

**BOARD OF COUNTY COMMISSIONERS
COUNTY OF KITTITAS
STATE OF WASHINGTON**

Resolution No. 2019-197

A RESOLUTION AMENDING KITTITAS COUNTY'S SMALL PUBLIC WORKS ROSTER PROCESS TO AWARD PUBLIC WORKS CONTRACTS, A CONSULTING SERVICES ROSTER FOR ARCHITECTURAL, ENGINEERING, AND OTHER PROFESSIONAL SERVICES, AND A VENDOR ROSTER FOR GOODS AND SERVICES NOT RELATED TO PUBLIC WORKS CONTRACTS.

WHEREAS, RCW 39.04.155, which recently has been amended, and other laws regarding contracting for public works by municipalities, allow certain contracts to be awarded by a small works roster process; and

WHEREAS, Ch. 39.80 RCW and other laws regarding contracting for consulting services by municipalities allow certain contracts to be awarded by a consultant roster process; and

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 roster process;

NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF KITTITAS COUNTY, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Prior Resolutions. Resolutions 2017-206, 2017-076, 2017-011, 2010-12, 2009-105, 2007-123, 2006-28, 2003-128, and 90-44, which established Kittitas County's small works and small purchase roster, are hereby amended such that the processes and procedures contained in this Resolution shall be followed instead.

Section 2. MRSC Rosters. The County continues to contract with the Municipal Research and Services Center of Washington (MRSC) to have their official rosters hosted in the online database for County use for small public works contracts, consulting services, and vendor services developed and maintained by MRSC through MRSC Rosters.

Section 3. Small Public Works Roster. The following amended small works roster procedures are established for use by the County pursuant to RCW 39.04.155:

1. **Cost.** The County 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 and Fifty Thousand Dollars (\$350,000.00), which includes the costs of labor, material, equipment, sales, or use taxes as applicable. Instead, the County may use the Small Public Works Roster procedures for public works projects as set forth in this resolution. 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. **Publication.** At least once a year, MRSC shall, on behalf of the County, publish in a newspaper of general circulation within the municipality's jurisdiction a notice of the existence of the small works roster and solicit the names of contractors for the small works roster. MRSC shall add responsible contractors to the small works roster at any time that a contractor completes the online application provided by MRSC, and meets minimum State requirements for roster listing.
3. **Telephone, Written, or Electronic Quotations.** The County 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 a contractor who meets the mandatory bidder responsibility criteria in RCW 39.04.350(1). The County may establish supplementary bidder criteria under RCW 39.04.350 (2) to be considered in the process of awarding a contract.

- a) A contract awarded from a small works roster will 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.
- 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. "Equitably distribute" means that the County may not favor certain contractors on the appropriate small works roster over other contractors on the appropriate small works roster who perform similar services.

If the estimated cost of the work is from one hundred and fifty thousand dollars (\$150,000) to three hundred and fifty thousand dollars (\$350,000), the County may choose to solicit bids from less than all the appropriate contractors on the appropriate small works roster but must notify the remaining contractors on the appropriate small works roster that quotations on the work are being sought. The County 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 email.
- c) At the time bids are solicited, the County 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 County 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 and/or electronic request.
4. **Waiver of Retainage Requirements.** For projects awarded under the small works roster process, the County may waive the retainage requirements of RCW 60.28.011(1)(a), thereby

assuming the liability for the contractor's nonpayment of laborers, mechanics, subcontractors, materialpersons, suppliers, and taxes, increases, and penalties imposed under Titles 50, 51, and 82 RCW that may be due from the contractor for the small works project. However, the County shall have the right of recovery against the contractor for any payments made on the contractor's behalf.

5. **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 County may award such a contract using the limited public works process provided under RCW 39.04.155(3). For a limited public works project, the County 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. After an award is made, the quotations shall be open to public inspection and available by electronic request.

For limited public works projects, the County 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, materialpersons, suppliers, and taxes imposed under Title 82 RCW that may be due from the contractor for the limited public works project. However, the County shall have the right of recovery against the contractor for any payments made on the contractor's behalf.

The County shall maintain a list of the contractors contacted and the contracts awarded during the previous 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.

