

STATE PUBLIC CONTRACTING & PROCUREMENT

An Overview

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Tracey Taylor and Chris Cordes, Office of Program Research

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I. PROCUREMENT

Goods and Purchased Services

Responsible Agencies

- Department of General Administration, Office of State Procurement
- Other agencies may have authorization in certain circumstances

Characteristics of Purchased Services

- Services are more repetitive, routine, or mechanical in nature, following established standardized procedures (as contrasted with customary and regular exercise of discretion or independent judgment).
- Services contribute to the day-to-day business operations of the agency, rather than the management or policy side of the agency, and may meet general needs of the agency.
- Services generally involve completion of an assigned task, rather than an entire project.
- Decision-making and analysis, if required, is more routine or perfunctory in nature.
- Services that are generally performed based on agency direction.

Process

- If the dollar value of the goods or service to be purchased is **\$3,000 to \$39,100**, the procurement can occur through documented telephone or written solicitation of vendors.
- Agencies may conduct their own purchases of **\$10,000 or less** when the item is not on a mandatory state contract or is not a mandatory item from Central Stores, and when the purchase is not required to be referred to OSP or is not covered by other general or specific authorities.
- Goods and purchased services **greater than \$39,100** generally require the issuance of an Invitation for Bid (IFB). The IFB identifies a functional performance threshold at which agency needs would be met. Bidders submit offers, which are opened and read aloud at a public bid opening. Contracts are then awarded to the lowest cost responsive and responsible bidder.

Information Processing Equipment and Services

Responsible Agencies

- Washington State Information Services Board (ISB)
- Department of Information Services (DIS)

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Characteristics of Purchased Services

- Services provided by a vendor to accomplish routine, continuing, and necessary functions, including, but not limited to, services acquired for equipment maintenance and repair, operation of a physical plant, security, computer hardware and software installation and maintenance, data entry, keypunch services, programming services, and computer time-sharing.
- DIS also has statutory responsibility for telecommunications equipment, installation, answering and paging systems, and their corresponding service and maintenance.

Process

- Subject to statutory competitive bidding requirements.
- Statute governs the acquisition and disposition of equipment, proprietary software and purchased services, and confidentiality of computerized data.
- DIS may establish IT equipment and services and software master contracts for statewide use.
- Some IT purchases require ISB and DIS approval.

Printing Services

Responsible Agency

- Department of Printing

Process

- Mandatory supplier for the state's printing services, producing a high volume of printed materials with about 55 percent of its volume contracted out or bid to private industry.
- Long-term contracts are maintained for printed forms and envelopes.

Insurance and Bonds

Responsible Agency

- Office of Financial Management, Risk Management Division

Process

- Purchase of all insurance, bonds and notary public commissions for state agencies.

II. PERSONAL SERVICE CONTRACTING

Responsible Agencies

- All agencies
- Office of Financial Management has some oversight responsibilities (see below)

Characteristics of Personal Services

- Services are professional or technical in nature and meet more specialized needs, often to accomplish a specific task or other work statement. Work is predominantly intellectual and varied and may require advanced or specialized knowledge or expertise gained over an extensive period of time in a specialized field of experience. Agency may not have the staff or the expertise necessary to perform the service or staff are not available to provide the service.
- Work is independent from the day-to-day control of the agency; consultant maintains control of work methods.
- Work requires regular exercise of judgment, discretion, and decision-making; involves providing advice, opinions or recommendations; may have policy-implications for agency; and often addresses management level issues.
- 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.
- Consultant generally assumes risk of loss if the requirement is not satisfied.

Bid Process - Generally

- Competition is required for personal service contracts of **\$5,000 or more**, but limited use is recommended for contracts of **less than \$5,000** when feasible (in order to increase participation, lower prices, increase quality, promote innovation, eliminate favoritism and prevent unfavorable publicity).
- Involves evaluation of proposals based on multiple factors, rather than relying on price as the determinant factor. Agencies determine the weighted value of evaluation criteria and negotiate the contract based on these criteria. (This is a different type of procurement process than opening sealed bids at a public bid opening and selecting the lowest cost, responsive bidder.) Cost or price is an element in the evaluation but the selection need not be driven by price. The solicitation document must clearly set forth the evaluation criteria.

