



Policy 5.5 Purchasing & Procurement Policy

Adopted by the Library Board of Trustees:
9/22/2011; 8/27/2014; 1/25/2024

Purpose

It is the policy of the North Olympic Library System to solicit competition when procuring goods and services. The objective of competition is to promote confidence in the integrity and cost-effectiveness of the Library's procurements while maximizing economic benefits. To this end, the purchasing method for most goods and services shall be based upon a triad of cost, quality, and availability.

General

Procurement procedures of the Library shall be based on guidelines provided in the Revised Code of Washington, the State Auditor's Office, and the Municipal Research Services Center (MRSC) Procurement Policy Guidelines.

Levels of Competitive Bidding

The following are levels of competitive bidding.

1. Minimal Competition

Some level of competition is recommended but not mandatory. Inquiries to one to three qualified vendors describing, as applicable, the required goods or services and determining pricing, schedules, and qualifications will suffice. A good faith effort shall be made to secure the best value for the Library at the lowest price possible.

2. Informal Competition

The Library shall prepare a written solicitation including, at a minimum, a description of the required goods or services, the project schedule or delivery date needed, a request for pricing and qualifications, and the due date for replies. Solicitation of three to five qualified vendors is recommended. If three qualified vendors cannot be reasonably identified, the Library will document in writing its informal competition process for procurement and, if applicable, specifically explain why three qualified vendors were not reasonably identified.

3. Formal Competition

The Library will prepare a formal solicitation such as a Request for Proposal (RFP) or Invitation to Bid (ITB), which will describe all project requirements in order for vendors to understand the Library's needs and how responses will be evaluated. The RFP or ITB will be published via appropriate legal notice. Responses will be submitted via sealed bids and opened in accordance with the terms of the formal solicitation. The result will be the determination of the lowest, responsive, and responsible bidder.

Types of Procurement

The following are recognized as the primary different types of procurement.

- Public Works
- Personal Services
- Architectural and Engineering Services
- Purchased Goods and Services (not made in connection to a public works project)

I. Public Works

RCW 39.04 defines and governs the laws and regulations for public works projects for the Library. Public works is defined in RCW 39.04.010 as “all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein.”

All public works, including maintenance when performed by contract, shall comply with chapter RCW 39.12. Maintenance is further discussed and defined in WAC 296-127-010(7)(a)(iv) as keeping existing facilities in good usable, operation condition when the work is performed by contract. Furthermore, WAC 296-127-101(7)(b)(ii) defines ordinary maintenance, which is not public works, as maintenance work performed by the regular employees of the Library.

The Library must use competitive bidding for public works projects; state statutes do not establish any specific bid limits or specific competitive processes for library districts. The Library established the following limits for public works projects:

- **Informal Competition**
Informal competition may be used for public works projects less than \$50,000. Contracts for the awarding of these informally competitive projects shall be awarded by the Executive Director.
- **Formal Competition**
The formal competition or bidding process will be used for all public works projects equal to or in excess of \$50,000. Contracts for the awarding of public works projects using formal competition shall be awarded by the Board of Trustees.

Small Works Rosters

As established in RCW 39.04.155, the Library may undertake public works projects using a small works roster process. Small Works Roster projects must be valued under the limits stabled in the RCW (a cost of \$350,000 or less at the time this police was approved).

Prevailing Wage

All public work projects require payment of prevailing wages under 39.12 RCW. 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.

Advertising

For public works projects that do not use the small works roster or require advertising due to state or federal law, the Library will publish a notice at least once in a local newspaper and no less than thirteen 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.

The Library encourages small, minority, women and veteran owned firms to bid on public works projects, services and purchases. However, the Library does not discriminate against or give preferential treatment to any business.

Responsible Bidders

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 39.06.010 or 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 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.

Performance Bonds, Retainage and Close Out

One hundred percent performance bonds are required on all public works projects in excess of one \$150,000. On contracts under \$150,000, at the option of the contractor as defined in RCW 39.10.210, the Library may retain 10% of the contract amount for a period of 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 RCW 60.28, whichever is later. The recovery of unpaid wages and benefits must be the first priority for any actions filed against retainage held by the Library.

Change Orders

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. In the course of a project, bona fide emergencies may arise and incidental alterations may well be required. As a general rule, 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.

Phasing

The Library may not break a public works project into separate phases to avoid compliance with RCW 35.22.620, which prohibits the division of a project into units of work or classes of work to keep costs below the bidding threshold, even though those phases are performed at different intervals of time.

Alternative Purchasing Methods

Where the application of competitive procedures would lead to undesirable, uneconomical or impractical results, the Library 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.

2. Personal Services

Personal services involve technical services and expertise provided by a consultant to accomplish a specific study, project, task, or other work. These activities and services are mostly intellectual in nature.

Except for architectural and engineering services, library districts have no statutory restrictions on contracting for personal services; alternatively, they have flexibility in setting their own policies and limits. The following are the limits established by the Library for the procurement of personal services:

- **Minimal Competition**
For purchases under \$10,000, including taxes and fees, the Library may use minimal competition
- **Informal Competition**
For purchases from \$10,000 to \$50,000, including taxes and fees, the Library may use informal competition.
- **Formal Competition**
For purchases in excess of \$50,000, including taxes and fees, the Library must use formal competition. Contracts for the awarding of personal services using formal competition shall be awarded by the Board of Trustees.

