR
<b>Informal Competition</b>	\$10,000 to \$40,000	\$10,000 to \$40,000	\$10,000 to \$40,000	\$10,000 to \$40,000	\$65,000 to \$350,000 & Using SPWR
<b>Formal Competition</b>	Over \$40,000	Over \$40,000	Over \$40,000	Over \$40,000	Over \$350,000

## APPENDIX B – PROCUREMENT/PURCHASING MANUAL/CONTRACTING CHECKLIST

<input type="checkbox"/>	<b>Mission/Vision/Goals</b>
<input type="checkbox"/>	Mission
<input type="checkbox"/>	Vision
<input type="checkbox"/>	Goals
<input type="checkbox"/>	<b>Code of Ethics and Prohibitions</b>
<input type="checkbox"/>	Gifts and Gratuities
<input type="checkbox"/>	Conflicts of Interest
<input type="checkbox"/>	Appearance of Propriety
<input type="checkbox"/>	<b>Authorization And Reporting Levels</b>
<input type="checkbox"/>	Central Purchasing versus Department Level
<input type="checkbox"/>	Expenditure Approval Levels
<input type="checkbox"/>	Controlled Commodities
<input type="checkbox"/>	<b>Purchase of Materials, Supplies, Equipment Unrelated to Services, A&amp;E, or Construction/Public Work</b>
<input type="checkbox"/>	Micro Purchases
<input type="checkbox"/>	Small Purchases
<input type="checkbox"/>	Purchase Orders
<input type="checkbox"/>	Purchasing Cards and Credit Cards
<input type="checkbox"/>	Blanket Contracts
<input type="checkbox"/>	Vendor List Procedures
<input type="checkbox"/>	Informal Bids or Quotes
<input type="checkbox"/>	Competitive Bids
<input type="checkbox"/>	Bid Protest Procedures
<input type="checkbox"/>	Equipment Service Contracts and Warranties
<input type="checkbox"/>	Freight, Returns, and Credits
<input type="checkbox"/>	Sole Source, Single Source and Standardization
<input type="checkbox"/>	Fleet and Vehicle Purchases (including trade-ins)
<input type="checkbox"/>	Large Scale Fixtures and Furniture ITBs
<input type="checkbox"/>	Large Scale Medical Equipment RFPs
<input type="checkbox"/>	<b>Uniform Exemptions to Competitive Procedures Under RCW 39.04.280</b>
<input type="checkbox"/>	Purchasing in an Emergency Under RCW 39.04.280
<input type="checkbox"/>	Sole Source Purchases
<input type="checkbox"/>	Special Facilities or Market Conditions
<input type="checkbox"/>	Insurance
<input type="checkbox"/>	Bonds
<input type="checkbox"/>	<b>Electronic Data Processing and Telecommunication Purchases and Contracting</b>
<input type="checkbox"/>	Purchases Only
<input type="checkbox"/>	Purchases with Installation Component

<input type="checkbox"/>	<b>Contracting for Public Works Construction Activities – Traditional (Design-Bid-Build)</b>
<input type="checkbox"/>	Small Contracts –Bonds and/or Retainage
<input type="checkbox"/>	Small Public Works Roster Contracts
<input type="checkbox"/>	Limited Public works Contracts Under the Small Public Works Roster
<input type="checkbox"/>	Competitively Bid Contracts
<input type="checkbox"/>	Public Works Contracting in an Emergency Under RCW 39.04.280
<input type="checkbox"/>	<b>Contracting for Public Works Construction Activities - Alternative</b>
<input type="checkbox"/>	Job Order Contracting
<input type="checkbox"/>	Design-Build
<input type="checkbox"/>	General Contractor - Construction Manager (GC-CM)
<input type="checkbox"/>	<b>Contracting for Professional Architectural &amp; Engineering Services under Chapter 39.80 RCW</b>
<input type="checkbox"/>	Small Contracts With or Without a Roster
<input type="checkbox"/>	Minimal Contracts With a Roster
<input type="checkbox"/>	Informal Contracts With a Roster
<input type="checkbox"/>	Formal Contracts With a Roster
<input type="checkbox"/>	Formal Contracts Without a Roster
<input type="checkbox"/>	<b>Contracting for Personal Services</b>
<input type="checkbox"/>	Small Contracts With or Without a Roster
<input type="checkbox"/>	Minimal Contracts With a Roster
<input type="checkbox"/>	Minimal Contracts Without a Roster
<input type="checkbox"/>	Informal Contracts With a Roster
<input type="checkbox"/>	Informal Contracts With a Roster
<input type="checkbox"/>	Formal Contracts With a Roster
<input type="checkbox"/>	Formal Contracts Without a Roster
<input type="checkbox"/>	<b>Contracting for Purchased Services</b>
<input type="checkbox"/>	Minimal Contracts Without Prevailing Wages
<input type="checkbox"/>	Minimal Contracts With Prevailing Wages
<input type="checkbox"/>	Informal Contracts Without Prevailing Wages
<input type="checkbox"/>	Informal I Contracts With Prevailing Wages
<input type="checkbox"/>	Formal Contracts Without Prevailing Wages
<input type="checkbox"/>	Formal Contracts With Prevailing Wages
<input type="checkbox"/>	<b>Leases</b>
<input type="checkbox"/>	Equipment With Option to Purchase
<input type="checkbox"/>	Equipment Without Option to Purchase
<input type="checkbox"/>	Real Property With Option to Purchase
<input type="checkbox"/>	Real Property Without Option to Purchase
<input type="checkbox"/>	Rent or Lease?

<input type="checkbox"/>	<b>Intergovernmental Purchases (Piggybacking)</b>
<input type="checkbox"/>	State of Washington Master Contracts (DES)
<input type="checkbox"/>	Purchases Under Other Non-Federal Government Agency Contracts
<input type="checkbox"/>	Purchasing Cooperative Contracts
<input type="checkbox"/>	Purchases from GSA Contracts
<input type="checkbox"/>	<b>Auctions</b>
<input type="checkbox"/>	in-Person
<input type="checkbox"/>	Online
<input type="checkbox"/>	<b>Disposal of Surplus Properties</b>
<input type="checkbox"/>	Equipment and Vehicles
<input type="checkbox"/>	Real Property
<input type="checkbox"/>	Other Personal Property
<input type="checkbox"/>	Scrap
<input type="checkbox"/>	Donation
<input type="checkbox"/>	<b>Federal Grant or Loan Funded Purchases or Contracts</b>

## APPENDIX C – DISTRICT OPERATIONS BRIEF: PREVAILING WAGE

*District Operations Brief:  
#8-2020*



# Prevailing Wage

Conservation districts, as we all know, are unique. That uniqueness extends into the world of contracting and bidding and, specifically, prevailing wages. This guidance does not cover the full contracting and bidding process.

