



Using Others' Bid Awards (‘Piggybacking’)

Local governments often use the bid awards of others, also known as “piggybacking,” to save both time and money, although such savings are not guaranteed. Those that are new to piggybacking often have questions about what they must do to stay in compliance with their own procurement laws. For many years, we have answered these questions, and now we have consolidated these frequently asked questions (and their answers) into this resource to help you better navigate this process. In addition, we have included an optional checklist you can use that walks you through the many factors to consider when relying on another entity’s bid award.

What is piggybacking?

In a piggybacking arrangement, one entity (the awarding entity) procures goods or services in a competitive environment and then extends the pricing to other entities (participating governments). This might benefit the awarding entity, allowing it to obtain better pricing due to the economies of scale achieved by including the buying power of others. In addition, those participating in the contract could benefit by obtaining better pricing and avoiding the time and resources it takes to conduct the public bidding process.

What Washington laws govern the use of piggybacking?

Washington law allows this alternative to a competitive bidding process, provided the applicable requirements in [RCW 39.34.030](#) are satisfied.

Each government should check its local policy to determine if it allows this option, as well as evaluate the optimal form of procurement for the goods or services sought.

For participating governments, this procurement method might have its advantages. For example, it might save you some time and allow you to obtain better pricing, but it does not guarantee a lower price or a suitable quality item. It can have its drawbacks, too: For example, the advertisement of the procurement might not have been done in your local area.

Further discussion of whether this type of procurement is preferable to other methods is outside the scope of this document.

Can a local government use another's bid award for a public work project?

Yes, provided the applicable requirements are met. However, we recommend exercising due care in this area. For a local government to piggyback, the project of the awarding entity and the project of the participating government must be essentially the same. Specifically, the awarding entity and the government later relying upon the bid should each have the same project plans and specifications. The only differences should be the quantities purchased. For example, in the case of a roofing contract, if the awarding entity procured a metal roof, then those participating would also have to procure the same metal roof with no changes in scope, such as adding a gutter system that was not part of the original bid. The only difference in the projects would be the amount of the metal roofing purchased. Governments should ensure the labor paid is consistent with the labor price (in the bid) after compensating for any changes in roof size or differences in prevailing wage rates that might vary by region.

Governments should ensure they keep adequate documentation to address the items above and support using another's bid award for public works. This documentation needs to include the project specifications to demonstrate the projects were essentially the same.

What are the responsibilities of the awarding entity?

The awarding entity must (in accordance with [RCW 39.34.030\(5\(b\)\)](#)):

- Comply with its own bid requirements
- Advertise in accordance with its own statutory requirements. If these requirements are satisfied, the advertising requirements for other participating governments are also satisfied even if they differ from those of the awarding entity.
- Post the bid or solicitation notice on its website or provide an access link on the state's web portal to the notice
- Ensure that its request for bids and final contract allows for the eventual contract to be used by more than one local government. This obligates the vendor to provide its product or service to other participating governments at the same price and terms.

What are the responsibilities of the participating governments?

The local government must ensure it complies with its own policies and procedures. In addition, a local government that desires to rely on another's procurement and bid award process must:

Step 1: Read the awarding entity's contract.

The local government should confirm that the awarding entity's contract with its vendor has not expired and will be open and active for the period desired. Also, the local government should ensure the original solicitation and resulting contract specifically allows for others to use it post-award (this may be referred to as an *assignability clause*). This is important because the bid process needs to fairly describe the scope, which could affect those that might choose to bid and the pricing offered. Also, note that the awarding entity must have conducted the actual procurement process (it cannot already be a participating government relying on the bid award of another).

There are other reasons to read the contract as well, such as to gain a complete understanding of the specifications or deliverables and other contract terms that might affect your decision to move forward.

Step 2: Evaluate whether the awarding entity qualifies as a public agency and meets the criteria described below, which allows for more flexibility in being able to use the award. If the awarding entity does not qualify as a public agency and meet this criteria, proceed to Step 3 and make sure it complies with your bid requirements – which may be more restrictive and could preclude you from using the award.

