

ORDINANCE NO. 2024-24

**AN ORDINANCE OF THE CITY OF RICHLAND, WASHINGTON,
AMENDING RICHLAND MUNICIPAL CODE SECTIONS 3.04.010
AND 3.04.070 RELATED TO SMALL WORKS.**

WHEREAS, the City has need, from time to time, to update the Richland Municipal Code (RMC) to bring it into compliance with state law; and

WHEREAS, in April 2023, the Washington State Legislature passed Second Substitute House Bill (SB) 5268 which amends small works roster contract procedures; and

WHEREAS, the revision includes repealing RCW 39.04.155 and replacing it with RCW 39.04.151 through RCW 39.04.154 with an effective date of July 1, 2024; and

WHEREAS, certain sections of Chapter 3.04 RMC require amendment to reflect state law.

NOW, THEREFORE, BE IT ORDAINED by the City of Richland as follows:

Section 1. Richland Municipal Code Section 3.04.030, entitled Definitions, as first enacted by Ordinance No. 48-15, and last amended by Ordinance No. 2022-41, is hereby amended as follows:

3.04.030 Definitions.

“Architectural and engineering services” means professional services rendered by any person, other than a city employee, to perform activities within the scope of the professional practice of architecture (Chapter 18.08 RCW), professional practice of engineering and land surveying (Chapter 18.43 RCW), and/or professional practice of landscape architecture (Chapter 18.96 RCW).

“Compost products” means mulch, soil amendments, ground cover, or other landscaping material derived from the biological or mechanical conversion of biosolids or cellulose-containing waste materials. The term “biosolid” is defined as provided in RCW 43.19A.010.

“Contract term option” is the right by which, for a specified time, the city may elect to extend the term of the contract.

“Craft or trade” means a recognized construction trade or occupation for which prevailing wage categories are established by the Department of Labor and Industries of the state of Washington.

“Emergency” means unforeseen circumstances beyond the control of the city that either present a real, immediate threat to the proper performance of essential functions or will likely result in material loss or damage to property, bodily injury or loss of life if immediate action is not taken.

“Formal solicitation process” is the competitive process of advertising and receiving submissions of bids or proposals from prospective vendors. The submissions are submitted in such a manner as to prevent their content from being revealed before the established due date and time for receipt.

“Goods” means all materials, supplies, equipment or other tangibles.

“Informal solicitation process” is obtaining competitive submissions from vendors that are obtained using a variety of mediums such as electronic submittal, phone, fax, e-mail, or writing.

“Interlocal agreements” are the exercise of governmental powers in a joint or cooperative undertaking with another public agency. Purchase of goods or services from another public agency which is not an exercise of the city’s governmental powers is not an interlocal agreement and shall be approved under RMC 3.04.050 and 3.04.060.

“Life cycle cost” means the total cost of an item to the city over its estimated useful life, including costs of selection, acquisition, operation, maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life.

“Nonprofessional services” are services purchased by the city in which the contractor receives specific instructions and guidance from the city and does not meet the definition of professional services, or architectural and engineering services. Examples of nonprofessional services include machine repair, debt collection services, temporary service agencies, credit card services, equipment service agreements, auctioning services, software licenses, software maintenance, delivery services, inspections, advertising, etc. Prevailing wages may apply to nonprofessional service contracts.

“On-call contract” means a contract that is awarded with general provisions for the services to be rendered. As services are to be rendered, specific task orders are initiated that are to be completed by the contracting firm. Prevailing wages may apply to on-call contracts.

“Ordinary maintenance” is work not performed by contract and that is performed on a regularly scheduled basis (e.g., daily, weekly, seasonally, semi-annually, but less frequently than once per year), to service, inspect, or replace items that are not broken; or work not performed by contract that is not regularly scheduled but is required to maintain the asset so that repair does not become necessary.

“Professional services” are customized services of specialized intellectual or creative expertise based on personal skill or ideas of an individual(s), generally one-time expertise to solve a problem or render professional opinions, judgments or recommendations. The labor and skill involved to perform these types of services are predominately mental or intellectual, rather than physical or manual. Examples include artistic design, marketing, analysis, financial expertise, accounting, attorneys, bond brokers, computer consultants, insurance brokers, economists, planners, real estate services, etc. This term does not include architectural and engineering services.

“Public work” as defined in RCW 39.04.010 means a complete project, and includes all work, construction, alteration, repair or improvement other than ordinary maintenance, executed at the cost of the city or which is by law a lien or charge on any city property. Public work projects include the related materials, supplies and equipment to complete the project.

