



CITY OF  
**MUKILTEO**

**Procurement Policies  
and  
Procedures**

---

**Amended and Adopted  
January 21, 2025**

# City of Mukilteo

## Procurement Policies & Procedures

### Table of Contents

<b>POLICY.....</b>	<b>1</b>
Methods of Procurement.....	1
<i>Invitation to Bid. ....</i>	1
<i>Request for Proposals. ....</i>	1
<i>Request for Qualifications. ....</i>	1
General Purchases.....	1
Public Works Projects and Prevailing Wage Laws.....	2
Apprenticeship Requirements.....	2
Professional and Personal Services .....	2
City On-Call Roster .....	2
Non-Architectural and Engineering Services .....	3
Architectural, Engineering and Design Services .....	3
Personal Services .....	3
Purchased Services (not related to public work).....	4
Verbal Quotes.....	5
Sole Source Purchases.....	5
Public Works .....	6
Community Service Group Contracts.....	7
Conflicts of Interest and Code of Ethics .....	7
Compliance with this Manual .....	8
<b>Bid Procedures.....</b>	<b>9</b>
Authorization Request.....	9
Publication of Notice.....	9
Notice Contents.....	9
Bid Opening.....	9
Report on Bids.....	9
Responsible Bidder Requirements.....	9
Bid Award.....	10
Rejection of Bids.....	10
Exemptions to competitive bidding requirements.....	11
1. Purchases that are clearly and legitimately limited to a single source of supply (Sole Source Vendor)....	11
2. Purchases involving special facilities or market conditions. ....	11
3. Surplus Property: .....	11
4. Purchases in the event of an emergency.....	11
5. Interlocal Cooperative Purchasing Agreements.....	11
6. Competitive Negotiations - Telecommunication Systems/Services .....	12
Small Works Roster .....	13
Awarding Work from the Small Works Roster .....	13
Optional Direct Contracting.....	14
<b>Change Orders.....</b>	<b>15</b>
For Change Orders Within City Council Authorized Budget Appropriations .....	15
For Change Orders in Excess of City Council Authorized Budget Appropriations .....	15
<b>Travel Expenses.....</b>	<b>16</b>

<b>Payment Processing.....</b>	<b>17</b>
Approvals .....	17
Accounts Payable .....	17
Hand-Issued Checks .....	17
Store-Issued Charge Cards .....	17
Bank Credit Cards .....	17
Petty Cash.....	17
Budget Adjustments .....	17

## **EXHIBITS**

Exhibit 1: Purchase Quotation Sheet.....	18
Exhibit 2: Sole Source Vendor Statement.....	19
Exhibit 3: Bid Recap Worksheet.....	22
Exhibit 4: Request for Reimbursement of Miscellaneous Expenses .....	22
Exhibit 5: Budget Adjustment Request.....	22
Exhibit 6: Employee Purchasing and Accounts Payable Agreement .....	22
Exhibit 7: Washington State Prevailing Wage Law .....	22

## POLICY

### **Methods of Procurement**

The City shall use the following methods for procuring goods and services:

#### ***Invitation to Bid.***

An Invitation To Bid, Or “ITB,” is the process of soliciting bids from qualified companies when costs are the only consideration. With an ITB, a reasonable time is given for prospective bidders to respond, bids are opened, and the contract is awarded to the lowest bidder. At a minimum, every ITB should include:

- Specifications (scope). This should be well-written and describe the project tasks, performance, and frequency of the services in adequate detail.
- Estimated schedule. This should be realistic and closely tied to the scope.
- Bid form. Develop a bid form to allow bidders to provide pricing.
- Qualifications. This outlines the minimum qualifications the service contractor must meet (financial capability, experience, language skills, licenses, equipment, etc.).
- Submittal deadline. Allow an adequate response time.
- The City’s standard terms and conditions. Attach a copy of the terms and conditions, if available.

#### ***Request for Proposals.***

A Request for Proposals (“RFP”) is the process of soliciting bids from qualified companies where cost is one factor in the contract awarding. At a minimum, every RFP should include:

- Statement of need (scope). This should be well-written and describe the project tasks, performance, and frequency of the services and products in adequate detail.
- Estimated schedule. This should be realistic, closely tied to the scope, and include the decision to award.
- Evaluation (scoring) criteria. Be clear and tie the criteria to the scope.
- Proposal elements. List all the information that interested firms should submit, including the firm’s general approach to the project, a list of key personnel who would work on the project with their experience and availability, and general scope and deliverables. Keep the submittal requirements, page limitations, and due date in the same section of the RFP. Allow for flexibility in the format of responses.
- Submittal deadline. Allow an adequate response time of 3-4 weeks. Accept electronic proposals and acknowledge receipt of all proposals.
- The City’s standard terms and conditions. Attach a copy of the terms and conditions, if available, to the RFP.

#### ***Request for Qualifications.***

A Request for Qualifications (“RFQ”) should only be used to establish a pool of qualified vendors for future bids. The City shall utilize RFQs for inclusion on any City authorized list of preferred vendors and contractors.

### **General Purchases**

“General purchases” are those purchases that do not qualify as a specific type of purchase or service, such as public works, professional services, or Architectural and Engineering Services. These services include, but are not limited to, supplies, office furniture, Information Technology purchases, materials, and city equipment. The City may use the MRSC Vendor List to fulfill general purchases it deems necessary.

Threshold Amount	Requirements
Under \$10,000	<ul style="list-style-type: none"><li>• No Competitive Bids</li></ul>

	<ul style="list-style-type: none"> <li>Approved by Department Director</li> </ul>
\$10,000 to \$50,000	<ul style="list-style-type: none"> <li>1-3 Written Quotes</li> <li>Approved by the Mayor or the City Administrator</li> </ul>
\$50,001 or more	<ul style="list-style-type: none"> <li>RFP or Quotes from MRSC Vendor list</li> <li>Awarded by City Council and approved by the Mayor or the City Administrator</li> </ul>

### **Public Works Projects and Prevailing Wage Laws**

Public works projects (“...all work, construction, alteration, repair or improvement that is executed at the cost of the state or any other local public agency...”), including maintenance when performed by contract, are governed by chapter 39.12 RCW Prevailing Wages on Public Works requirements, *regardless of contract amount*. It is the *responsibility of the contracting employee to notify the vendor of prevailing wage requirements and obtain compliance documentation prior to awarding any public works contract*. Public works contracts will only be awarded to contractors who document compliance with the Washington State Prevailing Wage Law. The department head or designee managing the project is responsible for collecting compliance documents. *Failure to follow prevailing wage laws will result in delayed or denied payment to the vendor. The City CANNOT pay for public works projects that are in violation of prevailing wage laws.* (See Exhibit 7.)

