



# Construction Procurement Guide

A Resource for King County Agencies

**Department of Executive Services**  
**Procurement & Payables**

# Construction Procurement Guide

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## What are Construction Services?

Construction Services are contracts involving “Public Work” which are defined by Revised Code of Washington (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.

King County typically uses a Design Bid Build approach, one contract for professional services (for example, design or construction management), and one contract for construction, although alternative procurement methods exist and are discussed within this document (Design Build, GC/CM, Piggybacking, and Energy Services Performance Contracting ).

Washington Administrative Code (“WAC”) [296-127-10](#) further defines what is included in Public Works and what is considered Ordinary Maintenance and not required to be solicited through a Construction Services Public Works contract.

## How are they procured?

Construction contracts are procured by Procurement and Payables Section (“P&P”) in accordance with Federal, State, and local laws. Some projects are funded by grants from Federal, State, other agencies, or organizations. Specifically each grant will define procurement requirements that are typically used in conjunction with State [RCW 39.04](#) Public Works, other [RCWs](#), [County Codes](#), [Executive Policies](#) and this Procurement Manual.

P&P establishes and administers the procurement process for Public Works contracts including guidelines, templates, and best practices for Implementing Agencies (IAs) to follow. P&P will collaborate with the IA to refine and compile bidding documents for advertisement. P&P will manage the solicitation, evaluation, negotiation and execution processes or until the County makes a decision regarding the outcome of the procurement.

There are two standard formats for construction contracts: 1) Construction Specifications Institute (CSI) Master Formatted specifications, and, 2) Washington State Department of Transportation (WSDOT). Project-specific contracts shall use EITHER CSI format OR WSDOT specification format. *Exception: Federally funded contracts shall use the required federal appropriate format specifications.* Plans and specifications shall be ready for advertisement when completing the Service Request for P&P services. IAs can submit a Request for Advice for an early review of plans and specifications, if desired.

CSI format contracts utilize a prescribed Division numbering system (Division 0-49 or Division 0-17). The majority of County construction contracts use this system because the specifications are organized and formatted for consistency within the construction industry. Check with your department for a master set of specifications.

## Are there Construction Standards?

Construction procurements shall follow the IA PM or CM Manual and AEP specifications, drawings, and schedule. For more information, please visit the [Capital Project Management Work Group site](#), or discuss with your supervising Engineer. Solicitations shall also follow Revised Code of Washington (RCW), Washington Administrative Code (WAC), King County Code (KCC) and Federal requirements as applicable and as specified by P&P.

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## Procurement Methods

There are multiple procurement options for Public Works contracts. More detailed descriptions are included in [Appendix A – Decision Matrix Details](#).

Federal Funding sources (i.e. grants) may dictate what Procurement Methods an IA may use in order to utilize the funds. IAs are required to provide the grant to P&P for review and incorporation of the appropriate supplemental federal terms and conditions.

**tip** If one dollar of federal funds is planned to be utilized on a project (not just a contract) then federal language typically must be used for all contracts which fall under that grant.

\$ Amount	Limited Public Works		Unit Price		Small Works Roster		Job Order Contract		Standard ITB		
		*		*		*		*		*	
= or < \$50K		*		*		*		*		*	
= or < \$150K		*	*	*		*		*		*	
+ = or < \$350K						*		*		*	
= or < \$500K								*		*	
any value										*	
			blue cells - federally funded								
			Yellow cells - County funded								
	*		blue cell w/asterisk - grant must be reviewed and verified solicitation process is an acceptable use of funds								
	*		yellow cell w/asterisk – see <b>CON 7-26</b> for additional limits								

## Standard Procurement Methods

### Invitation to Bid (ITB)

A process through which bids are solicited through a public advertisement.

ITBs are firm fixed price contracts, awarded at the price submitted at the time of bid opening, to the lowest responsive and responsible bidder. Project-Specific Construction Contracts must have a complete and specific scope of work as documented by drawings/plans and specifications, and shall specify contractual required dates and substantial completion duration.

ITBs shall be solicited per [RCW 39.04.020](#) for not less than 13 days from the first advertisement date OR the duration stipulated per the federal grant requirements, if applicable. Advertisements shall contain at least the information as required by [RCW 36.32.245](#) and as stipulated per the federal grant requirements.

### Unit Price (On-Call Work Order)

Work Order contracts are typically used for performing small non-routine maintenance or repairs, and shall contain a Not-to-Exceed (NTE) contract price provision per [RCW 39.04.235](#). Contracts shall be for specific types of work or discipline (e.g., mechanical, electrical, roofing, demolition, abatement, well decommissioning). Bidding shall be unit price amounts for labor rates, materials, equipment rates with markup percentages and/or fully burdened rates for specific tasks/units of work. The contract time for Work Order contracts is one year, or until the funds are expended, whichever

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occurs first. IAs may have an option to extend a contract using a Contract Modification for up to one additional year, or until the funds are expended, whichever occurs first.

Work Order (On-Call) Contracts shall contain a not-to-exceed (NTE) Total Price up to \$1,000,000 with no guaranteed minimum work issued to the contractor. Work Order Contracts with a maximum value greater than \$1,000,000 shall require justification submitted to and approved by the Procurement Supervisor, as well as a pro equity plan incorporating the increased participation of small businesses submitted to and approved by the BDCC Manager. No adjustment to the NTE shall be allowed after execution of the contract.

The maximum allowable price for an individual work is \$300,000.

For specific information on rules after execution, please review the [P&P Contract Compliance Guide](#).

## [Small Works Roster](#)

Small Works Roster contracts are small contracts (under \$350K) which are solicited from a list of contractors registered for a particular NAICS code or codes. P&P shall actively solicit roster enrollment of small businesses, including Disadvantaged Business Enterprises in accordance with [RCW 39.04.155](#).

## [Limited Public Works](#)

Limited Public Works (LPW) contracts are micro contracts (under \$50K) which are solicited from a list of contractors registered for a particular NAICS code or codes In accordance with [RCW 39.04.155](#).

## [Job Order Contract \(JOC\)](#)

JOCs are large contracts (up to \$6M per year for 3 years) solicited in conjunction with a lead IA who takes responsibility for managing the contract following the execution.

Individual Job Orders cannot exceed \$500K per [RCW 39.10.450](#) are negotiated with the contractor and issued for the work.

## [Emergency Waivers](#)

Waivers are only available if the Executive declares an Emergency and provides a waiver of standard procurement processes. The waivers are obtained by the IA, however P&P can assist in drafting the memo to verify inclusion of appropriate language for the procurement needs.

## Alternative Public Works Methods

In addition to the standard methods listed above, there are a number of nonstandard alternative procurement processes that P&P can provide. **All alternative procurement methods shall contain a maximum allowable price provision and a completion date for services provided, with the exception of Progressive DB.**

### [Design Build \(DB\) and General Contractor / Construction Manager \(GC/CM\)](#)

The County needs to acquire approval from the [Capital Projects Advisory Review Board \(CPARB\)](#) Project Review Committee (PRC) to use Progressive Design Build (PDB) or Design Build (DB) or General Construction Construction Manager (GCCM) qualifications based procurement methods. The IA typically hires a consultant or staff to provide the necessary experience to develop the PRC application and proposal documents. Following PRC approval, IA will collaborate with P&P to develop qualification and proposal documents. P&P has DRAFT boilerplate for DB procurements, however, time should be allowed to tailor for the specific type of DB type desired, and to acquire PRC approval. PDB, DB and GC/CM are multi phased procurements, based on qualifications and other factors, depending on the type of alternative procurement.

