

Public Works and Purchasing Policy

Purpose

The intent of the policy is to ensure that public contracts are managed satisfactorily and efficiently, at the least cost to the public and the greatest value to Timberland Regional Library (TRL).

Scope

This policy governs TRL's public works projects, purchases of goods, supplies and equipment, and procurement of services.

Policy

TRL will use a competitive process to solicit and evaluate proposals based on relevant laws when undertaking public works projects as established by the Revised Code of Washington (RCW) and any allowable practices under such statutes. As TRL is an agency created by an interlocal agreement between Grays Harbor, Lewis, Mason, Pacific, and Thurston Counties, TRL will follow the competitive bidding laws for those jurisdictions. Bidding, contracting, purchasing and procurement procedures and guidelines will be established and maintained by the Executive Director or designee to assure a competitive, open, fair, and compliant process.

Public Works Projects

- **Prevailing Wages:** All contracted public work projects require payment of prevailing wages under RCW 39.12. Contractors must be told in advance that prevailing wages must be paid to all employees who work on the contract. It is the contractor's responsibility to file a Statement of Intent to Pay Prevailing Wages and applicable affidavits with the Industrial Statistician of the Department of Labor and Industrial Services.
- **Small Works Roster (SWR):** Public works projects of more than forty thousand dollars (\$40,000) and less than three hundred, fifty thousand dollars (\$350,000) may use a SWR process to solicit bids. TRL will act in accordance with all methods and provisions outlined in RCW 39.04.152 when utilizing a SWR process, TRL will establish and maintain a Business Utilization Plan as required to access direct contracting options as part of that process. For public works projects less than forty thousand dollars (\$40,000), TRL can direct contract or use competitive bidding options as desired.
- **Advertising Requirements:** For public works projects that do not use the SWR or cost more than three hundred, fifty thousand dollars (\$350,000), TRL will publish a notice at least once in a local newspaper and no less than thirteen (13) days prior to the closing of the bid period. If the advertising is for a public works project, it will include notification that the work is subject to prevailing wages laws RCW 39.04.010/RCW 39.12.010-.020.
- **Alternative Procurement Methods:** Where the application of competitive procedures would lead to undesirable, uneconomical or impractical results, TRL may also use

alternative procurement methods for public works projects, such as use of design-build or general contractor/construction manager procedures, sole source or turnkey acquisition, or other alternative procurement methods permitted under Washington state law.

- Change Orders: During a project, bona fide unforeseen circumstances may arise, and a change order may well be required. As a rule, however, a change order should not be used to remedy defective work or for the loss of a contractor from failure to perform or bankruptcy. A competitive process should be used in such cases.
- Day Labor: TRL reserves the right to use library staff as day labor on projects with an estimated cost up to forty thousand dollars (\$40,000) (single craft) or sixty-five thousand dollars (\$65,000) (multiple craft) RCW 35.23.352.
- Emergencies: Emergency purchasing is used only to avoid immediate hazard to life, to preserve TRL's property, or to prevent significant service disruptions per RCW 39.04.280(3). In such a situation, the Executive Director or designee may declare that an emergency exists, waive competitive proposal requirements, and award all necessary contracts on behalf of TRL to address the emergency. If a contract is awarded without competitive requirements due to an emergency, written proof of the existence of an emergency must be provided to the Board of Trustees and entered into the recorded minutes no later than two weeks following the contract's award.
- On-call Services: TRL uses on-call vendors/contractors to complete non-routine maintenance and small repair projects. Frequently the work includes troubleshooting to determine the proper course of action to resolve a building or equipment failure. Vendors and contractors may be selected from the appropriate SWR and local vendors can be used as needed for emergency situations.
- Maintenance: Maintenance (other than ordinary maintenance) and janitorial and building service maintenance will be performed under a maintenance contract. TRL will bid out each contract at no less than every three (3) years to identify potential vendors for all needed categories of maintenance services.
- Performance Bonds: One hundred percent (100%) performance bonds are required on all public works projects more than one hundred fifty thousand dollars (\$150,000). On contracts less than one hundred fifty thousand dollars (\$150,000), at the option of the contractor as defined in RCW 39.10.210, TRL may retain ten percent (10%) of the contract amount for a period of thirty (30) days after date of final acceptance, or until receipt of all necessary releases from the department of revenue, the employment security department, and the department of labor and industries and settlement of any liens filed under chapter RCW 60.28, whichever is later. The recovery of unpaid wages and benefits must be the priority for any actions filed against retainage held by TRL. On contracts less than five thousand dollars (\$5,000), no performance bond or retainage is required.
- Phasing: TRL may not break a public works project into separate phase to keep costs below any applicable bidding threshold, even though those phases are performed at different intervals of time.

Purchasing

- Purchases of Goods, Supplies and Equipment: TRL shall purchase and acquire goods, supplies and equipment in such a way as will assure ease and economy in acquisition, including without limit, when appropriate, through interlocal joint purchasing arrangements. Competitive pricing is not required for the acquisition of library materials and resources (books, magazines, media, electronic databases,

etc.). Administrative procedures and guidelines will be established and maintained by the Executive Director or designee that assure a competitive, open, and fair purchasing process.