### **Apprenticeship Requirements**

HB 1050, adopted in 2023, significantly expands apprenticeship utilization requirements beginning July 1, 2024, with additional updates in 2026 and 2028. The new requirements state that apprentices must perform 15% or more of the total labor hours in public works contracts estimated at \$2 million or more. In subsequent years, apprenticeship utilization requirements will change twice more. On July 1, 2026, contracts over \$1.5 million must follow these regulations, and in 2028, the amount will be changed to \$1 million contracts.

### **Professional and Personal Services**

Professional or personal services involve specialized skill, education, and special knowledge. These services include, but are not limited to, architectural, engineering, design services, accounting, art, bond brokerage, insurance brokerage, legal, real estate appraisal, relocation assistance, title abstracts, surveying, soil analysis, and core testing. Procurement of professional and personal services will be in accordance with RCW 39.80 and RCW 39.29.

### **City On-Call Roster**

The City shall maintain an on-call roster of consultants, and the City shall issue an RFQ for interested consultants to respond for inclusion in the on-call roster. Advertising for the consultant roster may be performed when the City deems necessary for a one-year contract on the roster, subject to two optional one-year extensions. The consultant roster will distinguish between professional architectural and engineering services as defined in [RCW 39.80.020](#) and other consulting services. Firms or persons providing consulting services shall be added to the appropriate roster at any time they submit a written request and necessary records. The City reserves the right to publish an announcement on each occasion when professional services or other consulting services are required. The City will utilize its procurement software and the City’s website to publish opportunities. A competitive process is not required for professional or personal services other than professional engineering or architectural services for the design of City improvement.

**Professional Services-Notice**

The City shall publish the City's requirement for A & E professional services in advance. The notice must also provide the address of a representative of the City who can provide additional details. Notice can be either (1) publishing an announcement on each occasion when professional services are needed or (2) announcing generally to the public its projected requirements for any category of professional service to create and maintain a City consultant roster.

**Non-Architectural and Engineering Services**

Professional and technical services include disciplines such as attorneys, computer programmers, financial analysts, bond counsels, artists, planners, and real estate appraisers. Purchase of professional services requires completion of a City professional services contract that describes services to be performed and negotiated price. Prior experience with the City, time-frame for completing projects, and the value of a negotiated agreement will be considered when choosing a consultant/firm to perform professional services, as defined in this section.

**Architectural, Engineering and Design Services**

State statutes require advance notice of the requirement for architectural, engineering and design services, evaluation of firms' qualifications and performance, and negotiation with firms in accordance with adjudged qualifications. These services are to be acquired under the authority and procedures outlined in Chapter 39.70 RCW. Architectural, engineering, and design services contracts will be reviewed by the City Attorney to ensure RCW compliance. The City may use the MRSC consultant roster for A&E services, but it is not required. All documentation of the selection and procurement process should be saved with relevant contract documents. If the project includes grant funding, the grant conditions may require a specific solicitation process. To acquire A&E services, the City shall publish an RFQ. Responses to a RFQ should include:

- List of principals
- Previous projects
- Number of employees
- Licenses.

The City may distribute an RFQ for a services roster through MRSC or as part of a formal competitive solicitation. In the case of a formal solicitation, for consultants to submit a complete application, the RFQ can be combined with elements typically in an ITB, or it could be distributed as the first step in the review process prior to distributing RFQs. RFQs should be posted on the City's website.

**Personal Services**

State law does not provide an overarching definition of "personal services" and for the most part there are no specific statutory requirements. However, there is a definition in RCW 53.19.010 that will be used here: "'Personal service' means professional or technical expertise provided by a consultant to accomplish a specific study, project, task, or other work statement which may not reasonably be required in connection with a public works project meeting the definition in [RCW 39.04.010](#)(4). 'Personal service' does not include purchased services or professional (A&E) services procured using the competitive selection requirements in [RCW 39.80](#)."

Personal services are mostly intellectual in nature, require professional licensing or certification, and involve consistent exercise of judgment and discretion. Examples include accounting, executive recruitment, comprehensive plans, grant writing, legal services, strategic planning, and training. Personal services should not be confused with A&E services or purchased services.

Threshold Amount	Requirements
Under \$10,000	<ul style="list-style-type: none"> <li>• Direct negotiation, competitive proposals NOT required</li> <li>• May be approved by Department Director</li> </ul>
\$10,000 to \$50,000	<ul style="list-style-type: none"> <li>• 1-3 quotes and documents from the on-call consultant roster or MRSC Roster</li> <li>• May be approved by the Mayor or the City Administrator</li> </ul>
\$50,001 or More	<ul style="list-style-type: none"> <li>• 1-3 quotes and documents from on-call consultant roster or MRSC Roster</li> <li>• City Council approval</li> </ul>

RFPs are the most common solicitation process used for personal services. Subject to the requirements listed above, the following information should be used when sending an RFP:

- **Statement of Need (scope).** This should be well-written and detailed, describing the project tasks and products and listing the availability of supporting documents.
- **Estimated Project Budget.** State the estimated budget, but note that the amount is only an estimate.
- **Proposal Elements.** List all the information that interested firms should submit, including the firm's general approach to the project, a list of key personnel who would work on the project with their experience and availability, and general scope and deliverables. Keep the submittal requirements, page limitations, and due date in the same section of the RFP. Allow for flexibility in the format of responses.
- **Estimated schedule.** This should be realistic and closely tied to the scope.
- **Evaluation criteria.** Be clear, tie the criteria to the scope, and provide the scoring criteria.
- **Submittal Deadline.** Allow an adequate response time of 3-4 weeks. Accept electronic proposals and acknowledge receipt of all proposals.

#### **Purchased Services (not related to public work)**

“Purchased services” means services provided by a vendor to accomplish routine, continuing, and necessary functions including, but not limited to, services for equipment maintenance and repair; operation of a physical plant; security; computer hardware and software maintenance; data entry, contract programming, and analysis.” RCW 53.19.010. Purchased services are primarily related to physical activities that are usually repetitive, routine, or mechanical in nature, support the City’s day-to-day operations, involve the completion of specific tasks or projects, and involve minimal decision-making. Examples include janitorial services, delivery service, recycling/disposal pickup service, security monitoring, vehicle inspection, office furnishing installation, and HVAC system maintenance. The following is the bidding threshold amounts for Purchase Services:

Threshold Amount	Requirements
Under \$10,000	<ul style="list-style-type: none"> <li>• Direct negotiation of competitive proposals is not required.</li> <li>• May be approved by Department Director.</li> </ul>
\$10,000 to \$50,000	<ul style="list-style-type: none"> <li>• 1-3 quotes and documents from the on-call consultant roster or MRSC roster.</li> <li>• May be approved by the Mayor or City Administrator.</li> </ul>
\$50,001 or More	<ul style="list-style-type: none"> <li>• 1-3 quotes and documents from on-call consultant roster or MRSC roster.</li> <li>• Approved by City Council.</li> </ul>

There are no statutory requirements for soliciting purchased services so there are no established bid limits, advertising, bonding, retainage, or responsibility requirements when procuring and contracting for purchased services. However, if the project includes federal funding, the funding conditions may require a specific solicitation process.