### [Design Build](#) contract types defined in [RCW 39.10.300](#)

#### ***Progressive***

The design-builder is selected based on qualifications and cost factors, prior to submittal of a final design and firm cost proposal.

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## ***Traditional***

The design-builder is selected based on qualifications, a design concept and a firm cost proposal.

## ***Bridging***

The design-builder is selected based on qualifications, a management plan to implement the owner's design concept, and a firm cost proposal to complete the project.

## **General Contractor/ Construction Manager (GC/CM)**

"GC/CM" means a firm with which a public body has selected to provide services during the design phase, and negotiated a maximum allowable construction cost (MACC) to act as construction manager and general contractor during the construction phase.

## **Solid Waste Handling Systems**

Solid Waste Disposal (SWD) Contracts with vendors for solid waste handling systems, plants, sites, or facilities and shall be planned and developed per [RCW 36.58.090](#) and in conjunction with P&P.

## **Energy Services Performance Contracting (ESPC)**

In general, Energy Services Performance Contracting is intended to leverage capital investments to achieve efficiencies, improve facilities, and yield carbon reductions. King County currently has an interagency agreement with WA State Department of Enterprise Services (DES) for [ESPC](#). DES has competitively procured performance-based contracts per [RCW 39.35A](#) for water conservation, solid waste reduction and energy equipment and services.

The IA submits an initial Request for Advice (RFA) to verify if this contracting method is appropriate to use. IA is to attach a memo reflecting the reason ESPC program is being utilized to the initial RFA.

IAs shall develop scope, proposal documents, and evaluation criteria, in collaboration with P&P, for the Investment Grade Audit. In addition IAs shall provide any other documentation required by P&P, BDCC, and Risk Management necessary to prepare the documents. Projects with a total construction cost estimate equal to or greater than \$5 million shall review with BDCC to determine if the use of the Master Community Workforce Agreement (MCWA) will apply.

Once ESPC contract method is approved, the IA will submit an RFA to Create Oracle Contract Agreement for the Investment Grade Audit (IGA) with Energy Services Company (ESCO) contractor. The IGA RFA shall include:

- ESPC contract number and title
- Formal documentation to reflect the amount requested (signed contract of funding authorization)

The IA will submit a second RFA to Create Oracle Contract Agreement for DES project management fees. Two separate Contract Purchase Agreements (CPA) are needed for payment. The DES RFA shall include formal documentation to reflect the amount requested (signed contract of funding authorization)

Once the IGA is complete, and the client agency chooses to move to the next phases (design and construction), an RFA for a Contract Change Order/Amendment shall be created to add additional funds to the initial IGA and DES CPAs.

*NOTE: Client agency shall maintain records, including a copy of the original Request for Qualifications (RFQ) from the State, a description of how energy savings performance contracting (ESPC) is done in Washington State per the guidelines, and all contractual project documents.*

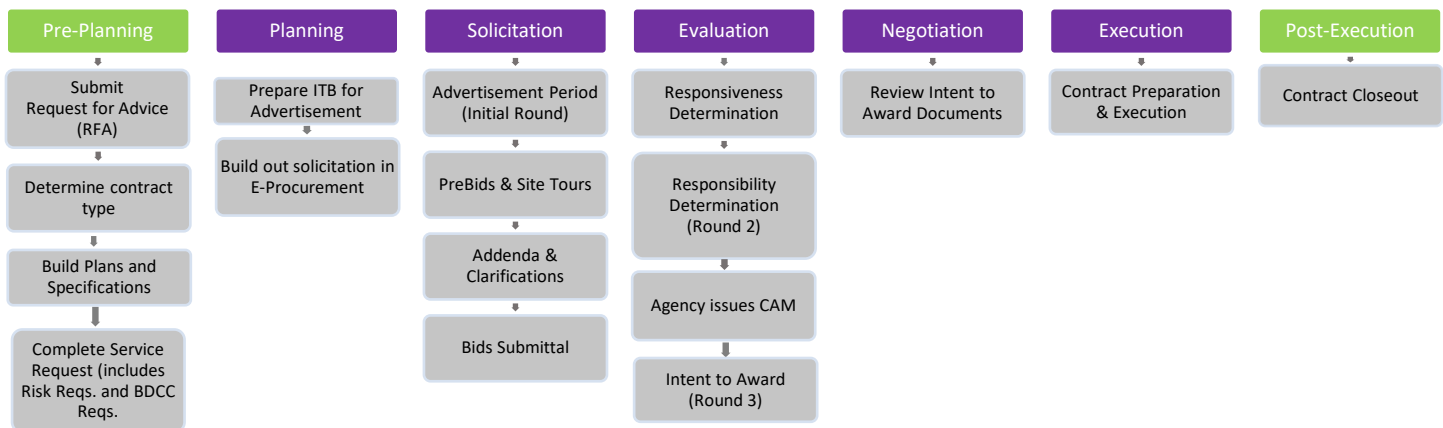
## **King County Policies Applicable to Construction Contracts**

[CON 7-27 General Procurement](#) establishes uniform guidance, encourages competition through open and transparent procurement, and ensures consistency, efficiency, and transparency of conducting business with third-party vendors.

[CON 7-26 Construction Policy](#) establishes uniform guidance for construction contracts, including Small Works Roster, Federally funded contracts (grant funds), change order amendment administration, project controls, and contract administration.

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## Procurement Process At a Glance



## Pre-Planning Phase Overview – Procurement Strategy



**Purpose:** The purpose of the pre-planning phase is to engage with Procurement & Payables (P&P) to develop a procurement strategy, including selection of the contract type and procurement method. P&P strongly encourages IA’s to submit a Request For Advice (RFA) to engage with the P&P procurement team early to discuss options as development progresses. IA is responsible to develop plans and technical specifications for project development and bidding. Examples of proper specification listing of products is [here](#). The pre-planning phase is an opportunity to collaborate and ensure the project and procurement are streamlined. It is critical for the IA to verify that the scope is complete for all work needed, because work not included in the original solicitation may not be added after execution, or it is considered “out of scope”. During this phase, consider the options and variables when developing bidding documents for your specific project, which may include addressing the following:

- ✓ **Permits** – Are all permits received OR will they be received before bid opening (added via addendum)?
- ✓ **Competition** – Is there a concern with receiving only a few bids for this work? Does the scope of work likely entail higher insurance requirements? Will these insurance requirements limit proposers’ ability to obtain insurance and discourage them from proposing?
- ✓ **Schedule** – Does the funding source impose scheduling constraints? Is there a fish window? Does the contract need to be coordinated with other construction projects? Are there long lead times for material? Are Hazardous Materials surveys required?
- ✓ **Funding Sources** – Is the project grant funded? Does it need to include specific language to comply with grant requirements?
- ✓ **Contract Phasing** – Should this be a single or multiple phased contract?
- ✓ **Equity and Social Justice** – Are there specific [equity and social justice](#) goals you are trying to achieve with this contract?
- ✓ **Administrative Requirements** – Is the [Master Community Workforce Agreement \(MCWA\)](#) required?
- ✓ **Sustainability** – What is the best way to incorporate the sustainability requirements the [Green Building Ordinance](#) mandates?

