

**SMALL PUBLIC WORKS, and
CONSULTANT RESOLUTION**

Resolution No. 589-12

A RESOLUTION OF THE COMMISSION OF THE PORT OF PORT TOWNSEND, WASHINGTON, AUTHORIZING THE EXECUTIVE DIRECTOR TO ESTABLISH (1) A SMALL PUBLIC WORKS ROSTER PROCESS TO AWARD PUBLIC WORKS CONTRACTS, (2) TO AWARD CONTRACTS UP TO DEFINED MAXIMUM LIMIT AND (3) ESTABLISH A CONSULTING SERVICES ROSTER FOR ARCHITECTURAL, ENGINEERING AND OTHER PROFESSIONAL SERVICES.

WHEREAS, RCW 53.08.120 requires that the PORT comply with state laws applicable to "Public Works as defined by RCW 39.04.010(4); and

WHEREAS, RCW 39.04.155 and other laws regarding contracting for public works by public agencies, allow certain contracts to be awarded by a small works roster process; and

WHEREAS, RCW 53.08.120(2)(b) authorizes the PORT to utilize said small works roster process; and

WHEREAS, in order to be able to implement small works roster processes, the PORT is required by law to adopt a resolution establishing specific procedures; and

WHEREAS, RCW 39.80.030 requires that an agency publish in advance that agency's requirement for professional services and that one of the ways to accomplish that notification is to announce generally to the public its projected requirements for any category or type of professional services and request qualification statements to be kept on file with the agency;

NOW, THEREFORE, THE COMMISSION OF THE PORT OF PORT TOWNSEND, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. MRSC Rosters. The PORT wishes to contract with the Municipal Research and Services Center of Washington (MRSC) to have their official rosters hosted in the online database for PORT use for small public works contracts and consulting services developed and maintained by MRSC. The Commission authorizes PORT Executive Director to execute that contract].

Section 2. Small Public Works Roster

The following small works roster procedures are established for use by the PORT pursuant to RCW 39.04.155:

1. **Cost.** The PORT need not comply with formal sealed bidding procedures for the construction, building, renovation, remodeling, alteration, repair, or improvement of real property where the estimated cost does not exceed Three Hundred Thousand Dollars (\$300,000.00), which includes the costs of labor, material, equipment and sales and/or use taxes as applicable. Instead, the PORT may use the Small Public Works Roster procedures for public works projects as set forth herein. The breaking of any project into units or accomplishing any projects by phases is prohibited if it is done for the purpose of avoiding the maximum dollar amount of a contract that may be let using the small works roster process.
2. **Publication.** At least once a year, on behalf of the PORT, MRSC shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for such roster or rosters. Responsible contractors shall be added to appropriate MRSC Roster(s) at any time that they complete the online application and meet minimum State requirements for roster listing.
3. **Telephone, Written, or Electronic Quotations.** The PORT shall obtain telephone, written or electronic quotations for public works contracts from contractors on the appropriate small works roster to assure that a competitive price is established and to award contracts to a contractor who meets the mandatory bidder responsibility criteria in RCW 39.04.350(1) and may establish supplementary bidder criteria under RCW 39.04.350 (2)

a) A contract awarded from a small works roster will not be advertised. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation.

b) Quotations may be invited from all appropriate contractors on the appropriate small works roster. As an alternative, quotations may be invited from at least five contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. "Equitably distribute" means that the PORT may not favor certain contractors on the appropriate small works roster over other contractors on the appropriate small works roster who perform similar services.

If the estimated cost of the work is from one hundred and fifty thousand dollars (\$150,000) to three hundred thousand dollars (\$300,000), the PORT may choose to solicit bids from less than all the appropriate contractors on the appropriate small works roster but must notify the remaining contractors on the appropriate small works roster that quotations on the work are being sought. The PORT has the sole option of determining whether this notice to the remaining contractors is made by:

- (i) publishing notice in a legal newspaper in general circulation in the area where the work is to be done;
- (ii) mailing a notice to these contractors; or
- (iii) sending a notice to these contractors by facsimile or email.

c) At the time bids are solicited, the PORT representative shall not inform a contractor of the terms or amount of any other contractor's bid for the same project;

d) A written record shall be made by the PORT representative of each contractor's bid on the project and of any conditions imposed on the bid. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry.

