

NORTH WHATCOM FIRE AND RESCUE
Policy Manual

Capital Purchasing

SECTION 1.0 – GENERAL

1.1 Purpose

This document establishes the policies and procedures for North Whatcom Fire and Rescue (the “District”) purchasing supplies and materials, and for contracting for public works and services. This document does not create any enforceable rights or causes of action in third parties and does not in any way limit the District’s ability to procure goods or services in accordance with State laws.

1.2 Goals

The District’s contracting and purchasing goals include:

- Maintaining the quality and integrity of the District’s purchasing system;
- Maximizing the purchasing value of District funds;
- Providing a uniform purchasing system to the extent practical and feasible; and
- Assuring fair and equitable treatment of third parties who deal with the District’s purchasing system.

1.3 Scope

These guidelines apply to public work projects; the procurement of professional and personal services, including architectural and engineering design services; the acquisition of supplies, equipment, and materials; and the acquisition of services through competitive evaluation, including telecommunication and data processing services.]These guidelines do not apply to the acquisition, sale, conveyance, license, or lease of real property.

1.4 Controlling Laws

All purchases shall comply with the appropriate and relevant federal, state, and District regulations and policies. If, and to the extent, the appropriate and relevant federal or state laws, regulations, grant requirements, or other requirements then existing vary from these guidelines, such laws, regulations, grant requirements, or other requirements should be followed. Contact the District’s attorney when questions regarding potential conflicts arise.

1.5 Proper Authorization

Only authorized individuals may obligate the District to acquire goods and services. Individuals purchasing goods on behalf of the District without proper authorization may be personally liable to the vendor, the District, or both and may be disciplined.

Purchase orders and contracts commit District funds for the acquisition of goods or services. In their capacity as the District’s purchasing agents, the District and buyers are authorized to issue

Cancels:

Revised:

purchase orders on behalf of the District in accordance with applicable regulations and this policy.

1.6 Contracts

All contracts entered into for public work projects, the procurement of professional and personal service, and the acquisition of supplies, equipment, and materials, must be on forms approved by the District’s attorney. All variations from the standard forms must be approved by the District’s attorney.

SECTION 2.0 – POLICY

2.1 At a Glance – Procurements Not Using Federal Funds

Public Works	
\$0-\$30,000	No competitive process required.
\$30,000 - \$350,000	Use of Small Works Roster allowed.
\$350,000 and above	Competitive bids required.
Equipment and Goods	
\$0-\$40,000	No competitive process required.
\$40,000-\$75,000	Use of Vendor Lists allowed.
\$75,000 and above	Competitive bids required.
Personal and Professional Services (Excluding Architectural and Engineering)	
\$0-\$40,000	No competitive process required.
\$40,000-\$75,000	Fire Chief or designee approval required.
\$75,000 and above	Board approval required.
Architectural and Engineering Services	
	Qualifications-Based Selection required.
Solid Waste Collection & Disposal Services	
	Quoting process is recommended.
Electronic Data Processing and Telecommunications Systems	
	Special exception for competitive negotiations.
Auction Purchases	
	All agencies can purchase at auctions.

Note: Purchases may not be broken into multiple projects to avoid compliance with this policy. All dollar limits include sales tax, freight, handling and set-up costs.

2.2 Definitions

2.2.1 Bidder

As used in this policy, “bidder” means any vendor, supplier, contractor, person, or entity that seeks to enter into a commercial relationship with the District, including, but not limited to, those who respond to requests for bids and proposals. Bidder, includes, but is not limited to, one or more principals, owners, officers, directors, shareholders, partners, members, managers, or

control persons of the person submitting the bid, and persons associated or affiliated with the person submitting a bid or proposal.

2.2.2 Person

“Person” as used herein includes both natural persons, corporations, partnerships, sole proprietorships, limited liability companies, and any other business entity, combination or association, whether for profit or non-profit.

2.2.3 Public Work

“Public work” is defined in RCW 39.04.010, but generally means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the District.

2.2.4 Ordinary Maintenance

“Ordinary Maintenance” is defined in WAC 296-127-010(7)(b)(iii) for the purpose of prevailing wages, but generally means maintenance work performed by the regular employees of the District. Maintenance performed by a third party not employed by the District is not “ordinary maintenance.”

2.2.5 Responsible

For public work contracts, a bidder is determined to be responsible as provided in RCW 39.04.350, including those supplemental criteria identified in the bidding documents, if any.

2.4 Determining the Expected Total Cost of the Purchase

The anticipated annual need for a particular good or service should be used to determine the appropriate threshold. The total cost of goods or services, including any applicable taxes, freight, or set-up charges, shall be considered when determining which threshold applies.