**Estimated Duration:** Variable depending on complexity of the project. See more information on IA step 2 below.

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## Pre-Planning Phase Task Overview:

#	Tasks		
1	Submits a Service Request (SR) Type 'Request for Advice (RFA)' to Procurement and Payables (P&P)		IA
	Determine Contract Type	PP	IA
	Draft Child SR and includes RFA information	PP	
	Set up Team (Backup CS) based upon Contract Type	PP	
	Assign SR to IA	PP	

## CON Resources:

Visit [CON Collaboration](#) SharePoint site for Construction contracting resources

## Pre-Planning Phase Steps

### IA Step 1 – Submits a Service Request (SR) Type 'Request for Advice (RFA)' to Procurement and Payables (P&P)

Engage with P&P early in your design process to discuss best option(s) contract type by submitting a [Request for Advice – Service Request](#).

1. Work with P&P CS to determine what procurement process will best suit your needs.

### PP Next Step - Draft Child SR and includes RFA information

1. Decide which type of contract will work for IA's specific project needs. Refer to [Procurement Methods](#) listed above.
2. Set up Team (Backup CS, Risk, BDCC, etc.) within the SR based upon Contract Type
3. SR gets assigned to IA to complete all required details for building the solicitation.
4. Set up SharePoint site for IA to upload required SR documents.
  - o Invite any necessary IA team members

### IA Step 2 – Funding Source, Plans and Specifications, Permits, MCWA? Waivers? Escrow?

#### Funding Source

Prior to initiating a procurement service request, the requesting IA shall ensure that adequate funds have been appropriated. IAs shall specify the source of contract funding for all contracts when initiating the Request for Advice.

#### Plans and Specifications

IAs are responsible for all of the general requirements Division 1\* ,technical specifications Division 2 – 50, and Contract Drawings, while P&P is responsible for Division 0 Bidding requirements and contractual execution forms.

IAs shall provide plans, specifications, and engineer's estimate per [RCW 39.04.020](#). In addition, IAs shall provide any other documentation required by P&P, BDCC, and Risk Management necessary to prepare the contract for solicitation.



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Plans and specifications shall be ready for advertisement when completing the Service Request for P&P services. Early reviews of plans and specifications are available with a Request for Advice.

Plans and Specifications shall be clearly defined in advance for standard design-bid-build contracts and shall not contain requirements for additional engineering. Exceptions to this rule may include, but are not limited to: shop drawings, fire alarm systems, shoring (if not specified), engineered seismic bolts and brackets for equipment mounting, per RCW 39.04.290. Additional engineering inclusions would need to be reviewed by P&P and PAO on an individual basis.

*\*P&P maintains boilerplate for the following Division 1 sections: Measurement and Payment for Work Order (Unit Price) contracts, Labor Management Plan (for standard contracts over \$1,000,000) and Dispute Review Board (for very large contracts).*



IAs can request assistance in the review and development of these Contract Documents.

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## **Boilerplate**

P&P shall maintain the Division 0 boilerplate (or master templates) for CSI contracting method, which consists of the Bidding Requirements, Instructions to Bidders, Form of Bid, Bid Bond, Insurance, Performance & Payment Bond, Agreement, the General Terms and Conditions, and Supplemental Terms and Conditions, if necessary. The Construction Boilerplate for both CSI format and WSDOT format contracts can be reviewed [here](#).

P&P, with the assistance of King County Road Services Division (“Roads”), also maintains boilerplate for WSDOT Special Provisions and other sections which consists of the Invitation to Bid, Proposal, Bid Bond, Performance and Payment Bond, and Agreement. Special Provisions is managed by Roads, in collaboration with P&P and Federal Highway Administration (FHWA), for sections which affect the Special Provisions boilerplate.

When developing plans and/or specifications for Invitation to Bid (ITB), the IA shall choose either the CSI or WSDOT boilerplate depending on the work that needs to be done. The IA and/or consultants shall not mix or reference the CSI and WSDOT formats in their plans and/or specifications.

## **Permits and Easements**

If permit(s) and easements are available, the IA shall incorporate them into the specifications prior to advertisement. If permits and easements are not available prior to advertisement the IA shall provide P&P with a Memo, from IA’s Director, authorizing P&P ,to advertise without permit(s).

If permits and easements are obtained during the bidding period, the IA shall provide them to P&P for inclusion into the bidding documents. If the IA is unable to provide the permits and easements prior to bid opening the IA shall provide P&P with a Memo, from IA’s Director, authorizing P&P to open bids without permit(s) and easements.

If the IA is unable to obtain the permits and easements prior to the Award and/or Execution the IA shall provide P&P with a Memo, from IA’s Director, authorizing P&P to execute without permit(s) and easements.

Alternative Public Works procurement methods such as Design Build, GCCM, or ESCO do not require fully complete plans and specifications.

## **Master Community Workforce Agreement**

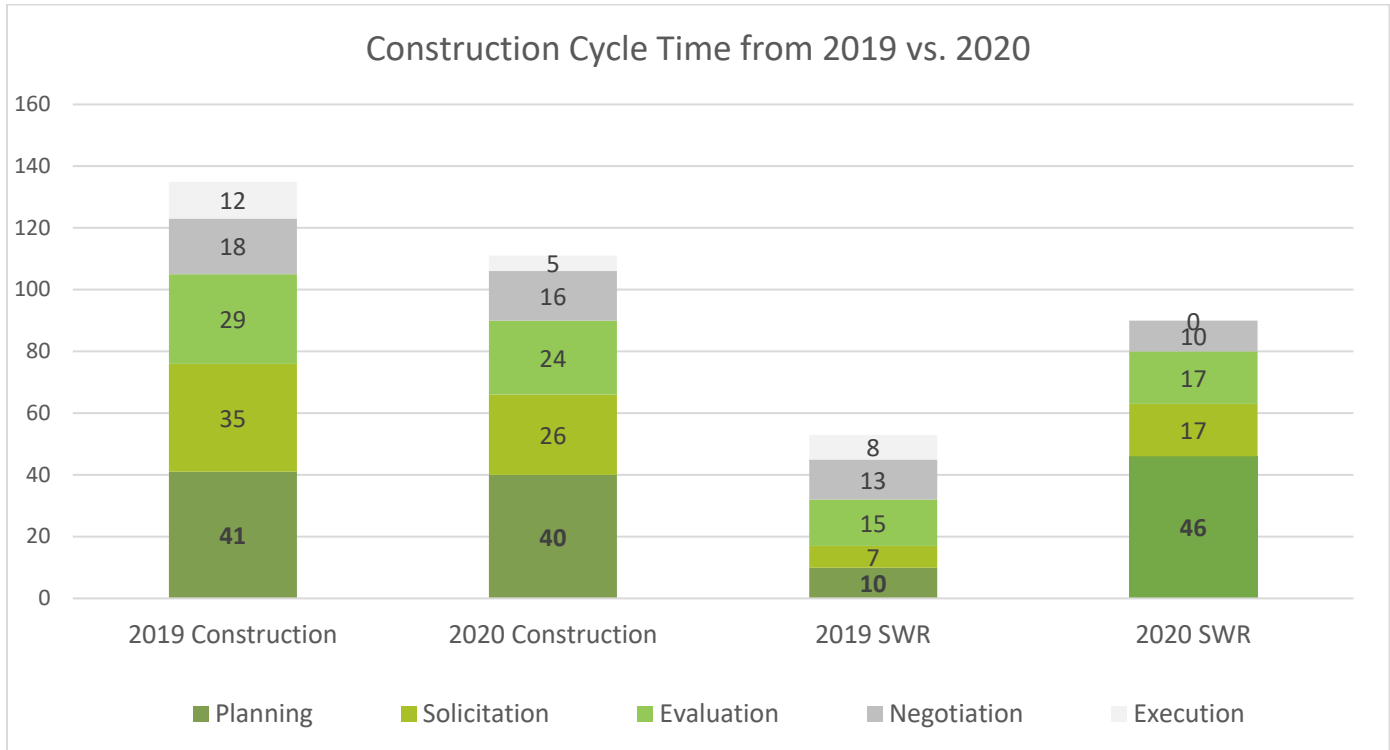
IAs are also required to include [Master Community Workforce Agreement \(MCWA\)](#) for all capital projects over \$5 million, unless otherwise approved in writing by BDCC . IAs must be familiar with the MCWA requirements to incorporate any applicable language into the division 1 specifications.

