



## **Agency Contract Reporting**

### **Frequently Asked Questions (FAQs)**

#### **Why do we have to report all this contract information?**

The legislature, to promote public accountability and transparency, required that State Agency goods and services contract data be publicly available and searchable. See [RCW 39.26.005](#). Accordingly, annually (by October 31st), every Washington State agency and higher education institution is required to submit a list of all goods and services contracts entered into or renewed for the previous fiscal year (see [RCW 39.26.210\(1\)](#)). As directed by the legislation, the Department of Enterprise Services (DES) has gathered input and established [policy](#) to guide the submission and publication of that data.

#### **Are there any changes to the reporting requirements for 2022?**

Yes. The diversity status of the contractor is now required.

For ECMS users, the Web Intelligence report will be updated to include contractor names and diversity status. For non-ECMS users, a spreadsheet of contractor names and diversity status will be provided on a new tab in the template.

If diversity status does not apply, indicate not certified/no from the drop down. Contact contractors if necessary to determine diversity status.

#### **Have there been any changes to the reporting template?**

Yes.

The drop-down list in template for Purpose of Contract should be used when possible however if needed you can transfer over the subobject from your reporting system (i.e. ECMS) rather than matching up the subobject to the drop down in the template.

#### **What is the reporting period for 2022?**

Please report all goods and services contracts that were active during fiscal year 2022. In addition, please report any amendments to existing goods and services contracts in which the amendment has an effective date of July 1, 2021 or later (i.e. Amendments to goods and services contracts that are new since the last report). Please report this information by October 31, 2022.

#### **Who will answer questions from the public or vendors regarding the data submitted by agencies and published on [data.wa.gov](#)?**

Questions about contract data will be directed to the agency who submitted the data.

## **Do we report the original contract that has an effective date before July 1, but has an amendment effective date after July 1 or do we just report the amended contract?**

All contracts that were active during reporting period must be included in the report. This includes the original contract and any previous amendments.

## **If we have an amendment with an effective date of July 1 or later, do we have to pull the original contract data and report that?**

Yes. All the contracts and amendments active during the reporting period must be reported.

## **My agency has many contract groups that will be required to report. Can we submit more than one report or do we need to submit only one combined report?**

You must combine the reports. This will lessen DES' risk of duplicating data or other uploading errors.

## **We do not track and are not able to pull all the required fields that are required to report; do we have to still provide it?**

Yes, legislation directed every Washington State agency and higher education institution to submit a list of all goods and services contracts with the data elements identified in [RCW 39.26.210](#)(1) in order to promote public accountability and transparency (see [RCW 39.26.005](#)).

## **Do we need to include tax in the contract cost?**

Exclude tax from the contract cost; however, if your system is unable to separate tax, report the contract maximum/contract value.

## **What kinds of contracts must be reported?**

Agencies must report contracts for goods and services. See [RCW 39.26.005](#) and [RCW 39.26.210](#)(1).

For a list of exemptions, refer to [DES policy #DES-210-01](#).

If you have questions about a specific contract, please consult your AAG. When in doubt, err on the side of reporting.

## **What do you mean by Statement of Work?**

Statement of Work is defined as, "Provides clear direction to projects and project managers if they are to succeed. Statement of work (SOW) sets the rules for the project once the key stakeholders formally agree to its content. SOW lists the goals, constraints, success criteria, and management guidelines. It clarifies responsibilities and actions of project stakeholders in a relationship."

Additionally, a SOW defines deliverables and contract performance terms that the contractor is expected to meet. Those performance terms may be percentages of target outcomes, or payment points tied to milestones, or incentives for exceeding expectations, or a whole variety of other things.

**How do MOUs (Memorandum of Understanding) compare/contrast to contracts? Do we need to report those (e.g. MOU for \$2,000 for a speaker fee)?**

Yes, a MOU is a contract and needs to be reported.

**On the report template under “procurement type”, it says "revenue". Does that mean we need to report receivable agreements?**

Yes. Revenue contracts should be reported with a negative contract cost if the contract is for a good or service.

**Are contracts with lobbyists reportable?**

Yes.

**Does the exception for expert witnesses apply to legal consultants for personnel investigations as well?**

No, these contracts are required to be reported; however, we would recommend any contract purpose statement not identify a specific case.