Requirements for the total quantity of an item shall be considered together when determining which threshold applies. Requirements must not be divided so as to constitute a lesser threshold under this section.

Example: If one pump is to be purchased now at an estimated cost including sales tax and delivery of \$8,959, but a total of five pumps are expected to be purchased during the year at an aggregate cost of \$44,795 (\$8,959.00 times five), then the procurement of the first pump falls within the \$40,000. However, the total accumulated cost of these items used in conjunction with each other should be handled as a purchase costing over \$40,000.

The value of a trade-in will not be included when determining which threshold applies. However, the trade-in price will be considered when determining the lowest responsive and responsible bid.

SECTION 3.0 – PUBLIC WORK PROJECTS

Public work projects, defined by RCW 39.04.010, generally include qualifying work, construction, alteration, repair, or improvements. Public work projects do not include ordinary maintenance, engineering analysis and architectural design, or other professional services.

For projects of less than \$30,000, competitive bidding is not required, and quotes may be sought directly from individual contractors.

3.1 Small Works Roster

The District's Small Works Roster expedites the solicitation and award of bids on public work projects estimated to cost up to three hundred and fifty thousand dollars (\$350,000), or the current statutory limit in RCW 39.04.155, by reducing the requirements for advertising, receiving, and awarding bids.

3.1.1 Creating the Roster

The District will utilize a roster maintained by others, such as the Municipal Research and Services Center (MRSC), to utilize its small works roster for different categories of anticipated work. The categories on this roster may change as new categories are needed or existing categories are no longer needed. If the District utilizes its own small works roster, the following procedures will apply:

Contents – This roster consists of all responsible bidders who have requested to be on the list, and where required by law, are properly licensed or registered to perform such work in this state.

Yearly Notice – The District shall publish, in a newspaper of general circulation within its jurisdiction, a notice of the existence of this roster and soliciting the names of bidders for such roster at least once a year.

Bidder Inclusion – The District shall add to the roster those bidders who fill out an application to be included on the roster and are deemed responsible. Bidders may submit applications to be included on the roster at any time during the year. The application is available from the District and may be posted on the District website. Upon submission of a complete application, the District will determine whether the bidder is responsible and, if so, will include the bidder on the Small Works Roster in the appropriate category or categories.

3.1.2 Small Works Contracting

Invitation to Bid – When the Small Works Roster will be utilized to contract for a public work project that is anticipated to cost less than \$350,000, one of the following processes will be used, at the option of the District:

1. All bidders included on the Small Works Roster in the appropriate category or categories shall be invited to bid; or
2. 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. However, if the estimated cost of the work is between \$250,000 to \$350,000, and the District chooses to solicit bids from less than all the appropriate contractors on the appropriate small works roster, the District will notify the remaining contractors on the appropriate small works roster that quotations on the work are being sought. The District 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 other electronic means.

Invitations to bid shall be in writing and may be faxed, mailed, electronically transmitted, or hand delivered to all applicable bidders.

Invitations to bid must provide an estimate of the scope and nature of the work to be performed, specify the materials and equipment to be furnished, and set the deadline for submitting bid responses to the District. The deadline established shall allow adequate time for bidders to prepare a bid in writing and return it to the District in the manner established in the invitation to bid. While detailed plans and specifications will usually be included in the invitation, their inclusion is not mandated.

Invitations to Bid for public work projects over two hundred fifty thousand dollars (\$250,000) shall specify that bid responses must be submitted to the District in sealed envelopes. Invitations to Bid for public work projects under two hundred fifty thousand dollars (\$250,000) may allow bid responses to be faxed, mailed, electronically transmitted, or hand delivered.

Bid Responses – Whenever possible, bid responses shall be submitted on a bid submittal form provided by the District to facilitate the comparison of bids received. Only firm bids will be accepted and the District reserves the right to reject any or all bids or waive any irregularities and informalities in the bids submitted and accepted by the District. No bidder may withdraw his bid after the hour set for the opening thereof unless the award is delayed for a period exceeding 60 days.

Award – The District will make an award to the lowest reasonable and responsible bidder(s). Awards will be evidenced by the issuance of a contract that incorporates the bid specifications and bid response as if set forth at length therein. Deviations from the standard form contract utilized by the District shall be reviewed by the District's attorney. A record of each and every bid received shall be recorded electronically. Immediately after an award is made, the bid responses received shall be recorded, open to public inspection, and available by telephone inquiry.

3.1.3 Limited Public Work Projects

The limited public work project process may be used for public work projects under fifty thousand dollars (\$50,000) or such higher amount as may be set forth in RCW 39.04.155. The District generally uses the full Small Works Roster process to invite bids for limited public work projects from all bidders in the relevant category. However, the District may invite bids from only three bidders, as allowed under RCW 39.04.155(3), if the District determines that circumstances justify limiting bids.