## When districts pay it, and when they don't

Conservation districts (CDs) have the dubious distinction of having a “split personality”. On many projects, they must comply with prevailing wages (and other statutory requirements) as a “municipality”. On other CD projects, they need not comply with prevailing wages (and other statutory requirements) because the CD is performing work as an “excepted” agency in relation to [RCW 39.04.010\(3\)](#).

Whether or not a project requires prevailing wages to be paid is highly dependent on the specific facts related to the project and varying facts could affect the answer. Under most circumstances, land ownership beneath a project has no bearing on whether or not a CD must pay prevailing wages. Similarly, the source of funding normally would have no bearing, but there may be grant restrictions that require payment of prevailing wages and possibly federal Davis-Bacon wage rates. If there is no cost (i.e., all the work/labor and materials are donated) to a sponsoring conservation district, then the project is not subject to prevailing wages. If the CD can complete the project using its own staff, the project is not subject to prevailing wages.

The determination as to whether or not a CD must pay prevailing wages depends on an understanding of a number of factors including:

- Is the project considered a public work?
- If it is a public work project then when is the CD considered, or not considered, a municipality for purposes of prevailing wages?
- Who is responsible for prevailing wage determinations?

## Definition of “public work”

“Public work” is defined in the procurement statute, [RCW 39.04.010\(4\)](#) and also in the prevailing wage rules, [WAC 296-127-010\(7\)](#). Both definitions include in the term “public work” the work executed at a cost to a municipality. Are the conservation districts a municipality? Are there times when the conservation district is not considered to be a municipality for the purposes of public work and prevailing wages?

## Definition of a “municipality”

“Municipality” is defined in the procurement statute, [RCW 39.04.010\(3\)](#):

(3) "Municipality" means every city, county, town, port district, district, or other public agency authorized by law to require the execution of public work, except drainage districts,... or other districts authorized by law for the reclamation or development of *waste or undeveloped lands*.

Note that certain agencies **may not always be** considered a "municipality" under [RCW 39.04.010](#)(3). Also note that conservation districts are not specifically included in that list but might, depending upon the facts, be considered to be within the "other districts authorized by law for the reclamation or development of waste or undeveloped lands."

## Prevailing wage requirements on public work

[RCW 39.12.020](#) requires prevailing wages to be paid for work upon all *public works*. This means we need to know when the work constitutes a *public work*.

## Prevailing wage determinations

Under [RCW 39.12.015](#)(1), all determinations of the prevailing rate of wage are made by the Industrial Statistician of the Department of Labor & Industries.

The Industrial Statistician released a [determination regarding CD work for Reclamation/Restoration projects](#) on June 8<sup>th</sup>, 2012. The specific written L&I guidance in the determination letter can be relied upon based on both [RCW 39.12.015](#)(1) and on [RCW 39.12.010](#)(5). The June 8, 2012 determination considers if certain conservation activities **are** for the "**reclamation or development of waste or undeveloped lands**" and how that affects any prevailing wage requirements. The determination states:

*"There is an area in [chapter 89.16 RCW](#), specifically [RCW 89.16.040](#), that talks about which public agency districts are considered to be reclamation districts. This section specifies that diking, diking improvement, drainage, drainage improvement, diking and drainage, diking and drainage improvement, irrigation and irrigation improvement districts, and such-other districts as are authorized by law for the reclamation or development of waste or undeveloped lands or the rehabilitation of existing reclamation projects, and all such districts and improvement districts shall, for the purposes of this chapter be known as reclamation districts.*

*Arguably, this section of statute clarifies that certain land rehabilitation projects are considered to be the work of "reclamation districts." This thought is important since much of the work of conservation districts as detailed above is rehabilitation of lands that may be environmentally impaired or challenged."*

From the determination, there are two key points about these prevailing wage requirements:

1. Some conservation district work consistent with the reclamation work identified in [RCW 89.16.040](#) **will not require prevailing wages** under [chapter 39.12 RCW](#) when those actions **are for the reclamation or development of waste or undeveloped lands**. This includes the partial reimbursements to private landowners for conservation actions consistent with the reclamation work identified in [RCW 89.16.040](#) which will not require prevailing wages under [chapter 39.12 RCW](#) since those actions are for the reclamation or development of waste or undeveloped lands.

- Other conservation district work will require prevailing wages under chapter 39.12 RCW. Examples of this work that does not relate exclusively to the reclamation or development of

waste or undeveloped lands include building construction, reconstruction, and repair or maintenance of improvements to property, including janitorial work, and landscape maintenance work such as mowing the lawn.

As you can see, prevailing wage issues are heavily dependent on the facts. If the facts vary, the answer could be different. As you evaluate the facts related to the project, you can use this thought process as a guide to the applicability of prevailing wages.

## What if it is not clear whether prevailing wages apply or not?

Prevailing wage questions can be directed to the Department of Labor & Industries at [PW1@Lni.wa.gov](mailto:PW1@Lni.wa.gov).

## What is the difference when a conservation district is acting as an excepted agency and when it acting as a municipality?

CD is Municipal Agency	CD is Excepted Agency
<p>Depending on estimated cost, a CD must:</p> <ul style="list-style-type: none"> <li>• either advertise or request quotes</li> <li>• likely require a bid bond</li> <li>• likely require sealed bids or quotes</li> <li>• likely require public bid opening</li> <li>• likely have award and acceptance by Board</li> <li>• require performance and payment bond</li> <li>• require retainage</li> <li>• require prevailing wages</li> </ul>	<p>Depending on estimated cost, funding source and project type, a CD:</p> <ul style="list-style-type: none"> <li>• may contract with a landowner and pass through funds without requiring payment of prevailing wages</li> <li>• may request quotes rather than sealed bids</li> <li>• may contract for work with a private contractor without requiring payment of prevailing wages</li> <li>• may waive performance and payment bond</li> <li>• may waive retainage</li> </ul>

## More information

The [Conservation District Handbook: Guidelines for Purchasing, Bidding, and Contracting for Washington State](#) is a resource written by MRSC specifically to help conservation districts comply with State law.

