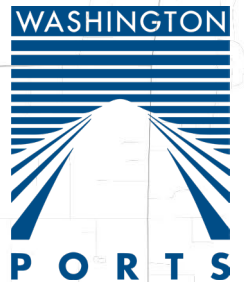


Washington Public Ports Association

Public Procurement 101: New Commissioners Seminar 2025

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Welcome / Objectives

- Introduce the laws and practices that govern how ports buy, build, and contract for public projects.
- Highlight the commissioner's policy and oversight role.
- Understand procurement thresholds and methods.
- Recognize compliance risks and transparency requirements.
- Recognize ports operate under "public works and procurement laws designed to balance accountability with efficiency.
- Be aware of recent legislative changes.



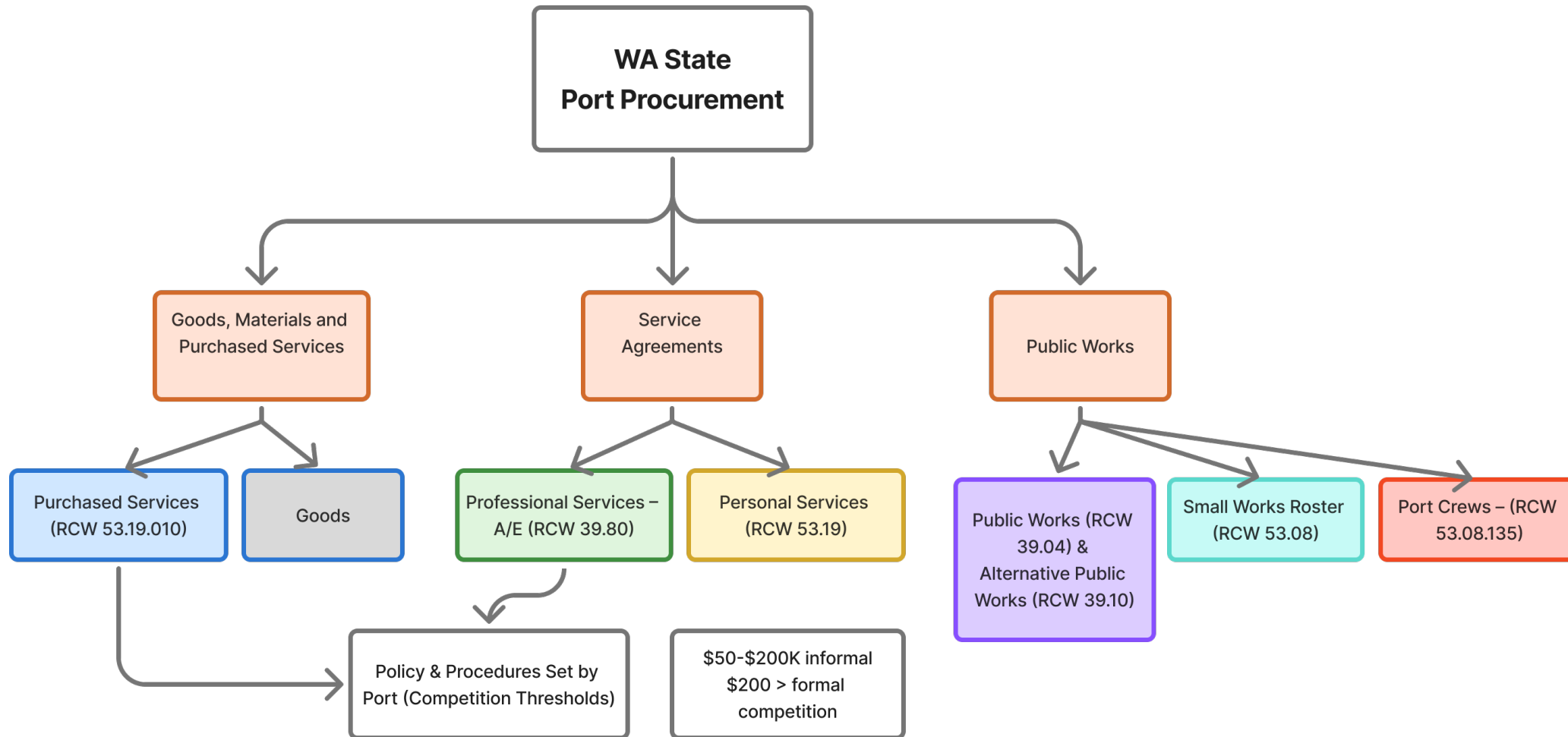
What is Public Procurement

The structured process public agencies use to acquire goods, services, and construction—**ensuring transparency, fairness, and stewardship of public funds.**