3.1.4 Posting of Small Works Roster Awards

The District shall make available a list of the contracts that have been awarded as a result of using the Small Works Roster. The list shall contain the name of the bidder, the bidder's registration number, the amount of the contract, a brief description of the type of work performed, and the date it was awarded. Requests for the list may be made to the District.

3.2 Competitive Bidding

3.2.1 Invitation to Bids

Where competitive bidding is used, the District will generate written plans and specifications, which specifications should not contain features that unduly restrict competition.

Advertisement of the call for bids should occur a minimum of thirteen (13) days prior to bid opening and notice should be published, at least once, in a newspaper of general circulation within the District ("Newspaper"). Other methods may be used to attract potential bidders in addition to, but not in place of, publication in the Newspaper. For example, notices may be placed on the District's website or advertised in trade papers or magazines.

Sealed bids shall be submitted to the District at the location and in the manner specified in the invitation or call for bids. At the appointed time, according to a clock selected by the District, all bids will be opened and publicly read aloud.

Original specifications and the original bid responses will be retained in the District's files for review and audit as required.

3.2.2 Award

The contract shall be awarded by Board of Commissioners to the lowest reasonable and responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids. If there are questions or concerns regarding whether a bid is responsive or whether a bidder is responsible, seek the assistance of the District's attorney.

3.2.3 Cancellation

The District may cancel a call for bids, may reject any and all bids submitted in whole or in part, and may waive any irregularities or informalities in the bids submitted at its sole discretion and option.

3.2.4 Variation

Variation from the competitive bidding requirements, either by the use of the design- build alternative contracting procedures or the use of emergency or sole source procurement, require Board of Commissioners action and must be authorized pursuant to law.

SECTION 4.0 – PROFESSIONAL AND PERSONAL SERVICES

Professional or personal services are those services involving specialized skill, education, and special knowledge. These services include, but are not limited to, architectural, engineering,

design services, accounting, bond brokerage, insurance brokerage, legal, real estate appraisal, title abstracts, surveying, soils analysis, and core testing.

4.1 Architectural, Engineering, and Land Surveying Services

The District must utilize competitive selection for the procurement of professional architectural, engineering, and land surveying services.

Professional architectural, engineering, and land surveying services may be selected either from a pre-qualified list, the MRSC A&E Roster or by advertising a request for qualifications for the specific project. Each department may maintain its own pre-qualified list and may utilize the lists maintained by other departments, if practicable.

Pre-qualification

The District may advertise, in the Newspaper and any other media reasonably likely to attract a sufficient number of potential service providers, a general announcement of the District's projected requirements for any category or type of architectural, engineering, and land surveying services. Such announcement shall specify the manner of submitting a statement of qualifications and performance data and architectural, engineering, and land surveying firms are encouraged to pre-qualify. When services are needed, the District will evaluate current statements of qualifications and performance data on file with the District, together with those that may be submitted by other firms regarding the proposed project.

Advertisement

With regards to a particular project, the District may advertise, in the Newspaper and any other media reasonably likely to attract a sufficient number of potential service providers, an announcement of its need for professional architectural, engineering, and land surveying services. Where a particular project is identified, the announcement should state concisely the general scope and nature of the project or work for which the services are required and the address of a District representative who can provide further details.

Contract Negotiations

Discussions will be conducted with one or more firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services. Using criteria established by the District for the project, category, or type of services needed, a professional services contractor will be selected that is deemed to be the most highly qualified to provide the services required for the proposed project.

The District will negotiate a contract with the most qualified firm at a price that the District determines is fair and reasonable. In making its determination, the District will take into account the estimated value of the services to be rendered as well as the scope, complexity, and professional nature of the services to be provided. If the District is unable to negotiate a satisfactory contract with the firm selected at a price that is determined to be fair and reasonable, negotiations with that firm will be terminated in writing. Another firm will then be selected and the process continued until an agreement is reached or the process is terminated.

The professional services agreement must be approved by the Board of Commissioners.

4.2 Non- Architectural, Engineering, and Land Surveying Services

Professional or personal services which are not classified as architectural, engineering, and land surveying services may be procured without a competitive process. Contracts of less than \$40,000 can be approved by the department and charges paid by credit card or direct pay invoice. Contracts between \$40,000 - \$75,000 may be approved by the Fire Chief. Contracts over \$50,000 shall be approved by the Board of Commissioners.

Where the Board of Commissioners determines that a competitive evaluation process should be utilized, it should be administered by the District. Otherwise, procurement and administration of such contracts are usually the responsibility of the Fire Chief or designee.

