



PURCHASING POLICY

Adopted by the Board of the Northshore Parks and Recreation Service Area

August 19, 2020

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Introduction and Code of Ethics

This document intends to identify best procurement practices for the NPRSA that are compliant with Washington State laws governing public procurement. The process of selecting vendors, making a purchase, and managing contracts should be subject to the highest ethical standards to ensure accountability in the use of public funds. This document supports an internal control environment where efficient, ethical, uniform, and timely purchasing procedures aim to attain the highest value and quality of goods and services possible. An open, fair, documented, and competitive purchasing process is to be used whenever reasonable and possible. The processes set forth herein also promote clear communication and effective relationships between the NRPSA and vendors and contractors. Additional internal controls are documented in the NPRSA Procedure Manual.

The residents and businesses served by the NPRSA are entitled to have fair, ethical and accountable local government that continually earns the public's full confidence. The effective functioning of government therefore requires that:

- 1) Public officials, both elected and appointed, and staff comply with the laws and policies affecting the operations of government;
- 2) Public officials and staff be independent, impartial and fair in their judgment and actions;
- 3) Public office be used for the public good, not for personal gain; and
- 4) Public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.



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Guide to Procurement

As a general guide, the procurement process follows six steps:

- 1) Define the need – what type of purchase must be made?
- 2) Determine the cost – what is the estimated total cost, from beginning to end?
- 3) Identify the solicitation process – what process must be used to ensure competition?
- 4) Determine signing authority – who has authority to enter into an agreement on behalf of the agency?
- 5) Assess liability – is a contract or other items necessary to protect the agency?
- 6) Administer the contract (if needed) – what are the responsibilities of each party?

This chapter provides a broad overview of steps one through four listed above.

Types of Purchases

There are three broad categories of purchases: supplies and equipment, services, and public works. Within services, there are four subcategories: general, professional, architectural and engineering, and technology software and services. See Appendix A 'How to Buy' Chart for a visual summary, including contract approval thresholds.

Supplies and Equipment

Defined as tangible items which are manufactured and moveable at the time of purchase.

- Examples: office supplies, auto parts, food, janitorial supplies.
- Solicitation Method: Invitation to Quote (ITQ), Invitation to Bid (ITB).
- Agreement Template: Product Services

Services

Includes the time, labor, or effort of a human being. There are 4 service subcategories:

1. General Services

Defined as services rendered on a routine and repetitive basis, performed under contract to service, check or replace items that are not broken, performed under contract to maintain an asset, or other services rendered that do not require a professional license or certification.

- Examples: building maintenance, landscape maintenance, automotive services, instructors, entertainers.
- Solicitation Method: ITQ or ITB.
- Agreement Template: Purchased Services

2. Professional Services

Services which provide professional or technical expertise to accomplish a specific study, project, task, or other work statement. The primary service is mental or intellectual and requires specialized knowledge, professional licensing and/or certification.

- Examples: accounting, auditing, bond or insurance brokerage, consulting, facilitation, legal services, physicians, graphic artists, real estate appraisal or title abstracts, relocation assistance, and soils testing.
- Solicitation Method: Direct Negotiation, or Request for Proposal (RFP) and/or Request for Qualifications (RFQ).
- Agreement Template: Professional Services

3. Architectural, Engineering, and Design Services

Contracts are awarded based on best of value criteria, not price. These services must be acquired under the procedures outlined in [RCW 39.80](#).

- Examples: Engineers, land surveyors, architects, etc.
- Solicitation Method: RFQ
- Agreement Template: Professional Services

4. Technology Software or Services

Technology hardware or software system or maintenance agreement.

- Examples: data storage hardware, PCs, laptops, digital signature online subscriptions, services for upgrades and/or implementation.
- Solicitation Method: Competitive Negotiation using an RFP, per [RCW 39.04.270](#)
- Agreement Template: Professional Services or Vendor's agreements

Public Works

Defined as all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the NPRSA. Ordinary maintenance is considered work not performed by contract and that is either 1) performed on a regular basis to service, check or replace items that are not broken or 2) required to maintain an asset so that repair does not become necessary.