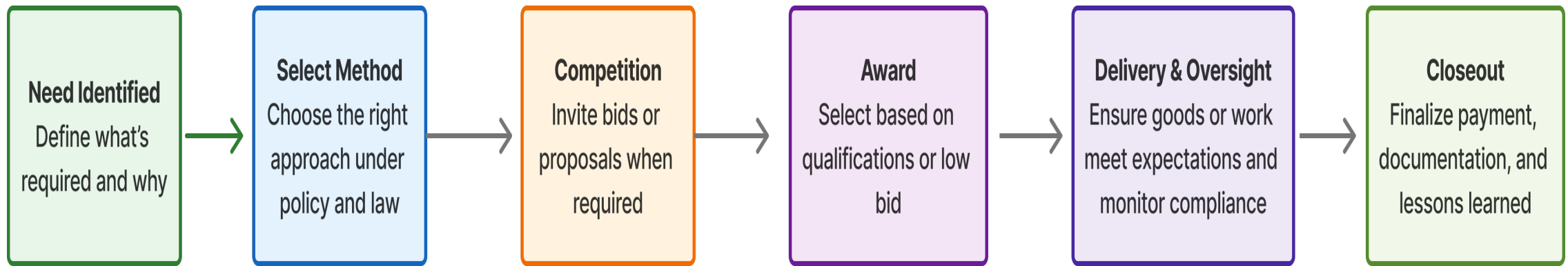
At ports, this includes everything from **capital projects to professional services and daily operations**, all governed by state law and public accountability.



Public Procurement



How Procurement Happens



How Thresholds Determine the Process

SMALL WORKS/PUBLIC WORKS CONSTRUCTION PROJECTS & MAINTENANCE CONTRACTS (SAMPLE)

Contract Amount*	Process / Requirements	Contract Approval	Change Order Approval
< \$40,000	Selection from Small Works Roster; 3 quotes recommended; Insurance, Prevailing Wage, Contract or PO required	CEO	CEO; if COs bring total > \$350,000, Commission must approve
\$40,000 – \$150,000	Invite all firms on appropriate roster; Insurance, Prevailing Wage, Contract or PO required	CEO	CEO
\$150,000 – \$350,000	Sealed solicitation/Public Bid Opening; Website posting; Bonds, Insurance, Prevailing Wage & Contract required	CEO	CEO
> \$350,000	Advertised bid (newspaper & web); Bonds, Insurance, Prevailing Wage & Contract required	Commission	CEO up to \$350,000; above requires Commission approval

Under RCW 39.04.151(2), agencies with a formal written inclusion plan may directly contract up to \$150,000 for Small Works projects.

Types of Contracts in Public Procurement

- **Public Works** — Construction, alteration, repair, or improvement of a public facility or infrastructure subject to prevailing wage, bonding, and other statutory requirements.
Example: replacing dock pilings, repaving a terminal road.
- **Purchased Services** — Routine or recurring services that support daily operations.
Example: janitorial, landscaping, equipment maintenance.
- **Personal Services** — Specialized work performed by an individual or firm with subject-matter expertise.
Example: facilitator, trainer, consultant.
- **Professional Services** — Work requiring a professional license or credential.
Example: engineering, architectural, legal, or audit services.
- **Goods & Supplies** — Tangible items, materials, or equipment used in operations.
Example: vehicles, IT hardware, safety gear, tools.



Common Procurement Methods

Method	What It Does	Common Uses
Direct Purchase	Small, quick, documented purchases within established limits.	Goods, supplies, simple services and small works below competitive thresholds.
Informal Quotes	Competitive pricing from multiple vendors for mid-range purchases.	Goods, supplies, and purchased services.
Formal Bids	Structured, publicly advertised solicitations awarded to the lowest responsive and responsible bidder.	Public works, goods, or services where price is the determining factor.
Small Works Roster	Streamlined public works process for smaller construction or repair projects under the statutory limit.	Public works (construction, alteration, repair, improvement).
Request for Qualifications (RFQs)	Used to select the most qualified firm based on experience and capability; price is negotiated later.	Professional services such as engineering, architecture, or consulting.
Request for Proposals (RFPs)	Competitive process that evaluates both cost and qualitative factors to determine best overall value.	Complex services or projects where approach and expertise matter.

