Disclaimer

- This presentation provides a general overview of procurement issues for Ports in Washington State. It is understood that specific situations related to procurements including Public Works must be evaluated on an individual basis in conjunction with appropriate legal advice.
Outline

- Port District Statutes
- Procurement of Goods & Services
- Electronic Data & Telecommunications
- Interlocal Government Act
- Personal Services
- Professional Services
Port Procurements
Statutory Authority
Port District Statute

Contracts for Labor & Material - RCW 53.08.120(1)

- All material and work required by a port district not meeting the definition of public work in RCW 39.04.010(4) may be procured in the open market or by contract and all work ordered may be done by contract or day labor.
Port District Statute (cont’d)

Contracts for Labor & Material - RCW 53.08.120(2a)

• All such contracts for work meeting the definition of “public work” in RCW 39.04.010(4), the estimated cost of which exceeds three hundred thousand dollars, shall be awarded using a competitive bid process
Contracts for Labor & Material - RCW 53.08.120(2b)

- All such contracts for work meeting the definition of “public work” in RCW 39.04.010(4), the estimated cost three hundred thousand dollars or less, a port district may let contracts using the small works roster process under RCW 39.04.155
Public Works - Definition

RCW 39.04.010(4)

“Public Work” means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or municipality, or which is by law a lien or charge on any property therein.
Ordinary Maintenance - Definition

WAC 296-127-010(7biii)

- Ordinary maintenance which is defined as work not performed by contract and that is performed on a regularly scheduled basis (e.g., daily, weekly, monthly, seasonally, semiannually, but not less frequently than once per year), to service, check, or replace items that are not broken;......
Port District Statute (cont’d)

Construction Projects Over $40K - RCW 53.08.135

• Port districts shall determine if any construction project over forty thousand dollars can be accomplished less expensively by contracting out.
Purchased Goods and Services
Port District Statute

Procurement of Goods & Services - RCW 39.26.010(13)

- **Goods** means products, materials, supplies, or equipment provided by a contractor
- **Agency** means any state office or activity of the executive and judicial branches of state government, including state agencies, departments, offices, divisions, boards, commissions, institutions of higher education and correctional or other types of institutions.
Personal Services Contracts - RCW 53.19.010(8)

- Purchased Services means services provided by a vendor to accomplish routine, continuing, and necessary functions. Includes, but is not limited to, services for equipment maintenance and repair; operation of a physical plant; security; computer hardware and software maintenance; data entry; key punch services; and computer time sharing, contract programming, and analysis.
Best Practices

Procurement of Goods and Services

- Port districts establish policies and procedures to define goods and services.
- Delegations of authority as appropriate
- Maintain flexibility
- Competition, transparency and accountability
- Prepare documentation
Electronic Data & Telecommunications
Unique aspects of these systems warrant separate acquisition authority for electronic data processing and telecommunications systems.

A municipality may acquire electronic data processing or telecommunication equipment, software, or services through competitive negotiation rather than through competitive bidding.
Interlocal Government Act
Interlocal Cooperation Act

RCW 39.34.010

- Permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on the basis of mutual advantage
Personal & Professional Services Procurement
Type of Services Needed

- Is the scope of service defined?
- Are services exempt from competition?
- Are the services required related to a public works project?
- Do required services meet the definition of personal services?
- What is the approximate total cost of the services to be provided?
Statutory Authority
Personal Services Statute

- RCW 53.19.005
- Establishes a policy of open competition for all personal service contracts unless specifically exempted in chapter
- Provide differentiation between competitive procurement procedures for personal and professional services
Personal Services Exemptions

- RCW 53.19.020
- Emergency contracts (53.19.010 (4))
- Sole source contracts (53.19.010 (9))
- Contracts less than $50,000
- Other specific contracts or classes or groups of contracts exempted by the commission
Professional Services Statute

- **RCW 39.80.010**
- Governmental agencies publically announce requirements for Architectural and Engineering services
- Negotiate contract on the basis of demonstrated competence and qualification (QBS) for the type of services required at a fair and reasonable cost.
Professional Services Exemptions

- **RCW 39.80.060**

- Chapter need not be complied with by any agency when the contracting authority makes a finding in accordance with this or any applicable law that an emergency requires immediate execution of the work involved

- Also see RCW 39.04.280
Policies and Procedures
Port Policies & Procedures

- Resolutions related to personal services and professional services contracting
- Delegation of authority
- Emergency declaration
- Exemptions
- Procurement Process
Personal Services

- RCW 53.19.090
- A port entering into or amending personal service contracts shall follow the policies adopted by the commission, which shall be based on guidelines developed pursuant to RCW 53.19.80
- Personal Services Contracting Manual for Washington Ports (MRSC and WPPA)
Professional Services

- **RCW 39.80.030**
- Each agency shall publish in advance that agency’s requirement for professional services
  - Publish an announcement on each occasion
  - Announce generally to the public its projected requirements for any category or type of professional services
Professional Services (cont’d)

- RCW 39.80.040
- Agency shall evaluate current data on file, together with those that may be submitted by other firms regarding the proposed project
- Based on agency criteria, select most highly qualified firm
- Agency procedures to maximize opportunity to compete
Reporting Requirements
Reporting Requirements

- **RCW 53.19.060**
- Substantial changes in scope or additions to scope submitted to commission for determination of award or new contract
- Amendments exceeding total of 50% of original contract filed with commission and public prior to start of services
Procurement Fundamentals

Questions

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