6. **Determining the Lowest Responsible Bidder.** The Board of County Commissioners 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 County Commissioners may call for new bids. A responsible bidder shall be a registered or licensed contractor who meets the mandatory bidder responsibility criteria established by RCW 39.04.350 and who meets any supplementary bidder responsibility criteria established by the County. The mandatory bidder responsibility criteria of RCW 39.04.350 now includes a requirement the County must verify a bidder has received training on prevailing wage and public works requirements or that the bidder is exempt from this training because they have completed three or more public works projects and have had a valid Washington business license for three or more years. This verification is required prior to awarding a contract for prevailing wage and public works projects.

In addition, as required by RCW 39.06.020, a public works contractor must verify responsibility criteria for each first tier subcontractor, and a subcontractor of any tier that hires other subcontractors must verify responsibility for each of its subcontractors. Verification shall include that each subcontractor, at the time of subcontract execution, meets the responsibility criteria listed in RCW 39.04.350 and, if appropriate, possesses licenses required by chapter 19.28 RCW or 70.87 RCW. This verification requirement, as well as the responsibility requirement, must be included in every public works contract and subcontract of every tier.

7. **Award.** All of the bids or quotations shall be collected by County staff.
 - a) County staff shall then present all bids or quotations and their recommendation for award of the contract to the Board of County Commissioners. The Board of County Commissioners shall consider all bids or quotations received, determine the lowest responsible bidder, and award the contract; or
 - b) If the Board of County Commissioners delegates the authority to award bids to a County department or office for public works, that County department or office shall have the authority to award public works contracts without Board of County Commissioners approval, provided that the Board of County Commissioners shall ratify the bid approval at the next scheduled Board of County Commissioners meeting by means of the consent agenda. For public works projects costing more than the authorized amount, the Board of County Commissioners shall award all public works contracts.

Section 4. Consulting Services Roster. The following consulting services roster procedures are established for use by the County pursuant to RCW 39.80.030:

1. **Consulting Services.** Consulting services are professional services that have a primarily intellectual output or product and include architectural and engineering services as defined in RCW 39.80.020.
2. **Publication.** At least once a year, MRSC shall, on behalf of the County, publish in a newspaper of general circulation within the municipality's jurisdiction a notice of the existence of the consulting services roster and solicit the names of consultants for the consulting services roster. MRSC shall add responsible consultants to the consulting services roster at any time that a consultant completes the online application provided by MRSC, upload a Statement of Qualifications, and meets minimum State requirements for roster listing.
3. **Review and Selection of the Statement of Qualifications Proposals.** The County shall use the following process to select the most highly qualified Architectural or Engineering firm off of the Consulting Services Roster to provide the required services:
 - a) The Board of County Commissioners shall establish criteria that must be considered in evaluating Architectural or Engineering firms for a given project. Such criteria shall include a plan to insure that minority and women-owned firms and veteran-owned firms are afforded the maximum practicable opportunity to compete for and obtain public contracts for architectural or engineering services. The level of participation by minority and women-owned firms and veteran-owned firms shall be consistent with their general availability within the jurisdiction of the County.
 - b) County staff shall evaluate the written statements of qualifications and performance data on file with the County at the time that architectural or engineering services are required;
 - c) Such evaluations shall be based on the criteria established by the Board of County Commissioners;

- d) County staff shall conduct discussions with one or more firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services; and
- e) The firm deemed most highly qualified by the agency to do the project will be selected.

4. **Award.**

- a) The Board of County Commissioners considers the proposal received and awards the contract; or
- b) If the Board of County Commissioners delegates the authority to award projects to a County department or office for consulting services, the County department or office shall have the authority to award contracts for consulting services without approval of the Board of County Commissioners, provided that the Board of County Commissioners shall ratify the award approval at the next scheduled Board of County Commissioners meeting by means of the consent agenda. For consulting services costing more than the authorized amount, the Board of County Commissioners shall award all contracts for consulting services.

Section 5. Vendor List Roster. The following vendor list roster procedures are established for use by the County pursuant to RCW 39.04.190:

- 1. **Purchase of materials, supplies, or equipment not connected to a public works project.** The County is not required to use formal sealed bidding procedures to purchase materials, supplies, or equipment not connected to a public works project where the cost will not exceed ten thousand dollars (\$10,000). The County will attempt to obtain the lowest practical price for such goods and services.

For the purchase of materials, supplies, or equipment not connected to a public works project, where the cost is between ten thousand and fifty thousand dollars (\$10,000-\$50,000), the County may dispense with advertisement and formal sealed bidding, provided the process described in paragraphs 2-6 of this Section are used.