MRSC's [Small Public Works Roster Manual for Local Governments](#) was written specifically to



identify requirements associated with the small works roster. However, it has detailed information on bid bonds, performance/payment bonds, retainage, sales tax issues and prevailing wages that could assist in other public works contracting processes.

## Questions?

### Prevailing Wage Determinations

- L&I: [PW1@Lni.wa.gov](mailto:PW1@Lni.wa.gov) or 1-360-902-5335

### General

- Contact your SCC Regional Manager or the [Ask MRSC](#) website.

## APPENDIX D – CHECKLIST FOR DEVELOPING SUPPLEMENTAL BIDDER RESPONSIBILITY CRITERIA



### **Checklist for Developing Supplemental Bidder Responsibility Criteria**

No.	Description
1	<p><u>Appropriateness:</u> Why do you think Supplemental Bidder Responsibility Criteria are appropriate for this project? What are the risks to the project if you don't include Criteria?</p>
2	<p><u>Suggested Guidelines:</u> Have you reviewed the Suggested Guidelines for Bidder Responsibility published by the Capital Projects Advisory Review Board (CPARB) (<a href="http://www.ga.wa.gov/CARB/index.html">http://www.ga.wa.gov/CARB/index.html</a>)</p> <p style="text-align: right;"><input type="checkbox"/> Yes   <input type="checkbox"/> No</p>
3	<p><u>Details of Criteria:</u> Based on the project, what types of criteria are important?</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Contractor's experience in similar type of work (must be defined)</li> <li><input type="checkbox"/> Experience of contractor's key personnel</li> <li><input type="checkbox"/> Contractor's and their key personnel's experience</li> <li><input type="checkbox"/> Number of years of experience of the contractor</li> <li><input type="checkbox"/> Dollar size of previous projects completed by the contractor</li> <li><input type="checkbox"/> Specialty subcontractor qualifications</li> <li><input type="checkbox"/> Criteria from CARBs Suggested guidelines for Bidder</li> <li><input type="checkbox"/> Responsibility Other</li> </ul>
4	<p><u>Reasons:</u> Describe your reasons for including the specific Criteria you have included in the bidding documents Be specific. or example, if you have asked for 4 years of experience, describe why 4 years is the appropriate number of years and how you arrived at your conclusion.</p>

## **Checklist for Developing Supplemental Bidder Responsibility Criteria**

5	<u>References:</u> Have you described how references will be used in validating the documentation submitted and in evaluating whether the bidder is responsible?	<input type="checkbox"/> Yes <input type="checkbox"/> No
6	<p><u>Relevancy:</u> On a scale of 1 to 10, with 10 being the most relevant, rate the relevancy of the Supplemental Bidder Responsibility Criteria you have developed to the project.</p> <p style="text-align: center;">1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6 <input type="checkbox"/> 7 <input type="checkbox"/> 8 <input type="checkbox"/> 9 <input type="checkbox"/> 10 <input type="checkbox"/></p> <p>Provide an explanation for why you have rated the Criteria as you have, and describe in detail how the Criteria are "Relevant" to the project.</p>	
7	<u>Project Criteria:</u> Have you included project-specific Supplemental Bidder Responsibility Criteria in the bidding documents?	<input type="checkbox"/> Yes <input type="checkbox"/> No
8	<u>Generic Criteria:</u> Have you included any generic Supplemental Bidder Responsibility Criteria in the bidding documents?	<input type="checkbox"/> Yes <input type="checkbox"/> No
9	<u>Documentation:</u> Have you included a list of the documentation that must be submitted by the bidder to demonstrate they meet the Criteria?	<input type="checkbox"/> Yes <input type="checkbox"/> No
10	<u>Relevance of Documentation:</u> Is there a one-to-one correspondence between the Criteria and the Documentation to be submitted?	<input type="checkbox"/> Yes <input type="checkbox"/> No
11	<u>Deadline for Submittal:</u> Do the bidding documents include the length of time after the bid submittal deadline the bidder has to submit the documentation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
12	<u>Deadline for Appeal:</u> Do the bidding documents include how long the bidder has to appeal after being notified they are not a responsible bidder	<input type="checkbox"/> Yes <input type="checkbox"/> No

## **Checklist for Developing Supplemental Bidder Responsibility Criteria**

13	<p><u>Research:</u> What market research have you done to validate which bidders meet the Supplemental Bidder Responsibility Criteria?</p>	
14	<p><u>Bidding Pool:</u> How many bidders will meet the criteria?</p>	
15	<p><u>Potential Bidders:</u> What are the names of the bidders who will meet the Criteria?</p>	
16	<p><u>Bidding Pool Analysis:</u> On a scale of 1 to 10, with 10 being the most restrictive of the bidding pool, rate how restrictive you think the Supplemental Bidder Responsibility Criteria are?</p> <p style="text-align: center;">1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6 <input type="checkbox"/> 7 <input type="checkbox"/> 8 <input type="checkbox"/> 9 <input type="checkbox"/> 10 <input type="checkbox"/></p>	
17	<p><u>Non-Complying Bidders:</u> What are the names of the bidders who will probably not meet the Criteria?</p>	
18	<p><u>Protesters:</u> Do you think any bidders may protest the Criteria? If yes, what would be their likely basis of protest?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
19	<p><u>Bid Protest Risk:</u> On a scale of 1 to 10, with 10 being the highest risk, what do you think the risk is of a bid protest with the Supplemental Bidder Responsibility Criteria you have developed</p> <p style="text-align: center;">1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6 <input type="checkbox"/> 7 <input type="checkbox"/> 8 <input type="checkbox"/> 9 <input type="checkbox"/> 10 <input type="checkbox"/></p> <p>Do you think your Criteria are defensible if your agency was taken to court? Why?</p>	