When the City selects vendors, the award of a contract will be based on qualifications and price. All purchased services contracts may be issued for up to two years to coincide with the City's biennial budget cycle and follow the thresholds above.

To ensure that the City receives a fair price for purchased services, the following guidelines should be applied when procuring purchased services:

1. \$10,000 or less—Direct Negotiation. Procurements or purchases in this price range may be entered through direct negotiation. Competition is not required, though departments should still make every effort to receive the best price possible. Documentation (e.g., date, time, vendor contract name, phone number, email of applicant) on all quotes must be retained to the extent required under state law.
2. \$10,000.01-\$49,999 — 1-3 Quotes Solicited. For procurements or purchases in this price range, at least three (3) quotes can be obtained when possible. Quotes may be obtained by telephone or email. Documentation (e.g., date, time, vendor contract name, phone #, email of applicant) on all quotes must be retained to the extent required under state law.
3. \$50,000+ — Request for Proposals. For purchases in this price range, competitive quotes should be solicited from at least three (3) vendors or through an RFP. A bid security may be required in an amount and type approved by the project manager or superintendent. Documentation (e.g., date, time, vendor contract name, phone #, email of applicant) on all quotes must be retained to the extent required under state law. Subject to the requirements listed above, the following information should be used when sending an RFP:
  - **Statement of Need (Scope).** This should be well-written with an adequate level of detail describing the project tasks and products and listing the availability of supporting documents.
  - **Estimated Project Budget.** State the estimated budget but note that the amount is only an estimate.
  - **Proposal Elements.** List all the information that interested firms should submit, including the firm's general approach to the project, a list of key personnel who would work on the project with their experience and availability, and general scope and deliverables. Keep the submittal requirements, page limitations, and due date in the same section of the RFP. Allow for flexibility in the format of responses.
  - **Submittal Deadline.** Allow an adequate response time of 3-4 weeks. Accept electronic proposals and acknowledge receipt of all proposals.
  - **City's Standard Terms and Conditions.** Link will be inserted of a sample City contract.

### **Verbal Quotes**

Purchases requiring verbal quotes must be documented by a properly completed verbal quote log. Verbal quote logs are included on the back of the City of Mukilteo Order Form, which may be obtained from Finance. (Exhibit 1).

### **Sole Source Purchases**

A “sole source” is characterized as meeting one or more of the following standards: (a) the City department has conducted a screening process whereby it can justify purchase of a specific product; (b) the City requires legitimate specifications to which only one vendor can successfully respond; or (c) the product is available only through one manufacturer (or distributor) and the manufacturer so certifies. In any such case where

the purchase exceeds \$5,000, the vendor shall certify that the City is getting the lowest price it offers anyone. Purchases in excess of \$5,000 from a sole source vendor require prior approval of the Finance Department Director or designee and must be signed by requesting Department Director or Designee (Exhibit 2).

### **Public Works**

Per RCW 39.04.010, public work is all work, construction, alteration, repair, or improvement other than ordinary maintenance executed at the cost of the City or which is by law a lien or charge on any property therein. Public work does not include work, construction, alteration, repair, or improvement performed under contracts entered into under RCW 36.102.060(4) or under development agreements entered into under RCW 36.102.060(7) or leases entered into under RCW 36.102.060(8). WAC 296-127-010(7)(b)(ii) considers “ordinary maintenance” to be any work performed by your own staff. Therefore, all work completed by non-City staff for the construction, alteration, repair, or improvement, completed by anyone who is not City staff, the project qualifies as a “public work.” Contact the Contracts Team if there are any questions about a project being considered a public work.

RCW 35.23.352 provides the public works bidding requirements. Bids are required whenever the cost of the public work, including the cost of materials, supplies, and equipment, will exceed \$116,155 if more than one craft or trade is involved. If only a single craft or trade is involved, or if the project is one of street signalization or street lighting, bids are required if the cost is greater than \$75,500. All public works projects in any amount require a written contract, payment of prevailing wages, and insurance.

Thresholds for New Public Works Projects (Procurement and Signing Authority Requirements)

PUBLIC WORK			
	DOLLAR LIMIT	PROCUREMENT REQUIREMENTS	SIGNING AUTHORITY REQUIREMENTS
<b>Single Trade or Craft*</b>	\$0-\$75,500	Minimal Competitive Process, Small Works Roster, or Formal Competitive Bid Process	<ul style="list-style-type: none"> <li>• Under \$10,000- Approved by Department Director.</li> <li>• \$10,000-\$50,000 – Approved by City Administrator or Mayor.</li> <li>• \$50,001 or more – Approved by City Council.</li> </ul>
	Over \$75,500	Small Works Roster or Formal Competitive Bid Process	<ul style="list-style-type: none"> <li>• Approved by City Council.</li> </ul>
<b>Multi Trade or Craft**</b>	\$0-\$116,155	Minimal Competitive Process, Small Works Roster, or Formal Competitive Bid Process	<ul style="list-style-type: none"> <li>• Under \$10,000- Approved by Department Director.</li> <li>• \$10,000-\$50,000 – Approved by City Administrator or Mayor.</li> <li>• \$50,001 or more – Approved by City Council.</li> </ul>
	Over \$116,155	Small Works Roster or Formal Competitive Bid Process	<ul style="list-style-type: none"> <li>• Approved by City Council.</li> </ul>
<b>Any Project</b>	Over \$350,000	Formal Competitive Bid Process	<ul style="list-style-type: none"> <li>• Approved by City Council.</li> </ul>

\* “Craft” or “trade” means a recognized construction trade or occupation for which minimum wage categories are established by the Department of Labor and Industries of the State of Washington in the locality of the City’s projects or purchases.

\*\* The federal threshold is \$250,000, which is more restrictive than the state and must be used for federal projects.

**Community Service Group Contracts**

RCW 35.21.278 allows the City to contract with community service groups for certain types of public works projects without following competitive bidding requirements and to reimburse the community service group for their expenses. These groups include chambers of commerce, service organizations, community, youth, or athletic associations, or other similar associations located in and providing service to the immediate neighborhood. The contracting association may draw design plans, make park and recreation improvements, install equipment and artwork, and provide maintenance services while being reimbursed by the City for its expenses. The consideration received by the City (the improvements, artwork, etc.) must be at least equal to three or two times the City's payment to the association. All payments made by the City under the authority of this section for all such contracts in any one year shall not exceed \$75,000 or \$2.00 per resident, whichever is greater. This limit of \$75,000 applies to all contracts entered into by a local government under RCW 35.21.278 in any one year. The limit is not intended to be interpreted to apply on a per-contract basis in any one year. The limit applies to the annual total not to the amount allowed per project. The statute says that the contracting association "may use volunteers to whom no wage or salary compensation is paid in the project" but does not require using volunteers. The statute also allows the groups to provide the volunteers with certain tools, materials, food and drink, and insurance coverage.