State law was recently amended to allow any public agency to use the bid of another public agency for its own purposes so long as the awarding public agency met its own bid law requirements (as opposed to also having to meet the participating government's bidding requirements). This change took effect July 28, 2019 ([RCW 39.34.030](#)).

The local government must ensure the awarding entity meets the statute's definition of a public agency. Under [RCW 39.34.020](#), "public agency" means any agency, political subdivision, or unit of local government of this state including, but not limited to, municipal corporations, quasi-municipal

corporations, special-purpose districts, and local service districts; any agency of the state government; any agency of the United States; any tribe recognized as such by the federal government; and any political subdivision of another state.

In addition, the local government must be able to demonstrate the bid or solicitation notice was posted on a website of a public agency, purchasing cooperative or similar service provider, for purposes of posting public notice of bid or proposal solicitations; or that there was an access link provided on the state’s web portal to the notice.

Link to notice on state portal
It is a good practice to print a screen shot of this link being posted, because it may no longer be visible online later for audit purposes.

If the above conditions are met, then the local government should review the documentation of the public agency to make sure that it complied with its bidding requirements. For audit purposes, governments have the option to keep this documentation or after reviewing the documentation, obtain a signed certification from the public agency attesting that it met its own bid law requirements. The signed certification option is for procurement of purchases only; for public works projects, additional documentation must be kept.

CAUTION: If using federal funding, you must demonstrate that the bid award met the most restrictive of your state, local or federal bid requirements. See the federal section below for more details.

If the awarding entity does not qualify under the criteria above, proceed to Step 3; otherwise skip to Step 4.

Step 3: If the awarding entity did not meet the criteria in Step 2, you must then ensure the bid award meets your government’s bid law requirements and document the results.

For example, if the local government must award the bid to, or purchase from, the lowest responsible bidder, it may use an awarding entity’s contract only if the award was to the lowest responsible bidder. Also, if the project or purchase amount exceeds the local government’s formal bid limit, then the awarding entity’s contract must have been formally bid. Many cooperatives use a request for proposal (RFP) process instead of formal sealed bidding. Because many governments have a requirement to award a contract to the lowest responsible bidder, the RFP process might not meet bid law requirements.

Local governments should be aware that bid laws can vary significantly between different types of municipalities. Governments should be particularly cautious when looking to piggyback on contracts entered into by entities that are located out of state or are a different government type. For example, school districts have a process requirement that is unique to schools in our state: They must hold a public bid opening under [RCW 28A.335.190](#). Consequently, school districts should ensure this process requirement has been met by the awarding entity to access their contract.

Governments should also be cautious if the bid award contains both products and services. In this case, the local government should evaluate the substance of the contract. If the contract is for the purchase

of a product that has a service agreement, the local government would be subject to bidding requirements for purchases.

Governments should keep documentation of the bid process to demonstrate its own bid laws were satisfied by the awarding entity. This is best accomplished by keeping copies of the awarding entity's bid documents. These documents might include:

- Advertisement/affidavit of publication
- Bid tabulation or summary of bids received
- Competitive negotiation scoring for professional services
- Governing body approval of the contract in meeting minutes

Step 4: Enter into an interlocal agreement or contract.

Local governments must enter into interlocal agreements or contracts to use another's bid award, unless they are already a member of the cooperative and all requirements are met with the membership agreement.

Can a local government make purchases using a cooperative's contract?

Local governments often purchase through contracts procured by cooperatives. To do this, the participating local government must first become a member of the cooperative or enter into an interlocal agreement. Otherwise the government would not be authorized to make purchases through the cooperative. To use a membership agreement, a local government should consult with legal counsel to ensure it satisfies all the interlocal agreement act requirements found in [RCW 39.34.030\(2\)](#).

The State Auditor's Office does not evaluate cooperatives or provide an approved list. Each local government must evaluate cooperatives and make its own determination.

How do all governments involved comply with the various advertising requirements?