## **Checklist for Developing Supplemental Bidder Responsibility Criteria**

20	<u>Definitions:</u> Have you defined all terms and concepts included in the criteria?	<input type="checkbox"/> Yes <input type="checkbox"/> No
21	<u>Undefined Terms:</u> Are there undefined or ambiguous terms included in the Supplemental Bidder Responsibility Criteria that may be subject to a different interpretation by various parties? What are those terms?	<input type="checkbox"/> Yes <input type="checkbox"/> No
22	<u>Delays:</u> Does your project schedule have sufficient time to deal with possible delays resulting from use of Supplemental Bidder Responsibility Criteria based on time to: <ul style="list-style-type: none"> <li><input type="checkbox"/> Develop the Criteria</li> <li><input type="checkbox"/> Consider requests for changes in the Criteria during bidding</li> <li><input type="checkbox"/> Evaluate bidder's documentation after bid submittal</li> <li><input type="checkbox"/> Check references to validate information provided</li> <li><input type="checkbox"/> Manage an appeal and possible lawsuit from a bidder determined to be not responsible</li> <li><input type="checkbox"/> Deal with a protest from another bidder that the low bidder doesn't meet the Criteria</li> </ul>	
23	<u>Review of Criteria:</u> Who in your agency has reviewed the draft Criteria? <ul style="list-style-type: none"> <li><input type="checkbox"/> Project Manager</li> <li><input type="checkbox"/> Public Works Director</li> <li><input type="checkbox"/> Construction Manager</li> <li><input type="checkbox"/> Purchasing/Contracting/Procurement personnel</li> <li><input type="checkbox"/> Attorney</li> <li><input type="checkbox"/> Outside design consultant (architect or engineer)</li> <li><input type="checkbox"/> Other public agencies</li> <li><input type="checkbox"/> Contractors</li> </ul>	
24	<u>Mandatory Responsibility Criteria:</u> Are any of the items you've included in the Supplemental Bidder Responsibility Criteria part of the Mandatory Bidder Responsibility Criteria from RCW 39.04.350?	<input type="checkbox"/> Yes <input type="checkbox"/> No
25	<u>Responsiveness Issues:</u> Are any of the Supplemental Bidder Responsibility Criteria really issues of responsiveness instead of responsibility?	<input type="checkbox"/> Yes <input type="checkbox"/> No
26	<u>Clarity of Criteria:</u> On a scale of 1 to 10, with 10 being the most clear, rate the clarity of the Supplemental Bidder Responsibility Criteria. <div style="text-align: center;">             1 <input type="checkbox"/>   2 <input type="checkbox"/>   3 <input type="checkbox"/>   4 <input type="checkbox"/>   5 <input type="checkbox"/>   6 <input type="checkbox"/>   7 <input type="checkbox"/>   8 <input type="checkbox"/>   9 <input type="checkbox"/>   10 <input type="checkbox"/> </div>	

# APPENDIX E – MRSC CONSTRUCTION PROJECT CHECKLIST

## MRSC Construction Project Checklist

(Federal and State Grant Neutral)  
**Really Small Project (< \$2,500)**  
Single Quote

Date: \_\_\_\_\_

Project: \_\_\_\_\_

### Contractor Name, Address and Contact Info:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### Insurance Certificate and Endorsements (Must be on file)

### Sales tax is or is not required for this project (circle one)

### Verification of Minimum Qualifications (RCW 39.04.350(1))

Contractor \_\_\_\_\_ Registration \_\_\_\_\_ Number: \_\_\_\_\_  
Contractor Unified Business  
Identifier (UBI #: \_\_\_\_\_ Contractor Industrial  
Insurance Coverage (Is he/she current): \_\_\_\_\_  
Contractor Employment Security Department Number: \_\_\_\_\_  
Contractor State Excise Tax  
Registration Number: \_\_\_\_\_  
Contractor Debarred: \_\_\_\_\_ Yes \_\_\_\_\_ No  
(Attach copy of web page print out)

### Estimated (or Actual) Cost: \_\_\_\_\_

(Attach Quote)

Date Work Started: \_\_\_\_\_

Date Work Completed: \_\_\_\_\_

Date(s) Work Paid: \_\_\_\_\_

Warrant/Check/PO #(s) \_\_\_\_\_

### Combined Intent and Affidavit Form (Only for Projects less than \$2500)

Completed by Agency and Contractor: \_\_\_\_\_ Date \_\_\_\_\_

Sent to L&I: \_\_\_\_\_ Date \_\_\_\_\_

Note: The agency may wish to ask for evidence that material and equipment rental suppliers have been paid before making payment.

# MRSC Construction Project Checklist

(Federal and State Grant Neutral)  
**Small Project (\$2,500 to \$10,000)**  
**Single Quote**

Date: \_\_\_\_\_

Project: \_\_\_\_\_

**Contractor Name, Address and Contact Info:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Insurance Certificate and Endorsements** (Must be on file)

**Sales tax is or is not required for this project (circle one)**

**Verification of Minimum Qualifications** (RCW 39.04.350(1))

Contractor Registration Number: \_\_\_\_\_  
Contractor Unified Business Identifier (UBI #): \_\_\_\_\_  
Contractor Industrial Insurance Coverage (Is he/she current): \_\_\_\_\_  
Contractor Employment Security Department Number: \_\_\_\_\_  
Contractor State Excise Tax Registration Number: \_\_\_\_\_  
Contractor Debarred: \_\_\_\_\_ Yes \_\_\_\_\_ No  
(Attach copy of web page print out)

**Contractor Has Opted**, under RCW 39.08.010 to, in lieu of providing a performance/payment bond, allow the agency to retain fifty percent of the contract amount for a period of thirty days after date of final acceptance.

\_\_\_\_\_  
Contractor's Signature Date

**Estimated (or Actual) Cost:** \_\_\_\_\_

(Attach Contractor's Quote)

Date Work Started: \_\_\_\_\_

Date Work Completed: \_\_\_\_\_

First 1/2 Payment Date: \_\_\_\_\_ Warrant/Check/PO # \_\_\_\_\_

Second 1/2 Payment Date: \_\_\_\_\_ Warrant/Check/PO # \_\_\_\_\_

**Approved Intent to Pay Prevailing Wages** (Copy in File): \_\_\_\_\_

(Must be before first 1/2 payment date)

**Approved Affidavit of Wages Paid** (Copy in File): \_\_\_\_\_

(Must be before last 1/2 payment date)

Note: The agency may wish to ask for evidence that material and equipment rental suppliers have been paid before making the last 1/2 payment.

