



## Legislation Details (With Text)

---

**File #:** FCD2009-06    **Version:** 2

**Type:** FCD Resolution    **Status:** Passed

**File created:**    **In control:** King County Flood Control District

**On agenda:**    **Final action:** 5/4/2009

**Enactment date:**    **Enactment #:**

**Title:** A RESOLUTION adopting policies for the construction of public works and the acquisition of materials, equipment, supplies and services.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. FCD2009-06 FINAL.pdf, 2. Amendment 1 5-04-09 meeting.pdf

| Date     | Ver. | Action By                          | Action            | Result |
|----------|------|------------------------------------|-------------------|--------|
| 5/4/2009 | 1    | King County Flood Control District | Passed as Amended | Pass   |

A RESOLUTION adopting policies for the construction of public works and the acquisition of materials, equipment, supplies and services.

WHEREAS, pursuant to Chapter 86.15 RCW, the Board of Supervisors (“Board”) of the King County Flood Control Zone District (“District”) has broad powers to construct public works and acquire materials, equipment, supplies and services as may be necessary for the benefit and operations of the District; and

WHEREAS, the Board desires to establish procurement procedures that achieve savings in cost and time and that meet public needs;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE KING COUNTY FLOOD CONTROL ZONE DISTRICT:

SECTION 1: Purpose and Scope. The District has entered into an interlocal agreement with King County for the performance of a substantial portion of the District’s services and operations. King County’s construction of public works and acquisition of materials, equipment, supplies and services on behalf of the District shall be carried out in conformance with laws and regulations that

are applicable to King County. The District's construction of public works and acquisition of materials, equipment, supplies and services shall be carried out pursuant to this resolution and the District's Rules and Operating Procedures.

SECTION 2: Construction of public works. The District shall enter into a contract for execution of a public work using the laws and regulations applicable to King County, or in the alternative, using a special process for the public work that is adopted by District resolution. For purposes of this resolution, a "public work" shall be work, construction, alteration, repair or improvement other than ordinary maintenance.

SECTION 3: Acquisition of Materials, Equipment, Supplies and Non-professional Services--Competitive Proposals. Contracts for acquisition of materials, equipment, supplies and non-professional services shall be awarded under the following procedure (competitive proposals):

A. The Executive Director shall prepare a request for proposals. The request for proposals shall state generally the equipment, materials or supplies to be purchased or the non-professional services to be accomplished, contain evaluation factors and criteria, request prices and rates, and call for proposals to be submitted to the District on or before a specified day and hour. If the estimated amount of the contract is less than \$20,000, the chair of the Executive Committee shall approve the request for proposals prior to issuance. If the estimated amount of the contract is between \$20,000 and \$100,000, the Executive Committee shall approve the request for proposals prior to issuance. If the estimated amount of the contract is \$100,000 or more, the Board shall approve the request for proposals prior to issuance.

B. After approval, the Executive Director shall cause the request for proposals to be published on the District's website and in a newspaper of general circulation within King County at least once a week for two consecutive weeks, the first publication being not less than 10 days before the deadline for filing proposals. The notice may be published in such additional newspapers or magazines and for such additional period of time as the Executive Director shall deem to be in the best interest of the

District.

C. After review of the proposals, the Executive Director shall submit a written recommendation to the chair of the Executive Committee, the Executive Committee or the Board, as applicable under the District Rules and Operating Procedures for approval of contracts. The chair of the Executive Committee, the Executive Committee or the Board, as applicable, may award the contract based solely on the recommendation, or alternatively or in combination may conduct interviews with selected proposers, conduct discussions with selected proposers and/or request proposers to submit best and final offers. The chair of the Executive Committee, the Executive Committee or the Board, as applicable, may request clarifications and consider minor adjustments in the proposals in order to better understand the proposals and to qualify them for further consideration; provided, that information discussed or obtained from one proposer shall not be disclosed to competing proposers during the discussions and negotiations. Except to the extent protected by applicable laws and regulations, proposals shall be considered public documents and shall be made available for review and copying by the public after the recommendation to award a contract.

D. The chair of the Executive Committee, the Executive Committee or the Board, as applicable, may waive the competitive proposal process of this section for:

1. Purchases or services that are clearly and legitimately limited to a single source of supply;
2. Purchases or services involving special facilities or market conditions; and
3. Purchases of insurance or bonds.

SECTION 4. Optional Competitive Bidding-- Acquisition of Materials, Equipment, Supplies and Non-professional Services of \$100,000 or More.

A. At the option of the Board, as determined by motion of the Board, contracts for acquisition of materials, equipment, supplies and non-professional services, the estimated cost of which is \$100,000 or more, may be awarded pursuant to competitive bidding as provided in this section. Factors that the Board may consider in deciding whether to use competitive bidding include

but are not limited to the following:

1. There is sufficient time to solicit and evaluate bids;
2. The contract may be awarded primarily on the basis of price and other price-related factors;
3. Discussions with the responding bidders is not necessary; and
4. There is reasonable expectation of receiving more than one bid.