## **Escrow Bid Documentation**

Escrow bid Documentation shall be utilized for large (over \$10 million) contracts or complex contracts as approved by P&P. Escrow Bid Documentation shall be securely stored with P&P and only accessed per the Contract Documents.

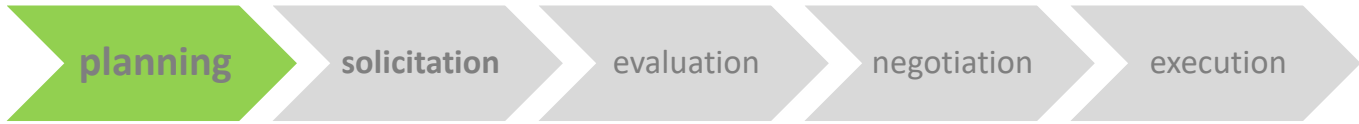
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## Average Timeline to Procure Construction Services



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## Planning Phase



### Planning Phase Overview

**Purpose:** The purpose of the planning phase is to prepare and develop clear, concise and equitable (ITB) solicitation documents, based upon the plans and specifications, for advertisement. P&P will collaborate with the IA to develop the detailed ITB bidding documents based upon the information submitted. P&P will negotiate a Procurement Schedule with the IA.

**Estimated Duration:** Based on 2019 & 2020 averages Advertised = 40 days & SWR = 28 days.

#### Planning Phase Task Overview:

#	Tasks		
1	Complete Service Request in E-Procurement		IA
	Fill out the 'Work Item' list for BDCC subcontracting and apprenticeship information		IA
	Attach all required documents in the SR		IA
	Change Status of SR to 'Completed'		IA
	Review SR for accuracy and ready for development	PP	
	Download attachments to SharePoint and review	PP	
2	Negotiate Procurement Schedule		IA
	Compile ITB documents	PP	
	Build solicitation in E-Procurement	PP	

### CON Resources:

Visit the [Construction Collaboration](#) SharePoint site for Construction contracting resources.

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## Planning Phase Steps

IA

### Step 1 – Complete Service Request in E-Procurement

Login to the E-Procurement [Service Request system](#), you will receive a Bell Notification when SR has been assigned to you from the CS.

- Complete all required SR fields and tabs and attach a Scope of Work.
  - Fields in E-Procurement Service Request now incorporate the Insurance Requirements Form.
- Complete the Work Item tab incorporates BDCCs Subcontracting Opportunities and Apprenticeship Workbook.

**NOTE:** Add any information that may affect the ability to use apprentices, such as confined space work or security clearance (background checks). In addition please include a summary scope of work, this helps BDCC make a more accurate determination for the use of Certified Businesses (Small Contractors and Suppliers [SCS], Small Business Enterprise [SBE], Disadvantaged Business Enterprise [DBE], Minority Business Enterprise [MBE], etc.) or apprentices. Ensure that work is broken out by trade or craft (eg: electricians). List the number of labor hours for each trade. The individual trades/scopes of work must add up to the contract dollar amount identified for the project.

#### Required SharePoint Uploads

1. Specifications, with table of contents (in Word format) - Click [here](#) for guidelines on preparing plans and specifications.
2. Drawings (Not required for work orders) in unlocked PDFs.
3. Supplemental Bidder Responsibilities 00 45 13 draft (qualifications) - If supplemental responsibility criteria is desired, provide draft criteria draft can be found [here](#).
4. Bid Schedule draft Provide draft bid schedule (bid form/00 40 00/proposal form) including bid items and quantities, in Excel with template that can be found [here](#).
5. Engineer's Estimate - Provide estimate detailing bid items and quantities, Engineer's Estimate should align with the Bid Schedule provided, and the measurement and payment section.
6. Permits & Easements are included with specifications
7. Liquidated Damages (if applicable)

If LDs are included in specifications, provide justification of LD amounts. They are *not required on all contracts*.

If IA wants to utilize LDs in 00 72 00 for Key Personnel and/or Subcontractors approved during the Qualification process you must also provide LD justification for those as well.

PP

### Next Steps: Review SR for accuracy and ready for development

1. Contract Specialist (CS) will review all required attachments for completeness and accuracy.
  - **If the SR and attachments are complete**, the CS will contact the IA to discuss procurement strategy and establish a procurement schedule.
  - **If the SR and attachments are incomplete**, CS will notify the IA of the missing information or corrections and the IA will be asked to provide updated documentation.
2. CS will review the ITB package in detail, verifying all documentation is complete.

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3. CS will develop a draft procurement schedule, which takes into account current work load (i.e. special projects, the ITBs restrictions, team needs, vacations, etc.) and upload to the SharePoint site for review by the IA.

IA

## Step 2 – Negotiate Procurement Schedule

Engage with CS and negotiate a Procurement Schedule for the remainder of the solicitation process.

tip

If you are unable to negotiate a schedule that is acceptable to both parties reach out to the CS Lead to discuss options.

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PP

## Next Steps – Compile ITB documents

1. CS will compile the finalized ITB documents in preparation for advertisement and reviews.
2. Build initial Round solicitation in E-Procurement.
  - Complete all train stops within E-Procurement solicitation
3. Closes the original Service Request in E-Procurement
4. Prepare advertisement.

