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MEMORANDUM

To: Washington Fire Commissioners Association
From: Brian Snure
Re: **New Bid Law Thresholds and Cooperative Purchasing (Piggybacking) Rules**

Effective July 28, 2019, substantial legislative changes will affect the bid law thresholds and cooperative purchasing requirements for fire protection districts and regional fire authorities. This memorandum is for general educational purposes and is not intended to provide legal advice. Please consult legal counsel for advice about specific questions.

Bid Law Thresholds

Chapter 434, Laws of 2019 changes the following statutory bid law thresholds applicable to fire protection districts and regional fire authorities (A revised bid law matrix incorporating the changes is attached).

Public Works

Bid Requirement	New Thresholds	Old Thresholds
Sealed Bids Required	Over \$350,000	Over \$300,000
Small Works Roster*	\$30,000 - \$350,000	\$20,000-\$300,000
Limited Small Works Roster**	Under \$50,000	Under \$35,000
No Statutory Requirements	Under \$30,000	Under \$20,000

*Five bids required for projects over \$50,000. For projects over \$250,000, notice must be given to all appropriate contractors on the roster.

** Three bids required for projects under \$50,000.

The law also modified the retained percentage requirement. Agencies may now waive retained percentage requirements for any contract awarded under the small works roster process if the agency is willing to assume liability for a contractor's failure to pay prevailing wages and taxes.

Materials, Equipment and Supplies

Bid Requirement	New Thresholds	Old Thresholds
Sealed Bids Required	Over \$75,000	Over \$50,000.
Vendor List	\$40,000 - \$75,000	\$10,000-\$50,000
No Statutory Requirements	Under \$40,000	Under \$10,000

Cooperative Purchasing (Piggybacking)

Chapter 91, Laws of 2019 substantially changed the rules, but not the process, that all public agencies including fire protection districts and regional fire authorities must follow when purchasing off another governmental agency's bid. Under prior law, fire districts and RFAs were limited to making cooperative purchases only when the lead agency used a formal sealed bid procedure that met the legal requirements applicable to fire districts and RFAs. This precluded the use of many cooperative purchasing opportunities because many state and local governments and purchasing cooperatives use bid procedures that do not meet the strict sealed bid process that fire protection districts and RFAs are required to use.

RCW 39.34.030(5)(b) has now been modified to allow the use of cooperative purchasing when the bid process was conducted in accordance with the lead agencies bid requirements. Fire districts and regional fire authorities will now need to document that the lead agency used a valid competitive bid process that met the lead agencies requirements based on the state and local laws that govern the specific lead agency. Once this is documented, however, it no longer matters if the competitive bidding process used is consistent with the bid requirements of RCW 52.14.110-.120.

As reflected in the attached bid law matrix, the process that must now be followed when making piggyback purchases is as follows:

- (1) Enter into cooperative purchasing interlocal agreement with Lead Agency.
- (2) Obtain, verify and retain the following documentation:
 - a. Lead Agency properly advertised bid on the Lead Agency's website;
 - b. Lead Agency used a bid process that met Lead Agency legal requirements;
 - c. Vendor agreed to open bid to other purchasers;
 - d. Bid is current and still open for purchases;
 - e. You are purchasing the item bid (minor changes permitted); and
 - f. Legal counsel opinion to confirm above is recommended.

Public Works/Prevailing Wage Training For Contractors (July 1, 2019)

As a reminder, RCW 39.04.350 was amended by the legislature in 2018 (and becomes effective on July 1, 2019) to add a requirement that bidders on your public works projects must document that they have met specific public works and prevailing wage training requirements provided by the Department of Labor and Industries or other L&I approved training. Bidders that have completed three or more public works projects and have had a valid business license for three or more years are exempt from this requirement. Beginning July 1, 2019, you will want bidders and contractors on your public works projects to formally certify that they are in compliance with this training requirement.

You can check to determine whether a contractor is in compliance with this requirement at <https://www.lni.wa.gov/TradesLicensing/PrevWage/Contractors/Training.asp>