- Architects and Engineers: RCW 39.80 requires that any service that would be provided by a registered architect, engineer, land surveyor or landscape architect must be procured through qualifications-based selection. Requests for Qualifications (RFQ) ask proposers to submit qualifications, if not already on file, for a proposed scope of services in response to TRL's specific needs. Qualified consultants may be used by TRL for additional projects within three (3) years of qualification.
- Other Professional Services, Personal Services, and General Services: TRL may, but is not required to, procure other professional services, including legal services, personal services and general services utilizing a competitive process.

General Provisions

- Conflicts of Interest: No TRL Trustee or employee may benefit, directly or indirectly, in whole or in part, from any TRL contract for goods or services nor accept any compensation, gratuity or gift in connection with such contracts RCW 42.23.030.
- Government Contracts: TRL is authorized to purchase equipment, supplies, furnishings, and other property, without advertising, giving notice, or inviting proposals through federal, state, or local government contracts to obtain the best price RCW 39.32.070-090.
- Sales Tax: Sales tax applies to nearly every sale of tangible personal property and some services. For solicitation purposes, the tax must be included when determining the cost of a public work, or when calculating the cost of materials, supplies, and equipment purchased separately from a public work.
- Small, Minority, Women and Veteran Owned Firms: TRL encourages small, minority, women, and veteran owned firms to bid on our public works projects, services, and purchases. However, TRL does not discriminate against or give preferential treatment to any business.
- Sole Source Providers: Sole source purchasing is used when, due to unique characteristics of the requested product/service there is only one product or service capable of fulfilling TRL's requirement and only one vendor that sells that product or service. Validation of a vendor as a sole source provider and pre-approval by the Executive Director is required prior to any sole source purchase or acceptance of bid.
- Transparency and Reporting: TRL will maintain and annually produce for the Board of Trustees a list of all public works contracts awarded following the Records Retention Policy RCW 39.04.200.
- Warranties: TRL requires warranties on all public works projects and repairs for a minimum of one year. Longer warranties may be negotiated for specific projects.

Administration: The Executive Director or designee is responsible for the administration of this policy, for establishing administrative procedures for its implementation and for making the policy available for the public at each branch and via TRL's web site.

Definitions

Change order: A change order is an alteration to a project during construction that is not consistent with the proposal specifications upon which the contract was awarded.

Emergency: An emergency means unforeseen circumstances beyond the control of the municipality that either:

- Present a real, immediate threat to the proper performance of essential functions.
- Will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken RCW 39.04.280(3).

Maintenance and ordinary maintenance: Maintenance is defined as keeping existing facilities in good usable, operational condition WAC 296-127-010(7)(a)(iv). Ordinary maintenance is defined as maintenance work performed by the regular employees of TRL WAC 296-127-010(7)(b)(ii).

Public work: Public work is defined as all work, construction, alteration, repairs, or improvements to physical property, other than ordinary maintenance, on any public building or property (RCW 39.04.010).

Purchasing: For the purpose of this policy, purchasing includes the acquisition of goods, supplies, equipment, and services.

Responsible bidder: A responsible or responsive bidder is one who is deemed to be capable of supplying the goods or services requested in a solicitation. Criteria for responsible bidders for public works projects can be found in RCW 39.04.350 and must be adhered to for all public works contracts. A responsible bidder must not be disqualified from bidding under RCW 39.12.065(3), certify through a sworn statement or an unsworn declaration under penalty of perjury that they are not a willful violator of labor laws in reference to RCW 49.48.082, and have received training within the past three (3) years provided by the Department of Labor and Industries on the requirements related to public works and prevailing wages, or be exempt from this requirement through prior compliance.

Background

TRL's Board of Trustees under RCW 27.12.210(5) has the exclusive control of the finances of the library; and, under RCW 27.12.210(10), has the authority to adopt rules for the efficient management and control of the library. The Board of Trustees now wishes to provide a master policy to serve as a guideline for staff when obtaining proposals, bids and quotes for public works projects, purchases of goods, supplies and equipment, and procurement of services.

Citations

RCW 27.12.210(5); RCW 27.12.210(10); RCW 39.04.280(3); WAC 296-127-010(7)(a)(iv). WAC 296-127-010(7)(b)(ii); RCW 30.04.020; RCW 39.04.350; RCW 39.12.065(3); RCW 49.48.082; Chapter 39.12 RCW; ; RCW 39.04.010; RCW 39.12.010-.020; RCW 35.23.352; RCW 39.10.210; Chapter 39.80 RCW; RCW 42.23.030; RCW 39.32.070-.090; RCW 39.04.200; RCW 39.34.010-39.34.050; RCW 39.04.152.

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By the enactment of this policy the Board of Trustees of Timberland Regional Library is on currently rescinding any prior policy or procedure within TRL that is either in conflict with or expansive of the matters addressed in this policy.