

#### **PRESENTED BY**

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# AGENDA

- Bidder Responsibility Overview
- Supplemental Bidder Criteria Overview
- Bidder Responsiveness Overview
- Measuring "safety"
- Examples of Supplemental Bidder Criteria re: safety



# BIDDER RESPONSIBILITY

- RCW 39.04
  - Public works all work, construction, alteration, repair or improvement other than ordinary maintenances, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein. RCW 39.04.010.



### BIDDER RESPONSIBILITY

- Before award of a public works contract, a bidder must meet the following responsibility criteria:
  - A certificate of compliance with 18.27 RCW;
  - A current state unified business indentifier (UBI) number;
  - Industrial insurance coverage, employment security department number, and a state excise tax registration number; and
  - The bidder must not be disqualified from bidding on public works.

RCW 39.04.350



### SUPPLEMENTAL BIDDER CRITERIA

- In addition to the mandatory bidder responsibility criteria, RCW 39.04.350(3) allows agencies to adopt relevant "supplemental" bidder responsibility criteria for individual projects.
- Many local agencies have developed supplemental criteria on two levels:
  - A basic level that may include such things as no delinquent state taxes, no federal debarment, minimal prevailing wages violations, no excessive claims against retainage and bonds, no public bidding violations, no termination for cause or default, and no unwarranted lawsuits with respect to public contracting.
  - A secondary level whose criteria relate to the nature of a specific project. For example, an agency might require that a contractor must have completed three projects of a similar scope and dollar volume within the past five years.



# SUPPLEMENTAL BIDDER CRITERIA

• Any supplemental bidder responsibility criteria and associated evaluation methods must be provided in the invitation to bid or bidding documents. A prospective bidder may request, in a timely manner before the bid submittal deadline, that the agency modify the supplemental criteria. The agency must evaluate the request, and if the agency agrees to change the criteria it must issue an addendum.



# BIDDER RESPONSIVENESS

- Responsive bids are bids that are submitted on time with all of the information the agency requested.
- Typically, bidders must provided the following information at the time of bidding:
  - Sealed bids, with the name of the project and the time and date of the bid opening
  - Bid guarantee, i.e., bid bond, cashier's check, certified check
  - All necessary pricing such as lump sums, units prices, and total prices
  - Acknowledgment of addenda and attendance at pre-bid meeting as required
  - Mandatory bidder responsibility questionnaire



# MEASURING "SAFETY"

- Total Recordable Incident Rate (TRIR)
  - Calculated by using the equation: The total number of recordable cases x 200,000 / total hours worked by all employees during the year covered.
  - The total recordable incident rate (TRIR) is an OSHA rate based on a contractor's 300 and 300A logs. The 300 and 300A logs are any injuries that are considered recordable. This calculation is allencompassing of the DART and LTIR. This records the number of 'days away from work' incidents, transferred incidents, and restricted incidents. Additional recordable injuries include hospitalizations, deaths, amputations, loss of an eye, anything beyond first aid treatment, and injuries needing prescription medication. OSHA does not require contractors to have a certain 'grade' recorded, but they do require employers with over 10 employees to keep OSHA logs and track their TRIR rate.



# MEASURING "SAFETY"

- Days Away, Restricted of Transferred (DART)
  - Days Away When an employee cannot work at all.
  - Restricted When the employee can work but only for a short period or can only perform limited duties of their normal job.
  - Transfer When an employee can work but must be transferred to another department, such as from fieldwork to office work.
- Lost Time Incident Rate (LTIR)
  - The LTIR is the lost time on the employee's part as well as the employer's part. If an employee is hurt, resulting in five days away from work, there are then five days when the contractor will not be paid for their normal job responsibilities. Similar to days away in DART but split to identify the seriousness of each incident. If a contractor has a high LTIR, it means the injuries they are having on-site are pretty severe.



# MEASURING "SAFETY"

- Arguably, the most important aspect to consider, however, is the robustness of the contractor's safety plan:
  - Are they requiring OSHA 10- or 40-hour courses?
  - Are they training on use of PPE?
  - Does their safety plan encourage reporting "near misses"?
  - Is there an incident response plan?



# SUPPLEMENTAL CRITERIA EXAMPLES

- City of Ridgefield
- **3. Safety Record:** For public works projects with engineer's estimate of \$500,000 or greater, the bidder shall not have had any serious or willful health or safety citations, violations, or penalties issued by the Washington Department of Labor and Industries, or, if the contractor is licensed to operate in both Washington and Oregon, the Oregon Bureau of Labor & Industries, during the previous three years of the submittal date unless there are extenuating circumstances and such circumstances are deemed acceptable to the City. Such violations demonstrate a lack of effective maintenance of workplace operations and required safety protocols which are critical to complex public works projects of this scope.



# SUPPLEMENTAL CRITERIA EXAMPLES

# City of Mukilteo

h. Within two (2) years prior to the bid submittal date the Bidder shall not have had a project construction site shut down due to a safety violation (i.e., WISHA / OSHA written citations) from the Washington State Department Labor & Industries or analogous agency with jurisdiction in the location the work was performed, regardless of whether such willful and/or serious safety violations have been abated or not. The Bidder shall maintain compliance with all safety and health requirements (i.e., WISHA / OSHA) from the Washington State Department Labor & Industries (or analogous agency with jurisdiction in the location the work is performed). The Owner may verify such information provided with the Washington State Department Labor & Industries or analogous agency with jurisdiction in the location the work was performed. The Owner may also use other sources of information that may be available to otherwise determine whether the Bidder is following these supplemental criteria.



# QUESTIONS?