Alternative/Specialized Procurement Methods

Method	When It's Used	Considerations
Self-Performance	When it is allowed and cost effective	Requires legal authority, documentation, and cost justification
Sole Source	When only one vendor is capable of providing the goods or services.	Must be justified and documented; often used for proprietary systems or compatibility needs.
Direct Contracting (Negotiated)	When timing, specialized expertise, or emergency conditions justify a direct approach.	Still requires cost reasonableness; risk is higher if not well documented.
Cooperative Purchasing	When another agency has competitively bid the same goods or services.	Saves time and resources, but agencies must confirm contract scope and terms align with their needs.
Alternative Public Works Methods (RCW 39.10)	For large or complex capital projects where traditional design-bid-build is not ideal.	Includes GC/CM, Design-Build, and Progressive Design-Build. Requires CPARB approval and staff expertise.

Matching the Method to the Need

Approach	Benefits	Considerations
Competitive (Bids, RFPs, RFQs)	Transparent, fair, builds public trust.	Takes more time and planning; less flexibility once advertised.
Roster & Direct Purchase	Fast and efficient for smaller or routine needs.	Must stay within dollar limits and maintain documentation.
Cooperative Contracts	Saves time by using existing competitively awarded contracts.	Must confirm scope and terms align with Port needs.
Sole Source / Direct Contracting	Access to unique products, services, or expertise.	Requires strong justification and approval to avoid perceived favoritism.
Alternative Public Works (RCW 39.10)	Enables innovation and collaboration on complex projects.	Higher oversight requirements; not necessarily suited for smaller agencies or projects.

Procurement in Transition: From Policy to Practice

Focus Area	What It Means	How It's Happening
Supplier Diversity & Reducing Barriers	Expanding access for small, local, and underrepresented businesses through simpler, fairer processes.	2023 Small Works legislation emphasized barrier reduction and the use of OMWBE certification and MRSC Rosters to increase vendor access.
Cooperative Purchasing & Efficiency Tools	Partnering with other agencies or leveraging shared contracts to reduce cost and effort.	Broader use of interlocal agreements, joint solicitations, and piggybacking on competitively awarded contracts.
Technology & Process Improvement	Modernizing how we manage bids, contracts, and reporting.	Adoption of digital procurement tools and statewide platforms that improve transparency and workflow.
Training & Consistency	Equipping staff with knowledge of rules and intent behind procurement.	MRSC, DES, and procurement resource group provide updated training to align agencies with evolving requirements.



