



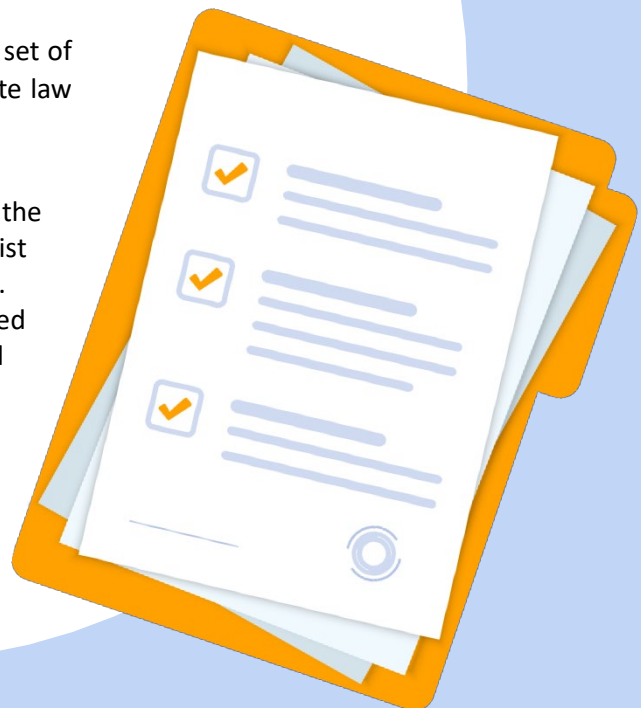
# Is this Bidder Responsible?

## Evaluation checklist for public contracts

To qualify to be awarded a public contract, a bidder must be both responsive and responsible:

- A responsive bidder is one that has responded to all bid items and has included all required elements in their bid submittal – this is fairly straightforward
- A responsible bidder is one that meets a set of “responsibility criteria” as defined in state law and this can be complex to evaluate

To help you navigate whether your bidder meets the responsibility criteria, we have compiled a checklist that you may use to walk through this evaluation. We have also included answers to frequently asked questions that we receive. We hope that you find all of this information helpful in navigating this challenging topic!



# Responsible Bidder Checklist

Local governments must ensure a bidder qualifies as responsible, under state law, before awarding a public works contract.<sup>1</sup> Use this optional checklist to evaluate whether a bidder meets responsible bidder criteria.

Checklist item	Evaluation (answers must be all “yes” to qualify as a responsible bidder)
<p>1. Is the vendor a registered contractor at the time of bid submittal, as required by <a href="#">Chapter 18.27 RCW</a>? Or, is the vendor exempt from the registration requirements, such as for a janitorial contract?</p> <p><i>Note: This can be checked at <a href="https://secure.lni.wa.gov/verify/">secure.lni.wa.gov/verify/</a>. Verify that the status is “Active,” that the “effective date” is on or before the bid submittal deadline, and that the “expiration date” is not before the end of the contract period.</i></p>	<p>YES. Continue to next question.</p> <p>NO, STOP. Bidder is not responsible.</p>
<p>2. Does the contractor have a current state Unified Business Identifier (UBI) number?</p> <p><i>Note: You can check this at the Department of Revenue website at <a href="https://dor.wa.gov/">dor.wa.gov/</a> by clicking the “Lookup a business” link.</i></p>	<p>YES. Continue to next question.</p> <p>NO, STOP. Bidder is not responsible.</p>
<p>3. Does the contractor have industrial insurance coverage, as required by <a href="#">Title 51 RCW</a>, or is it certified to cover its own workers’ compensation costs?</p> <p><i>Note: Workers’ compensation premium status can be checked at <a href="https://secure.lni.wa.gov/verify/?SAW=False">secure.lni.wa.gov/verify/?SAW=False</a>. The status should be “Account is current. Firm has voluntarily reported and paid their premiums” or show the firm is self-insured.</i></p>	<p>YES. Continue to next question.</p> <p>NO, STOP. Bidder is not responsible.</p>
<p>4. Does the contractor have an Employment Security Department number, as required by <a href="#">Title 50 RCW</a>? (This does not apply if the contractor does not have any employees)</p> <p><i>Note: This information is not available online. The local government should have a process to obtain the information from the contractor. A best practice might be to ask bidders to include this information in their bid submittal.</i></p>	<p>YES. Continue to next question.</p> <p>NO, STOP. Bidder is not responsible.</p>