4. **Limited Public Works Process.** If a work, construction, alteration, repair, or improvement project is estimated to cost less than thirty-five thousand dollars (\$35,000), the PORT may award such a contract using the limited public works process provided under RCW 39.04.155 (3). For a limited public works project, the PORT will solicit electronic or written quotations from a minimum of three contractors from the appropriate small works roster and shall award the contract to the lowest responsible bidder as defined under RCW 39.04.010. After an award is made, the quotations shall be open to public inspection and available by electronic request.

For limited public works projects, the PORT may waive the payment and performance bond requirements of chapter 39.08 RCW and the retainage requirements of chapter 60.28 RCW, thereby assuming the liability for the contractor's nonpayment of laborers, mechanics, subcontractors, material men, suppliers, and taxes imposed under Title 82 RCW that may be due from the contractor for the limited public works project. However, the PORT shall have the right of recovery against the contractor for any payments made on the contractor's behalf.

The PORT shall maintain a list of the contractors contacted and the contracts awarded during the previous 24 months under the limited public works process, including the name of the contractor, the contractor's registration number, the amount of the contract, a brief description of the type of work performed, and the date the contract was awarded.

5. **Determining Lowest Responsible Bidder.** The COMMISSION or EXECUTIVE DIRECTOR, expressly subject to the dollar limits specified in Section 2.6 herein, shall award the contract for the public works project to the lowest responsible bidder provided that, whenever there is a reason to believe that the lowest acceptable bid is not the best price obtainable, all bids may be rejected and the [governing body] may call for new bids. A responsible bidder shall be a registered and/or licensed contractor who meets the mandatory bidder responsibility criteria established by Chapter 133, Laws of 2007 (SHB 2010) and who meets any supplementary bidder responsibility criteria established by the PORT.


6. **Award.** The EXECUTIVE DIRECTOR or his designee shall present all telephone quotations/bids and recommendation for award of the contract to the lowest responsible bidder to the COMMISSION. However, for public works projects under \$ Fifteen Thousand Dollars (\$15,000.00) exclusive of applicable taxes, , the EXECUTIVE DIRECTOR shall have the authority to award public works contracts without COMMISSION approval, provided that the COMMISSION shall ratify the EXECUTIVE DIRECTOR'S approval at the next scheduled COMMISSION meeting by means of the

consent agenda. For public works projects over Fifteen Thousand Dollars (\$15,000.00) exclusive of applicable taxes, the COMMISSION shall award all public works contracts.

Section 3. Consulting Services Roster

1. **Consulting Services.** Consulting services are professional services that have a primarily intellectual output or product and include architectural and engineering services as defined in RCW 39.80.020.
2. **Publication.** At least once a year, on behalf of the PORT, MRSC shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the consulting services roster or rosters and solicit statements of qualifications from firms providing consulting services. Such advertisements will include information on how to find the address and telephone number of a representative of the PORT who can provide further details as to the PORT'S projected needs for consulting services. Firms or persons providing consulting services may complete the online application at any time and be listed if they meet the minimum State requirements. .
3. **Professional Architectural and Engineering Services.** The MRSC Rosters will distinguish between professional architectural and engineering services as defined in RCW 39.80.020 and other consulting services and will announce generally to the public the PORT'S projected requirements for any category or type of professional or other consulting services. The PORT reserves the right to publish an announcement on each occasion when professional services or other consulting services are required by the agency and to use paper and/or other electronic rosters that may be kept on file by appropriate PORT departments.

PASSED this 13th day of November, 2012 and signed in authentication of its passage this 13th day of November, 2012.



David H. Thompson, Secretary




Leif W. Erickson, President



Stephen R. Tucker, Vice President

APPROVED AS TO FORM:



Carolyn A. Lake, Port Attorney