“Purchasing officer” means the purchasing manager of the purchasing division of the administrative services department.

“Request for proposals (RFP)” means a process that requests interested firms to submit a proposal for completing a project. Proposals are evaluated based on criteria identified in the RFP, including, but not limited to, the quality of the proposal, experience, cost, and references.

“Request for qualifications (RFQ)” means a process that requests interested consultants to submit a statement of their qualifications. Submittals are evaluated based on criteria identified in the RFP, including, but not limited to, experience, expertise, and references. Cost cannot be a consideration until after a consultant has been selected at which point the price may be negotiated.

“Small works roster” is a roster of qualified contractors maintained for use in a modified formal bid process. When a public works project has an estimated value threshold as provided under RCW 39.04.15~~25~~, as now enacted or hereafter amended, a city may follow the small works roster process for construction of a public work or improvement as an alternative to competitive formal solicitation requirements.

“Solicitation” means quotes, bids, requests for proposals and requests for qualifications.

Section 2. Richland Municipal Code Section 3.04.070, entitled Public works, as first enacted by Ordinance No. 48-15, and last amended by Ordinance No. 2022-41, is hereby amended as follows:

3.04.070 Public works.

A. Purchase Order or Contract Required. All purchases for public works require a purchase order or executed contract.

B. Purchasing Procedures.

1. Total estimated cost for a public works project includes all amounts paid for materials, supplies, equipment, and labor on the construction of that project which is inclusive of sales tax, unless exempted by law, on one continuous or interrelated project where work is to be performed simultaneously or in close sequence.

2. Public works contracts shall follow bid requirements applicable to first class cities as set forth in RCW 35.22.620, as now enacted or hereafter amended, and procedures developed by the purchasing officer.

3. The city shall award all contracts under this section to the lowest responsible bidder as defined in RMC 3.04.040(H), as now enacted or hereafter amended; provided, however, that the city reserves its right under applicable law to reject any and all bids, and also to waive “minor irregularities if in the public interest.”

C. Purchasing Limitations. The award of public works projects equal to or less than the dollar threshold for small works projects as provided under RCW 39.04.152~~5~~, as now enacted or hereafter amended, may be executed, or delegated, by the city manager.

D. Competitive Bids.

1. At the discretion of the city manager, projects for a single craft or multiple crafts with a reasonably anticipated price equal to or less than the dollar thresholds as provided under RCW 35.22.620(3), as now enacted or hereby amended, may not require the use of competitive quotes or bids. Departments may make these purchases administratively in accordance with procedures developed by the purchasing officer and approved by the city manager.

2. Projects for a single craft or multiple crafts with a reasonably anticipated price higher than the dollar thresholds as provided under RCW 35.22.620(3), as now enacted or hereafter amended, up to the maximum dollar threshold as provided in RCW 39.04.152~~5~~, as now enacted or hereafter amended, shall either use the small works roster or a formal solicitation process developed by the purchasing officer.

3. Projects with a cost in excess of the maximum dollar threshold as provided in RCW 39.04.152~~5~~, as now enacted or hereafter amended, require a formal solicitation process developed by the purchasing officer. The city council shall authorize these purchases and provide authority for the city manager to execute the related contract.

E. Small Works Roster.

1. For public works in which the estimated cost is equal to or less than the value threshold as provided under RCW 39.04.152~~5~~, as now enacted or hereafter amended, the city may use a small works roster or rosters ~~or limited public works as an alternative to bidding~~; provided, that in such case, the purchasing officer shall develop policies and procedures for use of small works roster and limited public works programs in accordance with law.

2. The purchasing officer shall make available a list of the contracts that have been awarded under the small works roster. The list shall contain the name of the awarded bidder, the amount of the contract, a brief description of the type of work performed, and the date it was awarded. The list may be posted on the city's website or made available from the purchasing officer.

Section 3. This Ordinance shall take effect the day following its publication in the official newspaper of the City of Richland.

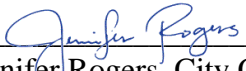
Section 4. Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Section 5. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including but not limited to the correction of scrivener's errors/clerical errors, section numbering, references, or similar mistakes of form.

PASSED by the City Council of the City of Richland, Washington, at a regular meeting on the 16th day of July, 2024.


Theresa Richardson, Mayor

Attest:


Jennifer Rogers, City Clerk

Approved as to Form:


Heather Kintzley, City Attorney

First Reading: July 2, 2024
Second Reading: July 16, 2024
Date Published: July 21, 2024