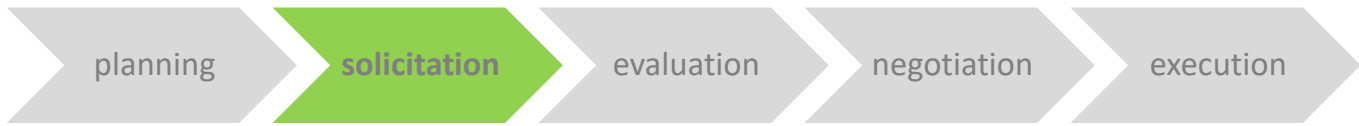
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## Next Steps – Build Solicitation in E-Procurement

1. CS will “Complete” solicitation build in E-Procurement and submit for Lead approval.

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## Solicitation Phase Overview



**Purpose:** The purpose of the solicitation phase is to release the ITB documents via the County’s external E-Procurement website, and to conduct a clear and open solicitation process for all potential bidders. A notice is sent to all vendors registered with the County. The ITB is advertised in the Seattle Times (as required by RCW), the Daily Journal of Commerce and other local publications , to reach the maximum quantity of potential bidders, subcontractors, and suppliers. At the conclusion of this phase, bids are received and publicly opened.

**Estimated Duration:** Based on 2019 & 2020 averages Advertised = 31 days & SWR = 12 days.

### Solicitation Phase Task Overview:

#	Tasks		
	P&P Advertises Solicitation (Round 1)	PP	
	Facilitate Pre-Bid meeting(s)	PP	
1	Facilitate Site Tour		IA
2	Respond to bidder questions - Develop Addenda & Clarifications		IA
	Project Team and Peer Review of Draft Addenda	PP	
	CS Lead Review and Approve (if necessary)	PP	
	Issue Addenda (if necessary)	PP	
3	Provide final Engineer’s Estimate		IA
	<b>Bidders Submit Bids</b>	PP	



### Next Steps – Advertise Solicitation (initial Round)

1. CS will advertise solicitation and post the Abstract in E-Procurement. Formal ad date is date published in Seattle Times. Seattle Times requires (2) days lead time from final ITB to advertisement.

**Best Practice:** Standard procurements are advertised for a minimum of 2 weeks. Federally funded projects may require longer advertisement period.

#### Small Works/Limited Public Works Rosters –

- ✓ Invitations are sent to a list of firms from one or more NAICS codes of work disciplines.
- ✓ ITBs are not publicly advertised.
- ✓ Work with CS to determine best NAICS code(s) for the desired work.

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## Next Steps – Facilitate Pre-Bid Meeting

1. Pre-bid meetings are a best practice for all advertised ITBs to provide transparent access to contract-specific information, ensure bidders' understanding of the work, review subcontracting opportunities and requirements, provide opportunity for bidder' input, review ITB submittal requirements, insurance requirements, small business requirements, and encourage competition. Pre-bid meetings are not typically conducted for Small Works Roster ITBs.
2. Consider additional photos in drawing sets or videos for virtual walk throughs.

### Pre-bid meeting attendance

The following County staff shall attend the pre-bid meeting:

- ✓ Implementing Agency Project Representative
- ✓ Procurement & Payables Contract Specialist
- ✓ Business Development & Contract Compliance Specialist (if applicable)

**Best Practice:** The P&P Contract Specialist will schedule and facilitate the pre-bid meeting, circulate a sign-in sheet, and post the attendees list to the website within 24 hours after the meeting. If mandatory pre-bid is required, two pre-bids must be conducted. Best practice is to conduct 10 days before bid due date. PR is requested to schedule the conference room if at an off-site facility, and also to reserve a vehicle if necessary (for limited access). Consider additional photos in drawing sets or videos for virtual walk throughs.

IA

## Step 1 – Facilitate Site Visit

Site visit typically follow the pre-bid meeting. Site visits are not required, although are recommended if the site is not accessible by the general public or includes secure facilities. Consider additional photos in drawing sets or videos for virtual walk throughs due to Covid 19 requirements.

IA

## Step 2 – Addendum and Clarifications

Bidders and IAs shall direct all bidder questions to P&P CS through the E-Procurement system. CS and IA will collaborate on a question and response log hosted on the solicitation collaboration site. All questions submitted will be tracked in one location. Responses will take the form of Addendum or Clarifications.

**Standard Practice:** Responses to questions should reference where in the documents the bidder can find the requested information. *Clarifications are for reference only and are **non-binding**, so they are NOT used to change the Contract Documents.* Addenda and/or Clarifications shall be issued to answer bidder questions or remove ambiguities in the ITB documents. If the information cannot be found within the original ITB documents, the specifications should be revised via Addendum to provide clarity to the bidders.

PP

## Next Steps – Issue Addenda & Clarifications

1. To ensure transparency and that all prospective bidders receive the same information at the same time. P&P will review and issue addenda and/or clarifications in response to proposers' questions.

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IA

## Step 3 – Final Engineer’s Estimate

Message or email the updated Engineer’s Estimate to the CS at least 48 hours before the Bid Closing which incorporates changes by addenda and current market conditions. Engineer’s Estimate with multiple bid items shall match the bid form for cost comparison and responsive summary.

**Standard Practice:** Do not include taxes (if Retail Sales or Rule 170, but do include applicable sales or use tax to Rule 171 bid items), or contingency. Do include overhead and profit in bid items (everything the bidder would be including in their bid). Do not include the project’s budget for change orders, contingency, the County’s inspection costs.

PP

## Next Steps – Bidder Submits Bids

1. The solicitation process is closed when the Close Date and Time expires in E-Procurement and the CS will conclude with a public bid opening online (agency attendance is optional).
2. Bid openings will occur online via MS Teams.
3. Bid opening includes announcing the bid prices and final Engineer’s Estimate.
4. Following the bid closing period, P&P will unlock and unseal the bids and submittals in E-Procurement to make visible to bidders.
5. Bids will be posted to the [Solicitation References page](#).



# Construction Procurement Guide

## Evaluation Phase Overview



**Purpose:** The purpose of the evaluation phase is to select the lowest responsive and responsible bidder based on the form of bid and responsibility criteria published in the ITB. The process includes verification of mandatory bidder RCW requirements for public works, and review of qualification information.

**Estimated Duration:** Based on 2019 & 2020 averages Advertised = 27 days & SWR = 16 days.

### Evaluation Phase Task Overview:

#	Tasks		
	P&P Conducts Bid Responsiveness Determination	PP	
	Unlock and Unseal Bids & begin bid responsiveness review	PP	
	Notify appropriate parties bid documents are ready for review	PP	IA
	SCS, DBE, SBE Bid Responsiveness Determination – if applicable	BDCC	
	M/WDBE Bid Responsiveness Determination – if applicable	State/Fed	
	Initiate a new Round to Request Qualifications from low responsive bidder(s)	PP	
	Bidder responds to new round and provides Qualifications & Escrow Bid Docs if necessary	PP	
	Review Quals and notify IA Quals are ready for review or request additional info	PP	
	Equal Benefits Declaration (& approval if necessary)	PP	
1	Conduct Supplemental Bidder Criteria Responsibility determination		IA
	Bid Evaluation Conference (if necessary)		IA
	Escrow Bid Doc review (if required)		IA
	Draft Contract Authorization Memo and routes via messaging in E-Procurement to IA	PP	
2	Completes Contract Authorization Memo and routes to Management for signature		IA
	Agency Submits CAM		IA
	Review CAM if necessary	PP	
	Prepare documents for Bidder to sign (Agreement, Bonds, forms)	PP	
	P&P Issues Intent to Award (Round 3)	PP	

## Evaluation Phase Steps

Except for Energy Services and Alternative Public Works Contracts, P&P shall award construction contracts to the responsive and responsible contractor submitting the lowest bid. ITBs shall be first evaluated for responsiveness and then responsibility per [RCW 39.04.350](#).