- Examples: demolition, remodeling, renovation, road construction, building construction, utilities construction, and way-finding signs.
- Solicitation Method: Direct Negotiation, Small Works Process, or ITB
- Agreement Template: Large or Small Public Works Agreement

Determining Total Cost

The total cost of the good, service, or public work determines which solicitation method to use, who has authority to approve the purchase and/or contract, and may influence the need for a contract. Considerations for determining total cost include:

- Costs for taxes, freight, and installation.
- The total cost for the exact quantity that can be reasonably projected.
- The total accumulated cost for all phases if a project or program is multi-phased.

Trade-in value is not part of total cost, but can be used to determine the lowest bid. Additionally, beware of bid-splitting: If one item being purchased requires another item to “make a whole”, the total accumulated costs of the two items (when they can reasonably be projected) should be considered together as the total cost, unless the two items are not available from a single supplier.

Solicitation Methods

There are several methods for soliciting the best value and quality of a good, service, or public work. The main methods are requesting quotes, bids, proposals, or qualifications. Other methods include direct negotiation (no competition required), competitive negotiation (only for technology software and services per [RCW 39.04.270](#)), and using the small works roster (to solicit public works quotes from a roster of vendors). The main methods are described further:

Invitation to Quote (ITQ): potential vendors are asked to provide informal quotes, in writing or verbally. The contract is awarded to the lowest responsive and responsible bidder.

Invitation to Bid (ITB): potential vendors are asked to submit bids demonstrating value and quality in response to the agency’s criteria and bid specifications. The contract is awarded to the lowest responsive and responsible bidder.

Request for Proposals (RFP): consultants submit qualifications (if they have not already) and a proposed scope of services, schedule, and budget in response to the RFP’s criteria and specifications. Selection is based on qualifications and price, which may be negotiated.

Request for Qualifications (RFQ): consultants submit non-cost proposals (Statements of Qualifications or SOQ) in response to the RFQ’s criteria and specifications. Selection is based on competence only, then project scope and budget negotiations are initiated.

The table below compares and contrasts the distinguishing characteristics between bids/quotes, RFP, and RFQ processes.

| | BID/QUOTE | RFP | RFQ |
|---------------|--|---|---|
| AWARD | Lowest responsive and responsible bidder | Best, most advantageous proposer | Best, most advantageous proposer |
| CONSIDERATION | Price only | Qualifications and price | Qualifications only |
| PROCESS | Bids are formal, Quotes are informal | Formal but may be more complex | Formal but may be more complex |
| EVALUATION | Easy | Staff identify evaluation criteria and significance | Staff identify evaluation criteria and significance |
| NEGOTIATION | Non-negotiable | May be negotiable | Negotiable |

The Competitive Process

This chapter provides additional details about how the NPRSA ensures competition in purchasing by covering several topics:

- exceptions to competition,
- the “piggy-backing” cooperative purchasing option,
- how to determine which solicitation method to use,
- requirements for formal bidding,
- expectations for records management, and
- the vendor appeals process.

Exceptions to Competition

Situations may occur when competition among multiple vendors is not practical. Criteria for determining eligibility to waive competition requirements is described in [RCW 39.04.280](#) and

summarized here in three categories: sole source purchases, emergencies, and auctions and purchasing from other agencies.

Sole Source Purchase

Purchases can be made from a sole source vendor without soliciting other quotes or bids when there are special market conditions that result in one appropriate source capable of supplying the good or service in a timely fashion. This includes purchases of insurance or bonds and may include items of a special design, shape or manufacture that matches or fits with existing equipment, inventory, systems, programs, or services. Written documentation demonstrating the appropriateness of a sole source purchase must be submitted to the Executive Director in advance of the purchase, and may be subject to Legal review. In non-emergency situations, the contract and basis for the exception from competitive procurement shall be recorded and open to public inspection immediately after the purchase.