**Conflicts of Interest and Code of Ethics**

The City seeks to avoid situations that involve conflicts of interests, or the appearance of such conflicts based on inappropriate opportunities to influence the solicitation and/or award process. The City uses the measure of how a reasonable person would perceive the situation; a reasonable person standard might consider how the situation would appear if covered by a news story or viewed from the perspective of a public interest group. Could you comfortably explain your actions? Would taxpayers believe you were acting in their best interest?

The City will not accept donations of materials or services in return for a commitment to continue or initiate a purchasing agreement. No employee will participate in procurement when they are aware of a conflict of interest, or accept gifts or gratuities from existing or potential vendors in return for a commitment to continue or initiate a purchasing relationship.

In addition, City staff should also be mindful of their obligations under Chapter 42.23 RCW (Code of Ethics for Municipal Officers – Contract Interests) when working with potential and contracted vendors. Under RCW 42.23.070(1) and (2):

- (1) No municipal officer may use his or her position to secure special privileges or exemptions for himself, herself, or others.
- (2) No municipal officer may, directly or indirectly, give or receive or agree to receive any compensation, gift, reward, or gratuity from a source except the employing municipality, for a matter connected with or related to the officer's services as such an officer unless otherwise provided for by law.

RCW 42.23.030 also specifically prohibits a municipal officer, or their office, from directly or indirectly receiving a financial benefit from a contract if the contract is made by, through, or under the supervision of the municipal officer, in whole or in part. Any contract entered into by a municipality in violation of this prohibition is void.

**Apprenticeship Requirements.**

HB 1050, adopted in 2023, significantly expands apprenticeship utilization requirements beginning July 1, 2024, with additional updates in 2026 and 2028. The new requirements state that apprentices must perform 15% or more of the total labor hours in public works contracts estimated at \$2 million or more. In subsequent years, apprenticeship utilization requirements will change twice more. On July 1, 2026, contracts over \$1.5 million must follow these regulations and in 2028, the amount will be changed to \$1 million contracts.

**Compliance with this Manual**

Any violation of the provisions of this policy may result in discipline to the individual involved where, in the opinion of the City Administrator (in the case of employees) or the City Council (in the case of the City Administrator), such discipline is in the interest of the public and good government. Officers and employees should be aware of possible personal penalties, termination, and financial liability for intentional or willful violations of competitive bidding laws. RCW 39.30.020 states (emphasis added):

“In addition to any other remedies or penalties contained in any law, municipal charter, ordinance, resolution, or other enactment, any municipal officer by or through whom or under whose supervision, in whole or in part, any contract is made in willful and intentional violation of any law, municipal, ordinance, resolution, or other enactment requiring competitive bidding upon such contract shall be held liable to civil penalty of not less than three hundred dollars and may be liable, jointly and severally, with any other such municipal officer for all consequential damages to the municipal corporation. If, as a result of a criminal action, the violation is found to have been intentional, the municipal officer shall immediately forfeit their office. For purposes of this section, “municipal officer” shall mean an “officer” or “municipal officer” as those terms are defined in RCW 42.23.020(2).” RCW 39.30.020.

## Bid Procedures

### **Authorization Request**

Request from City Administrator authorization to call for bids. In special circumstances, the City Administrator may waive portions of the bid procedures. The “special circumstances” are limited to items where publication of bids may impinge on the safety of staff or City assets (Drug Task Force vehicles for example).

### **Publication of Notice**

After City Administrator authorization, the requesting department director (or designee) will publish the Call for Bids in the official newspaper or a newspaper of general circulation most likely to bring responsive bids and ensure notice is posted on the City web page, at least 13 days prior to bid submittal deadline.

### **Notice Contents**

Notice (or advertisement) for bids should contain definite specifications and procedures for bidders to use to estimate their bids. At a minimum, a bid notice for public works must include:

- Project title;
- Nature and scope of work;
- Where contract documents (plans and specifications) can be reviewed or obtained;
- Cost to obtain a set of contract documents;
- Place, date, and time that bids are due;
- Statement that a bid bond must accompany the bid,;
- Statement that the City retains the right to reject any and all bids and to waive minor irregularities in the bidding process;
- Statement that the contract involves “public work,” and that workers shall receive the prevailing rate of wage pursuant to the Prevailing Wages on Public Works Act (Chapter 39.12 RCW);
- List of the applicable prevailing wage rates; and
- Statement that the City is an equal opportunity employer and invites responsive bids from all qualified responsible bidders.

In addition, provide evaluation criteria; minimum qualifications; date, time, and location of pre-bid conference (if applicable); name, address, and telephone number of the project contact; and number of required copies will help bidders prepare responsive submittals.

### **Bid Opening**

Bids are submitted to the City Clerk, where they are time and date stamped and processed. Bid opening will be announced to Mayor, City Administrator and department heads by department head or designee responsible for the project.

### **Report on Bids**

The responsible department head or designee will prepare a report and recommendation on all bids received.

### **Responsible Bidder Requirements**

[SB 5088](#) expanded contractor registration requirements, adding plumbing, elevator, and electrical contractors to the responsible bidder criteria ([MRSC](#)). Key updates went into effect July 2023 and include:

- Bidder responsibility criteria amended in [RCW 39.04.350](#) now includes licensing requirements for plumbing, elevator, and electrical contractors.
- Contractor verification for subcontractor responsibility criteria in [RCW 39.06.020](#) is amended to include verification of a plumbing contractor license.

- The prohibition on bidding on future contact provisions in [RCW 39.12.050](#) is expanded to include plumbing contractors as being subject to potential sanctions if provisions of subsection (1) of this RCW are violated.
- Prohibition on bidding on future contact provisions in [RCW 39.12.055](#) is expanded to include plumbing, elevator, and electrical contractors. A contractor in these groups will not be allowed to bid on any public works contract for one year from the date of a final determination if they have committed any combination of two violations or infractions within a five-year period, as noted in [RCW 39.12.055](#).
- Independent contractor criteria in [RCW 39.12.100](#) now requires plumbing and elevator contractors to have a valid contractor license registration on the effective date of a public works contract.

Per [RCW 39.04.350](#), responsible bidders must meet a number of mandatory criteria including:

- At the time of bidding be a registered contractor in compliance with [RCW 18.27](#);
- Have a current Washington State Unified Business Identifier ([UBI](#)) number;
- If applicable, have industrial insurance/workers' comp coverage required in [Title 51 RCW](#);
- Have a Washington State Employment Security Department ([ESD](#)) account as required [in title 50 RCW](#);
- Have a state excise tax registration [number](#) as required in [Title 82 RCW](#);
- Not be disqualified from bidding under [RCW 39.06.010](#) or [39.12.065\(3\)](#);
- Not have any apprenticeship violations, if applicable;
- Certify through a sworn statement that they are not a willful violator of labor laws in reference to [RCW 49.48.082](#); and
- Have received training on the requirements related to public works and prevailing wage under [RCW 39.04](#) and [RCW 39.12](#), or received exemption from this requirement by completing three or more public works projects and have had a valid business license in Washington for three or more years.

