

# Fort Vancouver Regional Library District

## Purchasing and Procurement Policy

### PURPOSE

The Fort Vancouver Regional Library District's (FVRL) Purchasing and Procurement Policy serves as a guideline for staff when obtaining proposals, bids and quotes for public works projects, purchases of goods, and procurement of professional services. The intent of the policy is to ensure that public contracts are managed satisfactorily and efficiently, at the least cost to the public and the greatest value to FVRL.

### POLICY STATEMENT

FVRL will use a competitive process to solicit and evaluate proposals based on relevant laws when undertaking public works projects as established by the Revised Code of Washington (RCW) and any allowable practices under such statutes. Bidding, contracting, purchasing and procurement procedures and guidelines will be established and maintained by the Executive Director or their designee to assure a competitive, open, fair and compliant process.

### PUBLIC WORK PROJECTS

Public work is defined as all work, construction, alteration, repairs, or improvements to physical property, other than ordinary maintenance, on any public building or property. [39.04.010 RCW]

### PREVAILING WAGES

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.

### SMALL WORKS ROSTER

By Resolution 2017-2 of FVRL's Board of Trustees, public works projects of more than \$35,000 and less than \$350,000 may use a Small Works Roster (SWR) process to solicit bids [39.04.155 RCW].

### ADVERTISING REQUIREMENTS

For public works projects that do not use the SWR or cost more than \$350,000, FVRL will publish a notice at least once in a local newspaper and no less than thirteen (13) 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. [39.04.010/39.12.010-020 RCW]

### ALTERNATIVE PURCHASING METHODS

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

### 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.

### **DAY LABOR**

FVRL reserves the right to use library staff as day labor on projects with an estimated cost up to \$40,000 (single craft) or \$65,000 (multiple craft). [35.23.352 RCW]

### **EMERGENCIES**

Emergency purchasing is used only to avoid immediate hazard to life, to preserve FVRL's property, or to prevent significant service disruptions per 39.04.280(3) RCW. 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 FVRL 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 two weeks following the contract's award.

### **ON-CALL SERVICES**

FVRL 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 SWR and local vendors can be used as needed for emergency situations.

### **ORDINARY MAINTENANCE**

Ordinary maintenance is 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. [296-127-010(7)(b)(iii) WAC]. 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. FVRL will bid out each contract at no less than every three (3) years to identify potential vendors for all needed categories of maintenance services.

### **PERFORMANCE BONDS, RETAINAGE AND CLOSE OUT**

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

### **PHASING**

FVRL may not break a public works project into separate phases to avoid compliance with 35.22.620(3)RCW, 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.

## **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 **39.04.350 RCW** 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. **[ESSHB 1673]**

## **ARCHITECTS AND ENGINEERS**

Chapter **39.80 RCW** requires that any service that would be provided by a professional, such as a registered **architect, engineer, land surveyor or landscape architect** must be procured through qualifications based selection. Requests for qualifications (RFQ) ask proposers to submit qualifications, if not already on file, for a proposed scope of services in response to FVRL's specific needs. Qualified consultants may be used by FVRL for additional projects within three (3) years of qualification.

## **PURCHASES OF SUPPLIES, EQUIPMENT AND SERVICES**

FVRL shall purchase and acquire supplies, equipment, and services pursuant to **39.34 RCW**. Purchased goods and services that meet FVRL's requirements should be sought for competitive prices and exclude sales tax, shipping, and handling fees from total cost when considering bid limits. Competitive pricing is not required for the acquisition of library materials and resources (books, magazines, media, electronic databases, etc.).

## **PROFESSIONAL SERVICES**

Professional services include expertise provided by a consultant to accomplish a specific study, project, task, or other work statement, not including professional architecture and engineering services.

## **DEFINITIONS**

### **CONFLICT OF INTEREST**

No FVRL Trustee or employee may benefit, directly or indirectly, in whole or in part, from any FVRL contract for goods or services nor accept any compensation, gratuity or gift in connection with such contracts. **[42.23.030 RCW]**

### **GOVERNMENT CONTRACTS**

FVRL 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 **[39.32.070-090 RCW]**.

### **SALES TAX**

Sales tax applies to nearly every sale of tangible personal property and some services. For solicitation purposes, the tax must be included when determining the cost of a public work, or when calculating the cost of materials, supplies, and equipment purchased separately from a public work.

### **SMALL, MINORITY, WOMEN AND VETERAN OWNED FIRMS**

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

### **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 FVRL'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.

### **TRANSPARENCY AND REPORTING**

FVRL will maintain and annually produce for the Board of Trustees a list of all public works contracts awarded following the Records Retention Policy. [39.04.200 RCW]

### **WARRANTIES**

FVRL requires warranties on all public works projects and repairs for a minimum of one year. Longer warranties may be negotiated for specific projects.

### **ADMINISTRATION**

The Executive Director is responsible for the administration of this policy, for establishing administrative procedures for its implementation and for making the policy available for the public at each branch and via the Library's web site.

### **SEVERABILITY**

The Board of Trustees hereby declares its intention that the provisions of this policy are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, chapter, title or other portion of this policy, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of the policy, or the validity of its application to other persons or circumstances.

### **CONTINUANCE**

The Board of Trustees hereby declares its intention that the provisions of this policy shall be construed and applied as a *continuation* of the provisions of the policy, as amended, insofar as applicable, and the repeal of any part of this policy shall not be construed as affecting such *continuous* application.

**Relevant policies:** Fiscal Management Policy, Asset Management Policy

**Applicable law:** Chapters 18.27, 39.04, 39.04.010, 39.04.155, 39.04.200, 39.04.280(3), 39.04.350, 39.06.010, 39.08.010, 39.10.210, 39.12, 39.12.010-020, 39.12.065(3), 35.22.620(3), 35.23.352, 39.32.070-080-090, 39.34, 42.17A.155, 42.23.030, 60.28 RCW; 296-127-010(7)(b)(iii) WAC, ESSHB 1673.

**Approved and adopted by the Board of Trustees:** Original Policy 5/15/2017; Revised – 3/19/2018, 5/18/2020