Emergency Purchase

An emergency is considered to be unforeseen circumstances beyond the NPRSA's control that present a real, immediate threat to the proper performance of essential functions, or that will likely result in material loss to property, bodily injury, or loss of life if immediate action is not taken. If an emergency exists, the Executive Director may declare an emergency situation exists, waive competition requirements, and award, on behalf of the NPRSA, contracts necessary to address the emergency situation. Written finding of the existence of an emergency must be made and entered into the public record no later than two weeks following the award of the contract.

Auctions and Purchasing from Other Agencies

[RCW 39.30.045](#) allows for the purchase of any supplies or equipment at auctions rather than through competitive bidding, if the items can be obtained at a competitive price. [RCW 39.33.010](#) allows for the purchase of surplus property from other governmental agencies without regard to bid laws.

Cooperative Purchasing

As outlined in [RCW 39.34.030](#) NPRSA may join with other governmental agencies for the purchase of supplies, equipment, or services. This is done by entering into a written Intergovernmental Cooperative Purchasing Agreement (also known as an "interlocal agreement"). By using another municipalities bid/contract, the NPRSA is, in essence, "piggybacking" off of their competitive process thus eliminating the need to perform its own competitive process. However, prior to making the cooperative purchase, it is the responsibility

of the NPRSA to ensure the bid or contract used by another agency meets the NPRSA's own competitive process requirements. Confirm the following before "piggybacking":

- Has the NPRSA signed a Cooperative Purchasing Agreement with an entity that specifically authorizes other entities to piggy-back?
- Has the vendor confirmed they will honor the pricing and the contract has not expired?
- Did the agency who made the original purchase follow the same solicitation methods as required by the NPRSA's procurement policy?
- Was the bid or solicitation notice posted on a web site maintained by the agency?

Determining the Solicitation Method

The estimated cost of the purchase and type of purchase are factors in determining how much competition is required. See Appendix A 'How to Buy' Chart for a visual summary.

Supplies and Equipment and General Services

- Under \$10,000: Direct Negotiation, competitive pricing encouraged.
- \$10,000 - \$50,000: Invitation to Quote, three quotes required.
- \$50,000 - \$200,000: Invitation to Bid.
- Over \$200,000: Invitation to Bid, advertisement required.

Technology Software and Services

Competitive negotiation is permitted, using the RFP process.

Professional Services

Competition is not required. However, the Request for Qualifications and Request for Proposal process may assist in determining the best value and quality.

Architectural and Engineering Services

Consultants must be selected based on qualifications only, using the Request for Qualifications process as outlined in [RCW 39.80](#). Advertising is required.

Public Works

- Under \$10,000: Direct Negotiation, competitive pricing encouraged.

- \$10,000 - \$350,000: Public works in this range may be purchased using the Small Works Roster (see below) or using the Invitation to Bid process with advertisement required for projects over \$200,000. If using the Small Works Roster:
 - \$10,000 - \$50,000: Invitation to Quote, three quotes required.
 - \$50,000 - \$250,000: Invitation to Quote, five quotes required, equitably distributed among the roster.
 - \$250,000 - \$350,000: Invitation to Quote, five quotes required, notify remainder of roster.
- Over \$350,000: Invitation to Bid, advertisement required.

Invitation to Bid Procedures

This section outlines the procedures required for formal bidding, or the Invitation to Bid (ITB) process. Steps include writing clear bid specifications, advertising, receiving and opening bids, and determining the lowest responsive and responsible bidder to award the contract.

Bid Specifications

Bid specifications should incorporate a clear and accurate description of the technical requirements for the material, product, or service to be purchased. Such descriptions should not contain features that unduly restrict competition, while also provide enough specificity that vendors have the opportunity to make a bid that provides the best value and quality.

When it is impractical or uneconomical to make clear and accurate description requirements, a “brand name or equal” description may be used. The responsibility of demonstrating to the NPRSA’s satisfaction that a product is “equal” to that specified shall be on the vendor proposing the substitution. Requests for approval of substitutions must be made with sufficient time to allow the NPRSA to adequately review the proposal, including time for vendors to respond to questions and requests for additional information or clarification. NPRSA has no obligation to accept proposed substitutions. Acceptance of a substitute product proposed as an “equal” to that specified will be made in writing. If this acceptance occurs prior to the bid, other bidders will be notified to the extent practical.

