

RESOLUTION 2020-08

A RESOLUTION OF THE BOARD OF DIRECTORS OF BENTON CLEAN AIR AGENCY ON THE SUBJECTS OF ESTABLISHING A SMALL PUBLIC WORKS ROSTER PROCESS TO AWARD PUBLIC WORKS CONTRACTS

WHEREAS, RCW 39.04.155 and other laws regarding contracting for public works by municipalities, allow certain contracts to be awarded by a small works roster process; and

WHEREAS, Ch. 39.80 RCW and other laws regarding contracting for consulting services by municipalities allow certain contracts to be awarded by a consultant roster process; and

WHEREAS, RCW 39.04.190, regarding purchase of materials, supplies, or equipment not connected to a public works project, allows certain purchasing contracts to be awarded by a vendor roster process;

NOW, THEREFORE, THE Board of Directors OF Benton Clean Air Agency, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

MRSC Rosters. The Benton Clean Air Agency has contracted wishes to contract with the Municipal Research and Services Center of Washington (MRSC) to have their official rosters hosted in the online database for Benton Clean Air Agency use for small public works contracts, consulting services, and vendor services developed and maintained by MRSC through MRSC Rosters and authorizes Benton Clean Air Agency Control Officer to sign that contract.

Small Public Works Roster. The following small works roster procedures are established for use by the Benton Clean Air Agency pursuant to RCW 39.04.155:

1. **Cost.** The Benton Clean Air Agency need not comply with formal sealed bidding procedures for the construction, building, renovation, remodeling, alteration, repair or improvement of real property where the estimated cost does not exceed the limit established for the small works roster process in RCW 39.04.155 or other authorizing agency statute, which includes the costs of labor, material, equipment, sales, or use taxes as applicable. Instead, the Benton Clean Air Agency may use the Small Public Works Roster procedures for public works projects as set forth in this resolution. The breaking of any project into units or accomplishing any projects by phases is prohibited if it is done for the purpose of avoiding the maximum dollar amount of a contract that may be let using the small works roster process.

2. **Publication.** At least once a year, MRSC shall, on behalf of the Benton Clean Air Agency, publish in a newspaper of general circulation within the municipality's jurisdiction a notice of the existence of the small works roster and solicit the names of contractors for the small works roster. MRSC shall add responsible contractors to the small works roster at any time that a contractor completes the online application provided by MRSC and meets minimum State requirements for roster listing.

3. **Telephone, Written, or Electronic Quotations.** The Benton Clean Air Agency shall obtain telephone, written, or electronic quotations for public works contracts from contractors on the appropriate small works roster to assure that a competitive price is established and to award contracts to a contractor who meets the mandatory bidder responsibility criteria in RCW 39.04.350(1). The Benton Clean Air Agency may establish supplementary bidder criteria under RCW 39.04.350 (2) to be considered in the process of awarding a contract.
 - a) A contract awarded from a small works roster will not be advertised. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation.

 - b) Quotations may be invited from all appropriate contractors on the appropriate small works roster. As an alternative, 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. "Equitably distribute" means that the Benton Clean Air Agency may not favor certain contractors on the appropriate small works roster over other contractors on the appropriate small works roster who perform similar services.

If the estimated cost of the work is from one hundred and fifty thousand dollars (\$150,000) up to the authorized threshold for use of the small works roster process in RCW 39.04.155 or other authorizing agency statute, the Benton Clean Air Agency may choose to solicit bids from less than all the appropriate contractors on the appropriate small works roster but must notify the remaining contractors on the appropriate small works roster that quotations on the work are being sought. The Benton Clean Air Agency 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 email.

- c) At the time bids are solicited, the Benton Clean Air Agency representative shall not inform a contractor of the terms or amount of any other contractor's bid for the same project;
- d) A written record shall be made by the Benton Clean Air Agency representative of each contractor's bid on the project and of any conditions imposed on the bid. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry.

4. **Limited Public Works Process.** The Benton Clean Air Agency may award a contract for work, construction, alteration, repair, or improvement projects using the limited public works process if the project cost is equal to or less than the amount established in RCW 39.04.155 (3). For a limited public works project, the Benton Clean Air Agency will solicit electronic or written quotations from a minimum of three contractors from the appropriate small works roster and shall award the contract to the lowest responsible bidder as defined under RCW 39.04.010. After an award is made, the quotations shall be open to public inspection and available by electronic request.

For limited public works projects, the Benton Clean Air Agency may waive the payment and performance bond requirements of chapter 39.08 RCW and the retainage requirements of chapter 60.28 RCW, thereby assuming the liability for the contractor's nonpayment of laborers, mechanics, subcontractors, material men, suppliers, and taxes imposed under Title 82 RCW that may be due from the contractor for the limited public works project. However, the Benton Clean Air Agency shall have the right of recovery against the contractor for any payments made on the contractor's behalf.

The Benton Clean Air Agency shall maintain a list of the contractors contacted and the contracts awarded during the previous 24 months under the limited public works process, including the name of the contractor, the contractor's registration number, the amount of the contract, a brief description of the type of work performed, and the date the contract was awarded.

- 5 **Determining Lowest Responsible Bidder.** The Board of Directors shall award the contract for the public works project to the lowest responsible bidder provided that, whenever there is a reason to believe that the lowest acceptable bid is not the best price obtainable, all bids may be rejected and the Board of Directors may call for new bids. A responsible bidder shall be a registered or licensed contractor who meets the mandatory bidder responsibility criteria established by Chapter 133, Laws of 2007 (SHB 2010) and who meets any supplementary bidder responsibility criteria established by the Benton Clean Air Agency.

6. **Award.** All the bids or quotations shall be collected by the Control Officer or their designee.
- a) The Control Officer or their designee shall then present all bids or quotations and their recommendation for award of the contract to the Board of Directors. The Board of Directors shall consider all bids or quotations received, determine the lowest responsible bidder, and award the contract; or
 - b) If the Board of Directors delegates the authority to award bids to the Control Officer of the Benton Clean Air Agency for public works projects costing less than or equal to \$15,000.00, the Control Officer shall have the authority to award public works contracts without Board of Directors approval, provided that the Board of Directors shall ratify the Control Officer's approval at the next scheduled Board of Directors meeting by means of the consent agenda. For public works projects costing more than \$15,000, the Board of Directors shall award all public works contracts.
7. **Posting.** A list of all contracts awarded under these procedures shall be posted at Benton Clean Air Agency main administrative offices once every two months. The list shall contain the name of the vendor awarded the contract, the amount of the contract, a brief description of the items purchased, and the date it was awarded.

ADOPTED by the Board of Directors for Benton Clean Air Agency this 29th Day of October 2020.

APPROVED BY:

Nancy Aldrich, Chairman

APPROVED AS TO FORM:

Benton Clean Air Agency Legal Counsel