## MRSC Construction Project Checklist

(Federal and State Grant Neutral)  
**Small Project (\$10,000 to \$35,000)**  
**Multiple Quotes**

Date: \_\_\_\_\_

Project: \_\_\_\_\_

Contractor Name, Address and Contact Info:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Insurance Certificate and Endorsements (Must be on file)

Sales tax is or is not required for this project (circle one)

Verification of Minimum Qualifications (RCW 39.04.350(1))

Contractor Registration Number: \_\_\_\_\_  
Contractor Unified Business  
Identifier (UBI #: \_\_\_\_\_ Contractor Industrial  
Insurance Coverage (Is he/she current): \_\_\_\_\_  
Contractor Employment Security Department Number: \_\_\_\_\_  
Contractor State Excise Tax  
Registration Number: \_\_\_\_\_  
Contractor Debarred: \_\_\_\_\_ Yes \_\_\_\_\_ No  
(Attach copy of web page print out)

**Contractor Has Opted**, under RCW 39.08.010 to, in lieu of providing a performance/payment bond, allow the agency to retain fifty percent of the contract amount for a period of thirty days after date of final acceptance.

\_\_\_\_\_  
Contractor's Signature Date

**Estimated (or Actual) Cost:** \_\_\_\_\_

(Attach all contractor quotes, with lowest(successful) bidder first)

Date Work Started: \_\_\_\_\_

Date Work Completed: \_\_\_\_\_

First ½ Payment Date: \_\_\_\_\_ Warrant/Check/PO # \_\_\_\_\_

Second ½ Payment Date: \_\_\_\_\_ Warrant/Check/PO # \_\_\_\_\_

**Approved Intent to Pay Prevailing Wages** (Copy in File): \_\_\_\_\_

(Must be before first ½ payment date)

**Approved Affidavit of Wages Paid** (Copy in File): \_\_\_\_\_

(Must be before last ½ payment date)

Note: The agency may wish to ask for evidence that material and equipment rental suppliers have been paid before making the last ½ payment.



## MRSC Construction Project Checklist

(Federal and State Grant Neutral)

**Limited Public Works Project**

**(\$0 to \$50,000)**

**Multiple Quotes Required**

**Must Use Small Works Roster**

Date: \_\_\_\_\_

Project: \_\_\_\_\_

Contractor Name, Address and Contact Info:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Insurance Certificate and Endorsements (Must be on file)

Sales tax is or is not required for this project (circle one)

Verification of Minimum Qualifications (RCW 39.04.350(1))

Contractor \_\_\_\_\_ Registration \_\_\_\_\_ Number: \_\_\_\_\_  
Contractor Unified Business  
Identifier (UBI #: \_\_\_\_\_ Contractor Industrial  
Insurance Coverage (Is he/she current): \_\_\_\_\_  
Contractor Employment Security Department Number: \_\_\_\_\_  
Contractor State Excise Tax  
Registration Number: \_\_\_\_\_  
Contractor Debarred: \_\_\_\_\_ Yes \_\_\_\_\_ No  
(Attach copy of web page print out)

Agency has waived, under RCW 39.04.155(3) performance/payment bonds and retainage for this project.

Estimated (or Actual) Cost: \_\_\_\_\_

(Attach all contractor quotes, with lowest (successful) bidder first)

Date Work Started: \_\_\_\_\_

Date Work Completed: \_\_\_\_\_

First ½ Payment Date: \_\_\_\_\_ Warrant/Check/PO # \_\_\_\_\_

Second ½ Payment Date: \_\_\_\_\_ Warrant/Check/PO # \_\_\_\_\_

Approved Intent to Pay Prevailing Wages (Copy in File): \_\_\_\_\_

(Must be before first ½ payment date)

Approved Affidavit of Wages Paid (Copy in File): \_\_\_\_\_

(Must be before last ½ payment date)

Note: The agency may wish to ask for evidence that material and equipment rental suppliers have been paid before making the last ½ payment.

## APPENDIX F – MODEL SMALL WORKS ROSTER RESOLUTION

\_\_\_\_\_ Conservation District

### MODEL SMALL WORKS ROSTER RESOLUTION

Resolution No. \_\_\_\_\_

A RESOLUTION OF THE Board of Supervisors OF \_\_\_\_\_ Conservation District, WASHINGTON, ON THE SUBJECT OF ESTABLISHING A SMALL WORKS ROSTER PROCESS TO AWARD PUBLIC WORKS CONTRACTS.

WHEREAS, RCW 39.04.155 allows certain public works contracts to be awarded by a small works roster process; and

WHEREAS, conservation districts are not authorized agencies pursuant to this preceding statute, but are allowed and encouraged by Chapter 89.08 RCW to adopt policies for prudent and proper use and accounting for public moneys; and

WHEREAS, in order to implement small public works roster processes, the District desires to adopt the statutory framework in the preceding statutes as the policy of the District.

NOW, THEREFORE, THE Board of Supervisors OF \_\_\_\_\_ Conservation District, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

**Section 1.** Resolution No. \_\_\_\_\_ is hereby repealed.

**Section 2.** The following small works roster procedures are established for use by the District pursuant to and RCW 39.04.155.

- 1. Cost.** The District need not comply with formal sealed bidding procedures for the construction, building, renovation, remodeling, alteration, repair, or improvement of real property where the estimated cost does not exceed Three Hundred Fifty Thousand Dollars (\$350,000.00), which includes the costs of labor, material, equipment and sales and/or use taxes as applicable. Instead, the District may use the small works roster procedures for public works projects as set forth herein. The breaking of any project into units or accomplishing any projects by phases is prohibited if it is done for the purpose of avoiding the maximum dollar amount of a contract that may be let using the small works roster process
- 2. Number of Rosters.** The District may create a single general small works roster, or may create a small works roster for different specialties or categories of anticipated work. Said small works rosters may make distinctions between contractors based upon different geographic areas served by the contractor.
- 3. Contractors on Small Works Roster(s).** The small works roster(s) shall consist of all responsible contractors who have requested to be on the roster(s), and where required by law are properly licensed or registered to perform such work in this state. Contractors desiring to be placed on a roster or rosters must keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters on file with the District as a condition of being placed on a roster or rosters.