Advertising

Providing public notice of bidding opportunities increases opportunity for competition. Advertising on the NPRSA website and in the established newspaper of record is required when purchasing supplies and equipment, general services, and public works (when not using the Small Works Roster) over \$200,000. Post the notice with sufficient time to allow prospective vendors to submit bids. Best practices for advertisements suggest including the following information:

- Title of the project
- Nature and scope of the work
- Where contract documents (plans, specifications) may be obtained
- Cost to obtain a set of contract documents
- Place, date, and time that bids are due
- If for a public work, state that a bid bond must accompany the bid
- Statements that the NPRSA retains the right to reject any or all bids, and to waive minor irregularities in the bidding process

See the NPRSA Procedure Manual for instructions on posting on the website and advertising in the established newspaper.

Receiving and Opening Bids

Bids will be submitted as specified in the invitation for bid by the appointed date and time listed in the invitation. Each bid will be date and time stamped as it is received. Late bids will not be accepted. If the bid is a sealed bid, all qualified bids will be opened and read aloud publicly at the appointed time.

Staff shall not inform a contractor of the terms or amount of any other contractor's bid for the same project prior to the bid opening date and time. Once bids have been submitted (and opened, if the bids are sealed), the NPRSA may not negotiate with bidders.

In addition to responding the bid specifications, bids must also include bid security, a non-collusion affidavit, statement of compliance with wage payment laws, and for public works projects over \$1 million, a roster of sub-contractors.

1. Bid Security

Bid security is required for all competitive bidding for public works and must be submitted in the bid package. Security shall be in the form of a bond with a value of at least 5% of the amount of the bid, provided by a surety company that is authorized to do business in Washington State, or the equivalent in cash or certified check. Noncompliance will result in rejection of the bid. If a bidder is permitted to withdraw a bid before award, the bid security shall be returned.

Bid security shall be required on bids for materials, supplies, and equipment only if it is determined to be necessary by the Executive Director.

2. Non-Collusion Affidavit

Each bidder shall be required to warrant that their bid is genuine, and that they have not entered into collusion with other bidders, by submitting with their bid an executed and notarized affidavit on a form approved through legal consultation.

3. Statement of Compliance with Wage Payment Laws
[RCW 39.04.350](#) requires that every bidder on a public works project must submit, as part of their bid package, a sworn statement that they have not willfully violated wage payment laws within the past three years in order to be considered a responsible bidder.
4. Roster of Sub-Contractors
[RCW 39.30.060](#) specifies that in order for their bid to be considered responsive, every bidder for a public works contract of over \$1 million must submit a roster of all subcontractors that will be used for heating, ventilation and air conditioning, plumbing, and electrical work.

Awarding the Contract: The Lowest Responsive and Responsible Bidder

The contract must be awarded to the lowest responsive and responsible bidder who meets the requirements and criteria included in the bid specifications. If the lowest responsive and responsible bidder is not selected, the NPRSA must reject all bids. An invitation for bids may be cancelled. Additionally, the NPRSA may, at its sole discretion, choose to reject all bids.

A responsive bidder is considered to be a person or legal entity who has submitted a bid conforming in all material respects to the terms and conditions, specifications and other requirements in the bid specifications. The NPRSA may deem a bid to be non-responsive if it does not conform to the essential requirements listed in the bid specifications. A responsible bidder is a person or legal entity who has the capability in all respects to perform in full the contract requirements, and has the integrity and reliability which will assure good faith performance. Additional requirements of bidder responsibility are listed in [RCW 39.04.350](#).

If the NPRSA determines a bidder to be not responsible, it must provide (in writing) the reasons for the determination. A bidder can appeal the determination per the appeals process listed in this document. The NPRSA must consider the additional information before issuing its final determination. If the final determination affirms that the bidder is not responsible, the NPRSA may not execute a contract with any other bidder until two business days after the bidder determined to be not responsible has received the final determination.