**If we issued a contract for equipment maintenance through a competitive bid process and then issued a purchase request for that service, is that reportable?**

The original contract is reportable - not each purchase under it.

**If a landlord contracts for building maintenance but we pay the vendor directly, is it reportable?**

No, because you don't have the contract with the vendor.

**Do we report revenue agreements that are under the direct buy threshold?**

No, the same principles apply in terms of direct buy and Statements of Work thresholds.

**Will agencies be required to report procurements made using qualified master contracts?**

Yes, but only if the use of a qualified master contract resulted in an agency specific contract that includes a statement of work.

**Will agencies be required to report P-Card transactions?**

No. The P-Card is a method of payment, not a type of contract. Use of a P-Card does not determine whether the contract is reportable.

**Do we need to report Direct Buys?**

Direct Buys do not need to be reported unless they contain a statement of work.

## **Do we need to report Sole Source contracts?**

Yes, Sole Source contracts need to be reported.

## **Would Direct Buy procurements with statement of work have to be reported as "Sole Source?"**

No, those would still be Direct Buy.

## **Under [RCW 39.80](#), Architect and Engineering agreements are to be reported to OFM. Will A & E agreements now be reported here? Does [RCW 39.80](#) need to be adjusted?**

No. [RCW 39.26.210](#) is for transparency reporting of goods and services contracts only. You will not be expected to include architectural and engineering contracts on your Contract Reporting report. You will still be required to continue to report under [RCW 39.80](#) requirements.

## **We issue Task Orders under Convenience Contracts. Some of these Task Orders have amendments. Do we report both the Convenience Contract and the Task Order?**

Yes, both Convenience Contracts and Task Orders need to be reported. If the Convenience Contract contains a "not to exceed" amount, report it with that dollar amount. If the contract does not have a "not to exceed amount", report it as \$0.00 amount and provide an explanation of "no maximum amount."

### **What amount do I report for a no-max contract?**

Report the no-max contract as \$0.00 amount and provide an explanation of "no maximum amount."

### **What amount do I report for a "not to exceed contract"?**

Report the not to exceed amount regardless of spend.

## **[Policy #DES-210-01](#), Agency Contract Reporting, states that Purchase Orders and Field Orders are exempt from reporting. However, in the training presentation you stated they were exempt, EXCEPT if they contained a Statement of Work. Please explain.**

There has been considerable discussion and confusion about purchase orders. Both [RCW 39.26.210](#) and [Policy #DES-210-01](#) state purchase orders do not need to be reported. This is correct.

There may be cases where purchase orders were used in lieu of a contract and potentially included statements of work, deliverables, etc. If an agency elects to report those specific purchase orders, it may do so at its discretion.

## **Will you please update the FAQs to include the instructions for the click thru agreements and online software agreements?**

Click thru agreements are most commonly associated with computer software licenses purchased on the Internet as part of the installation process of the software package. Terms of service in click thru agreements can include limitations of liability, methods of dispute resolution, and an agreement not to

copy software or digital media. In a click thru agreement, the purchaser is presented with an agreement, which normally would be signed in person. Clicking a box that says "OK" or "agree" functions as a signature. PRINT the click thru agreement and treat it as you would any other software license agreement, including recording it in your contract tracking system. Many click thru agreements contain clauses that impede consumer rights in substantial and unexpected ways or are against state law. If the terms of service are not visible and/or accessible, courts have found the notice requirement to be lacking and as such, the purchaser may not be bound to the terms of the agreement. Make sure that whoever is agreeing to the click thru has the authority in your agency to do so and understands the implications of the agreement. Questions about agreements should be directed to your Assistant Attorney General.

### **Will agencies be required to report Click Thru agreements including those that have a fee?**

Yes. Click thru agreements as software license agreements are contractual obligations, and therefore must be reported.

### **If the service or client service contract is actually with a state or local government, should they be included? In these cases, we categorize the contract as interagency.**

Yes. Interagency and Interlocal agreements are no longer exempt from reporting.

### **Are agreements with other states included with the Interlocal agreements?**

Yes. [RCW 39.34.020](#) defines a public agency as "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 Indian tribe recognized as such by the federal government; and any political subdivision of another state."