4. **Publication.** At least once a year, the District shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for such roster or rosters. Responsible contractors shall be added to an appropriate roster or rosters at any time that they submit a written request and necessary records. The District may require master contracts to be signed that become effective when a specific award is made using a small works roster. An interlocal contract or agreement between \_\_\_\_\_ Conservation District and other local governments establishing a small works roster or rosters to be used by the parties to the agreement or contract must clearly identify the lead entity that is responsible for implementing the small works roster provisions.
5. **Electronic Rosters.** In addition to paper and/or electronic rosters kept on file in the appropriate department, the District may also use that state wide electronic database developed and maintained by the Municipal Research and Services Center of Washington (MRSC Rosters).
6. **Telephone or Written Quotations.** The District shall obtain telephone, written or electronic quotations for public works contracts from contractors on the appropriate small works roster to assure that a competitive price is established and to award contracts to the lowest responsible bidder, as defined in RCW 39.04.010 and RCW 39.04.350, as follows:
  - a) A contract awarded from a small works roster need not be advertised. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation. This paragraph does not eliminate other requirements for architectural or engineering approvals as to quality and compliance with building codes.
  - b) Quotations may be invited from all appropriate contractors on the appropriate small works roster. As an alternative, quotations may be invited from at least five contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster.

If the estimated cost of the work is from one hundred fifty thousand dollars (\$150,000) to three hundred fifty thousand dollars (\$350,000), the District may choose to solicit bids from less than all the appropriate contractors on the appropriate small works roster but must also notify the remaining contractors on the appropriate small works roster that quotations on the work are being sought. The District has the sole option of determining whether this notice to the remaining contractors is made by:

    - (i) Publishing notice in a legal newspaper in general circulation in the area where the work is to be done;
    - (ii) Mailing a notice to these contractors; or
    - (iii) Sending a notice to these contractors by facsimile or other electronic means.
  - c) For purposes of this resolution, "equitably distribute" means that the District may not favor certain contractors on the appropriate small works roster over other contractors on the appropriate small works roster who perform similar services. At the time bids are

solicited, the District representative shall not inform a contractor of the terms or amount of any other contractor's bid for the same project;

d) A written record shall be made by the District representative of each contractor's bid on the project and of any conditions imposed on the bid. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry.

7. **Limited Public Works Process.** If a work, construction, alteration, repair, or improvement project is estimated to cost less than fifty thousand dollars (\$50,000), the District may award such a contract using the limited public works process provided under RCW 39.04.155(3). For limited public works project, the District will solicit electronic or written quotations from a minimum of three contractors from the appropriate small works roster and shall award the contract to the lowest responsible bidder, as defined under RCW 39.04.010 and RCW 39.04.350. After an award is made, the quotations shall be open to public inspection and available by electronic request.

For limited public works projects, the District may waive the payment and performance bond requirements of chapter 39.08 RCW and the retainage requirements of chapter 60.28 RCW, thereby assuming the liability for the contractor's nonpayment of laborers, mechanics, subcontractors, materialmen, suppliers, and taxes imposed under Title 82 RCW that may be due from the contractor for the limited public works project. However, the District shall have the right of recovery against the contractor for any payments made on the contractor's behalf.

The District shall maintain a list of the contractors contacted and the contracts awarded during the previous twenty-four (24) months under the limited public works process, including the name of the contractor, the contractor's registration number, the amount of the contract, a brief description of the type of work performed, and the date the contract was awarded.

8. **Small Business Incentives (RCW 39.04.155(5))**  
An agency may use the limited public works process of RCW 39.04.155(3) to solicit and award small works roster contracts to small businesses that are registered contractors with gross revenues under one million dollars annually as reported on their federal tax return. An agency may adopt additional procedures to encourage small businesses that are registered contractors with gross revenues under two hundred fifty thousand dollars (\$250,000) annually as reported on their federal tax returns to submit quotations or bids on small works roster contracts.
9. **Determining Lowest Responsible Bidder.** The Board of Supervisors shall award the contract for the public works project to the lowest responsible bidder provided that, whenever there is a reason to believe that the lowest acceptable bid is not the best price obtainable, all bids may be rejected and the Board of Supervisors may call for new bids. A responsible bidder will be a contractor who meets the mandatory requirements of RCW 39.04.350(1) and any supplemental bidder responsibility criteria established for the project under RCW 39.04.350 (2).
10. **Award.** All of the telephone bids or quotations shall be collected and presented at the same time to the Board of Supervisors for consideration, determination of the lowest responsible bidder, and award of the contract.

OR [If the governing body delegates the authority to award bids of certain amount(s) to an officer of the agency.]

10. **Award.** The [executive officer] or his designee shall present all telephone quotations/bids and recommendation for award of the contract to the lowest responsible bidder to the Board of Supervisors. However, for public works projects under \$ \_\_\_\_\_, the [executive officer] shall have the authority to award public works contracts without Board of Supervisors approval, provided that the Board of Supervisors shall ratify the [executive officer]'s approval at the next scheduled Board of Supervisors meeting by means of the consent agenda. For public works projects over \$ \_\_\_\_\_, the Board of Supervisors shall award all public works contracts by resolution.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and signed in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
[Executive Officer]

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
CLERK

\_\_\_\_\_  
ATTORNEY

# APPENDIX G – MODEL SMALL WORKS ROSTER AND VENDOR LIST RESOLUTION

\_\_\_\_\_ Conservation District

## MODEL SMALL WORKS ROSTER AND VENDOR LIST RESOLUTION

Resolution No. \_\_\_\_\_

A RESOLUTION OF THE Board of Supervisors OF \_\_\_\_\_ Conservation District, WASHINGTON, repealing Resolution No. \_\_\_\_\_ and establishing new procedures relating to purchasing and public works contracting; establishing a vendor list process for the purchasing of supplies, materials, and equipment and a small works roster process to award public works contracts.

WHEREAS, RCW 39.04.190, regarding purchase of materials, supplies or equipment not connected to a public works project, allows certain purchasing contracts to be awarded by a vendor list process; and

WHEREAS, the RCW 39.04.155, allows certain public works contracts to be awarded by a small works roster process; and

WHEREAS, conservation districts are not authorized agencies pursuant to these preceding statutes, but are allowed and encouraged by Chapter 89.08 RCW to adopt policies for prudent and proper use and accounting for public moneys; and

WHEREAS, in order to implement vendor list and small public works roster processes, the District desires to adopt the statutory framework in the preceding statutes as the policy of the District.

NOW, THEREFORE, THE Board of Supervisors OF \_\_\_\_\_ Conservation District, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

**Section 1.** Purchase of materials, supplies or equipment not connected to a public works project in an amount of \$\_\_\_\_\_ or less. The District is not required to use informal or formal sealed bidding procedures or the procedures set forth in this resolution to purchase materials, supplies, or equipment for the purchase of any materials, supplies of equipment where the cost of same will not exceed \_\_\_\_\_. The District will attempt to obtain the lowest practical price for such goods and services.