When a trade-in option exists and is in the NPRSA's best interest, the price offered on the trade will be considered when determining the lowest responsive and responsible bid. Additionally, [RCW 39.30.040](#) allows any local sales tax revenue generated by the purchase to be considered in

determining the lowest responsive and responsible bid. Other preferences favoring local businesses are not permitted.

Records Management

Staff are to maintain records sufficient to detail the history of procurement. All quote/bid documents must be retained as indicated in the State of Washington Retention Schedule, and be available for public inspection. These records will include (but are not necessarily limited to) the following:

- Rationale for the method of procurement
- Selection of contract type
- Contractor selection or rejection
- Basis for the contract price
- Records of each contractor's formal bids and any specific conditions imposed on the bid

Vendor Appeals

Vendors may appeal a proposal solicitation or award of contract issued by the NPRSA, provided that the vendor strictly follows the vendor appeals procedures. Prior to the deadline for submitting bids or proposals, vendors may appeal specifications, terms, or requirements. After the deadline for submission of bids or proposals, vendors may appeal the award or pending award to the apparent low bidder, or the selection of the most advantageous proposal. The appeal must:

- Be submitted in writing;
- Explicitly identify itself as an appeal;
- Explicitly identify the bid/project/request for which the appeal is made;
- Explicitly state all reasons and bases in law and fact supporting the appeal (including, but not limited to, identification of any and all specifications, terms, requirements, or conditions to which the vendor objects);
- Include any and all supporting documents; and
- Be received by NPRSA staff within the following deadlines:
 - For appeals involving specifications, terms, conditions, or requirements – no later than 7 business days prior to the bid deadline.
 - For appeals involving an award or pending award - no later than 5 business days after the award is made.

A vendor's initial appeal will be reviewed by the Executive Director with legal and financial consultation, if necessary. The initial appeal will be decided based upon the written materials,

supporting documents, and other information obtained by those reviewing the appeal or protest. A meeting or conference with the appellant will occur only if the Executive Director determines that a meeting would materially assist the NPRSA in making its decision. Only those issues identified by the appellant in the initial written appeal will be considered. The Executive Director will issue a written decision no later than 10 business days after staff receive the initial appeal.

The appellant may file an appeal to the NPRSA's decision, to be decided by the Board. The appellant must submit the appeal in writing to Staff no later than 7 business days after the date of the NPRSA's written decision. The appeal must state the basis in law or fact for the appeal, include a copy of the initial appeal and the decision from which the appellant appeals, and state whether the appellant requests time to appear before the Board to present the appeal. The Board will not consider any issues that were not raised in the initial appeal or protest. At its sole discretion, the Board may decide to allow the appellant to make any presentation other than the written submission if the Board finds that such a presentation would materially aid its decision. The Board's decision shall be final and binding.

Contract Approval and Management

Accidental losses can arise during and as a result of the activities during the contract fulfillment process. The NPRSA seeks to transfer responsibility for such events to those with whom it contracts. This section outlines insurance requirements, who has authority to approve contracts and change orders, and provides more details about the unique requirements for public works contracts.

Grants Management

The Executive Director, at their sole discretion, may enter into agreements to pursue grant funding. If the grant requires a match, the Executive Director may enter into the agreement if the grant match has already been approved by the Board.

Insurance

The standard requirement for insurance coverage is a policy for \$1 million. If the activity being performed in the contract is determined to be higher or lower risk, the Executive Director may negotiate the insurance requirement, with legal consultation, if necessary.

Contract Approval

Contracts are to be approved as listed below, provided that the total amount of the contract is within previously approved budget appropriations. The Board must approve any contract if the total cost exceeds previously approved budget appropriations.

- Under \$100,000: Executive Director may approve, unless the total exceeds previously approved budget appropriations.
- Over \$100,000: NPRSA Board must authorize the Executive Director to enter into the agreement.