SECTION 5.0 – PROCUREMENT OF INSURANCE OR BONDS

The District procures insurance and bonds using an insurance or bond broker.

SECTION 6.0 – COMPETITIVE BIDDING FOR PURCHASES

No specific process is required for purchases of less than \$40,000. However, informal quotes are encouraged from at least three (3) vendors whenever feasible. Verbal quotes are discouraged, but may be used at the District's discretion. Care should be taken to provide that quotes are comparable between vendors (e.g., all quotes should include shipping, installation, tax, and delivery time).

For contracts in excess of \$75,000, the Board of Commissioners will make all bid awards. For contracts between \$40,000-75,000, the approval of the Fire Chief, or the Fire Chief's designee, is required, for award. After bid award by the Board of Commissioners or approval by the Fire Chief, as applicable, a Purchase Order will be signed by the Fire Chief or designee.

Original specifications and the original bid responses will be retained in the District's file for review and audit as required.

6.1 Vendor List (Purchases Between \$40,000 to \$75,000)

The Competitive Bidding process may be utilized for purchases between \$40,000 and \$75,000. Alternatively, at the District's discretion, the Vendor List process may be utilized for such purchases.

Vendor List Requirements

If the District chooses to use the Vendor List process for purchases, it will either maintain a vendor list or utilize a list maintained by others, such as the Municipal Research and Services Center (MRSC). If the District maintains its own vendor list, it will at least twice per year publish in a newspaper of general circulation within vendors the jurisdiction a notice of the existence of vendor lists and solicit the names of for the lists.

Quotes; Award

The District will secure telephone or written quotations, or both, from at least three different vendors whenever possible to assure that a competitive price is established and for awarding the contracts for the purchase of any materials, equipment, or supplies to the lowest responsible

bidder as defined in RCW 39.26, which allows consideration of best value criteria, including but not limited to the following:

- (1) Whether the bid satisfies the needs of the District as specified in the solicitation documents;
- (2) Whether the bid encourages diverse contractor participation;
- (3) Whether the bid provides competitive pricing, economies, and efficiencies;
- (4) Whether the bid considers human health and environmental impacts;
- (5) Whether the bid appropriately weighs cost and no cost considerations; and
- (6) Life-cycle cost.

Immediately after the award is made, the bid quotations obtained shall be recorded, open to public inspection, and shall be available by telephone inquiry. A contract awarded pursuant to this Section need not be advertised.

Original specifications and the original quotes will be retained in the District's file for review and audit as required.

6.2 Competitive Bidding (\$40,000 or more)

The competitive bidding method is the preferred method to acquire equipment, material, supplies, and services (other than public work projects and professional and personal services). Where competitive bidding is utilized, the District will award the contract either to (i) the lowest responsive and responsible bidder or (ii) if stated in the bid solicitation, the bidder providing the "best value" to the District.

Sealed bids shall be submitted to the District at the location and in the manner specified in the invitation or call for bids. At the appointed time, according to a clock selected by the District, all bids will be opened and publicly read aloud.

6.2.1 "Best Value"

A "best value" approach may be used, except where constrained by State law, when the District determines that the evaluation of factors other than price is beneficial to the District's needs. With a "best value" approach, the District may select the vendor whose proposal provides the best value to the District, with price and other factors considered. An award under this Section may only be made to a responsible and responsive bidder.

Where the District intends to use a best value evaluation, the bid solicitation should identify significant evaluation factors, including price, and should provide an indication of their relative importance, and should specify the procedures to be utilized in evaluating proposals. Price shall be at least one of the primary evaluation factors.

The District will review responsive and responsible bids according to the evaluation factors and process identified in the bid solicitation. The District may then select the vendor whose proposal provides the best value to the District, with price and other factors considered.

6.2.2 Bid Specifications

Bid specifications should incorporate a clear and accurate description of the technical requirements for the material, product, or service to be purchased. Such descriptions should not

contain features that unduly restrict competition. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used. The responsibility of demonstrating to the District's satisfaction that a product is "equal" to that specified shall be on the vendor proposing the substitution. Requests for approval of substitutions must be made with sufficient time to allow the District to adequately review the proposal, including time for vendors to respond to questions and requests for additional information or clarification. The District has no obligation to accept proposed substitutions or engage outside consultants or experts to evaluate proposed substitutions. Acceptance of a substitute product proposed as "equal" to that specified will be made in writing and, if made prior to bid, other bidders will be notified if practical and convenient.

6.2.3 Advertisement

At least one notice of the call for bids will be published in the Newspaper, a minimum of thirteen (13) days prior to bid opening. Other methods may be used to attract potential bidders in addition to, but not in place of, publication in the Newspaper. For example, notices may be placed on the District's website or advertised in trade papers or magazines.

