

## Chapter 10.27

### SMALL PUBLIC WORKS CONTRACTS

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#### **10.27.010 Purpose and goal.**

It is the policy of the City of Tacoma that all citizens be afforded the opportunity for full participation in our free enterprise system, consistent with the City's policy goal and objective that an opportunity for small firms to participate in the provision of construction services, and related goods and/or services, to the City. The objectives of the Small Works Roster Program are increased opportunity to bid for the City of Tacoma's public works projects or improvements where the cost is \$200,000<sup>4</sup> or less equal to or less than the amount allowed by state law authorizing the use of small works roster procedures, to provide an orderly and efficient method of awarding work and to equitably distribute work among qualified contractors and to comply with the provisions of Washington State law for establishing small works rosters. This chapter is adopted in accordance with RCW Chapter 35.22.620 and RCW 39.04.155 and as such sections now exist may be hereinafter amended.

(Ord. 26727 § 1; passed Nov. 7, 2000)

#### **10.27.020 Definitions.**

Terms used in this chapter shall have the meaning given to them in this chapter except where otherwise defined, and unless, where used, the context thereof clearly indicates to the contrary.

Words and phrases used herein in the past, present, or future tense include the past, present, and future tenses. Words and phrases used herein in the masculine, feminine, or neuter gender shall include the masculine, feminine, or neuter genders. Words and phrases used herein in the singular or plural shall include both the singular and plural, unless the context thereof indicates to the contrary. As used herein, the following terms shall have the following meaning:

- A. "City" shall mean the City of Tacoma and all affiliated agencies.
- B. "Prevailing Rate of Wage" shall have the same meaning as that contained in RCW 39.12.010 and WAC 296-127-410(3) as said sections now exist or may hereafter be amended.
- C. "Public Work or Improvement" shall have the same meaning as provided in RCW 39.04.010, as that section now exists or may hereafter be amended.
- D. "Small Works Roster" (SWR) shall mean the list of contractors maintained pursuant to the City of Tacoma's Small Works Roster Program, as described in this chapter.
- E. "Bid" shall mean a quotation, proposal, solicitation or offer by a bidder or contractor to perform work for a single job under the Small Works Roster Program.
- F. "Bidder" shall mean any business or contractor, properly registered for the Small Works Roster Program, that submits a bid or proposal to perform work under the Small Works Roster Program.
- G. "Contract" shall mean an agreement between the City of Tacoma and a contractor to perform work for a single job under the Small Works Roster Program.

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<sup>4</sup>Code reviser's note: changed from \$25,000 to \$200,000 per City Attorney's office 9/16/2010.

H. "Contractor" means any person(s), firm, partnership, corporation, or combination thereof, who submits a Small Works Roster Application and qualifies to participate in the program.

(Ord. 26727 § 1; passed Nov. 7, 2000)

#### 10.27.030 Applicability and procedure.

A small works roster and award of contract process for public works contracts where the cost is equal to or less than the amount allowed by state law governing the use of small works rosters of \$200,000 or less<sup>2</sup> is hereby authorized.

The Small Works Roster threshold for public works and improvements shall remain consistent with RCW 35.22.620 AND RCW 39.04.155.

A. The Director of Finance, or his or her designee, shall create and maintain a small works roster for designated categories of public works projects, which roster shall be comprised of all contractors who complete the required application and are, where required by law, properly licensed or registered to perform such work in Washington State.

B. Whenever work is done by contract, the estimated cost of which is \$3200,000 or less than the amount allowed by state law governing the use of small works rosters or less, and the small works roster process is used, bids may be invited from all appropriate contractors on the roster, provided that no fewer than five contractors, if such number is available, shall be invited to submit bids on any one contract, and provided, further, whenever possible, a proposals shall be invited from any one certified Small Business Enterprise ("SBE"), member registered on the Small Works Roster, one Minority Business Enterprise ("MBE") and/or one Woman Business Enterprise ("WBE") contractors, if available from the roster, and if otherwise qualified to perform the work being solicited. The procedures for selecting firms shall ensure that the opportunity to submit bids is equitably distributed among the listed firms while also ensuring that at least one certified SBE(s), and one certified MBEs and one certified WBEs is included in each group of five bidders whenever possible.

C. Invitations for small works roster bids shall include a scope of work to be performed and materials and equipment to be furnished.

D. When awarding such a contract for work, the estimated cost of which is equal to or less than the amount allowed by state law governing the use of small works rosters is \$3200,000 or less, the City shall award the contract to the contractor submitting the lowest and best responsible bid. When an SBE bid is within the percentage used for bid evaluation under Tacoma Municipal Code 1.07.070.C.1.b of the lowest and best responsible non SBE bid, the SBE bid shall be presumed the lowest and best responsible bid for contract award.