# Construction Procurement Guide

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PP

## Next Steps - Responsiveness Review

1. Bids will be unlocked and unsealed in E-Procurement for participants to review.
2. Evaluate the low bidder to determine if they meet the required minimum qualifications as required by RCW 39.04.350. Bids shall be evaluated based on a bidder's current Washington State business certificate of registration, current Washington State unified business identification number (UBI), and their ability to offer the lowest price for the services. Before Execution of a contract, P&P must verify that the party is not suspended, debarred, or disqualified on County, State, or Federal suspension and debarment lists, as applicable.
3. Create the responsive summary to verify bidder is responsive, compare price submitted to the Engineer's Estimate and other bids to verify the price is fair and reasonable. In order to verify a price(s) is fair and reasonable, the bids or proposals shall be compared to the Engineer's Estimate and to other bids or proposals submitted. IAs and P&P should use the threshold of 10% difference between the Engineer's Estimate and the total bid price. If the total bid price or the price for individual bid items are 10% over or under the Engineer's Estimate, an in depth analysis shall be conducted to verify the bidder understands the scope of work required, and has included all major cost components in the bid.
4. BDCC will receive a message in E-Procurement to conduct their review (if required, estimated duration for BDCC review is typically 3 days but may take longer depending on the number of bids).
5. Initiates Round 2 to requests qualification information from low responsive bidder.
6. Verify completeness of submittal(s).
7. Conduct the Mandatory Bidder Responsibility Criteria review as mandated by [RCW 39.04.350](#).
8. Message IA remainder of qualifications is ready for review.

**Exceptions:** For FHWA funded ITBS – Roads will route submittals to WSDOT for review. Funding requirements may include other Federal agencies review. No supplemental bidder qualifications (project examples) are requested for FHWA funded contracts, only the mandatory minimum qualifications apply.

IA

## Step 1 – Conduct Supplemental Bidder Criteria Responsibility determination

1. Compare bidder submittals to ITB qualification requirements – pass/fail evaluation.
2. Message CS of findings.

PP

## Next Steps – Conduct Bid Evaluation for Fair and Reasonable Price

1. Request a bid breakdown from the low responsive bidder.
2. A bid evaluation meeting between IA and low bidder may be required for further clarification. IA attendees should include the PR, CM and/or Engineer who are familiar with the costs associated with the project.
3. Escrow Bid Documentation intake meeting usually occurs after the bid evaluation meeting, if applicable.

# Construction Procurement Guide

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**Standard Practice:** If the bids are 10% above or below the Engineer's Estimate a bid evaluation meeting is recommended. The IA can request a bid breakdown from low bidder which reflects labor, subcontractors, materials, equipment, and profit for comparison prior to the bid evaluation meeting. IA will manage bid evaluation meeting minutes. Intent of the meeting is to ensure the bidder understands the work requirements, provides clarity on assumptions/work approach and sequencing, and ensures the project team the price is fair and reasonable.

PP

## Next Steps – Draft Contract Authorization Memo (CAM)

1. Message the draft CAM to the IA for review and completion.

**Standard Practice:** Intent of the CAM is to confirm the client agency views the price as fair and reasonable and to spend IA funds to award the contract.

IA

## Step 2 – Contract Authorization Memo (CAM)

1. Adds required information, requests final review of draft by CS.
2. Routes for internal signature and messages signed CAM to the CS through E-Procurement.

**Standard Practice:** Intent of the CAM is to confirm the client agency views the price as fair and reasonable and to spend IA funds to award the contract.

PP

## Next Steps – Intent to Award (Round 3)

1. Initiate Round 3 to the low responsive and responsible bidder and requests completion of Intent to Award forms and documents. (ex: Insurance, Bonds, and other required forms).
2. BDCC will receive automatic notification to review and approve the apprenticeship utilization plan, if applicable.
3. Risk will automatically receive notification to review and approve the Insurance Certificate.

### Protests

Protests may be received from bidders. The protest process is outlined in the ITB. In the event of a protest, the P&P Contract Specialist will coordinate the response with the IA Project Representative, Chief Procurement Officer, Prosecuting Attorneys' Office (PAO), Procurement Supervisor, lead, and other stakeholders as appropriate in accordance with the ITB and P&P standard work.

PP

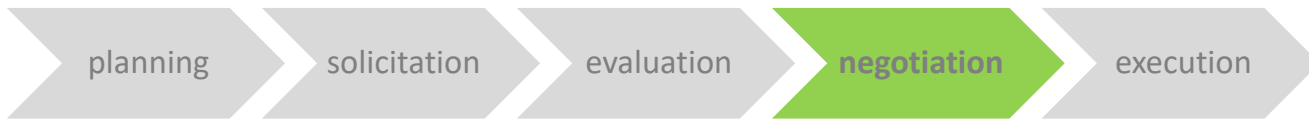
## Next Steps – Electronic Signature Routing Confirmation

Following approval of the Contract in E-Procurement:

1. Message IA to verify routing matrix for electronic signature process.
2. Message bidder to verify signer and any additional parties to be copied.

# Construction Procurement Guide

## Negotiation Phase Overview



**Purpose:** The Purpose of the negotiation phase is NOT to actually negotiate, all terms and conditions are firm and fixed, but rather for the Contractor to upload the forms required by the ITB and E-Procurement. P&P will review all submittals, get approvals when necessary and work with the bidder to properly complete all required forms in a timely manner.

**Estimated Duration:** Based on 2019 & 2020 averages Advertised = 17 days & SWR = 12 days.

### Negotiation Phase Task Overview:

#	Tasks		
	Contractor submits Intent to Award documents via E-Procurement		
	Review signed NOS documents (P&P Bond, Forms, etc.)	PP	
	Notify Risk for Insurance Certificate review	PP	
	Notify BDCC for Apprenticeship Plan review, if applicable	PP	
	Risk Management Approves Insurance Certificates	Risk	

## Negotiation Phase Steps



### Next Steps – Intent to Award Document Review

1. Reviews all Contractor submitted documents.
2. Notify Risk Management, through E-Procurement, that Certificate of Insurance is ready for review and approval as an Collaboration Team member.
3. Notify BDCC, through E-Procurement, that Apprenticeship Utilization Plan is ready for review and approval as an Collaboration Team member.

**Exceptions:** For FHWA funded ITBS – Roads will forward required documents (UDBE, MBE, WBE, SBE, etc.) to WSDOT for review.

**Standard Practice:** Risk Management will be able to work directly through E-Procurement to ensure the insurance submitted complies with the Contract Documents. Multiple rounds of insurance certificate submissions may be necessary. Final approved insurance certificates will be incorporated into the Contract.