6.2.4 Award

When purchases and contracts are obtained by competitive bidding, they shall be awarded to a responsive and responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids and who is either (i) the lowest bidder or (ii) if the bid solicitation so specifies, the bidder providing the "best value" to the District. If there are questions or concerns regarding whether a bid is responsive or whether bidder is responsible, seek assistance from the District's attorney.

6.3.5 Cancellation

An invitation for bids may be cancelled or the District, at its sole discretion, may reject any or all bids in whole or in part.

6.4 Personal Purchases

The District employees cannot make purchases for personal use on the District's accounts.

SECTION 7.0 – INTERLOCAL COOPERATIVE PURCHASING AGREEMENTS

Pursuant to Chapter 39.34, RCW, the District may enter into an Interlocal Cooperative Purchasing Agreement ("Interlocal Agreement") with any public agency (the State of Washington, a political subdivision thereof, another state or a political subdivision of that state, an agency of the Federal Government, or a Federally Recognized Indian Tribe).

Interlocal Agreements may be utilized to jointly make bid calls, for a joint purchase, or to purchase equipment, materials, supplies, or services on terms contained in a proposal or contract offered to another public agency. Where the District utilizes an Interlocal Agreement, the District must ensure that the following criteria are satisfied:

- The awarding agency's bid documents and resulting contract stated that other governments could purchase from the contract.
- The awarding agency met its own bid law requirements.

- The awarding agency is a public agency.
- The awarding agency posted the solicitation on a website or provided a link on the state's web portal.

Firm written quotes shall be obtained in advance to document pricing and terms of all Interlocal purchases.

All Interlocal Agreements can be signed by the Fire Chief.

Interlocal Agreement purchases may be made without advertising in the Newspaper.

When practical, the District should include language in its solicitations that allows other public agencies to purchase from the District's bids, quotations, or contracts, provided that the other agencies allow similar rights and reciprocal privileges to the District.

7.1 State of Washington (General Administration) Contracts

Cooperative members save millions of dollars annually by "pooling" their purchases through Washington State contracts. As a volume purchaser, the state can negotiate better rates for goods and services. Washington state cities, counties, and municipalities ("political subdivisions") can join the purchasing cooperative and the District currently is an active member. State contracts all fulfill the District's competitive bid requirements and offer a wide variety of goods and services. Available contracts are searchable through the below link:

<http://www.ga.wa.gov/Purchase/contracts.htm>

The following is a list of some high-usage contracts available through the state contract cooperative:

- Vehicles (heavy-duty and passenger)
- Copiers
- Office equipment and supplies
- Purchasing card
- Radio equipment
- Fuel
- Pharmaceuticals
- Furniture
- Emission inspection service
- Industrial supplies
- Travel services
- Landscaping equipment
- Paint (various kinds)
- Electronic monitoring services
- Electrical supplies

7.2 Cooperative Purchasing Groups

US Communities, Western States Consortium Alliance (WSCA), King County Directors Association (KCDA), National Group Purchasing Partners Program and Houston-Galveston Area Council (HGAC) are a collective of local, State and National agencies that allow most political state subdivisions to use open contracts available through these groups. They are all

subject to bid laws similar to those in Washington and they conduct competitive sealed bids or proposals in much the same way as done in Washington. The District may participate and make purchases that are awarded by these groups provided that the criteria discussed in this Section are satisfied.

SECTION 8.0 – UNIFORM EXCEPTIONS

Occasions may arise when competition among potential vendors is not possible for a particular procurement. These situations may occur: (a) in the event of emergencies and (b) where a sole source of procurement is available. In these situations, purchases may be made directly from a vendor with limited competition or without soliciting other bids or quotes, as the situation requires.

8.1 Emergencies

Competitive bidding is not required when an emergency exists; however, in making emergency purchases, an effort will be made to include the level of competition that is practical under the circumstances. An “emergency” means unforeseen circumstances beyond the control of the District that either: (a) present a real, immediate threat to the proper performance of essential functions; or (b) will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

If an emergency exists, and time permits, the Fire Chief/designee will seek a resolution from Board of Commissioners that will: (a) declare an emergency situation exists; (b) waive competitive requirements; and (c) authorize the award, on behalf of the District, of all contracts necessary to address the emergency situation, including, but not limited to, architectural, engineering, and land surveying services.

If an emergency exists and time does not permit seeking the Board of Commissioners’ approval, the Fire Chief or designee may declare an emergency situation to exist, waive competitive requirements, and award contracts on behalf of the District.