Recent Legislative Updates

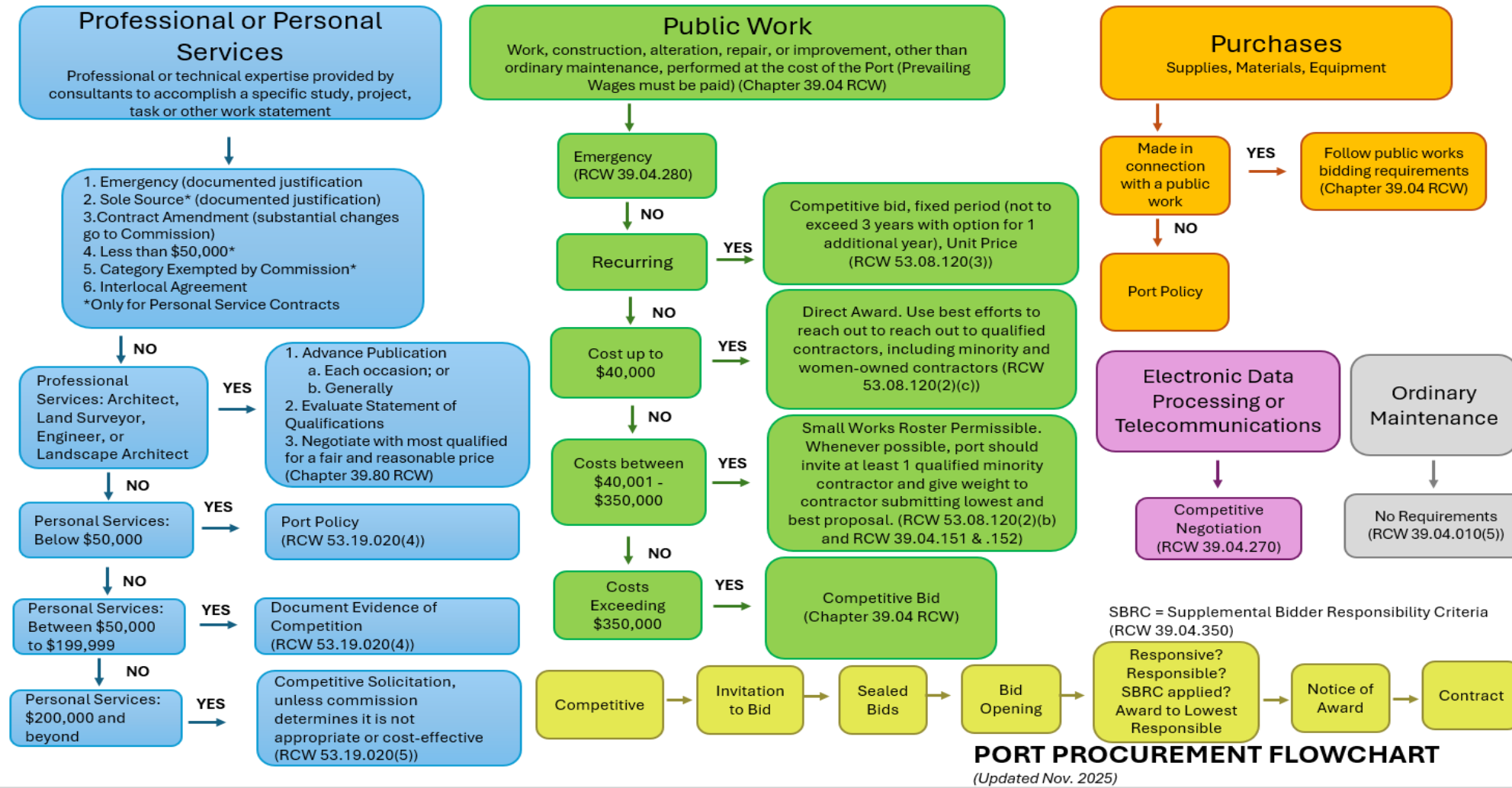
- Small Works Roster Threshold Increase (2023)— Recent legislation raised limits for ports, allowing more projects to use Small Works procedures and reducing administrative overhead. Additional increases may be considered in 2026
- Expanded Apprenticeship Utilization Requirements (2024)— The state has tightened and expanded apprenticeship mandates on public works, including broader project applicability, higher minimum utilization percentages, and stronger reporting/enforcement provisions.
- Prompt-Pay Reform (SB 5176, introduced 2025) — A proposal that would, *if passed*, impose strict timelines for paying contractors and subcontractors, affecting workflow, cash management, and contract language.



Legal Framework & Commission Role in Procurement



Legal Framework – Flowchart



Legal Framework – Public Work

Chapter 39.04 RCW – Public Works

- Statutory definition of a “public work”
- Awarding the Contract
- Responsive Bidder
 - Irregularities or informalities
- Responsible Bidder
- Supplemental Bidder Requirements



Legal Framework – Alternative Public Work

Chapter 39.10 RCW – Alternative Public Works Contracting Procedures

- Purpose
- Provides three alternative forms of public works contracting
 - Design-build contracting
 - General Contracting/construction manager contracting (GC/CM)
 - Job order contracting (JOC)



Legal Framework – Contractor Bond

Chapter 39.08 RCW – Contractor's Bond

- Performance and Payment Bonds
- Retainage Option
- Reductions / waiver of bonding / retainage requirements
 - Small Works
 - Public Works contracts of \$150k or less per RCW 53.08.010(3)



Legal Framework – A&E Contracts

Chapter 39.80 RCW – Contracts for Architectural and Engineering Services

- Sometimes referred to as “Professional Services”
- Includes Architects, Engineers, Land Surveyors, and Landscape Architects
- Decision Process on A&E Contracts
 - The decision is based on “**competence and qualification**” and
 - Then upon a “**fair and reasonable price.**”

Process and Policies

- Port must publish advanced notification either (i) for each project or (ii) for a category or type of service (public solicitation still required)
- Port policy should include a plan to give opportunity to women, minority and veteran-owned firms per RCW 39.80.040
- Port may establish its own evaluation criteria (RCW 39.08.040)
- RFQ vs RFP