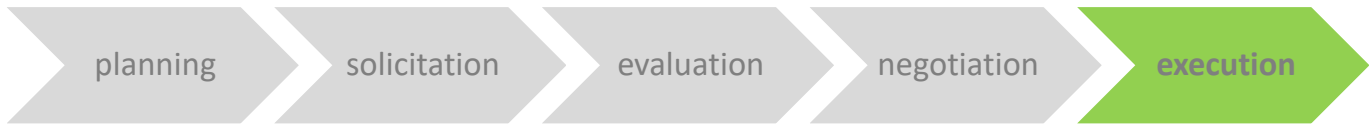


### Next Steps – Intent to Award Documents Approved

1. Risk Management approves Certificate of Insurance via message in E-Procurement.
2. BDCC approves Apprenticeship Utilization Plan via message in E-Procurement.
3. Prepares Contract Documents for electronic signature routing via DocuSign.

# Construction Procurement Guide

## Execution Phase Overview



**Purpose:** The purpose of the Execution Phase is for P&P compile the documents and prepare for execution. P&P will create the electronic contract in DocuSign, and route to all parties (Contractor and IA) for execution. Once executed, P&P will upload the final executed contract to SharePoint temporarily or IAs may download from E-Procurement.

**Estimated Duration:** Based on 2019 & 2020 averages Advertised = 9 days & SWR = 4 days.

### Execution Phase Task Overview:

Tasks		
P&P Transmits contract to Agency for execution	PP	
1 Agency Executes Agreement		IA
Transmit forms to BDCC	PP	
Transmit Retainage information to Accounts Payable	PP	
Complete CPA in E-Procurement	PP	
Return Bid Guarantees	PP	
P&P Closes Service Request	PP	
Contract file closeout (Content Manager)	PP	

## Execution Phase Steps



### Next Steps – Release Contract for Execution

1. Release contract for electronic signature through DocuSign via E-Procurement. The electronic signature portal will provide instant notifications, to the IA designees, as soon as the prior person in the process has completed their action.
2. Contractor signs electronic Contract and then it is automatically routed to department for next step.



### Step 1 – Agency Executes Contract

1. Track process and assists P&P and the IA to ensure all IA parties sign contract in a timely manner.
2. Department Director (or designee) signs contract after determining compliance with all applicable contracting requirements and maintains executed contract according to department procedures.  
*Exception: Federal agencies must provide a letter of concurrence, as required by federal regulations.*
3. Contract is executed electronically by all parties.

PP

## Next Steps – Following Contract Execution

1. Downloads electronically executed contract and saves to F drive.

**Standard Practice:** Once the Bidder and County have signed the Agreement, the Project Representative should download the entire executed file (that includes the signed Agreement) for their records. P&P does not provide hard copies of the final signed Agreement. Once the Agreement is signed by the Bidder and County, the IA may hold a pre-construction meeting, and issue the Notice to Proceed.

2. Download the authentication of the signature process from the electronic signature portal.
3. Provide a copy of the executed Contract to PR via Solicitation Collaboration site.
4. Provide notification to BDCC of executed contract so they can retrieve necessary information.
  - Standard Practice: Provided within 7 days of Contract Execution.

# Construction Procurement Guide

## Post Execution Phase

**Purpose:** The purpose of post execution phase is for P&P to file all documents (hard copies & electronic).

**Estimated Duration:** Based on 2019 & 2020 averages Advertised = 30 days & SWR = 30 days.

### Post Execution Phase Task Overview:

Tasks		
Contract File closeout	PP	
Upload all contract files to Content Manager	PP	

## Post Execution Phase Steps



### Next Steps – Post Execution Tasks



### Next Steps – Final Post Execution Tasks

1. File all procurement documents to electronic records management system Content Manager.
2. Verify all hard copy documents received throughout the solicitation process are retained in the contracts folder and properly filed.



### Next Steps – Contract Administration

Please reference the [PCO Compliance Manual](#).

Contract changes shall be documented by Change Orders and initiated by the IA Director (or designee). Changes requiring Change Orders include but are not limited to the following:

#### Contract Time

Contract time may be extended in Project Specific, Roster and Limited Public Works contracts by a Change Order. A Change Order shall be used to extend time in an individual Work Order, but not the Work Order contract.

#### Contract Modification

Work Order Contracts require a Contract Modification to exercise the option to extend for the time specified, per the Contract Documents. No time extensions are allowed beyond what is in the Contract Documents.

#### Changing Scope and Price

All additions and/or reductions to the scope of work, including changes to contract time and contract price, shall be documented in a Change Order. Work added via a Change Order shall be necessary to complete the scope of work in the Contract Documents.

# Construction Procurement Guide

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## References and Definitions

### King County Policies

#### General Procurement Policy CON 7-27

Procurement for Capital Projects and Procurement of Construction Work Order Contracts, [Construction Policy CON 7-26](#)

### Definitions and Frequently Used Terms

**Retainage** The law requires public agencies to withhold 5% of the contract amount for public work projects costing \$35,000 or more. Retainage can be released once King County has accepted the project as complete, all liens and claims have been released, and all contractors on the project have paid the appropriate prevailing wages and state taxes, including workers' compensation and unemployment insurance premiums. The state Department of Revenue (DOR), Employment Security Department (ESD), and L&I all approve release of the retainage separately.

### Name Brand vs. Sole-Source

Specifying a name brand during the procurement process is not the same as project declaring a sole source purchase.

#### Name-brand product

You may specify a name brand product during the procurement process. A Waiver must be provided, through the E-Procurement system, which included the brand required, why only this manufacturer's equipment meets current operational needs, and why another manufacturer's equipment could not be substituted. This documentation should be maintained and periodically evaluated to ensure the specific brand is still required.

#### Sole-source purchase

A sole-source purchases are where there is only one vendor capable of providing an item or service, and therefore it is not possible to obtain competitive bids. If an item (even a specific name brand) is available from more than one vendor, it is not appropriate to declare the purchase sole source. To be considered a sole-source exception, the purchase must be clearly and legitimately limited to a single vendor. A Waiver request must be sent through the E-Procurement portal for approval prior to using the terms "no substitutions allowed". Nonetheless, purchasers should make reasonable efforts to ensure it is receiving the lowest price and best terms from the vendor.



# Construction Procurement Guide

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## **APPENDIX A - DECISION MATRIX DETAILS**

### **Standard Invitation to Bid**

A process through which bids are solicited through a public advertisement. ITB should include a full set of plans and specifications. Bids are submitted to the County at the specified time and date, accompanied with a form of bid guaranty, opened and read publicly.

- Pre-bid conferences are encouraged, especially if limited access to your site
- Having a Mandatory pre-bid conference requires at least two conferences
- Bid period is usually from 13 days to 4 weeks
- Low bid is the starting point for responsiveness determination.
- Supplemental Qualifications may be required for evaluation of bidder, subcontractor and key personnel responsibility.
- Small Contractor & Supplier requirements are possible.
- Apprenticeship requirements are possible
- If contract has any federal funding, the ITB federal funding requirements method should be used.
- Additional terms and conditions will be applied per grant agency.
- Some form of retainage is required on contract. (Except for US DOT funded contracts)
- Solicitation process duration approximately 111 days.

### **Limited Public Works**

Limited Public Works (LPW) contracts are micro contracts (under \$50K) which are solicited from an approved list of LPW contractors signed up for a particular NAICS category of work. Solicitations can be from multiple NAICS categories to ensure adequate number and types of bidders. Plans and/or Specifications need minimal biddable details.

The process is initiated with a solicitation is issued to firms in a selected NAICS code or codes with a response due within a minimal number of days. The evaluation, award, and execution processes will be expedited.

