

Possible Recommendations for the Committee

Recommendation 1: Adjust Port District and Irrigation District Statutes to refer to RCW 39.04.155

Currently, Port and Irrigation Districts authorizing statutes refer to number values for a small works roster limit. Revise authorizing statutes 58.08.130(2)(a,b) and 87.03.436 to refer to RCW 39.04.155 and remove any reference to a threshold dollar amount. For more information, see the “Uniform Thresholds” section of the report.

Recommendation 2: Tie threshold increases to state-wide inflation factor based on CCI

Implement an inflation-based increase to public works contracting thresholds every 5 years. This process is explained below in more detail (see “Possible Phased Approach to Managing Threshold Increases based on Inflation”). For more information on this topic, see the “Inflation Rate” section of the report.

Recommendation 3: Expand the ‘no-bid response’ process to all agencies

Code cities are authorized in RCW 35.23.352(1) to when they receive no-bid in any contracting process, reach out to a single contractor and negotiate a contract. Expand this process to all agencies. For more information, see the “increasing efficiencies” section of the report.

Recommendation 4: Give unit price contracting authority to all local government.

Currently only PUDs, cities, port districts, water & sewer districts, transportation benefit districts, and counties with purchasing departments are authorized to use unit-price contracting. The current process for authorizing additional local government types to use the contracting process is dependent on each agency petitioning the legislature.

Recommendation 5: Remove retainage and bond requirements for projects under \$5,000

Paying retainage and for performance bonds were identified both as a barrier to small and minority-and-women owned businesses as well as causing more paperwork and less efficiency for local government. For more information on this topic, see the “Barriers to Participation” section of the report.

Recommendation 6: Create a centralized list of rosters

Require any agency, collection of agencies or roster service to register in a centralized list of all small works rosters in the state for businesses to understand what sources of work are available. For more information, see the “Barriers to Participation” and “Increasing Efficiencies” section of the report.

Recommendation 7: Create list of certification/registration programs for disadvantaged businesses

Require any agency, collection of agencies or service to register in a centralized list of all minority, women and veteran-owned programs in the state for businesses to understand what resources are available. For more information, see the “Barriers to Participation” section of the report.

Recommendation 8: Define small business in the public works contracting statute

Currently there is no small business definition referred to in public works contracting statute. It is recommended to either define this for local government or refer to the definition found in the state goods and services statute 39.26.010. For more information, see the “Small Business Participation Rate” section of the report.

Recommendation 9: CPARB update to supplemental bidder responsibility guidelines

CPARB guidelines have not been updated since 2014 and should be funded to review and update to provide better guidance to public agencies and ensure supplemental criteria are project-specific.

Recommendation 10: Coordinated schedule for significant outreach events between public agencies and other stakeholders

Designate or establish an agency, collection of agencies or service to create a calendar of major outreach events as a central place for businesses to find outreach information and to ensure similar events do not conflict.

Recommendation 11: Provide professional assistance to local government for Contracting guidance and Marketing and outreach to contractors

Designate or establish an agency, collection of agencies or service to provide assistance to public agency employees, specifically in the areas of writing scope and bid documents marketing and outreach. For more information, see the “Increasing Efficiencies” section of the report

Potential Future Studies for Review

Future Study Recommendation 1: Review thresholds below statutory designation

Currently the project amounts below a statutory threshold for public works is unclear. Study the process for setting that amount and the impact of creating a more uniform threshold for current agency types. For more information, see the “Public Works Bid Thresholds” section of the report.

Future Study Recommendation 2: Review structure of current types of local government

When a new local government type is authorized, it is unclear how their procurement thresholds (or lack of) are set. Review and study this process to set logic for setting procurement thresholds. For more information, see the “Public Works Bid Thresholds” section of the report.

Future Study Recommendation 3: Impact of a master statute

Each local government type has certain public works contracting rules and thresholds through their own authorizing statute. Review and study the impact and process to create one master statute. For more information, see the “Public Works Bid Thresholds” section of the report.

Future Study Recommendation 4: Review consolidation of county thresholds

There are currently four different statutes outlining county public works requirements based on their organizational structure. Review the impact of creating one uniform threshold for all counties. For more information on this topic, see the “Public Works Bid Thresholds” section of the report.

Future Study Recommendation 5: Increase base SWR threshold amount

In order to understand what the base small works roster threshold should be, there needs to be better data collection that connects contracting type to project type. Labor and Industries started collecting this data in FY2019-2020. Future review and study is suggested to use this data and other analysis to determine the logic behind which projects should be within each contracting type and discuss impact of increasing the base threshold. For more information, see “Increasing efficiencies” and “Public works thresholds” sections of the report.

Future Study Recommendation 6: Evaluate advertisement requirements for formal competitive bids (i.e. Newspapers vs. other forms)

Review and study current advertising requirements for potential efficiencies including, but not limited to, changing the newspaper requirement to a different centralized place or other form. For more information, see “increasing efficiencies” section of the report.