In addition, [RCW 39.04.350\(2\)](#) allows agencies to adopt additional relevant responsible bidder criteria for individual projects. Supplemental criteria may be on two levels:

- A basic level that may include such things as no delinquent state taxes, no federal debarment, minimal prevailing wages violations, no excessive claims against retainage and bonds, no public bidding violations, no termination for cause or default, and/or unwarranted lawsuits with respect to public contracting.
- A secondary level whose criteria relate to the nature of a specific project. For example, the City may require that a contractor must have completed three projects of a similar scope and dollar volume within the past five years.

These supplemental criteria and associated evaluation methods must be provided in the invitation to bid or bidding documents.

### **Bid Award**

The City may select the qualified vendor whose proposal is most advantageous to the City, with price and other factors considered.

### **Rejection of Bids**

The City reserves the right to reject any bid not in substantial compliance with the bid documents, or all prescribed public bidding procedures and requirements and may reject for good cause any or all bids upon a finding of the City that it is in the public interest to do so.

The following shall apply to bid solicitations:

- Selection of a winning offer is based primarily on lowest responsive bid. Quality and expertise, however, must also be a consideration.
- To ensure consistency and fair process, the City will use standard forms, documents, contracts, and terms and conditions, when practical. The Finance Department will maintain templates for bid-related documents for use by departments. The City will use an evaluation selection committee to promote an open, proper selection. The requesting department director will appoint committee members to act in an advisory capacity.
- Minimum qualifications are stated to ensure respondents are reasonably qualified. Minimum qualifications cannot be used to eliminate qualified vendors. Minimum qualifications should be tested against the marketplace to ensure they aren't overly restrictive.
- When practical, the City will conduct a pre-bid conference to allow a thorough discussion of the City's intent, scope, specifications, and terms. Interested companies should be encouraged to attend.

#### **Exemptions to competitive bidding requirements**

Section 39.04.280 RCW provides uniform exemptions to competitive bidding requirements utilized by municipalities when awarding contracts for public works and contracts for purchases. Competitive bidding requirements may be waived in the following situations:

1. **Purchases that are clearly and legitimately limited to a single source of supply (Sole Source Vendor):** If, after conducting a good faith review of available resources, the requesting department director determines that there is only one source of the required materials, supplies, or equipment, a purchase contract may be awarded without complying with established bid requirements. The requesting department director will submit a written request for sole source procurement to the Finance Director for approval, and conduct price, terms, and delivery negotiations, as appropriate. The vendor must certify in writing that the City is getting the lowest offered price.
2. **Purchases involving special facilities or market conditions:** The City Administrator may waive established bidding requirements if an opportunity arises to purchase favorably-priced equipment at an auction, or supplies or used goods that will be sold before the City can conduct the bid process.
3. **Surplus Property:** The City may acquire surplus property from another government without the use of bids (RCW 39.33.010).
4. **Purchases in the event of an emergency:** "Emergency" is defined as "...unforeseen circumstances beyond the control of the municipality that either: (a) Present a real, immediate threat to the proper performance of essential functions; or (b) will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken." If an emergency situation has been declared, the City Administrator may waive competitive bidding requirements and the City may award all necessary contracts to purchase goods, materials, or services to address the emergency situation. Purchase order(s) must be properly documented as pertaining to an emergency as soon as possible following the event. If a contract is awarded without competitive bidding due to a declared emergency, the City Council must adopt a resolution certifying the emergency situation existed no later than two weeks following the award of the contract.
5. **Interlocal Cooperative Purchasing Agreements:** Pursuant to RCW 39.34, bidding is not required when purchases of materials, supplies, or equipment are made under State standard contracts or similar contracts executed by and through other local governments that have complied with state bidding requirements. The other government's bid process must have been conducted within the previous 12-month period to be valid for use by the City of Mukilteo. In addition, the City of

Mukilteo must conduct a screening process whereby it can justify the purchase through an Interlocal Agreement. The screening process and results must be clearly documented in writing. All other procurement approval requirements must be met.

Approval and authority for entering into an Interlocal Cooperative Purchasing Agreement will be determined by the anticipated cost of the procurement. Blanket Interlocal Cooperative Purchasing Agreements where the costs of the potential purchases are not known will be treated as purchases over \$15,000.

In addition, the City may make a bid call with another government entity as a joint purchase complying with the bid requirements of the participating jurisdictions. Purchases made pursuant to any such agreement shall be separately invoiced to the respective purchasers in accordance with the purchases made by each; and each such purchaser shall be responsible for payment for its own purchases only. Purchases made for the City under a purchasing contract executed by a state, or agency or subdivision thereof, or by another governmental unit or public benefit nonprofit corporation shall be exempt from competitive bidding and related requirements.

When practical, the City should include language in its solicitations that allows other public agencies to purchase from the City of Mukilteo's bids or quotations, provided that the other agencies allow similar rights and reciprocal privileges to the City of Mukilteo.

6. **Competitive Negotiations - Telecommunication Systems/Services:** Competitive negotiation can be used as an alternative to the competitive bidding procedures for the acquisition of electronic data processing and telecommunications systems; energy saving or energy related equipment or services; or when it is determined in writing that the use of competitive bidding is neither practical nor advantageous to the City.

“Electronic data processing” includes, but is not limited to, systems that comprise a combination of equipment or units to provide input of source data, and storage and processing of data and output in predetermined form, including a central processing unit (CPU) or main frame (RCW 36.92.020). In other words, hardware, software, firmware, “smart cards” or any combination thereof.

Eligible purchases (RCW 39.35A.030) are those for “equipment, materials, or supplies that are expected, upon installation, to reduce the energy use or energy cost of an existing building or facility, and the services associated with the equipment, materials, or supplies, including but not limited to design, engineering, financing, installation, project management, guarantees, operations, and maintenance.” (RCW 39.35A.020(1)) The procurement may be structured on a performance basis, rather than a design specification, so that the City may specify a result, rather than the type or model of equipment (RCW 39.35A.020(3)).

The approval requirements found in Authorization & Quote/bid requirements as listed on page 1 also apply to procurement by competitive negotiation. The approving officer shall determine in writing that competitive bidding is either not practical or not advantageous to the City.

Requisitions for electronic data processing systems shall be routed through and approved by the Finance Director or designee for compatibility certification prior to purchase. This will allow for the appraisal of the present supply of devices, and the possible elimination of an unnecessary expenditure of City funds.

A request for proposals should be prepared and submitted to enough qualified sources, to permit reasonable competition consistent with the requirements of the purchase. The request for proposal

should identify significant evaluation factors, including price, and their relative importance. The City reserves the right to determine the number of sources considered to be adequate.

