



Rulemaking: WAC 200-330

Public Works Contracting - Addressing equity and efficiencies, including small works roster requirements

1. Purpose and Authority

The purpose of this chapter is to establish a common procedure that state agencies and local governments may use to award small public works contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of real property. This chapter of the Washington Administrative Code is adopted pursuant to changes made by the legislature during the 2023 session under ESSB 5268 (not yet codified).

2. General Roster Rules and procedures

The Municipal Resource and Services Center (MRSC) will host a roster, available to all state and local agencies, of businesses desiring to participate in small public works contracts. Agencies may also establish independent rosters for their own use.

- a) MRSC and Agencies with independent rosters must publish notice once per year to advertise roster to contractors.
- b) MRSC and Agencies with independent rosters may create multiple rosters for specialties, trades, categories of work, and geographic areas.
- c) MRSC and Agencies must include all qualified responsible, licensed contractors who have requested to be on the list,
- d) MRSC may not charge contractors to enroll or participate on the small works roster.
- e) Contractors may request to be placed on the roster at any time.
- f) Contractors must designate an official email to receive bids notifications from agency.
- g) Contractors must keep records of applicable licenses, certifications, registrations, bonding, insurance. This information must be made available at the request of the contracting agency.
- h) At the time of application, Contractors must indicate certification status with the office of minority and Women Owned business to be place on a roster.

3.Small Works Contracting \$350,000 and Under

- a) Invitations to bid must include Plans, Specifications and Estimate and estimate of the work to be completed under the contract.
- b) The Agency's Estimate of the work must be \$350,000 or less to be eligible to use small works procedures. This amount does not include sales tax.
- c) Retainage may be waived or reduced and liability for wages, liens, taxes etc. assumed by the agency. If the agency chooses to waive or reduce retainage that must be indicated in the invitation to bid at the time of solicitation.
- d) Agencies must invite all contractors on the appropriate roster to bid and indicate a date and time for receipt through the designated bidding system.
- e) Accept bids electronically.

4.Direct Contracting \$150,000 and Under

- a) The Agency's Estimate of the work must be \$150,000 or less to be eligible for direct contracting. Amount does not include sales tax.
- b) Plans and specifications may be minimal but must be sufficient to define the scope of work to be performed.

Agencies must select firms for direct contracting as follows:

- c) If there are five (5) or less certified small contractors on the roster, agencies may contract with any contractor on the roster.
 - i. Contractors who have been issued a contract under this process, must not be offered a future contract until all others on the roster prior have been offered the opportunity to bid under this process.
 - ii. Agencies must keep records of contractor's declining to submit a bid under this process.
 - iii. Agencies must keep records of all projects and contracts awarded.
- d) If there are more than five (5) certified small contractors on the roster, agencies must direct contract with a certified small contractor.
 - i. Contractors who have been issued a contract under this process, must not be offered a future contract until all others on the roster prior have been offered the opportunity to bid under this process.
 - ii. If all small businesses decline a solicitation to enter a direct contract, an agency may solicit a bid from any contractor on this roster.
 - iii. Agencies must keep records of when a contractor declines to submit a bid under this process.
 - iv. Agencies must keep records of all projects and contracts awarded.

- e) Agencies request a bid from the selected firm.
- f) Agencies review bid for reasonableness with market prices. Agencies should adopt by policy the method by which they validate the bid.
- g) Agencies negotiate price with the contractor, and Award.
- h) Agencies must provide notice to all other contractors on the roster of award.

5. Miscellaneous

- a) DES must develop a direct contract template and post on their website.