The awarding entity will advertise in accordance with its requirements, or if it qualifies as a public agency, it will follow the requirements outlined in [RCW 39.34.030](#). If the awarding entity's advertising requirements are satisfied, the advertising requirements for all participating governments are satisfied even if they are different. It is not necessary for participating governments relying on the bid award to ensure it is advertised locally. However, those participating governments should keep evidence that advertisement occurred.

What if a local government would like to change contract specifications (i.e., exercise contract options)?

This circumstance might arise in cases like buying an ambulance, in which a government might want different add-ons or options than were included in the awarding entity's bid award. State law does not provide for this scenario. If the government has questions in this area, it should consult its legal counsel.

Is it possible to extend the contract?

Contracts may be extended as long as the awarding entity's original contract language allows for extensions. State law does not address contract extensions or renewals. However, when governments have multi-year contracts, they should have policies and controls in place to evaluate and demonstrate the ongoing reasonableness of the contract. For example, such internal controls might include formal evaluations of price and service before contract extension, independent extension approval, and limits on contract length (such as no more than five years).

Can a government 'piggyback' on the small works roster of another?

Yes, the local government would need to follow the requirements outlined above when relying on the bid award process of another. Also, see the guidance above on public works projects. The participating government would need to ensure that the roster had been established and maintained in accordance with [RCW 39.04.155](#). Keep documentation to support this for audit purposes.

Some governments use the Municipal Research and Services Center (MRSC) small works roster. This is allowable if the local government is a member.

Do state bus bids result in a 'piggybacking' situation?

State law ([RCW 28A.160.195](#)) covers bus purchases through the Office of Superintendent of Public Instruction (OSPI). As long as the law's requirements are met, this would not be considered a "piggybacking" situation subject to this guidance.

Can I piggyback if I'm using federal funds to procure the goods or services?

The Uniform Guidance, Code of Federal Regulations (CFR) [2 CFR 200.318\(e\)](#) - General Procurement Standards provides an option for piggybacking:

"To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services."

However, federal grantors might have procurement guidelines or limitations within specific awards that must be followed. For example, the Federal Transit Administration (FTA) has specific requirements. Consequently, local governments are encouraged to carefully review grant award documentation and program guidance. In addition, you might contact the respective granting agency for specific guidance. This may be accomplished by reaching out to the contact listed in the award documentation.

If piggybacking is allowable under the terms of the grant, and absent any specific guidance from the grantor on piggybacking, the local government should also consider some potential problem areas:

- **More restrictive requirements:** Any local government using federal funding must ensure it follows the most restrictive of federal, state, or local procurement laws. In many cases, federal procurement requirements are more restrictive. For example, the procurement of services (method and advertisement) is an area of significant difference under federal requirements as compared to state laws. In another example, state law allows for use of small works roster for projects under \$350,000, but the federal requirements do not coincide with this threshold. Local governments should make sure they are aware of the various differences between state and federal requirements to ensure they are following the most restrictive requirements.

Despite changes made to state law ([RCW 39.34.030](#)) that provide more flexibility within state law in certain situations, local governments using federal funding still must ensure they follow the most restrictive requirements of their local, state or federal laws.

- **Plan ahead if you might want to use federal funds:** Occasionally a government might unexpectedly receive federal money that it could use to cover some contract costs. However, if a contract has already been awarded, and federal requirements were not considered or followed during the procurement process, then project costs cannot be charged to federal grants at any point in the future. If there is any possibility a local government might receive federal funding for a project, it should plan ahead and handle the procurement process in a manner that will allow for this future possibility.
- **Federal contract provisions:** Any government using federal funding must ensure the contract with its vendor contains the applicable provisions described in the Uniform Guidance, [2 CFR Section 200.326](#) – Contract provisions. Examples include prevailing wages clauses (Davis-Bacon Act) and termination for cause.
- **Suspension and debarment:** This requirement is to ensure payment is not made to any parties excluded from doing business with the federal government. It requires checking a website of excluded parties, obtaining a certification, or including language in the contract. If the awarding entity verified that the vendor was not suspended or debarred, this would not fulfill the local government's requirement to do its own verification, because it is entering into a contract with the vendor itself. It is the sole responsibility of the local government to comply with this requirement.
- **Use of a consultant's roster:** For qualification-based procurements, requests for proposals must be publicized and identify all evaluation factors and their relative importance. Local governments should be cautious when using another's roster when spending federal funds and ensure all federal requirements were met.