- Minimal specifications and/or plans.
- No Small Contractor & Supplier requirements
- No Apprenticeship requirements
- Insurance is required.
- Qualifications – recommended mandatory minimum only. Additional qualifications will add additional time for evaluation.
- Preparation of solicitation documents 5, Short bid duration – 2-3 days. Evaluation 2-3 days, Award & execution 5 – 10 days
- The County has the option of requiring Retainage be withheld. The County may opt to assume the risk associated with not requiring.
  - For contracts under \$50,000 contractors could have the option in lieu of retainage the Owner may retain 50% of the contract price up to 45 days beyond completion
- The County has the option of requiring Performance & Payment Bond. The County may opt to assume the risk associated with not requiring a bond.
- Pre-Bid conferences are optional but not encouraged.

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## **Small Works Roster**

Small Works Roster contracts are small contracts (under \$350K) which are solicited from an approved list of vendors from particular NAICS code(s). Solicitations can be from multiple NAICS codes to ensure adequate number and types of bidders. Typically all firms in a NAICS code are selected, if not then additional steps are taken to follow RCW and ensure SCS firms are included in each bidding pool. Plans and Specifications, including Division 1, need not be as detailed as for a standard advertised contract. The current process is the solicitation goes out to the interested firms electronically and they submit bids and then qualifications electronically.

Always good to review the Scope of Work and the category list of firms with a contract specialist to verify that there are an adequate number of qualified firms in the categories for your work. If there is not an adequate field of bidders, the solicitation may need to go out as an advertised contract process.

Note: Once a contractor in a small works roster category has been offered an opportunity to submit a bid, that contractor shall not be eligible for another opportunity to bid within that category until all other appropriate contractors on that category list have been offered an opportunity to submit a bid on a contract.

- Limited federally funded contracts can be done using this method.
- No Small Contractor & Supplier requirements.
- No Apprenticeship requirements.
- Pre-Bid conferences are optional but encouraged.
- Bid period is usually from 5 days up to two weeks.
- Low bid is the starting point for evaluation.
- For contracts under \$50,000 contractors could have the option in lieu of retainage the Owner may retain 50% of the contract price up to 45 days beyond completion.
- Solicitation process duration process designed to take 45 days but average approximately 90 days.

## **Work Order (On-Call)**

Unit Price contracts (Work Orders) are normally for small non-routine maintenance or repairs to be performed. Once the contract is executed, departments can issue individual Work Orders for the performance of work during the period of the contract. Contract duration is for one year from contract execution or until money is exhausted. There is typically an option to extend for one additional year or until the money is exhausted. There are no monetary extensions to these contracts. There are no time extension to these contracts beyond the optional year as specified in the contract. The actual work is implemented with the execution of individual work order(s).

- Work Order Contracts typically range from not to exceed \$500K to \$1M (excluding tax).
- Work Order Form of Bid can be structured with fully burdened rates for units of work (i.e. square yard of paving) or labor rates along with markup percentages.
- Small Contractor & Supplier requirements are possible
- Apprenticeship requirements are possible
- Individual Work Orders are to be under \$300K. See Department's PM manual for Work Orders specifics and **Construction Policy CON 7-26** for limits over \$300K.
- Limited federally funded contracts can be done using this method.
- Retainage required on contract and based on work order payment(s) (a bond can be provided in lieu of retainage).
- Individual Work Order.
- Solicitation process duration approximately 95 days.

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- Process duration to negotiate and issues individual work order (2 to 14 days).
- Pre-Bid conferences are optional but encouraged.

## Alternative Public Works

### ***Job Order Contract (JOC)***

The County has two County wide Job Order Contracts (one vertical [building] construction and one horizontal [industrial/civil]); that are available to all departments for use. Either contract can be used for various types of work, issued as individual job order (similar to a Work Order but with larger thresholds). The two contracts are each Not-to-Exceed \$6 million for the first year and can be extended two additional years for a total Contract Time of 3 years and a Total Not To Exceed Price of \$18 million. JOC contracts are solicited at the department level with one agency taking the lead and responsible for managing. Job Orders are negotiated with the contractor and issued for the work.

- Job Order limit is \$500K (excluding tax).
- The JOC contractor is required to subcontract out 90% of the work.
- Process duration to negotiate and issue a job order 2 to 6 weeks.
- Small Contractor & Supplier requirement (30%).
- Solicitation process duration approximately 95 days.

### ***Design Build (DB) and General Contractor/ Construction Manager (GC/CM)***

The County is not a Capital Projects Advisory Review Board (CPARB) Project Review Committee (PRC) certified agency and therefore needs to hire a consultant to provide the team experience to assist us in developing the PRC application and then proposal documents.

## Design Build contract types

The DB procedure is defined in [RCW 39.10.300](#). The types of DB contracts are further described on the CPARB website.

### ***Progressive***

Contract Scope & Cost - Established after the design-build team is selected. The term progressive derives from the fact that scope and cost are agreed upon through a series of steps taken jointly by the owner and the design-builder

Selection Criteria - The design-builder is selected based on qualifications and cost factors, prior to submittal of a final design and firm cost proposal. RFP requirements may include a management plan and/or an initial design concept. Qualifications typically play a larger role in team selection than other design-build types

### ***Traditional***

Contract Scope & Cost - Established at the time the design-build team is selected. Often referred to as a “design and price competition” or “competitive design-build” because teams selected to participate in the RFP phase of the selection process submit firm proposals for the design and price

Selection Criteria - The design-builder is selected based on qualifications, a design concept and a firm cost proposal. The quality of the design proposal is very important in some selections. Cost is more important in others

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## ***Bridging***

Contract Scope & Cost - Established at the time the design-builder is selected. The term bridging derives from the fact that the owner's separate design architect/engineer provides bridging documents that prescribe a design solution which the design-builder implements

Selection Criteria - The design-builder is selected based on qualifications, a management plan to implement the owner's design concept and a firm cost proposal to complete the project. Selection is typically focused on cost

## ***General Contractor/ Construction Manager (GC/CM)***

"General contractor/construction manager" means a firm with which a public body has selected to provide services during the design phase and negotiated a maximum allowable construction cost to act as construction manager and general contractor during the construction phase.

The GC/CM procedure is defined by [RCW 39.10.370](#).

## ***Energy Services Contracting***

In general Energy Saving Contracting is intended to leverage capital investments to achieve efficiencies, improve facilities, and yield carbon reductions. There are two options available to King County and the State. There are slight differences in the procurement methods and costs associated. Following the selection of a firm both can follow the same path:

- Investment Grade Audit to determine possible savings
- Design of guaranteed savings (options can be provided) measures and cost(s).
- Installation of energy savings measures
- Commissioning of energy savings measures

## ***Washington State - Energy Savings Performance Contracting (ESPC)***

The State's ESPC is available to King County, through an Interagency Agreement, as an option for developing and managing energy savings performance contracts. The State will act as the owner's advocate, deliver professional expertise and contract management services. Discuss use with P&P.

## ***Waivers***

Waivers for Construction Services are only available if the Executive Declares an Emergency and provides a Waiver of standard procurement processes. These are obtained on the department level, but P&P can assist in drafting the memo to be sure they include the appropriate language for the procurement needs.