

# Your Statutory Contracting Requirements

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## You Selected:

1. Procurement type: Public works
  2. Agency type: Water-Sewer District
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## Day Labor Allowed

Water-sewer districts may use their own employees to perform public works projects with an estimated cost up to \$50,000. For larger projects, you must contract with a responsible contractor.

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## Unit Priced Contracts Allowed

Water-sewer districts are authorized to use unit priced ("on call") public works contracts. A unit priced contract means a *competitively bid* contract in which public works are anticipated on a recurring basis, under which the contractor agrees to a fixed period indefinite quantity delivery or work, at a defined unit price, for each category of work. For more information, see our page on [Unit Priced \(On Call\) Public Works Contracts](#).

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## Competitive Bidding Overview

If your estimated project cost is \$50,000 or less, you may use a [minimal competition process](#), a [small public works roster](#), or formal competitive bidding.

If your estimated project cost is more than \$50,000 but less than \$350,000, you may use a [small public works roster](#) or formal competitive bidding.

If your estimated project cost is more than \$350,000, you must use formal competitive bidding.

[Prevailing wages](#) are required for all public works projects.

State statute does not specify whether [sales tax](#) is included in your competitive bidding limits. MRSC recommends including sales tax in all cost estimates.

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## Formal Competitive Bidding Requirements

You must advertise the solicitation in a newspaper of general circulation within the district at least 13 days before the submittal deadline.

Sealed bids are required, and you must conduct a public bid opening.

A 5% [bid guarantee](#) is required.

[Performance and payment bonds](#) are required for 100% of the contract amount.

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## Possible Exemptions

If your project falls into one of the following categories, you may be exempt from the normal competitive bidding requirements:

- [Emergency contract](#)
  - [Intergovernmental contract](#)
  - [Water pollution control facility](#)
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## Statutes/More Information

To learn more about the contracting process in general, see [Public Works Contracts](#).

For the exact statutory language regarding public works projects for water-sewer districts, see:

- [RCW 57.08.050](#) - competitive requirements
  - [Chapter 70.150 RCW](#) - water pollution control facilities
  - [Chapter 39.08 RCW](#) - performance and payment bonds
  - [RCW 39.04.280](#) - emergency exemption
  - [RCW 39.34.030](#) and [RCW 39.34.080](#) - general intergovernmental contracting
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## Federal Funding

If your project uses any amount of federal funding, then you must follow the most restrictive of your local, state, or federal procurement requirements. In many cases, state law is more restrictive. However, federal regulations are more restrictive for entities using the small works roster process.

For any procurement transaction, you must follow the Uniform Guidance procurement standards in [2 CFR §200.318-200.327](#) (except where explicitly excluded by the federal awarding agency) and any additional requirements imposed by the awarding agency or pass-through entity. These standards require you to have your own documented procurement procedures consistent with state and local laws, and the federal procurement standards, as well as written standards of conduct covering conflict of interest and governing the actions of your employees engaged in the selection, award, and administration of contracts ([2 CFR §200.318](#)). These procedures must be sufficiently detailed so that staff understand the actions they must take during a procurement.

Federal regulations stipulate the following thresholds and methods for procuring public works:

- **Micro-purchase procedures:** You may use these procedures if your documented procurement procedures include this option and your expected procurement is \$2,000 or less (for public works subject to wage-rate requirements, or the Davis-Bacon Act, otherwise it would be \$10,000 or less). However, you must apply a lower threshold if your local or state laws are more restrictive. The procedures allow you to contract for public works without soliciting or obtaining rate quotations if you consider the price to be reasonable based on your research, experience, purchase history or other information, and you document it in your files. You should also distribute micro purchases equitably among qualified suppliers, to the maximum extent practicable.
- **Small purchase procedures:** Follow these procedures if your expected procurement is below the simplified acquisition threshold. You determine this threshold based on your internal controls, an evaluation of risk and your documented procedures (which must follow the most restrictive of local and state and federal requirements). This threshold must not exceed \$250,000 under federal regulations. The procedures require you to obtain price or rate quotations from an adequate number (more than one) of qualified sources. The number of quotations required should be established in your documented procurement procedures.
- **Formal procurement procedures (sealed bids):** If your expected procurement is at or above the simplified acquisition threshold (see discussion above), you must perform a cost or price analysis as outlined in [2 CFR §200.324](#). You must then publicly solicit bids and award a firm, fixed-price contract to the lowest priced, responsible bidder who conformed with all material terms and conditions for bids. You must follow the requirements outlined in [2 CFR §200.320\(b\)\(1\)](#).

Contractors who helped develop or draft specifications, requirements, statements of work, or invitations to bid must not be allowed to compete in the procurement.

You must take care not to limit competition, such as requiring unnecessary experience, excessive bonding, or specifying a brand name product (an option to provide an equal product must be offered). The Uniform Guidance also does not allow you to give geographic preference, unless you can identify a federal statute that expressly mandates or encourages it.

Federal regulations do allow for some non-competitive procurements (beyond use of the micro-purchase threshold above), but you must meet specific criteria and include the exemption in your documented procurement procedures. Federal regulations have fewer exemptions than state law allows. They include sole source, public exigency or emergency, approval from a federal agency or pass-through agency, and situations where competition is deemed inadequate after soliciting a number of sources ([2 CFR §200.320\(c\)](#)). However, again, you must follow the most restrictive requirements when using any exemption provided for under local, state, or federal requirements.

Before you enter into a contract with a potential vendor, be mindful of two things. First, you must verify the contractor's suspension and debarment status before you enter into a contract of \$25,000 or more, even if you use a procurement exemption ([2 CFR §200.214](#)). Second, make plans to include any required federal contract provisions in your contract with the vendor such as the Davis-Bacon Act and termination for cause, per [2 CFR §200.327](#), and further detailed in [Appendix II of 2 CFR Part 200](#).

## Minimal Competition: Small Contracts and Purchases

Below an agency's bid limits, competitive bidding is not required, and agencies may seek quotes directly from individual vendors. (For certain agencies, these vendors may be chosen from a small works roster or vendor list as described in the next section.)

There is no requirement to seek multiple quotes, but most agencies do so anyway, down to some practical limit established in their policies. Kirkland and Woodland, for instance, require multiple bids for public works projects over \$7,500 but allow single bids for any projects smaller than that. Similarly, Kirkland does not require written quotes for purchases less than \$7,500, but informal phone quotes are encouraged.

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## Informal Competition: Vendor Lists and Small Public Works Rosters

State statutes allow many agencies to follow less stringent competitive requirements for projects below a certain threshold by selecting businesses from a small works roster or a vendor list. (Agencies are only eligible if their statutes specifically authorize the use of a roster and/or vendor list.)

For public works, eligible agencies can use the [small public works roster](#) process for projects below \$350,000 (or \$300,000 for port districts and irrigation districts).

For purchases, eligible agencies may use a [vendor list](#) up to a certain amount, with the maximum dollar limit depending on the agency's statutes.

MRSC provides its own roster service for local governments across Washington, connecting hundreds of local governments to thousands of businesses for public works, consulting services, and purchases. To sign up or learn more, visit [MRSC Rosters](#).