If an emergency exists and both the Fire Chief/designee and the Board of Commissioners are not available to declare an emergency a department director may declare an emergency situation to exist, waive competitive requirements, and award contracts on behalf of the District.

Purchase orders must be properly documented as pertaining to an emergency as soon as possible following the event. If a contract is awarded without competitive bidding due to a declared emergency, the Board of Commissioners will be notified at the next Board meeting for ratification.

8.2 Sole Source Procurements

Sole source procurements may be made directly from a sole source vendor without soliciting other bids or quotes where (a) there is clearly and legitimately only one source capable of supplying the subject matter in a timely fashion or (b) there are special facilities or market conditions that result in only one source.

Although no single factor is determinative, sole source contracts may be justified by the following considerations:

- (1) The unique, highly specialized, or one-of-a-kind qualifications or services of the particular contractor;
- (2) The District's need for standardization of equipment;
- (3) The contractor's past performance;
- (4) The cost effectiveness of entering into the sole source contract, particularly in reference to the "learning curve" for new contracting partners;
- (5) The "follow up" nature of the required goods and/or services;
- (6) Geographic limitations on the availability of the goods or services;
- (7) Unavoidable, critical time constraints; and
- (8) Other special circumstances, such as confidential investigations, copyright restrictions, etc.

When contemplating a sole source contract, the District shall take into account the considerations identified above in reference to the specific circumstances or details that justify departing from the normal competitive bidding requirements. The justification for the sole source contract shall be documented by the District in the "Sole Source Justification" section of the District's "Request for Sole Source" form attached hereto as Appendix A.

The Request for Sole Source and all supporting documentation must be presented to the Board of Commissioners for consideration. If the Board of Commissioners finds that the proposed purchase is clearly and legitimately limited to the single source of supply identified in the Request for Sole Source, it may, by resolution adopted in an open public meeting, waive the competitive bidding requirements applicable to the proposed contract.

SECTION 9.0 PROCUREMENT USING FEDERAL FUNDS

Procurements using federal funds must meet all of the applicable federal, state and local government specific requirements. The most restrictive threshold or method must be used. If there are no state laws or local policies that pertain to the item/service being procured, federal procurement standards will apply as outlined in Federal Uniform Guidance 2 CFR §200.

9.1 Equipment, Materials, and Supplies

When federal funds are used for procurement of equipment, materials, and supplies:

- \$10,000 or less: Does not require quotes. However, the District must consider price to be reasonable and, to the extent practical, distribute purchases fairly and equitably among suppliers.
- \$10,000 - \$75,000: May be procured using the District's vendor list procedure in lieu of formal sealed bid process. If a vendor list is not established, the purchase must be publicly solicited using the District's formal competitive bidding process.
- \$75,000 or more: Must be publicly solicited using the federally prescribed sealed bid process as defined in 2 CFR §200.

When purchase is for items designated by the EPA under 40 CFR Part 247 costing over \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeds \$10,000, the District must procure items that contain the highest percentage of recovered materials consistent with maintaining a satisfactory level of competition.

9.2 Public Works

When federal funds are used for the procurement of public works projects:

- \$30,000 or less: Does not require quotes. However, the District must consider price to be reasonable and, to the extent practical, distribute purchases equitably among suppliers.
- \$30,000 - \$350,000: May use Small Works Roster procedures in lieu of formal competitive bid.
- \$350,000 or more: Formal competitive bid.

For construction or facility improvement contracts or subcontracts exceeding \$250,000, the District must obtain a bid guarantee from each bidder equivalent to five percent of the bid price.

9.3 Professional Services

When federal funds are used for the procurement of professional services:

- Purchases for Architectural/Engineering services shall be procured following the District's Architectural/Engineering procedures and in compliance with federal guidance. There is no threshold for A/E services, whereby price is not a factor in selection.
- Purchases of \$250,000 for all other professional services must be publicly advertised for competitive proposals (RFP/RFQ) as prescribed in federal guidance.

9.4 Noncompetitive Proposals

Procurement by Noncompetitive Proposals:

- The item is only available from a single source.
- The public exigency or emergency for the requirement will not permit a delay resulting from the competitive solicitation.
- The awarding agency or pass-through entity expressly authorizes a noncompetitive proposal in response to a written request from the District.
- After solicitation of a number of sources, competition is determined inadequate.

9.5 Suspension and Debarment

Before entering into federally funded vendor contracts for goods and services that equal or exceed \$25,000 and any subcontract award, the District will ensure the vendor is not suspended or debarred from participating in federal assistance programs. Documentation of the verification of this status shall be maintained by the District.