**Section 2.** The following vendor list procedures are established for use by the District pursuant to RCW 39.04.190. Purchase of materials, supplies or equipment not connected to a public works project in an amount between \$\_\_\_\_\_ and \$\_\_\_\_\_.

1. **Publication of Notice.** At least twice a year, the District shall publish, in the District's official newspaper, notice of the existence of a roster(s) of vendors for materials, supplies, and equipment, and shall solicit names of vendors for the roster.
2. **Electronic Rosters.** In addition to paper and/or electronic vendor lists kept on file in the appropriate department, the District may also use that state wide electronic database

developed and maintained by the Municipal Research and Services Center of Washington (MRSC Rosters).

**3 Telephone Quotations.** The District shall use the following process to obtain telephone quotations from vendors for the purchase of materials, supplies, or equipment:

a. A written description shall be drafted of the specific materials, supplies, or equipment to be purchased, including the number, quantity, quality, and type desired, the proposed delivery date, and any other significant terms of purchase;

b. A District representative shall make a good faith effort to contact at least three (3) of the vendors on the roster to obtain telephone solicitation quotations from the vendors for the required materials, supplies, or equipment;

c. The District representative shall not share telephone quotation from one vendor with other vendors solicited for the bid on the materials, supplies, or equipment;

d. A written record shall be made by the District representative of each vendor's bid on the material, supplies, or equipment, and of any conditions imposed on the bid by such vendor;

e. The District representative shall present to the Board of Supervisors all telephone quotations and a recommendation for award of the contract to the lowest responsible bidder.

**4. Determining the Lowest Responsible Bidder.** The District shall purchase the materials, supplies or equipment from the lowest responsible bidder (RCW 43.19.1911(9)), provided that whenever there is reason to believe that the lowest acceptable bid is not the best price obtainable, all bids may be rejected and the District may call for new bids. The District, in determining the lowest responsible bidder may take the following factors, to the lowest responsible bidder provided that, whenever there is a reason to believe that the lowest acceptable bid is not the best price obtainable, all bids may be rejected and the Board of Supervisors may call for new bids. RCW 43.19.1911(9) states:

"In determining "lowest responsible bidder", in addition to price, the following elements shall be given consideration:

(a) The ability, capacity, and skill of the bidder to perform the contract or provide the service required;

(b) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

(c) Whether the bidder can perform the contract within the time specified;

(d) The quality of performance of previous contracts or services;

(e) The previous and existing compliance by the bidder with laws relating to the contract or services;

(f) Such other information as may be secured having a bearing on the decision to award the contract:

PROVIDED, That in considering bids for purchase, manufacture, or lease, and in determining the "lowest responsible bidder," whenever there is reason to believe that applying the "life cycle costing" technique to bid evaluation would result in lowest total cost to the state, first consideration shall be given by state purchasing activities to the bid with the lowest life cycle cost which complies with specifications. "Life cycle cost" means the total cost of an item to the state over its estimated useful life, including costs of selection, acquisition, operation,

maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life. The "estimated useful life" of an item means the estimated time from the date of acquisition to the date of replacement or disposal, determined in any reasonable manner. Nothing in this section shall prohibit any state agency, department, board, commission, committee, or other state-level entity from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

5. **Award.** Board of Supervisors shall review quotations and recommendation by city staff and award the contract to the lowest responsible bidder. A written record of each vendor's quotations shall be made open to public inspection or telephone inquiry after the award of the contract. Any contract awarded under this subsection need not be advertised.
6. **Posting.** A list of all contracts awarded under these procedures shall be posted at District main administrative offices once every two months. The list shall contain the name of the vendor awarded the contract, the amount of the contract, a brief description of the items purchased, and the date it was awarded.

**Section 3.** The following small works roster procedures are established for use by the District pursuant to RCW 39.04.155.

1. **Cost.** The District need not comply with formal sealed bidding procedures for the construction, building, renovation, remodeling, alteration, repair, or improvement of real property where the estimated cost does not exceed Three Hundred Fifty Thousand Dollars (\$350,000.00), which includes the costs of labor, material, equipment and sales and/or use taxes as applicable. Instead, the District may use the small works roster procedures for public works projects as set forth herein. The breaking of any project into units or accomplishing any projects by phases is prohibited if it is done for the purpose of avoiding the maximum dollar amount of a contract that may be let using the small works roster process
2. **Number of Rosters.** The District may create a single general small works roster, or may create a small works roster for different specialties or categories of anticipated work. Said small works rosters may make distinctions between contractors based upon different geographic areas served by the contractor.
3. **Contractors on Small Works Roster(s).** The small works roster(s) shall consist of all responsible contractors who have requested to be on the roster(s), and where required by law are properly licensed or registered to perform such work in this state. Contractors desiring to be placed on a roster or rosters must keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters on file with the District as a condition of being placed on a roster or rosters.
4. **Publication.** At least once a year, the District shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for such roster or rosters. Responsible contractors shall be added to an appropriate roster or rosters at any time that they submit a written request and necessary records. The District may require master contracts to be signed that become effective when a specific award is made using a small works roster. An interlocal contract or agreement between



\_\_\_\_\_ Conservation District and other local governments establishing a small works roster or rosters to be used by the parties to the agreement or contract must clearly identify the lead entity that is responsible for implementing the small works roster provisions.

5. **Electronic Rosters.** In addition to paper and/or electronic rosters kept on file in the appropriate department, the District may also use that state wide electronic database developed and maintained by the Municipal Research and Services Center of Washington (MRSC Rosters).
6. **Telephone or Written Quotations.** The District shall obtain telephone, written or electronic quotations for public works contracts from contractors on the appropriate small works roster to assure that a competitive price is established and to award contracts to the lowest responsible bidder, as defined in RCW 39.04.010 and RCW 39.04.350, as follows:

a) A contract awarded from a small works roster need not be advertised. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation. This paragraph does not eliminate other requirements for architectural or engineering approvals as to quality and compliance with building codes.

b) Quotations may be invited from all appropriate contractors on the appropriate small works roster. As an alternative, quotations may be invited from at least five contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster.