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Process - Sole Source Contracts

- Used when the consultant provides expertise of such a unique nature that the consultant is clearly and justifiably the only practicable source to provide the service.
- Contracts of **\$20,000 or more** must be approved by the Office of Financial Management (OFM) and must show evidence that the agency attempted to identify potential consultants by advertising. All sole source contracts must be filed with the OFM and made available to the public at least 10 days before the contract start date.

III. PUBLIC WORKS CONTRACTING

Space/Buildings

Responsible Agencies

- Department of General Administration, Real Estate Division
- Other agencies may have authorization in certain circumstances

Process

- Responsible for purchase, lease, or rental of privately owned space and/or buildings on private property for state agency use, including construction or improvements that an agency causes to be performed through a contract for at least 50 percent of the project (so-called "turnkey" projects).

Building Construction

Responsible Agencies

- Department of General Administration (GA), Division of Engineering & Architectural Services (E&A)
- Department of Natural Resources
- Department of Fish and Wildlife
- State Parks and Recreation Commission
- Four-year universities

Characteristics of Public Works

- Includes construction, repair, or alteration of buildings or other real property executed at a

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- cost to the state, and usually requires professional design and a building permit.
- In the case of higher education related projects, if the estimated cost of a building, construction, renovation, remodeling, or demolition *equals or exceeds the sum of \$35,000*, the project is subject to public bidding, with the contract awarded to the lowest responsible bidder. (But for a project involving only one craft, public bidding is required if the cost *exceeds \$15,000*, unless the small works roster process is used.)

Bidding Process - Generally

- Uses a competitive process to procure construction contracts for contracts *greater than \$200,000*: the project is advertised, bid documents issued and public bid opening is held, and award is made to the lowest cost, responsive, responsible bidder.
- May use a small works roster for projects *\$200,000 or less*.

Bidding Process - Other Examples

- GA/E&A Projects: Uses "consultant selection" to procure engineering and architectural services. For projects with an estimated cost of *less than \$100,000* for basic services, a consultant selection committee makes a selection from firms on file. For projects of *\$100,000 or more* for basic services, an advertisement is placed in the Daily Journal of Commerce. Selection of a firm is based on the qualifications of the firm. Once selection is made, negotiations define the terms of the agreement and the cost (based on the state fee schedule).
- Building Engineering Systems: May use either (1) a competitive bidding process or request for proposal process where bidders must provide final specifications and a bid price for the design, fabrication, and installation of building engineering systems; or (2) a competitive bidding process where bidders must provide final specifications for the design, fabrication, and installation of building engineering systems.
- Alternative Public Works Contracting: Certain agencies may use the design-build procedure or the general contractor/construction manager contracting procedure using a special competitive bidding process that publicly solicits proposals.

Highway Design and Construction

Responsible Agency

- Department of Transportation (DOT)

Bidding Process

- Selection of architectural and engineering services is made by Consultant Selection

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- Office in the DOT based on the qualifications of the firm. Once selection is made, terms of the agreement and costs or fees are negotiated.
- Construction contracts are procured through a competitive bid process involving contractors pre-qualified prior to bid submission. For contracts of **\$100,000 or more**, the project is advertised, bid documents issued, and public bid opening is held. Award is made to the lowest cost, responsive bidder.

IV. CLIENT SERVICE CONTRACTING

Responsible Agencies

- All agencies providing client services, such as the Department of Social and Health Services or the Department of Health.

Characteristics of Client Services

- Clients are those individuals the agency has statutory responsibility to serve, protect, or oversee. They are members of the public, external to state government, who have social, physical, medical, economic or educational needs.
- Services provided *directly* to agency clients including, but not limited to, medical and dental services, employment and training programs, residential care, and subsidized housing.

Process

- Contracts are exempt from the laws governing personal services contracts. However, if federally funded, a competitive process may be required for certain contracts.
- Contracts are managed by each agency to: ensure the timely delivery of quality services to agency clients; ensure the contractor is in compliance with the contract's terms; ensure accountability of public funds; and promote and protect public interest.
- Compensation may be based on cost reimbursement, fee for service, fixed price, or lump sum, or may be performance-based.