The City will provide procedures for technical evaluation of the proposals received, identification of qualified sources, and selection criteria for awarding the contract.

The City may select the qualified vendor whose proposal is most advantageous to the City, with price and other factors considered. If the City is unable to negotiate a contract successfully, the City may terminate negotiations and proceed to negotiate with the second most advantageous proposer, and so on.

### **Small Works Roster**

RCW 39.04 provides uniform small works roster provisions to award contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of real property. The Small Works Roster may be used for public works projects valued below \$350,000.

The Small Works Roster maintained by the Municipal Research and Services Center ([www.mrsrosters.org](http://www.mrsrosters.org)) allows the City to evaluate the professional qualifications on file when a proposed project is scheduled. The use of the Small Works Roster allows the City to preclude the advertisement requirements of the formal competitive process. *All other bidding requirements are the same.*

### **Soliciting Bids From Small Works Roster**

- Informal invitations to bid shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished.
- For each project, the City will secure telephone or written quotations from (whenever possible) at least three appropriate contractors on the Roster. Whenever possible, at least one of the contractors invited to submit a proposal will be a minority- or woman-owned firm. The City may invite proposals from more than three or all appropriate contractors on the Roster.
- Notifications and postings must emphasize that bids will be accepted only from contractors on the small works roster and that contracts will be awarded to the lowest responsible bidder. Advertising is not required.
- Informal invitations to bid may be sent to all appropriate contractors in the appropriate roster category. The request must include an estimate of the scope and nature of the work to be performed, although detailed plans and specifications do not need to be included.
- Whenever possible, the City shall invite at least one proposal from a certified M/WBE contractor who shall otherwise qualify under this section.
- Sealed bids are not required but staff should document which contractors they solicited bids from and keep records of all informal bids received, not just those of the lowest bidders.
- At the time bids are solicited, the City shall not inform a contractor of the terms or amount of any other contractor's bid for the same project.
- All City estimates for the cost of proposed projects shall not include sales tax in the estimate.

### **Awarding Work from the Small Works Roster**

- Immediately after an award is made, all bid quotations submitted must be recorded and made available to the public for inspection, or the bid figures must be supplied in response to telephone or electronic inquiries.
- Contracts must be awarded to the lowest responsible bidder and the contract is still subject to the normal performance and payment bond and prevailing wage requirements. Bid bonds are not required.
- Once a contractor has been invited to submit a proposal, that contractor will not be offered another

opportunity until all other appropriate contractors on the Roster have been given the opportunity to submit a proposal on a project.

- Vendors/contractors selected from the Small Works Roster are not relieved from observing applicable legal requirements such as Performance Bond, Prevailing Wage, Labor and Material Bonding, etc.
- If any submission involves errors, omissions, or any other irregularities, staff must not negotiate with the bidder but contact the City Attorney. The City is authorized to waive retainage (where it applies) by assuming liability for a contractor's nonpayment of laborers, mechanics, subcontractors, material persons, suppliers, taxes, increases, and penalties that may be due. However, the City has the right to recover against the contractor, and recovery of unpaid wages and benefits is the first priority for actions filed against the contract.

### **Optional Direct Contracting**

Under RCW 39.04.152(4)(b), the City may engage in direct contracting with a small works roster contractor under the following conditions:

- The estimated cost of the project is less than \$150,000. The cost estimate shall not include sales tax.
- If there are six or more contractors who meet the definition of small businesses on the applicable small works roster, the City is required to directly contract with one of those small business if they have indicated interest in performing the work. If there are five or less contractors meeting the definition of small business on the applicable roster, the state agency or authorized local government may direct contract with any contractor on the applicable small works roster.
- The City must rotate between businesses and cannot use the same contractor repeatedly.
- Prior to engaging in direct contracting, the City shall establish a Business Utilization Plan. A copy of the Business Utilization Plan shall be published on the City's website.

## Change Orders

City of Mukilteo Resolution No. 2005-18 establishes the Change Order Authorization Policy as follows:

### **For Change Orders Within City Council Authorized Budget Appropriations**

Upon recommendation of the project/contract manager, and demonstration that a Change Order is necessary and reasonable, the City Administrator is authorized to approve any and all Change Orders that do not exceed the legally authorized budget limit established by the City Council for the applicable project or contract.

### **For Change Orders in Excess of City Council Authorized Budget Appropriations**

Upon recommendation of the project/contract manager, and demonstration that a Change Order is necessary the City Administrator shall submit to the City Council, a Change Order Request to include the amount of requested funds and a written justification describing why the additional funds are necessary and the benefits to be derived.

If the City Council approves the Change Order Request, the City Administrator shall take the necessary actions to enact the Change Order and complete the work in an expeditious manner in accordance with the City Council's direction.

If the City Council denies the Change Order Request, the City Administrator shall report back to the Mayor and City Council with options as to how to accomplish the project/contract within the funds allocated.

In the event of an emergency or the need to take immediate or expeditious action necessary to protect or maintain the public health, safety, or welfare; or to prevent damage to public or private property, and with approval of the Mayor, the City Administrator is authorized to enact Change Orders in excess of the legally authorized expenditure level. The City Administrator shall timely report such actions to the City Council.

## **Travel Expenses**

All expense payments or reimbursements for travel and/or subsistence expenses must meet the requirements set forth in the City of Mukilteo Travel Policy, which establishes policy and procedure related to obtaining travel authorization, advance travel funds, and expenditure or reimbursement for travel and subsistence expenses incurred in conduct of business of the City. Refer to the City of Mukilteo Travel Policy and Procedures for details.

## Payment Processing

### **Approvals**

Vendor invoices shall be signed for approval by the department head or designee. Reimbursements payable to City employees shall be signed for approval as follows:

- Council – approved by the Mayor, City Administrator, or designee.
- Mayor – approved by the City Administrator or designee.
- City Administrator – approved by the Mayor or designee.
- Department Director – approved by the City Administrator or designee.
- Other employees – approved by the direct supervisor or Department Director or designee. Employees may not approve their own reimbursement.

### **Accounts Payable**

Invoices that are received by accounts payable via the US Postal Service will be date-stamped and routed to department heads the day that they are received. Other invoices may be received directly by the department head or other staff, such as when items are picked up at will-call or services are performed on-site. For all invoices, department heads or designees will verify that the invoiced items have been received and that the invoiced amount is correct. The accounts payable coding stamp will be stamped on the invoice in a conspicuous place, the account coding and approval signature entered, and the approved invoice will be routed to accounts payable for payment. There are two accounts payable check cycles scheduled each month, generally on the 1<sup>st</sup> and 3<sup>rd</sup> Tuesday of each month, after Council approval at a City Council Regular Meeting, unless the date falls on a holiday.