9.6 Conflict of Interest

No employee, officer or agent may participate in the selection, award or administration of a contract supported by federal funds if he or she has a real or apparent conflict of interest. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. No employee, officer or agent of the District may solicit or accept

gratuities, favors or anything of monetary value from contractors or parties to subcontractors. Violation of these standards may result in disciplinary action including, but not limited to, suspension, dismissal, or removal.

9.7 Procurement Restrictions

Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. If sealed bids are used, the following requirements apply:

- (i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, and for state, local, and tribal governments, the invitation for bids must be publicly advertised;
- (ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- (iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- (iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- (v) Any or all bids may be rejected if there is a sound documented reason.

9.8 Price/Cost Analysis

The District must perform a cost or price analysis in connection with every procurement action in excess of \$250,000. The District must negotiate profit as a separate element of the price for each contract in which there is no price competition and, in all cases, where cost analysis is performed.

9.8 Disadvantaged Business

For all contracts in excess of \$10,000, the District must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

9.8 Exclusion

Contractors and/or vendors that assist in developing or drafting the specifications, requirements, statement of work, invitations for bid, or requests for proposals cannot be awarded the contract.

SECTION 10.0 – PROCUREMENT RECORDS AND REPORTING

The District shall maintain all records necessary to adequately establish compliance with this Policy and state law.

The District shall make a regular report to the Fire Chief detailing all instances where the District's public work project contracting, the procurement of professional and personal service, and the acquisition of supplies, equipment, and materials did not comply with this Policy or state law.

SECTION 11.0 – VENDOR RELATIONS

The District employees should direct all vendors and suppliers to the District for information concerning the possible sale of goods and services to the District.

11.1 Samples

When vendors offer samples for evaluation, they will be accepted only under the following conditions:

- (1) The sample is accepted as property of the District.
- (2) The product is one which is of a type presently in use or is of potential use to the District. Samples of goods not likely to be purchased are not to be accepted.
- (3) The quantity or size of the sample is relatively small and the sample is of low monetary value.
- (4) Any chemicals offered as vendor samples shall not be accepted unless accompanied by an OSHA Product Safety Data Sheet.
- (5) If vendor samples are accepted, they must be sent to the appropriate shop or department for testing.
- (6) Samples that are requested that are retained by the District for evaluation must be purchased.

11.2 Fairness to Vendors

If there are irregularities during a competitive procurement process necessitating a requote, the preferred correction is to terminate the process and reinitiate a new procurement process. Bidders are expected to offer their best bid first and offering an opportunity to requote should be done only when absolutely necessary. If, for any reason, one supplier is permitted to requote, all competitors will be given the same opportunity.

11.3 Public Records Act

The District is subject to the Washington State Public Records Act. Bidders should be aware that any materials submitted to the District, whether as an inquiry, bid, or other submission, will constitute public records and will be subject to disclosure unless protected by a specific exemption.

11.4 Conflict of Interest

No District official, employee or volunteer, or their immediate families (children or spouse), may profit from the procurement of goods or services provided or obtained for the District.

SECTION 12.0 – CONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN BUSINESS ENTERPRISES, LABOR SURPLUS AREA FIRMS, AND VETERAN-OWNED BUSINESSES

The District shall neither discriminate against, nor give preferential treatment to, small and minority firms, women-owned business enterprises, labor surplus area firms, or veteran-owned firms. Such entities shall be afforded the maximum practicable opportunity to compete for and obtain public contracts for services and the District shall passively encourage participation consistent with such businesses' general availability within the professional communities involved.

SECTION 13.0 – BID PROTEST PROCEDURES ON PUBLIC WORKS PROJECTS

13.1 Eligibility

Only bidders that submitted a bid, subcontractors, or others that can show substantial economic interest in the bid award and who are aggrieved, are eligible to protest. After bid opening, protests are limited to issues related to bid opening, evaluation of bids, and intention to award decisions, and are further limited to those items that were not known or could not have been reasonably known prior to bid opening.

13.2 Requesting Copies of Bids

Within two (2) full business days of the bid opening on a public works project that is the subject of competitive bids, a bidder may request copies of the bids the District received for the project. If timely requested, the District shall provide such bids and, thereafter, allow at least two (2) full business days before executing a contract for the project. Intermediate Saturdays, Sundays, and legal holidays are not counted.

13.3 Bid Protest Deadlines

Any bid protest must be delivered within two (2) full business days following bid opening or, if copies of bids are requested, two (2) full business days following the date the District provides copies of the bids to those bidders requesting bids (the "Bid Protest Deadline") to the following:

North Whatcom Fire and Rescue
ATTN: Fire Chief
PO Box 286
Lynden, WA 98264-0286

All eligible protesters will be considered to have waived their right to file a bid protest if not received by the District by the Bid Protest Deadline. Intermediate Saturdays, Sundays, and legal holidays are not counted.