### **We rent out our facility for a variety of events. Do those rental and lease agreements need to be reported?**

Real Estate leases do not need to be included in the Agency Contract Report because they do not fall under RCW 39.26.

### **Our institution has contracts with its exempt employees. Do those employee contracts need to be reported?**

No. Employment contracts with staff are not covered under [RCW 39.26](#), but rather are governed by personnel rules.

### **Do we have to report only contracts that have dollar amounts associated with it or all contracts that we enter into?**

Non-financial agreements should be included in the Agency Contract Report. Interagency agreements should be reported as Interlocal agreements. Non-financial agreements that are not Interlocal agreements should be reported as "Non-Financial (Not Interlocal)".

### **I have contracts that I'm not sure if I have to report them.**

Please refer to the [policy](#) for the list of contracts that agencies are not required to report. When in doubt, include the contract.

### **On the ‘Federal, State, and Other funding amounts’ do we state yes or no and then put the amount on the total cost?**

Put the amounts in each column. The three columns should then add up to equal the Cost of Contract column.

### **Do I report the maximum contract amount or the actual spend amount?**

Not to Exceed Maximum amount has been the standard, but if the actual spend is readily available, that may be used instead.

### **How do I report contract amendments?**

Contract amendments should be reported as a separate line item and reference the original contract using the Agency Contract No. reporting field.

### **Is a contract renewal an amendment?**

No. An amendment is to “extend” a contract with the original contract still in place, whereas a renewal would be a new contract that starts the contractual relationship fresh, replacing the original contract.

### **My agency has some contracts we are working on that we are the recipient of the funds but they pass-through us with some matching funds from us. How do I capture this in the spreadsheet?**

This will depend on how your agency treats pass-through funds - are the recipients contractors or sub-recipients? If your agency defines these recipients as contractors and there is a scope of work, they should be reporting as contracts. If they were defined as sub-recipients, most likely they would be grants award agreements.

### **We have a private funder that mandates all monies passed through to contractors shows it came from us rather than "other". Can you suggest how we might report that funding?** The source of your funding is public information. If your funds are from a private grantor, they should be recorded as “other.”

### **We have a large number of client service contracts that we characterize as “fee for service” which we do not set a maximum dollar value. What do we enter in the “Cost of the Contract?”**

Record \$0.00 for the cost of the contract and then enter a brief explanation in the “Explanation of Costs” field.

**Regarding Contract Costs, our agency has many Fee for Service contracts that are driven by client need and eligibility, which can change. I do not think we can estimate costs for those contracts. I am not clear on whether we will be able to state that these contracts are Fee for Service, and the costs are not known.**

Record these contracts as \$0.00 and provide an explanation of “Fee for Service” or “No Maximum Amount.”

### **How do I request a reporting exemption for a specific contract or a category of contracts?**

The request must be in writing, addressed to the DES director, and signed by the agency head. The request must include a detailed explanation of the proposed exemption, why the contract or contract category needs to be exempt, and how granting the request aligns with the intent of the law.

### **If a contract is entered under an RCW other than 39.26, will dollar amounts above 39.26 direct buy threshold cause confusion?**

If someone viewing contract data is confused they will be able to ask the reporting agency.

### **Should contract costs be positive or negative figures?**

It depends. Revenue contracts should be reported as negative figures. All other contracts should be reported as positive figures.

### **We are a grant funding agency. Do we also need to include grant contracts?**

It depends. If the grants received are solely revenue, they do not need to be reported. If the grants received are to purchase goods/services, then yes, it needs to be reported.

### **Does this include Federal Grants?**

Yes, if the Federal Grants are used to acquire goods and/or services.

### **Are we only reporting PAYABLE contracts and grants like we did last year? Or are we including receivables this year?**

If the grant received is used to purchase goods/services, then yes, it should be included.

### **Why are grants being requested?**

To increase contracting transparency. If grants are used to purchase goods/services, it gives a picture of where the state is spending their money, and where agencies are spending the money.

### **For interagency agreements, which agency reports?**

Both

### **Where do I submit my report?**

Please submit your report by following this [link](#) and uploading the file. A confirmation receipt will be sent to you via email from [contractreporting@des.wa.gov](mailto:contractreporting@des.wa.gov). Email submissions will not be accepted.

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