- 2. **Publication.** At least twice per year, MRSC shall, on behalf of the County, publish in a newspaper of general circulation within the municipality's jurisdiction a notice of the existence of the vendor list roster and solicit the names of vendors for the vendor list roster. MRSC shall add responsible vendors to the vendor list roster at any time when a vendor completes the online application provided by MRSC, and meets minimum State requirements for roster listing.
- 3. **Telephone, Written, or Electronic Quotations.** The County shall use the following process to obtain telephone or written quotations from vendors for the purchase of materials, supplies, or equipment not connected to a public works project:
 - 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) The County shall make a good faith effort to contact at least three (3) of the vendors on the roster to obtain telephone or written quotations from the vendors for the required materials, supplies, or equipment;
 - c) The County shall not share telephone or written quotations received from one vendor with other vendors soliciting for the bid to provide the materials, supplies, or equipment;
 - d) A written record shall be made by the County of each vendor's bid on the material, supplies, or equipment, and of any conditions imposed on the bid by such vendor;
4. **Determining the Lowest Responsible Bidder.** The County shall purchase the materials, supplies, or equipment from the lowest responsible bidder, 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 County may call for new bids.
5. **Award.** All of the bids or quotations shall be collected by the County. The County shall create a written record of all bids or quotations received, which 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.
- a) The County shall then present all bids or quotations and their recommendation for award of the contract to the Board of County Commissioners. The Board of County Commissioners shall consider all bids or quotations received, determine the lowest responsible bidder, and award the contract; or
 - b) If the Board of County Commissioners delegates the authority to award bids to a County department or office for materials, supplies, or equipment, the County department or office shall have the authority to award contracts without Board of County Commissioners' approval, provided that the Board of County Commissioners shall ratify the bid award approval at the next scheduled Board of County Commissioners' meeting by means of the consent agenda. For materials, supplies, or equipment costing more than the authorized amount, the Board of County Commissioners shall award all vendor contracts.
6. **Posting.** A list of all contracts awarded under these procedures shall be posted at County 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 6. Cooperative Purchasing. The County encourages and authorizes staff to consider the use of lawful cooperative purchasing arrangements, or "piggybacking," as an alternative to the competitive bidding process set forth in this resolution, if it would result in better pricing and/or a more efficient use of staff time and resources, so long as any cooperative purchasing arrangement complies with the County's internal policies, as well as any other applicable local, state, or federal bidding or purchasing laws.

Section 7. Federal Procurement Requirements. For purchases and procurements using federal funds, County staff must adhere to the Federal Procurement requirements set forth in 2 CFR sections 200.317 through 2 CFR 200.326 Uniform Guidance, based upon the five methods (1. Micro-Purchases; 2. Small Purchases; 3. Sealed Bids; 4. Competitive Proposals; 5. Sole Source):

Method	Threshold	Applies to	Involves
1. Micro Purchase	\$10,000 or less (\$2,000 PW)	Supplies or services (aggregate)	No competition if price consider reasonable. Equitably distribute.
2. Small Purchase	Under \$250,000	Services, supplies or other property	Price or rate quotations
3. Sealed Bids	\$250,000 or more	Services, supplies or other property as appropriate	Formal solicitation with a firm-fixed price contract awarded to responsive bidder
4a. Competitive Proposals- Services	\$150,000 or more	When sealed bids are not appropriate (price must be a factor)	More than one source submits an offer, and either a fixed-price or cost-reimbursement type contract is awarded
4b. Competitive Proposals - Architecture & Engineering	No threshold	Architecture & engineering (price not a factor)	More than one source submits an offer, and either a fixed-price or cost-reimbursement type contract is awarded
5. Sole Source	B and D above	Proposals from only once source if the following apply: sole/only source (RARE), emergency, authorized by awarding agency, or inadequate competition	Clear documentation that requirements are met and possibly obtain awarding agency approval.

If the Federal Procurement requirements conflict with other terms of this Resolution, the Federal Procurement requirements shall govern if federal funds are being used. Additionally, County staff must adhere to the County's standard of conduct policy regarding the selection, award and administration of federal contracts. This policy can be found at https://camas-wiki.co.kittitas.wa.us/policy/wiki/Personnel_Policy_4.5_Conflicts_of_Interest.

PASSED this 17th day of December 2019 and signed in authentication of its passage.

**BOARD OF COUNTY COMMISSIONERS
KITITAS COUNTY, WASHINGTON**


Chair


Vice-Chair


Commissioner