Legal Framework – Port Specific Statutes

RCW 53.08.120 – Contracts for Labor and Materials – Small works roster

Small Works Roster

- *Used on Projects \$350k or less*
 - Port specific optional direct contracting on projects that will not exceed \$40k and a contractor from the small works roster is used (RCW 53.08.120(2)(c))
 - Direct contracting with small businesses for projects that will cost less than \$150k (RCW 39.04.150(4)(b))
- No piecemealing project (i.e., cannot segment the project into separate units/classes to stay below the dollar thresholds)
- Port may adopt the state small works roster administered by MRSC or adopt a small work roster specific to your port
- Port Commission must adopt rules, policies and procedures to implement the requirements under state law and detail accountability and transparency measures (RCW 39.04.151(2) - .152(1))
- Federal grant funded projects may alter / add requirements, which should be considered on a case-by-case basis in consultation with port staff and legal

Unit Price Contracts

- Recurring basis public works projects where contractor agrees to a fixed period, indefinite quantity of work, at a defined unit price
- Unit Price Contracts cannot exceed 3 years, with option to extend for one additional year
- Must pay prevailing wage for all work subject to those requirements (updated annually)



Legal Framework – Port Specific Statutes

Chapter 53.19 RCW – Personal Service Contracts

- Personal Service Contract
- Purchased Services
- Sole Source
- All personal service contracts shall be entered into pursuant to competitive solicitation, except:
 - (1) Emergency contracts;
 - (2) Sole source contracts;
 - (3) Contract amendments;
 - (4) Contracts between a consultant and a port of less than fifty thousand dollars. However, contracts of fifty thousand dollars or greater but less than two hundred thousand dollars shall have documented evidence of competition. Ports shall not structure contracts to evade these requirements; and
 - (5) Other specific contracts or classes or groups of contracts **exempted from the competitive solicitation process by the commission when it has been determined that a competitive solicitation process is not appropriate or cost-effective.**



Legal Framework – Port Specific Statutes

Other statutes to keep in mind

- RCW 53.08.130 – Notice – Award of Contract – Low Bidder Claiming Error
- RCW 53.08.135 – Construction Projects over forty thousand dollars – Contracting out
- RCW 53.12.270 – Delegation of Powers to managing official of port district – Waiver of competitive bidding requirements

PORT OF _____

NOTICE OF BIDS

Notice is hereby given that sealed bids will be received at the Administrative Offices of the Port of _____, Washington until 1:00 p.m., December 29, 2025. The official time shall be taken from the designated clock at the Administrative Offices. Any bids received after the specified time and date will not be considered. Bids will then and there be publicly opened and read aloud.

The scope of work

Specifications, including Contract Documents, are available at the Port of _____, Washington for public inspection, and may be obtained by contacting _____, Contracts Administrator, Port of _____ for a non-refundable fee of \$20.00.

Each bid must be accompanied by a cashier's check, money order, or a surety bid bond in an amount not less than five percent (5%) of the total bid, made payable to the Port of _____.

The Port of _____ reserves the right to reject any or all bids and to waive any irregularities or informalities.

Commission Oversight & Best Practices



Commission Oversight & Best Practices

Overarching Concepts in Public Bidding & Procurement:

- The lowest price for the public
- A level playing field
- Compliance with port adopted policies
- Well drafted documents
- For close decisions, a well document commission decision



Commission Role

Commission should:

- Work with staff and legal to ensure statutory compliance
- Adopt and comply with port procurement policies
- Adopt a Delegation of Authority (Note to EDs: *just because you can doesn't mean you must*)
- Approve budgets and contracts awards above thresholds in Delegation of Authority
- Ensure transparency with the public and SAO audit compliance



Commission Oversight & Best Practices

Best Practices:

- Ask: Does this procurement method meet state law and adopted port policy?
 - Include a commission reporting loop above a threshold amount (ED report)
- Include budget-based management
 - Cross reference delegation of powers
- Follow a defined system to document competitive processes and expectations
- Show your homework – document the process and ensure reporting is consistent and made publicly available
- Encourage training (WPPA, MRSC, internal staff-to-staff, from your legal counsel)
- This is complicated stuff – work with your legal counsel and staff to better understand state law procurement processes and your port's procurement policies



Commission Oversight & Best Practices

A final note on following the process...