### **Hand-Issued Checks**

Departments should avoid requests for hand-issued checks by submitting approved invoices to Accounts Payable as soon as invoices are received. If extenuating circumstances exist, a check may be hand-issued to avoid incurring penalties, interest, or late charges. Submit requests for hand-issued checks to Finance. Manual checks must be pre-approved by the Finance Director or the Accounting Services Manager.

### **Store-Issued Charge Cards**

It is sometimes necessary to use store-issued charge cards. The Finance Director or Accounting Services Manager will establish the authorized account in such cases.

### **Bank Credit Cards**

Bank credit cards may be issued with the approval of the City Administrator. They are to be used solely for City-authorized business purposes. Please see Credit Card Policy for additional details.

### **Petty Cash**

Petty cash funds cover minor disbursements. Employees may be reimbursed from petty cash funds for authorized purchases that do not exceed the established petty-cash limit. Refer to Petty Cash Policy for additional details.

### **Budget Adjustments**

Each department's authorizing staff must ensure that purchases are initiated only when departmental appropriations are sufficient to cover the anticipated cost. Expenditures that exceed departmental appropriations require the City Administrator's approval via the Budget Adjustment Request Form (Exhibit 5).

**Exhibit 1****Purchase Quotation Sheet****Purchase Quotation Sheet**

Purchases of \$10,000 or more require three (3) quotations which will become a part of the purchase request.

Firm		Firm		Firm	
Phone #		Phone #		Phone #	
Contact		Contact		Contact	
name		name		name	
Date		Date		Date	
<b>Description</b>	<b>Quantity Unit Req'd</b>	<b>Unit Quote</b>	<b>Total Quote</b>	<b>Unit Quote</b>	<b>Total Quote</b>
<b>ESTIMATED FREIGHT CHARGES</b>					
Sub-Total Sale Tax					
Signature of Person Receiving Quote	<b>TOTAL</b>				

**Exhibit 2****Sole Source Vendor Statement****Sole Source Vendor Statement****Date:****To: Finance Director & Accounts Payable****From: Fill – in Dept name and name of person signing this form**

To Whom It May Concern:

This form justifies the proposed sole source purchase described below. In accordance with State of Washington regulations, City of Mukilteo must procure material, equipment, supplies and services by competitive means when the purchase is in excess of \$5,000. However, in unusual circumstances the competitive process may be waived and sole source purchasing approved, provided the requesting party can adequately justify its use. In any such case where the purchase exceeds \$5,000, the vendor shall certify in writing that the City is getting the lowest price it offers. Purchases in excess of \$5,000 from a sole source vendor require prior approval of the Finance Director or designee.

“Sole source” means the product is unique and can be purchased from only one vendor.

If one of the reasons 1 through 4 below applies to this purchase, you need only to check the applicable reason and describe item being purchased below. If reasons 5 or 6 apply, please provide the item description and explanation below.

1.  Proprietary. The item is under patent, copyright, or proprietary design.
2.  Replacement parts. The purchase is for replacement parts or components.
3.  Technical service. The purchase is for technical service in connection with the assembly installation or servicing of equipment of a technical or specialized nature.
4.  Continuation of work. We now require additional work, additional item or additional service, but we did not know it would be needed when the original order was placed.
5.  Urgent requirement. Need must be met immediately. Please explain below the nature of the urgency, including an explanation of why the purchase is critical and why only the suggested vendor can meet it.
6.  Exclusive capability. Only one supplier qualified. No other suppliers known. Please explain below.

**Item Description:**

If explanations 5 or 6 were used, please provide an explanation below. Explain why the identified vendor is recommended:

---

Signed Department Director or Designee

---

Finance Director or Accounting Services Manager

### **Exhibit 3**

## **Bid Recap Worksheet**



## Bid Recap Worksheet

Purchases which require written competitive bids are summarized here and included as part of the purchase request.

**Exhibit 4****Request for Reimbursement of Miscellaneous Expenses****Request for Reimbursement of Miscellaneous Expenses**

<b>VENDOR OR CLAIMANT (check is to be payable to)</b>		
I hereby certify under penalty of perjury that the items and totals listed herein are proper charges for materials, merchandise or services furnished to the City of Mukilteo, that this is a true and correct claim for necessary expense incurred by me and that no payment has been received by me on account thereof.		
SIGNATURE		
TITLE		
DATE		
<b>DESCRIPTION</b>	<b>ACCOUNT CODE</b>	<b>AMOUNT</b>
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
DEPARTMENT APPROVAL SIGNATURE	APPROVAL DATE	TOTAL
		\$

**Exhibit 5****Budget Adjustment Request****Current Year Budget Adjustment Request****1. To: Finance Director****Date:** \_\_\_\_\_

Please transfer the following revenues and/or appropriations:

<i>Decrease (from)</i>			<i>Increase (to)</i>		
category	acct. number	amount	category	acct. number	amount
		\$			\$
		\$			\$
		\$			\$
		\$			\$
		\$			\$

**Reason:**

Requested By: \_\_\_\_\_

(Department Director)

FINANCE DIRECTOR: \_\_\_\_\_

Comments: \_\_\_\_\_

Approved \_\_\_\_\_ Not Approved \_\_\_\_\_ Signature \_\_\_\_\_

<b>2. To: CITY ADMINISTRATOR</b>	<b>Date:</b> _____
----------------------------------	--------------------

Comments: \_\_\_\_\_

Approved \_\_\_\_\_ Not Approved \_\_\_\_\_ Signature \_\_\_\_\_

<b>3. To: Financial Services Division</b>	<b>Date:</b> _____
---	--------------------

Adjustment Recorded: AJ# \_\_\_\_\_ Date: \_\_\_\_\_

Prepared By: \_\_\_\_\_ Approved By: \_\_\_\_\_

**Exhibit 6****Employee Purchasing and Accounts Payable Agreement****EMPLOYEE PURCHASING AND  
ACCOUNTS PAYABLE AGREEMENT**

As an employee, I understand that the City of Mukilteo has authorized my use of the Purchasing and Accounts Payable system for purchasing approved business related expenses. In accepting this privilege, I agree to the following terms and conditions:

- The Purchasing and Accounts Payable system may be used only for payment of authorized expenses on behalf of the City of Mukilteo.
- The Purchasing and Accounts Payable system may not be used to obtain pay advances or other expenses that are not allowed as established by the City of Mukilteo's Purchasing Policy.
- The Purchasing and Accounts Payable system may not be used for personal purchases of any type. I understand if I use the Purchasing and Accounts Payable system for personal purchases, such use will result in disciplinary action up to and including termination of my employment with the City of Mukilteo and I will be held personally and financially responsible for unauthorized purchases.
- I understand if I violate the terms and conditions of the Purchasing and Accounts Payable system, such use or violation will result in disciplinary action up to and including termination of my employment with the City of Mukilteo and I will be held personally and financially responsible for unauthorized purchases.
- The Purchasing and Accounts Payable system may not be utilized as a substitute for professional service agreements, public works contracts, and/or personal services contracts.
- I understand that when using the Purchasing and Accounts Payable system for travel and meal expenses that I am governed by the City of Mukilteo's travel policies.
- Whenever a purchase is made, I will retain all receipts, packing slips and shipping documents for submission with payment requests.
- I understand that I will forfeit my Purchasing and Accounts Payable system purchasing privileges if, (1) I use the Purchasing and Accounts Payable system in a manner which is inconsistent with any City or Department policies and procedures and/or the requirements of this Agreement, (2) I transfer to another department, resign, or otherwise terminate City employment, (3) if I do not timely process payments, and (4) if finance charges are incurred as a result of my negligence.