<sup>1</sup> [RCW 39.04.350](#)

<p>5. Does the contractor have a state excise tax registration number, as required by <a href="#">Title 82 RCW</a>, or meet one of the exceptions in statute? <sup>2</sup></p> <p><i>Note: You can check this at the Department of Revenue website at <a href="http://dor.wa.gov/">dor.wa.gov/</a> by clicking the “Lookup a business” link.</i></p>	<p>YES. Continue to next question.</p> <p>NO, STOP. Bidder is not responsible.</p>
<p>6. Is the contractor free of debarment by Washington (it has not been debarred)?</p> <p><i>Note: Violations can be found at</i></p> <ul style="list-style-type: none"> <li>• <a href="http://secure.lni.wa.gov/debarandstrike/ContractorDebarList.aspx">secure.lni.wa.gov/debarandstrike/ContractorDebarList.aspx</a></li> <li>• State debarment also shows in the Verify a Contractor tool under the Public Works Requirements section: <a href="http://secure.lni.wa.gov/verify/?SAW=False">secure.lni.wa.gov/verify/?SAW=False</a></li> </ul> <p><i>Note: This is for state debarment, not federal. The local government should print the search results to prove the contractor was not debarred at the time of bidding.</i></p>	<p>YES. Continue to next question.</p> <p>NO, STOP. Bidder is not responsible.</p>
<p>7. Has the bidder submitted to the contracting agency a signed statement verifying under penalty of perjury that the bidder has no final and binding citation or notice of assessment from Labor &amp; Industries within the three-year period immediately preceding the date of the bid solicitation for:</p> <ul style="list-style-type: none"> <li>• Minimum wage requirements and labor standards (<a href="#">RCW 49.46</a>)</li> <li>• Wages – payment – collection (<a href="#">RCW 49.48</a>)</li> <li>• Wages – deductions – contributions – rebates (<a href="#">RCW 49.52</a>)</li> </ul> <p><i>Note: A local government may award a contract in reasonable reliance upon such a sworn statement.<sup>3</sup></i></p>	<p>YES. Continue to next question.</p> <p>NO, STOP. Bidder is not responsible.</p>

<sup>2</sup> [WAC 458-20-101](#) and [RCW 82.32.030](#) outline instances in which a contractor may be exempt from having a state excise tax registration number.

<sup>3</sup> The agency would either obtain a separate sworn statement, which could be obtained after the bid submittal and should be outlined in the bid specifications, or some agencies have a space in the bid form where the bidder can sign the sworn statement, which is printed on and is part of the bid form.

<p>8. Has the contractor received training on prevailing wage and public works requirements under <a href="#">RCW 39.04.350</a>, or is the bidder exempt from this training because they have completed three or more public works projects and have had a valid Washington business license for three or more years?</p> <p><i>Note: Local governments can verify if a contractor has received training or is exempt at <a href="https://secure.lni.wa.gov/verify/">secure.lni.wa.gov/verify/</a></i></p>	<p>YES. Continue to next question.</p> <p>NO, STOP. Bidder is not responsible.</p>
<p>9. Is the contractor in compliance with apprenticeship requirements in <a href="#">RCW 49.04</a>? Or is the contractor exempt from complying, under <a href="#">RCW 39.04.320</a>?</p> <p><i>Note: Local governments can verify if a contractor has been found out of compliance with apprentice use requirements by contacting the Department of Labor and Industries and the Washington State Apprenticeship and Training Council.<sup>4</sup></i></p>	<p>YES. Continue to next question.</p> <p>NO, STOP. Bidder is not responsible.</p>

