

Summary of Draft Legislation CPARB approved at Nov 9, 2022, Special Meeting.

Based on BE/DBI Report recommendations and the work of the CPARB Legislative Drafting Committee.

House and Senate Companion draft bills from the Code Reviser: **H-0135.1** and **S-0205.1**

Proposed Title: Equity and Efficiencies in public works procurement.

The first two sections include adding the **definition of small business** to RCW 39.04.010 and adding the **public works small business certification program** to OMWBE's duties in RCW 39.19.030 (7)(b).

These two sections are included in the approved legislation from the Legislative Drafting Committee as well as in the SWR draft legislation, until it is decided whether these bills would be combined into one.

Sec. 3 adds language to the Intent section of RCW 39.10 for **inclusion plans** for alternative public works projects.

Sec. 4-12 **replace the term disadvantaged business enterprises with "small and women-, minority-, and veteran-businesses"** to eliminate any confusion between the Federal DBE program and the state certification programs.

Sec. 13 updates repealing language effective dates for the revised sections in RCW 39.10.

Suggested changes after internal/external review:

Clarify intent is for state certified (small, women, minority, and veteran-owned) businesses for selection evaluation or measurement.

Sec 8. Design build selection RCW 39.10.330

(i) Evaluation factors for **qualification** shall include technical qualifications, such as specialized experience and technical competence of the firms and the key design and construction personnel; capacity to perform; the proposer's past performance in utilization of ~~small and women, minority, or veteran-owned businesses~~ **business entities certified with the office of minority and women's business enterprises, including small businesses, and business entities certified with the department of veterans affairs**, to the extent permitted by law; ability to provide a performance and payment bond for the project; and other appropriate factors. Cost or price-related factors are not permitted in the request for qualifications phase;

Deleted: disadvantaged business enterprises

(ii) Evaluation factors for **finalists** proposals shall include the management plan to meet time and budget requirements and one or more price-related factors. Evaluation factors must include a proposer's inclusion plan for ~~small and women, minority, or veteran-owned businesses~~ **business entities certified with the office of minority and women's business enterprises, including small businesses, and business entities certified with the department of veterans affairs** as subconsultants, subcontractors, and suppliers for the project, to the extent permitted by law. Evaluation factors may also include, but not be limited to, the technical approach or the design concept;

Deleted: small business entities and disadvantaged business enterprises

CPARB Documentation 12/8/2022

Sec. 9 RCW 39.10.360 GC/CM Contract Award process

(f) The proposer's past performance in utilization of ~~small and women, minority, or veteran-owned businesses~~ business entities certified with the office of minority and women's business enterprises, including small businesses, and business entities certified with the department of veterans affairs and the inclusion plan for ~~small and women, minority, or veteran-owned businesses~~ business entities certified with the office of minority and women's business enterprises, including small businesses, and business entities certified with the department of veterans affairs as subconsultants, subcontractors, and suppliers for the project, to the extent permitted by law.

Deleted: disadvantaged business enterprises

Deleted: small business entities and disadvantaged business enterprises

Deleted:

Sec. 10. RCW 39.10.380 GC/CM Subcontract bidding procedure

(1) ... Bid packages must be prepared to reduce barriers for and increase participation by ~~small and women, minority, or veteran-owned businesses~~ business entities certified with the office of minority and women's business enterprises, including small businesses, and business entities certified with the department of veterans affairs.

Deleted: disadvantaged business enterprises

Sec. 11. RCW 39.10.385 GC/CM - Alternative subcontractor selection process

(3) Evaluation factors for selection of the subcontractor must include, but not be limited to:

(e) The firm's plan for inclusion of (~~disadvantaged business enterprises~~) ~~small and women, minority, or veteran-owned businesses~~ business entities certified with the office of minority and women's business enterprises, including small businesses, and business entities certified with the department of veterans affairs, to the extent permitted by law;

Sec. 12. RCW 39.10.908 GC/CM Heavy Civil – Requirements

(2) As part of the negotiation of the maximum allowable construction cost...

(d) The general contractor/construction manager's updated inclusion plan for (~~business entities, disadvantaged business enterprises~~) ~~small and women, minority, or veteran-owned businesses~~ business entities certified with the office of minority and women's business enterprises, including small businesses, and business entities certified with the department of veterans affairs,...