B. The Executive Director shall prepare, or cause to be prepared, an invitation to bid and plans and specifications, consistent with subsection C of this Section. The Board shall approve the invitation to bid and plans and specifications prior to issuance. The Executive Director shall cause a notice inviting sealed bids to be published on the District's website and in a newspaper of general circulation within King County at least once a week for two consecutive weeks, the first publication being not less than 10 days before accepting bids. The invitation to bid and plans and specifications shall be on file with the Executive Director and the Clerk of the District and open to public inspection at the time of first publication in the newspaper or publishing on the District's website, whichever occurs first. The notice shall state generally the materials, equipment, supplies or non-professional services to be purchased or carried out and shall call for bids for doing the same to be sealed and filed with the District on or before the day and hour specified. The notice may be published in such additional newspapers or magazines and for such additional period of time as the Executive Director shall deem to be in the best interest of the District.

C. Each bid shall be accompanied by a bid guarantee payable to the District for a sum not less than five percent of the amount of the bid in such form as may be established or approved by the Executive Director. The Executive Director may waive the bid guarantee requirement if the Executive Director deems such action necessary to promote participation in the bidding. The Executive Director may further require a performance/payment bond or bonds. The bond or bonds shall be payable to the order of the District, shall be in such form as may be established or approved by the Executive Director, and shall be in an amount not less than one hundred percent of the contract price unless a

lesser amount is approved by the Executive Director.

D. All bids shall be considered as offers to contract with the District. At the time and place named, the bids shall be publicly opened and read. The Executive Director shall require the bids to be retained and analyzed and shall recommend the best bid to the Board. The Board may reject any or all bids or cancel or modify bid solicitations if the Board deems such actions to be in the best interest of the District. Minor irregularities in bid form may be waived.

E. The Board shall award a contract on the basis of the best bid. Any bid or any portion of any bid or all bids may be rejected by the Board. In determining "best bid," the following elements shall be given consideration in addition to price:

1. The ability, capacity and skill of the bidder to perform the contract or provide the materials, equipment, supplies or service required;
2. The character, integrity, reputation, judgment and efficiency of the bidder;
3. The quality and timeliness of performance by the bidder on previous contracts with the District, other local governments and state and federal agencies, including but not limited to the relative costs, burdens, time and effort necessarily expended by the District or such governments and agencies in securing satisfactory performance and resolving claims;
4. The history of the bidder in following responsible labor practices, including, but not limited to ensuring the payment of prevailing wages to all subcontractors and suppliers;
5. The history of the bidder in using state-certified apprentices for the construction of these properties, across the trades, including women, at risk youth, and people of color, with a fifteen percent apprentice utilization goal.
6. The previous and existing compliance by the bidder with laws relating to public contracts including, but not limited to, minority and women business enterprise and equal employment opportunity requirements;
7. The history of the bidder in filing claims and litigation on prior projects involving the District

or other governments and agencies; and

8. Such other information as may be secured having a bearing on whether the bidder is responsible and has submitted a responsive bid.

SECTION 5: Professional Services. Professional services are services wherein consultants provide highly specialized expertise to carry out the executive functions of the District, to solve a program or to render professional opinions, judgments or recommendations, including, but not limited to, financial, marketing, legal, planning, artistic, engineering and architectural services. Professional services to be performed for the District by non-employees shall be procured consistent with the following procedures.

A. The Executive Director shall prepare a request for proposals. The request for proposals shall describe the services required, list the types of information and data required of each proposal, request prices and rates, describe the evaluation criteria and call for proposals to be submitted to the District on or before a specified day and hour. The Executive Director shall cause a notice inviting proposals to be published on the District's website and in a newspaper of general circulation within King County at least 10 days before the date for submitting such proposals.

B. The Executive Director shall establish a selection panel to review and evaluate the proposals. The Executive Director shall serve on the selection panel. At the option of the Executive Committee, one member of the Executive Committee may serve on the selection panel. The selection panel shall review all proposals and may interview all or some of the proposers. The selection panel shall determine and rank the most qualified proposers. In selecting and ranking proposers, the selection panel shall consider the evaluation criteria, price and ability to perform the services, and may also consider such other information as may be obtained during the evaluation process related to the proposer's qualifications and experience. The selection panel shall negotiate a contract with as many of the top-ranked proposers as are determined by the selection panel. Negotiations may be conducted concurrently or sequentially.

C. Contracts for architectural and engineering services, as defined in Chapter 39.80 RCW, shall be advertised and procured in accordance with Chapter 39.80 RCW. To comply with the advance publication requirement of RCW 39.80.030, the Executive Director may determine whether to publish an announcement on each occasion when professional services provided by a consultant are required, or to announce generally to the public District projected requirements for any category or type of professional services.

SECTION 6: Emergency. When in the opinion of the Executive Director any emergency shall require the immediate execution of a District contract for acquisition of materials, equipment, supplies or services, the Executive Director shall prepare for the chair of the Executive Committee a finding of the existence of such emergency. Based on the finding, the chair of the Executive Committee may execute any contracts or purchases necessary to respond to the emergency; provided that the chair of the Executive Committee shall, at the first Executive Committee meeting if the contract was for less than \$100,000, or at the first Board meeting if the contract was for \$100,000 or more, request Executive Committee or Board ratification, as applicable, of the finding of emergency and any purchases or contracts awarded and/or executed pursuant to that finding.