## Frequently Asked Questions

### Can I pre-qualify vendors before allowing them to bid on a project?

A pre-qualification requirement prohibits a contractor from bidding if the contractor does not meet it. Most local governments would not be allowed to engage in this practice. Although a local government may establish responsibility criteria, it cannot establish pre-qualification criteria ([AGO 1993 No. 19](#)). The two instances when governments may pre-qualify vendors are:

- (1) The Department of Transportation ([RCW 47.28.070](#))
- (2) Public Utility Districts when doing electrical facility construction and improvement ([RCW 54.04.085](#))

---

<sup>4</sup> At the time this resource was written, information was not available online from L&I. However, this is expected to change in the future, so local governments should double-check.

### **Can I adopt supplemental responsibility criteria of my own?**

Yes — a local government may adopt relevant supplemental criteria the bidder must meet for a particular project. The additional criteria, including the basis for evaluation, must be included in the invitation to bid or bidding documents. For example, if you want to use criteria related to contract duration, partial acceptance of a bid, brand name specification, or refusal to accept substitutes, then you must define these in the call for bid up front.

### **At what point do you evaluate whether a bidder is responsible?**

An inquiry into the responsibility of the contractor with the lowest bid occurs after receiving bids but before awarding the contract.

### **What if a bidder asks for criteria in the bid packet to be modified?**

A potential bidder may request that the criteria be modified, if so the local government must evaluate the request and respond before the bid submittal deadline. If the evaluation results in a criteria change, the local government must issue an addendum to the bidding documents identifying the new criteria and make sure all bidders are notified of the change.

### **Can I adopt supplemental criteria giving preference to local vendors?**

Usually no, state law does not recognize – implicitly prohibiting – the granting of preferences to local vendors in purchases of goods, supplies and services by local governments. However, if a local government can justify imposing a requirement of local availability of a product, the requirement should be made a part of the bid specifications.

### **What if a bidder is found to be “not responsible”?**

If it determines a bidder to be not responsible, the local government must provide to the bidder, in writing, the reasons for the determination. The bidder may appeal the determination within the period specified in the bidding documents by presenting additional information. The local government must consider the additional information before issuing its final determination. If the final determination affirms that the bidder is not responsible, the local government may not execute a contract with any other bidder until two business days after the bidder determined to be not responsible has received the final determination.

### **Can I hire a contractor who is based out of state?**

Yes, as long as the contractor is a responsive and responsible bidder, you may hire a contractor from any state.

### **Additional resources**

- State of Washington, Department of Enterprise Services, guidance on bidder responsibility: [des.wa.gov/sites/default/files/public/documents/About/CPARB/AdminDocs/BidderResponsibilityGuidelines\\_11-16-17.pdf?=-881a1](https://des.wa.gov/sites/default/files/public/documents/About/CPARB/AdminDocs/BidderResponsibilityGuidelines_11-16-17.pdf?=-881a1)

**For assistance**

This resource has been developed by the Center for Government Innovation of the Office of the Washington State Auditor (SAO). For specific questions about procurement requirements, please use the Helpdesk at SAO Online Services at [www.sao.wa.gov](http://www.sao.wa.gov).

Please send any other questions, comments, or suggestions to [Center@sao.wa.gov](mailto:Center@sao.wa.gov).

**Disclaimer**

This resource is provided for informational purposes only. It does not represent prescriptive guidance, legal advice, an audit recommendation, or audit assurance. It does not relieve governments of their responsibilities to assess risks, design appropriate controls, and make management decisions.

More details on other aspects of procurement can be found in our new guide, “**Buying and Bidding – Ensuring your government follows Washington purchasing laws.**”  
Find it at:

<https://portal.sao.wa.gov/PerformanceCenter>