E. The City shall endeavor to distribute bidding opportunities to as many small works roster contractors as possible and shall track solicitations to contractors on the roster. After a small works roster contractor has been invited to submit a bid for any given solicitation/project, the City shall endeavor to provide opportunities to other appropriately qualified contractors on the roster prior to making a repeat solicitation to any contractor.

F. Whenever the small works roster process is used and an SBE low bid is within 5% of the lowest and best responsible non SBE bid the SBE bid shall be presumed the lowest and best responsible bid for contract award. The Small Works roster bid evaluation benefit should maintain consistency with the bid evaluation benefit of the Small Business Enterprise Program, TMC 1.07.070.

G. FF. In accordance with RCW 39.04.155, when awarding a contract of \$1500,000 or less, the performance Bond bond and retainage requirements may be waived on a case-by-case basis, for firms whose annual revenues are below \$1,000,000 in accordance with RCW 39.08.010 as that section now exists or may hereafter be amended.

H. GG. Contractors with annual revenues below \$30250,000 who are awarded contracts of \$100,000 or less shall be paid within ten business days, less 5 percent retainage, upon receipt by the City of fully completed closeout documentation.

I. H. Any bid evaluation benefit consistent with the Small Business Enterprise Program under TMC 1.07 Small Works Roster solicitations and contracts shall be exempt from the application requirements of TMC 1.06.259, TMC

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<sup>2</sup> Code reviser's note: changed from "...of up to \$200,000" to "...of \$200,000 or less" per City Attorney's office 9/16/2010.

19.06.265.B.1.a -and TMC 1.06.268 B. Protests of any proposed contract awards or rejection of submittals resulting from Small Works Roster solicitations will be processed and resolved according to TMC 1.06.266.D.

(Ord. 28141 Ex. C; passed Mar. 26, 2013: Repealed and reenacted by Ord. 27868 Ex. A; passed Dec. 15, 2009: Ord. 26727 § 1; passed Nov. 7, 2000)

#### **10.27.040 Types of projects.**

The designated categories of work authorized for development of a Small Works Roster shall be based on the needs of the City.

(Repealed and reenacted by Ord. 27868 Ex. A; passed Dec. 15, 2009: Ord. 26727 § 1; passed Nov. 7, 2000)

#### **10.27.050 Rules and regulations authorized.**

The Director of Finance is hereby authorized to propose administrative rules and regulations to be approved by the City Manager and Director of Utilities to properly implement and administer the provisions of this chapter. The Director of Finance shall propose to the Public Utility Board and City Council additional categories of work for inclusion in the small works roster procedures following the initial implementation of the program.

(Ord. 26727 § 1; passed Nov. 7, 2000)

#### **10.27.060 Application of rules and regulations.**

A. Any administrative rules and regulations adopted pursuant to Section 10.27.050 are for the administrative and procedural guidance of the officers and employees of the City of Tacoma, and are further expressions of the public policy of the City of Tacoma. Such rules and regulations, when adopted, shall not confer an independent cause of action or claim for relief cognizable in the courts of the state of Washington or the United States of America to any third parties, and these provisions shall not be used as the basis for a lawsuit in any court of competent jurisdiction challenging the award of any Contract by the City of Tacoma.

B. This chapter is enacted for the benefit of the general public. Any rules and regulations adopted pursuant to this chapter and the actions by City of Tacoma officials and employees in implementing this chapter are performed for the benefit of the general public. Any person, party, corporation, or partnership which contends that an officer or employee of the City of Tacoma has acted improperly or negligently in performing his or her duties under this chapter or the rules and regulations adopted pursuant to this chapter may have standing to request review of said contention by the Board of Contracts and Awards and, thereafter, by the City Council or Public Utility Board, as appropriate. The decision of the City Council or the Public Utility Board, as appropriate, is final and conclusive.

(Ord. 26727 § 1; passed Nov. 7, 2000)

#### **10.27.070 Severability.**

If any section of this chapter, or its application to any person or circumstance, is held invalid by a court of competent jurisdiction, then the remaining sections of this chapter, or the application of the provisions to other persons or circumstances, shall not be affected.

(Ord. 26727 § 1; passed Nov. 7, 2000)

#### **10.27.080 Review of program.**

A. The City Manager and the Director of Public Utilities shall review the implementation of Chapter 10.27 (as revised) on a continuing basis and report on the impact of this program on a quarterly basis, to insure that the program is meeting the policy goals upon which this program has been enacted, namely, the promotion of a healthy business environment, increased competition, reduced unemployment, business development, and ensuring equal opportunity in contracting with the City.

(Repealed and reenacted by Ord. 27868 Ex. A; passed Dec. 15, 2009: Ord. 27678 Ex A; passed Dec. 18, 2007: Ord. 26727 § 1; passed Nov. 7, 2000)