

Small Works Committee

Meeting Notes 10-28-2022

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Members: (16 members, 3 alternates 9 = quorum)

x	Dawn Egbert, Ports
	Corey Fedie, Hospitals
	Bobby Forch Jr., Diverse Business
x	Bill Frare, DES – Owner State (Co-Chair)
x	Josh Klika, MRSC
	Erik Martin, Counties
x	Scott Middleton, MCAWW
x	Karen Mooseker, School Districts

x	Rachel Murata, OMWBE/Results WA (RW)
	Brenda Nnambi, Transit
x	Irene Reyes, Private Industry\DBEs (Co-Chair)
	Mark Riker, Labor
x	Cathy Robinson, Cities
x	Jolene Skinner, L&I
x	Kara Skinner, Insurance/Surety
x	Olivia Yang, Higher Education

Alternates:

x	Mark Nakagawara, Cities (alternate)
x	Angela Peterson, Ports (alternate)
	Julie Underwood, Cities (alternate)

Guests:

	Talia Baker, DES
	Nancy Deakins, DES
	Lekha Fernandes, OMWBE
	Maja Huff, WSU
	Theresa Gonzales
	Ann Larson

	Erik McCarley
	Brenda Pardo, OMWBE
	Jon Rose
	Michael Transue
	Linda Womack
	Janice Zahn

Meeting started at 1:34 p.m.

Agenda Topic: Review/discuss draft legislation

Discussion Highlights:

Co-chair Frare recapped discussions and feedback given so far on the draft legislation, then walked members through the current draft and highlighted the areas remaining for discussion.

To facilitate discussion on how using the proposed statewide roster would work for jobs between \$150K – \$350K and \$150K and under, Jon Rose shared his screen showing a graphic outlining three different scenarios for solicitation and updated the graphic based on committee discussion. The scenarios proposed are listed below.

- *Within the required services category and region/county:*
 1. If there are **no** certified small businesses on the roster, the solicitation would go out to the **entire roster**.
 2. If there are **many** certified small businesses on the roster, the solicitation would go out to **all certified small businesses on the roster**.
 3. If there are only a **few** certified small businesses on the roster, less than the required minimum to get competitive bids, the solicitation would go out to the **entire roster**.
- The solicitation would also go out to the entire roster if after first offering it to only certified firms no bids were received.

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- **5** was proposed as the minimum number of certified small businesses needed to get competitive bids.
- If no contractors are available at all or no bids are submitted after the appropriate solicitation process has been followed, the project would be publicly advertised, or the contracting agency would try to recruit more contractors to the roster so they could still negotiate under the Small Works Roster rules.

In order to populate the proposed statewide roster, the expectation was discussed that businesses that meet the requirements of certifying as small would do so to remain on the roster.

- Concerns were voiced about smaller contractors' hesitancy to certify due to administrative burden, despite meeting the requirements of certification.
- It was shared that these small businesses would be getting a new benefit to certification by moving into first place for solicitations.
- Members also discussed a process for notifying OMWBE about vacancies on the roster, so OMWBE can find out why there are vacancies and work to recruit more small businesses by getting them certified. It was noted that there would only be a few extra pieces of data required to certify as a small business than to obtain a contractor's license—OMWBE would gladly support small contractors through the certification process one-on-one.
- Cadence for notifying OMWBE of vacancies was discussed at the time of solicitation, quarterly, or annually, but members agreed to leave this flexible for now, but meet further on a solution. Members also noted that each agency must already publish a notice for applying to their roster annually, suggesting that the requirement also include inviting the OMWBE directory to the roster each year. This was also flagged for future discussion.
- Members agreed robust outreach and communication on certifying as small and being on the Small Works Roster would be crucial in the early stages of implementing this plan.

The fiscal impact of the proposed legislation was discussed briefly, flagging follow-up conversations for once consensus was reached on the draft language and expectations for implementation.

- Representatives from DES, OMBWE, L&I, Commerce, and MRSC agreed to connect later on fiscal impacts.

Timing for when the legislation would take effect was also discussed.

- While members supported a phased approach, the option of assigning different effective dates to different sections was proposed to balance the need for adequate preparation with the need to support small businesses now.
- The section for projects under \$150K was proposed as a good test subject and relatively easy to implement quickly, with the section for projects under \$350K potentially needing 6 – 12 months to do enough outreach and fine-tuning of the system.

Additional adjustments to the draft language included:

- Removing mention of reducing or waiving the performance bond from Section 6.
- Removing language from RCW 39.12.040 allowing the filing of combined forms for limited public works projects, to align with the proposed new legislation.
- Defining "political subdivision of the state" more clearly and ensuring clarity and consistency when referring to agencies vs. government.

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Concern was raised that making public works projects between \$150K – \$350K eligible only to certified small businesses would unfairly impact businesses that would not meet the proposed definition of small but do employ union members and pay competitive family wages. However, there was agreement on the proposed language for projects under \$150K.

Members discussed who would manage the statewide Small Works Roster.

- This proposal includes removing subsection 4 from section 2 of the statute, previously allowing a smaller city or special purpose district without the administrative capacity to run their own roster to enter into an interlocal agreement to use the independent roster of a different city or county. Removing this would encourage smaller entities to use the proposed statewide roster.
- MRSC was discussed as potentially managing the new Small Works Roster, given that they already manage a statewide roster and provide public works guidance under a grant from Commerce.
- Concerns were raised about giving MRSC the responsibility of managing the statewide roster, it being a nonprofit rather than a government agency. Members would like to ensure that public funding for the statewide roster is managed properly and that contractors signing up for the roster are not charged a fee to use it.

Other aspects of change management discussed for implementing the proposed legislation included:

- Agencies needing time to adjust how they use their rosters and make legal decisions about whether to waive retainage.
- Agencies needing trainings or best practices to ensure the statute is implemented properly.

Action items:

- Bill Frare, Lekha Fernandes, Jolene Skinner, Linda Womack, and Jon Rose will connect further on fiscal impacts.
- Jolene Skinner will send Co-Chair Frare and Dawn Egbert draft language removing mention of filing combined forms for limited public works projects from RCW 39.12.040.
- Linda Womack will connect with the committee after doing further research into MRSC hosting the proposed statewide Small Works Roster.

Meeting adjourned at 3:02 p.m.

References/Resources:

- Draft legislation
- PowerPoint slide on proposed statewide roster structure/scenarios