Future Study Recommendation 7: Review impact of centralized state-wide roster

Businesses find the current network of roster systems difficult to navigate. Review and study the impact of creating one state-wide roster for all local government agencies. For more information, see “Barriers to Participation” and “Increasing Efficiencies” section of the report

Future Study Recommendation 8: Determine potential program for sub-contractors to express interest in projects

On the small works roster and other bid processes, small businesses feel as though they are unable to express interest because they are not set up to be a prime contractor. Study and review the potential for creating a platform or process for contractors to express interest in becoming a sub-contractor. For more information, see “barriers to participation” section of the report.

Future Study Recommendation 9: Evaluate possibilities for electronic solicitations for all competitive bidding (only available for SWR)

Electronic bidding is not specifically authorized in statutes and conflicts in part with requirements for sealed bids. However, recent technological advances have proven that electronic bids can be sealed and provide other efficiencies as well. Review impact and potentially change statutes to allow electronic submissions for all public works bids.

Future Study Recommendation 10: Expand data collection efforts by L&I (contract types) and OMWBE (participation rates) through a sustained funding model

Labor and Industries and The Office of Minority and Women Owned Business Enterprises are spearheading data collection efforts that are critical to continuing study in the area of local government procurement. Continue to expand on these data collection efforts to ensure future studies recommended in this section can be successful.

Future Study Recommendation 11: Identify how State and OMWBE studies relate to local government

Many studies currently issued by the state and state agencies are state process specific but are looked to as an example for local government. Review and study what requirements at the state level are relevant to local government and identify resources to aid in their implementation.

Recommendation 2: Possible Phased Approach to Managing Threshold Increases based on Inflation

Phase I – Inflation Guided Increases to Existing Thresholds

(1) When to present suggested increases to Legislature, and (2) how the suggested changes are calculated (3) Who prepares legislative revisions at the designated intervals.

An idea has been floated of review threshold increases every 5 years.

To make the calculations for recommended increases, start with threshold levels as they exist presently. Verify the state-wide inflation factor (assumed at this time to be the Construction Cost Index), and make a calculation that applies the inflation factor to existing thresholds for each year that has passed to demonstrate the amount of increase applicable.

EXAMPLE CHART

current annualized inflation factor at 4%

| Agency | Threshold on 1/1/21 | Inflation factor | Calculated threshold (Yr 1) 1/1/22 | Calculated threshold (Yr2) 1/1/23 | Possible Recommended threshold increase |
|------------------|---------------------|------------------|------------------------------------|-----------------------------------|---|
| First class City | | | | | |
| Single craft | \$75,500 | 4% | \$78,520 | \$81,661 | \$80,000 |
| Multi craft | \$150,000 | 4% | \$156,000 | \$162,240 | \$160,000 |
| Code Cities | | | | | |
| Single craft | \$75,500 | 4% | \$78,520 | \$81,661 | \$80,000 |
| Multi craft | \$116, 155 | 4% | \$162,617 | \$169,121 | \$170,000 |

The timing for the increase recommendation to be presented to the legislature may need to be given consideration as well.

For example, if the recommendation demonstrated above were to be presented to the Legislature in 2024, you may want to make the 2024 (Yr 3) calculation and add it to the recommended increase so as not to miss a year in the process.

An attached spreadsheet shows a more expanded example using other agencies and a longer time period.

This would also be calculated for the small works roster threshold.

Here, the intent from discussions, would be to first bring all agencies up to the current \$350,000 threshold enjoyed by most agencies. An immediate recommendation would be to amend the independent statutes of Ports and Irrigation Districts to accomplish this, and possibly include a revision that directs these statutes to align with the small works roster statute (RCW 39.04.155)

Applying the same process as described above, calculations to the small works roster thresholds are demonstrated below:

| Small Works Roster | Threshold on 1/1/21 | Inflation factor | Calculated threshold (Yr 1) 1/1/22 | Calculated threshold (Yr2) 1/1/23 | Possible Recommended threshold increase |
|--------------------------------|---------------------|------------------|------------------------------------|-----------------------------------|---|
| SWR threshold | \$350,000 | 4% | \$364,000 | \$378,560 | \$380,000 |
| Limited Public Works threshold | | | | | |
| LPW threshold | \$50,000 | 4% | \$52,000 | \$54,080 | \$54,000 |

Phase II – Study to Determine Setting Uniform Thresholds Across Agency Types

A separate study could be recommended to research the varying threshold levels with an eye to assessing the feasibility for more uniform thresholds across the agency types. Some initial considerations to be explored might be

- 1) The history of how thresholds for specific agency types were initiated
- 2) Are there agency types whose operations would preclude expansion of thresholds
- 3) How individual agency internal policies might be impacted (would extensive re-write of ordinances, resolutions, and internal policy be required)