Change Orders

Change orders are to be approved as listed below, provided that the changes do not increase the project's cost in excess of previously approved budget appropriations. The Board must approve any change order that increases a project's cost beyond previously approved budget appropriations. Other change orders, if not listed here, must be approved by the Board.

- Total cumulative amount of change orders is 10% or less: Executive Director may approve, unless the change order requires additional budget appropriations.
- Total cumulative amount of change orders is 10% or more: Board must approve the change order.
- Any time or working days extension: Executive Director may approve.

Public Works Contracts

There are additional requirements for contracts for public works projects specifically, which include prevailing wage, bonds, and retainage.

Prevailing Wages

Prevailing wages are established by the Washington State Department of Labor and Industries for each trade and occupation employed in the performance of public work. They are reflective of local wage conditions including factors such as the hourly wages, usual benefits, and overtime paid to the majority of workers, laborers, and mechanics within each county.

The NPRSA is required by [RCW 39.12.040](#) to require contractors to pay prevailing wages on all public works contracts. A "Statement of Intent to Pay Prevailing Wages" must be received from a contractor before any payment is made, and an "Affidavit of Wages Paid" must be received following final acceptance of the work.

Performance Bonds and Retainage

[RCW 39.08.010](#) mandates that the NPRSA require a performance bond for every public works contract. This ensures that the job will be completed and that all workers, suppliers, and subcontractors will be paid. The bond shall be executed by a surety company authorized to do business in Washington State, in an amount equal to 100% of the price specified in the contract. [RCW 39.08.015](#) subjects the NPRSA to claims of “laborers, materialmen, subcontractors, and mechanics” if the required performance bond is not obtained.

Retainage

For contracts of \$150,000 or less, the NPRSA is allowed (at the option of the contractor) to forego requiring a performance bond. Instead, the NPRSA may retain 10% of the contract for 30 days after final acceptance, or until receipt of all necessary releases from the Department of Revenue, Department of Labor & Industries, and Employment Security Department, and settlement of any liens filed under RCW 60.28 (whichever is later). The intent of this exception is to assist small contractors who may have difficulty securing a bond.

Surplus of NPRSA Property

The Board may authorize the sale or disposal of NPRSA property, provided that the property is no longer needed and that notice of intention to sell is given as provided in this section. The property will be deemed as surplus or scrap.

If grant funding was used to purchase the property, permission must be obtained from the grantor before selling or disposing of any property. Failure to obtain permission could obligate the NPRSA to repay grant funding.

Surplus is considered any tangible, personal property owned by the NPRSA that is no longer needed or usable, presently or in the foreseeable future. Scrap is any equipment or material which cannot serve its original purpose.

Sales of surplus items to other governmental agencies may occur via private sale. Other sales of surplus items shall be sold via public auction, utilizing a third-party auction service. Scrap may be sold via public auction, via private sale at prices established by current market conditions, or may be donated or disposed of if there is not a viable market. Trade-in of old equipment to upgrade similar or reasonably related is permitted when it is in the best interest of the NPRSA.

Appendix

Appendix A – How to Buy Chart

| Purchase Type | Cost & Solicitation Method | Contract Approval |
|---|--|---|
| Supplies and Equipment | < \$10,000 – Direct Negotiation \$10,000 - \$50,000 – ITQ, 3 quotes \$50,000 - \$200,000 – ITB > \$200,000 – ITB, advertisement required | < \$100,000 – ED > \$100,000 – Board |
| General Services | | |
| Technology Software & Services | | |
| Professional Services | Optional: RFQ or RFP | |
| A&E Services | RFQ only | |
| Public Works | < \$10,000 – Direct Negotiation \$10,000 - \$350,000 – Small Works (see below) or ITB (advertisement required over \$200,000) > \$350,000 – ITB, advertisement required <u>Small Works</u> \$10,000 - \$50,000 – ITQ, 3 quotes \$50,000 - \$250,000 – ITQ, 5 quotes distributed \$250,000 - \$350,000 – ITQ, 5 quotes notify roster | |

Reference Material

Templates supporting the procurement and contracting processes can be found in the NPRSA Procedure Manual. These may be updated or modified at any time.