13.4 Contents of Bid Protest

The bid protest must state (1) name, address, and phone number of the aggrieved person; (2) the bid number and title for under which the protest is submitted; (3) all reasons and bases in law and fact supporting the protest, including, but not limited to: (i) identification of any and all specifications, terms, requirements, conditions, or any other item or process to which the protestor objects; and (ii) a complete description of the facts, circumstances and reasons,

including legal reasons, why an award should or should not be made. The protestor must attach to the protest all documents upon which it relies to support its protest. A protesting bidder waives any and all grounds for protest that are not clearly identified or described in the bid protest.

13.5 Execution of a Contract

The District shall not execute a contract for the project prior to expiration of the Bid Protest Deadline. Thereafter, the District may choose to execute a contract in the absence of an injunction or restraining order; provided, however, that if the District has received a bid protest meeting the requirements set forth herein, the District shall not execute a contract for the project with anyone other than the protesting bidder without first providing at least two (2) full business days' written notice of the District's intent to execute a contract for the project.

13.6 Determination of Protest


The Board of Commissioners shall decide the bid protest. Only those issues raised by the protestor in its bid protest will be considered. A protestor and any other interested party may appear before the Board of Commissioners to comment upon the protest. The decision will be made based upon the bid protest (including oral testimony provided at the meeting), including documents attached to the protest in support of the protest, and any other pertinent information presented to the Board of Commissioners by the District staff (including but not limited to confidential legal advice) and other interested parties.

13.7 Exhaustion of Administrative Remedy

A protesting bidder must exhaust the administrative remedies provided herein before seeking other or additional relief in a court of law, except for temporary measures to preserve the status quo pending exhaustion of the remedies established by this procedure. A protesting bidder who fails to exhaust the remedies provided for herein waives its protest.

SECTION 14.0 – REVISIONS

Revisions to this policy may be approved by the Board of Commissioners.

Approved: 
Chairman, Board of Fire Commissioners

Date: 4/13/24

APPENDIX A

REQUEST FOR SOLE SOURCE PURCHASE

Resolution of Board Required if Cost is \$40,000 or More

TO: BOARD OF COMMISSIONERS

FROM: _____

SOLE SOURCE REQUEST FOR THE PURCHASE OF: _____

REQUESTED VENDOR/CONTRACTOR: _____

COST ESTIMATE: _____

Sole source procurements must be clearly and legitimately limited to a single supplier. Sole source procurements may be made directly from a sole source vendor/contractor without soliciting other bids or quotes where (a) there is clearly and legitimately only one source capable of supplying the subject matter in a timely fashion or (b) there are special facilities or market conditions that result in only one source.

STATEMENT OF NEED:

The District's recommendation for sole source is based upon an objective review of the product/service required and appears to be in the best interest of North Whatcom Fire and Rescue. I know of no conflict of interest on my part or personal involvement in any way with this request. No gratuities, favors, or compromising action have taken place. Neither has my personal familiarity with particular brands, types of equipment, materials or firms been a deciding influence on my request to sole source this purchase when other suppliers are known to exist.

Refer to the attached Sole Source Justification and supporting documentation, to the attached review of available products/services and to my completed Purchase Requisition.

Requestor:	Fire Chief:
	<input type="checkbox"/> Approved <input type="checkbox"/> Rejected
_____ Signature of Requestor Date	_____ Signature of Fire Chief Date

SOLE SOURCE JUSTIFICATION

Requisition Item: _____

1. Describe the item and its function: _____

2. Only one vendor/contractor possesses the unique and singularly available capability to meet the requirement of the solicitation. This is a sole source because:

- sole provider of a licensed or patented good or service
- sole provider of items that are compatible with existing equipment, inventory, systems, programs or services
- sole provider of goods and services for which the District will be establishing as a standard
- sole provider of factory-authorized warranty service
- sole provider of goods or services that will meet the specialized needs of the District or perform the intended function (please detail below or in an attachment)
- sole regional authorized distributor for the required product
- the vendor/distributor is a holder of a used item that would represent good value and is advantageous to the District (please attach information on market price survey, availability, etc.)

3. Describe the unique features, qualifications, abilities or expertise of the vendor/contractor justifying this sole source request (attach supporting documentation if applicable).

4. What steps were taken to verify that these features are not available elsewhere?

- Other brands/manufacturers were examined. (list other brands/manufacturers examined).

- Other vendors were contacted (list vendor names phone numbers).

5. Is the District proposing this sole source contract because the proposed vendor/contractor is the only source available in the District's geographical area?

Yes. Explain: _____

No.