If the estimated cost of the work is from one hundred fifty thousand dollars (\$150,000) to three hundred fifty thousand dollars (\$350,000), the District may choose to solicit bids from less than all the appropriate contractors on the appropriate small works roster but must also notify the remaining contractors on the appropriate small works roster that quotations on the work are being sought. The District has the sole option of determining whether this notice to the remaining contractors is made by:

- (i) Publishing notice in a legal newspaper in general circulation in the area where the work is to be done;
- (ii) Mailing a notice to these contractors; or
- (iii) Sending a notice to these contractors by facsimile or other electronic means.

c) For purposes of this resolution, "equitably distribute" means that the District may not favor certain contractors on the appropriate small works roster over other contractors on the appropriate small works roster who perform similar services. At the time bids are solicited, the District representative shall not inform a contractor of the terms or amount of any other contractor's bid for the same project;

d) A written record shall be made by the District representative of each contractor's bid on the project and of any conditions imposed on the bid. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry.

7. **Limited Public Works Process.** If a work, construction, alteration, repair, or improvement project is estimated to cost less than fifty thousand dollars (\$50,000), the District may award such a contract using the limited public works process provided under RCW 39.04.155(3). For limited public works project, the District will solicit electronic or written quotations from a minimum of three contractors from the appropriate small works roster and shall award the contract to the lowest responsible bidder, as defined under RCW 39.04.010 and RCW 39.04.350. After an award is made, the quotations shall be open to public inspection and available by electronic request.

For limited public works projects, the District may waive the payment and performance bond requirements of chapter 39.08 RCW and the retainage requirements of chapter 60.28 RCW, thereby assuming the liability for the contractor's nonpayment of laborers, mechanics, subcontractors, material men, suppliers, and taxes imposed under Title 82 RCW that may be due from the contractor for the limited public works project. However, the District shall have the right of recovery against the contractor for any payments made on the contractor's behalf.

The District shall maintain a list of the contractors contacted and the contracts awarded during the previous twenty-four (24) months under the limited public works process, including the name of the contractor, the contractor's registration number, the amount of the contract, a brief description of the type of work performed, and the date the contract was awarded.

8. **Small Business Incentives (RCW 39.04.155(5))**  
An agency may use the limited public works process of RCW 39.04.155(3) to solicit and award small works roster contracts small businesses that are registered contractors with gross revenues under one million dollars annually as reported on their federal tax return. An agency may adopt additional procedures to encourage small businesses that are registered contractors with gross revenues under two hundred fifty thousand dollars (\$250,000) annually as reported on their federal tax returns to submit quotations or bids on small works roster contracts.
9. **Determining Lowest Responsible Bidder.** The Board of Supervisors shall award the contract for the public works project to the lowest responsible bidder provided that, whenever there is a reason to believe that the lowest acceptable bid is not the best price obtainable, all bids may be rejected and the Board of Supervisors may call for new bids. A responsible bidder will be a contractor who meets the mandatory requirements of RCW 39.04.350(1) and any supplemental bidder responsibility criteria established for the project under RCW 39.04.350 (2).
10. **Award.** All of the telephone bids or quotations shall be collected and presented at the same time to the Board of Supervisors for consideration, determination of the lowest responsible bidder, and award of the contract.

OR [If the governing body delegates the authority to award bids of certain amount(s) to an officer of the agency.]

10. **Award.** The [executive officer] or his designee shall present all telephone quotations/bids and recommendation for award of the contract to the lowest responsible bidder to the [governing body]. However, for public works projects under \$\_\_\_\_\_, the [executive officer] shall have the authority to award public works contracts without Board of Supervisors approval, provided that the Board of Supervisors shall ratify the [executive officer]'s approval at the next

scheduled Board of Supervisors meeting by means of the consent agenda. For public works projects over \$\_\_\_\_\_, the Board of Supervisors shall award all public works contracts by resolution.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and signed in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ .

\_\_\_\_\_  
Board Chair

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
CLERK

\_\_\_\_\_  
ATTORNEY

## APPENDIX H – ADDITIONAL MRSC RESOURCES

### Equipment, Materials, Supplies, and Services

- [Finding Your Contracting Requirements](#) – This tool helps identify and understand statutory legal requirements for purchasing and contracting.
- [Suggested Formal Competitive Bid Processes](#) – This document provides suggestions for competitively bidding equipment, materials, and supplies.
- [Contracting for Services, Guidelines for Local Governments](#) – This publication is intended to provide guidance on contracting for services.

### Public Works

- [Finding Your Contracting Requirements](#) – This tool helps identify and understand statutory legal requirements for purchasing and contracting.
- [Details of a Public Works Bid \(Blog\)](#) – This blog post covers some regulations and typical details that make up a public works bid.
- [Before You Advertise a Public Works Contract](#) – This page provides a basic overview of the steps to take before advertising a public works project for competitive bidding, including plans, specifications, and cost estimates.
- [Bidding and Awarding a Public Works Contract](#) – This page provides a general overview of the public works bidding and award procedures, including responsive bids, notices of award, and bid protests.
- [Mandatory Bidder Responsibility Checklist](#) – The following checklist may be used for documenting that a Bidder meets the mandatory bidder responsibility criteria.
- [Guarantees, Bonds, and Retainage](#) – This page provides a general overview of bid guarantees, retainage, and performance and payment bonds for public works contracts.
- [Prevailing Wages](#) – This page provides a general overview of prevailing wage requirements for public works and building service maintenance contracts, including types of projects, rates, and required forms.
- [Project Closure/Retainage Release Guidelines](#) – This resource document provides a summary of activities related to closing projects and releasing retainage.
- [Retainage Release Checklist](#) – Sample of checklist that can be used to track internal activities needing completion in order to release retainage on a project.
- [Small Public Works Roster Manual: A Guide for Washington’s Local Governments](#) – This publication provides a comprehensive overview of all aspects of small works rosters including maintenance vs. public works, bid limits, shared rosters, sales tax issues, prevailing wages, and more.
- [Public Works Tax Matrix](#) – This Public Works Tax Matrix summarizes administrative code regulations for WAC 458-20-171 regarding sales and use tax applicability to public works contracts for linear construction and WAC 458-20-170 for applicable taxes for constructing and repairing of new or existing buildings or other structures upon real property.


 1.800.933.6772

 MRSC@MRSC.org

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 @MRSC\_WA

 2601 Fourth Avenue, Suite 800  
Seattle, WA 98121-1280