**I have read and understand the above conditions as well as the referenced policies and procedures and certify that I will be in compliance with required policies and procedures.**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Signed: \_\_\_\_\_  
Employee Signature

Employee Name Printed

Department Director Approval

**Exhibit 7****Washington State Prevailing Wage Law**

The Prevailing Wages on Public Works Act (Chapter 39.12 RCW) requires that employees of government contractors be paid prevailing wages for all public work. Agencies awarding public works contracts include state agencies, counties, municipalities and all political subdivisions of the state.

All public agencies, contractors performing public work, and construction workers on public works construction should be aware of their rights and legal responsibilities. Failing to comply with the provisions of Chapter 39.12 RCW may subject contractors and/or public agencies to liability for all unpaid prevailing wages and penalties.

The Department of Labor and Industries (L&I) administers the prevailing wage law. The Office of the Attorney General provides legal counsel to L&I and prosecutes violators. The State Auditor's Office ascertains if a public agency's policies, procedures and practices meet the requirements of the law.

Do not rely on this plain language description without reading the laws and regulations. The informal discussions below are meant to be helpful when read in conjunction with the laws and WAC rules. They are not meant to be a substitute for reading and understanding the laws. After reading the laws and regulations, please do not hesitate to contact the Prevailing Wage Office with any questions you may have.

**The Prevailing Wages on Public Works Act**

Enacted in 1945, the Washington State Public Works Act, also known as the "prevailing wage law", is a worker protection act. It requires that workers be paid prevailing wages when employed on public works projects, and on public building service maintenance contracts. (RCW 39.04.010, RCW 39.12.010, and RCW 39.12.020)

The Public Works Act is modeled after the federal Davis-Bacon Act, which was enacted to protect the employees of contractors performing public works construction from substandard earnings, and to preserve local wage standards.

The Public Works Act regulates wages paid to workers, laborers and mechanics performing public work. It does not apply to work that is clerical, executive, administrative or professional in nature. For example, the Act does not apply to the work of a secretary, engineer or administrator, unless they are performing construction work, alteration work, repair work, etc. Prevailing Wage application depends on the work that is performed, regardless of the worker's job title. Any doubts or questions regarding the applicability of the prevailing wage law should be directed to the Prevailing Wage Office. (RCW 39.12.020 and WAC 296-128-510 through 530)

**What Is Public Work?**

Public work is all work, construction, alteration, repair or improvement that is executed at the cost of the state or any other local public agency. This includes, but is not limited to, demolition, remodeling, renovation, road construction, building construction, ferry construction and utilities construction. (RCW 39.04.010)

**What Is Prevailing Wage?**

Prevailing Wage is defined as 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, for each trade and occupation employed in the performance of public

work. They are established separately for each county, and are reflective of local wage conditions.

### **Awarding Agencies' Responsibilities**

- A. Contracts for Public Work: Employers are not responsible for making the legal determination of whether a contract does or does not meet the definition of a “public works” contract. Public agencies, in awarding a contract, must make the determination of whether that contract involves “public work” and communicate it to the employers in the bid specifications and contracts. The law does not allow public agencies to place this burden upon the employer. For example, it is insufficient to state, “Contractors shall comply with the prevailing wage law, if applicable”. Agencies should seek the advice of legal counsel regarding when a contract is for public work. Before acting on advice that a contract is not for public work, agencies should contact the Prevailing Wage Office for a determination of the applicability of the statute. (RCW 39.04.010, RCW 39.12.030, RCW 39.12.040, and RCW 39.12.042)
- B. Prevailing Wage Provisions: Awarding agencies must stipulate in bid specifications and contracts for public work that workers shall receive the prevailing rate of wage. Those documents must also contain a list of the applicable prevailing wage rates. Compliance with the law is not met by referring contractors to the department or other sources to obtain wage rate information. (RCW 39.12.030)
- C. Public Building Service Maintenance Contracts: Public building service maintenance (janitorial) contracts of more than one year duration must include wage language recognizing the potential for future variance in applicable prevailing wages each year after the first year of the contract. (RCW 39.12.020 and WAC 296-127-023)
- D. Disbursal of Public Funds: Agencies may not make any payments where employers have not submitted an Intent form that has been approved by the Industrial Statistician. Agencies may not release retainage until all employers have submitted an Affidavit form that has been certified by the Industrial Statistician. The requirement to submit these forms should also be stated in the contract. (RCW 39.12.030, RCW 39.12.040 and RCW 39.12.042)
- E. Turnkey Projects (lessee/lessor relationships between public and private parties): Prevailing wages must be paid for any work, construction, alteration, repair or improvement, other than ordinary maintenance, that the state or a municipality causes to be performed by a private party through a contract to rent, lease, or purchase at least fifty percent of the project by one or more state agencies or municipalities. RCW 39.04.260. It is the responsibility of the awarding agency to make an accurate determination as to whether the entire project falls within RCW 39.04.260 prior to entering into a lease relationship for space in a privately owned building. The determination is based on whether the awarding agency is causing the work to be performed and when at least fifty percent of the leased space is going to be occupied by one or more public agencies. If RCW 39.04.260 applies, all work performed in conjunction with the project is covered, not just the tenant improvements, and the project is subject to all provisions of RCW 39.12. Should the awarding agency fail to comply with all the provisions of RCW 39.04.260 and RCW 39.12.040, the awarding agency can be held responsible for any unpaid prevailing wages.
- F. Contract Administration: Though not legally required, the following activities are recommended to ensure compliance with the Public Works Act.
  - I. Job site inspections should be performed on a routine or periodic basis to verify compliance. These inspections should include checking to see that a copy of the Intent is posted at the job site. Workers should be randomly interviewed to verify that prevailing wages are received. Apprentice workers should be asked to show their registration cards.
  - II. References should be checked when the agency is empowered to select the lowest responsible bidder. The department can advise an agency regarding an employer's history of wage claims. Check the Contractor Debarment List to find out if a contractor is debarred from bidding on public works projects.
  - III. Verify Contractor Registration Status and Verify Workers' Compensation Premium Status. Find out whether a contractor or other employer has an industrial insurance (workers' compensation) account with L&I and that their premiums are up to date.