There are many different federal requirements, and it is not within the scope of this guidance to include all the requirements that should be considered. If you have questions about complying with a federal award, you should contact the grantor directly.

For assistance

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

Please send any other questions, comments, or suggestions to 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.

Appendix A: Checklist for the participating government (for purchases of goods or tangible items)

Checklist item	Yes/no	Reviewer Notes
1. Has the government evaluated all procurement options and determined piggybacking is the best viable option for the procurement?		
1a. Does the government's procurement policy support use of this procurement method?		
2. Has the awarding entity's solicitation and contract been obtained and reviewed for the original bid award?		
2a. Did the awarding entity handle the procurement process itself? (You cannot piggyback on a contract that is already a piggyback on another.)		
2b. Does the solicitation and contract allow for others to use the bid award (i.e., Does it contain an assignability clause)?		
2c. Does it include the goods or service sought?		
2d. Is the contract active, and will it be open for the period desired (including renewal options). And is the option for piggybacking valid, if applicable?		

Checklist item	Yes/no	Reviewer Notes
2e. Do the quality, specifications or deliverables meet your expectations?		
2f. Has the government evaluated the effect of or drawback to any changes or options it would like, but that this procurement method would not provide for?		
2g. Is the price reasonable when compared with a cost or price analysis?		
3. Do you qualify to piggyback on another’s contract and not have to comply with your own bidding requirements? If no, go directly to checklist Question 4.		
3a. Is the awarding entity considered a “public agency” under RCW 39.34.020 ? If no, go directly to checklist Question 4.		
3b. Did the public agency follow its own bid requirements and complete a proper evaluation of bids? If no, go directly to checklist Question 4.		
3c. Was the notice of bid or solicitation posted on a website of a public agency, purchasing cooperative or similar service provider website, for purposes of posting public notice of bid or proposal solicitations; or was an access link provided on the state’s web portal to the notice? If no, go directly to checklist Question 4.		
3d. Was documentation obtained to support that the bid process and various requirements were met? Keep records for your files OR a signed certification from the public agency attesting that it met its own bid law requirements (if it is a procurement of good, not an option for public works).		
3e. Are you planning to use federal funds? If using federal funding, you must demonstrate the bid met the most restrictive of your state, local or federal bid requirements. See the federal section below for more details.		

Checklist item	Yes/no	Reviewer Notes
4. If you do not qualify under Step 3 above, have you evaluated whether the bid meets your requirements?		
4a. Did the awarding entity follow its own bid requirements and complete a proper evaluation of bids?		
4b. Was the bid advertised in accordance with the awarding entity's requirements and notice posted on its website?		
4c. Does the bid award also adhere to your local government's procurement requirements?		
4d. Was documentation obtained to support the bid process and various requirements were met? Keep records for your files.		
5. If using federal funds, did you ensure all federal procurement requirements are met?		
5a. Does the awarding entity's procurement process comply with the most restrictive of your government's state, local, or federal procurement requirements?		
5b. Did you ensure compliance with suspension and debarment requirements before entering into a contract with the vendor (do not rely on the awarding entity)?		
5c. Did you consider any specific guidance the federal agency might have, including contacting your grantor if needed?		
5d. Does your draft or proposed contract with the vendor include required contract language such as for the Davis-Bacon Act (prevailing wages)?		
6. Did you enter into an interlocal agreement or contract with the awarding entity after completing the steps above?		

Checklist item	Yes/no	Reviewer Notes
6a. Did you ensure any interlocal agreement meets legal requirements under RCW 39.34.030 ?		
6b. Did you become a member if using a cooperative?		
6c. If relying on a membership agreement in place of an interlocal agreement, did you ensure it met applicable requirements?		

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>