3. Architectural and Engineering Services

Architectural and engineering services, although a type of personal service, have their own requirements established in RCW 39.80. All local governments, including library districts, must follow RCW 39.80 for procuring architectural and engineering (A/E) services. All contracts for architectural and engineering services shall be awarded by the Board of Trustees.

4. Purchased Goods and Services

Purchased goods and services, not in connection to a public works project, are those provided by vendors for routine, necessary, and continuing functions of the Library. They are usually repetitive, routine, or mechanical in nature, often supporting the day-to-day operations of the Library.

Library districts have no statutory restrictions on contracting for purchased goods and services; alternatively, they have flexibility in setting their own policies and limits. The following are the limits established by the Library for procurement of purchased services.

- **Minimal Competition**
For purchases under \$10,000, including taxes and other fees, the Library may use minimal competition.
- **Informal Competition**
For purchases from \$10,000 to \$50,000, including taxes and other fees, the Library may use informal competition.
- **Formal Competition**
For purchases in excess of \$50,000, including taxes and fees, the Library shall use formal competition. Contracts for the awarding of purchased goods and services using formal competition shall be awarded by the Board of Trustees.

Exceptions to Competitive Bidding Requirements

The following is a non-exclusive list of goods and services allowed to be exceptions from competitive bidding requirements:

- Goods and services that meet an emergency requirement (RCW 39.04.030)
- Original equipment manufacturer repair services
- Insurance and bonds
- Utilities
- Legal services
- Library materials
- Advertising
- Software maintenance and/or support services when procured from the proprietary owner of the software
- Professional development (conferences, publications, seminars/webinars)
- Purchases which are clearly and legitimately limited to a single source of supply
- Purchases made through a purchasing contract with the State of Washington or from established governmental price schedules

Competitive bidding requirements may also be waived pursuant to RCW 39.34.030 for purchases in cooperation with other public agencies or purchasing cooperatives, so long as the cooperative purchase was done in a manner consistent with the bidding and procurement requirements of the Library, and the Library has entered into an inter-local agreement with the other public agency or purchasing cooperative.

The Library 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 small works rosters and local vendors can be used as needed for emergency situations.

Ordinary maintenance is not considered a public work and state law does not require a competitive bidding process. This work may be performed under a maintenance contract or on a case-by-case basis. The Library will bid out each contract at no less than every three (3) years to identify potential vendors for all needed categories of maintenance services. WAC 296-127-01 defines ordinary maintenance as any maintenance that is performed on any public property on a regularly scheduled basis (e.g., daily, weekly, monthly, etc., but not less than once a year), to service, check or replace items that are not broken; or work that is not regularly scheduled but is required to maintain an asset so that repair does not become necessary.

Library Collection Materials

The purchase of library collection materials is complex, involving not only negotiated discounts on purchase prices for different types of materials, but also the vendor's inventory, ability to satisfy orders in a timely manner, ability to accommodate the Library's electronic ordering and database needs, etc. The Library recognizes that it is not cost-effective, nor is it conducive to developing effective working relationships with vendors, to go through an annual competitive bid process. However, to assure the prudent expenditure of NOLS' materials budget, a competitive process, as described above, will be conducted at least every three years.

Grants

For all grants, either federal, state, or privately funded, the Library shall ensure that the related purchase activity will be in accordance with the applicable rules, regulations, and any other terms and conditions contained within the grant award.

Purchasing Cards

Purchasing cards (e.g. credit, fuel, etc.) are issued to certain staff members who have responsibility for making purchases on a regular basis. Purchasing card use is governed by Policy 5.6.

Government Contracts

Pursuant RCW 39.32.070-090, the Library 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.

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 the Library'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.

Emergencies

Emergency purchasing is used only to avoid immediate hazard to life, to preserve the Library's property, or to prevent significant service disruptions per RCW 39.04.280. In such a situation, the Executive Director or their designee may declare that an emergency situation exists, waive competitive proposal requirements, and award all necessary contracts on behalf of the Library 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 one month following the contract's award.

Environmentally Preferable Purchasing Activities

A number of laws and executive orders require Washington state agencies to increase environmentally preferred purchasing (EPP). While the Library is not required to follow the mandates of the state's EPP programs, the Library's intent is to follow the program whenever economically feasible. Accordingly, strong consideration will be made in the selection of EPP compliant goods, even though an item's price may not be lower than a similar, non-compliant item.

Written Contracts

A written contract may be initiated by the Library or by the other party to the agreement. It must be signed by at least one authorized representative from each party. A written contract is always required for the following types of purchases:

- All lease or rental agreements for real property;
- All grants to NOLS;
- All performers, entertainers and speakers receiving a fee, payment or honorarium from NOLS;
- All major construction or capital improvement projects;
- All services with the exception of minor services such as repairs and service where academic credentials or professional expertise are not required;
- Cooperative or consortial purchasing agreements;
- Maintenance and licensing agreements (except licenses and/or maintenance agreements for standardized, non-customized, software or hardware);
- Other contracts/agreements deemed necessary by the Board of Trustees or Executive Director or their designee;
- The transaction for the purchase of goods from a single vendor exceeding \$10,000 per year; and

- Library materials purchased under a bulk agreement with a jobber or distributor, such as Baker & Taylor.

Contracts must be completely executed prior to the start of any activity covered under the contract. Retroactive contracting is not permitted unless prior approval is received from the Executive Director or their designee.