

Item #	Offerer	Bill Page #	RCW Cite	Language Recommendation	Notes/Comments	Theme
1	OMWBE	2	RCW 39.10.210, Definitions	Comments on definition of "disadvantaged business enterprise"	Several terms are used to refer to MWBEs, etc., that are not defined in this document, such as "underutilized firms," "diverse firms," etc. See comments in draft addressing these issues and recommended options that we have to address this.	Consistency and clarity
2	Aleanna	2	RCW 39.10.210, Definitions	New definition of "Inclusion plan" - means any plan prepared for inclusion of underutilized firms including, but not limited to, the office of minority and women's business enterprises certified businesses, veteran certified businesses, and small businesses as allowed by law.	This language is taken from HB 1295 and also incorporated throughout the document in relevant locations for consistency as discussed in the committee and in additional subsequent conversations.	Consistency and clarity
3	OMWBE	5	RCW 39.10.220, Board—Membership—Vacancies	Added language to specify that one of the representatives from private industry must represent the interests of the disadvantaged business enterprise community.	Alternatively, an additional member could be added to this list representing these interests if that is preferred over this suggestion.	Representation and perspective
4	OMWBE	6	RCW 39.10.220, Board—Membership—Vacancies	(11) The board shall encourage participation from persons and entities not represented on the board, <u>including providing opportunities to gain insights from minority-, women-, and veteran-owned small businesses.</u>	Including language like this thematically throughout the document helps to embed this into the work we all do and makes it more likely that that folks will follow it, as well as provides the endorsement and directive from the Legislature which is in line with other actions that body has taken supporting equity in state contracting.	Representation and perspective
5	OMWBE	7	RCW 39.10.230, Board—Powers and duties.	(1) Develop and recommend to the legislature policies to encourage competition and to further enhance the quality, efficiency, and accountability of <u>and equity in</u> capital construction projects through the use of traditional and alternative delivery methods in Washington, and make recommendations regarding best practices, expansion, continuation, elimination, or modification of the alternative public works contracting methods, <u>including considerations for reducing barriers for participation by disadvantaged business entities;</u>	Ensuring involvement and including considerations for potential impacts or ways to improve equity in contracting as part of the policy development/assessment process will help in the overall effort to reduce barriers to equity in contracting. Without ever asking the question, or including those perspectives in discussions, it's difficult to identify those barriers in the first place and be able to do something about them. Including this as a consideration will help those conversations occur in the general work.	Equity in policy making

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6	OMWBE	8	RCW 39.10.240, Project review committee—Creation—Members.	(2) The board shall, by a majority vote of the board, appoint persons to the committee who are knowledgeable in the use of the design-build and general contractor/construction manager contracting procedures. Appointments must represent a balance among the industries and public owners on the board listed in RCW39.10.220 <u>and must include at least one member representing the interests of disadvantaged business enterprises.</u>	This recommendation follows the theme of enshrining current practices and goals of representation on the Board and in Committees. Having MWBE perspectives on the panels/committees will be important to check assumptions and ensure learning opportunities are seized on. Inclusion here is especially important due to the following statute on the next page relating to duties and subcontractors. Subcontracting tends to have large impacts on participation of MWBEs, so this inclusion seems appropriate here.	Representation and perspective
7	OMWBE	8	RCW 39.10.240, Project review committee—Creation—Members.	(3) The chair of the committee, in consultation with the vice chair, may appoint one or more panels of at least six committee members to carry out the duties of the committee. Each panel shall have balanced representation of the private and public sector representatives serving on the committee <u>and should include a member representing the interests of disadvantaged business enterprises.</u>	Similar recommendation as included above, however, given that there may only be one representative, I'm making this a permissive statement here rather than a mandate (shall/must) to allow flexibility.	Representation and perspective
8	Aleanna	11	RCW 39.10.270, Project review committee—Certification of public bodies.	No language recommendation	Relating to subsection (1): Official ask for the DEI Committee to work with PRC to review all applications.	
9	Aleanna	11	RCW 39.10.270, Project review committee—Certification of public bodies.	(2) A public body seeking certification for the design-build procedure must demonstrate successful management of at least one design-build project within the previous five years. A public body seeking certification for the general contractor/construction manager procedure must demonstrate successful management of at least one general contractor/construction manager project within the previous five years <u>and includes project performance of inclusion of underutilized firms per approved plans.</u>	Recommendation is to carry through similar demonstration needs on any applications to use alternative public works.	

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10	Aleanna	11	RCW 39.10.270, Project review committee—Certification of public bodies.	Add "plans for inclusion of underutilized firms including, but not limited to, the office of minority and women's business enterprises certified businesses, veteran certified businesses, and small businesses as allowed by law. " to the list of experience and qualifications, consistent with HB 1295	Recommendation consistent with the language in HB 1295	
11	Aleanna	13	RCW 39.10.280, Project review committee—Project approval process.	No language recommendation	One of the official asks is that the DEI Committee work with the PRC to review all application forms with a diversity lens. Would like to engage with the special project in PRC review. It will be an expectation that more details be requested and posted with Agency applications (project, certifications, recertification, etc.)	
12	OMWBE	13	RCW 39.10.280, Project review committee—Project approval process.	No language recommendation, just a comment relating to subsection (2)(a): The alternative contracting procedure will provide a substantial fiscal benefit or the use of the traditional method of awarding contracts in lump sum to the low responsive bidder is not practical for meeting desired quality standards or delivery schedules;	No language change needed here, just wanted to offer a point that this existing language could also be a way to allow different practices to create better competition environment for MWBEs. This could be something talked about as we "continue the inclusion conversation" over the months and years ahead.	
13	Aleanna	13	RCW 39.10.280, Project review committee—Project approval process.	Add "plans for inclusion of underutilized firms including, but not limited to, the office of minority and women's business enterprises certified businesses, veteran certified businesses, and small businesses as allowed by law. " to the list of experience and qualifications, consistent with HB 1295	Recommendation consistent with the language in HB 1295	
14	Aleanna	17	RCW 39.10.320, Design-build procedure—Project management and contracting requirements.	In reference to (1)(f): (f) Contract documents that require the design builder to submit plans for inclusion of underutilized firms as subcontractors and suppliers including , but not limited to, the office of minority and women's business enterprises certified businesses, veteran certified businesses, and small businesses as allowed by law.	Require same throughout 39.10 when contracting/selection process is discussed. Change instances that refer to outreach for consistency.	

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15	Aleanna	18	RCW 39.10.330, Design-build contract award process.	Add "plans for inclusion of underutilized firms including, but not limited to, the office of minority and women's business enterprises certified businesses, veteran certified businesses, and small businesses as allowed by law. " to the list of evaluation factors	Recommendation consistent with the language in HB 1295	
16	Aleanna	22	RCW 39.10.350, General contractor/construction manager procedure—Project management and contracting requirements.	Add "plans for inclusion of underutilized firms including, but not limited to, the office of minority and women's business enterprises certified businesses, veteran certified businesses, and small businesses as allowed by law. " to the list of things under sub (1) A public body using the general contractor/construction manager contracting procedure shall provide for:...	Recommendation consistent with the language in HB 1295	
17	OMWBE	24	RCW 39.10.360, General contractor/construction manager procedure—Contract award process.	Add to subsection (2): "The public body is encouraged to post the general contractor/ construction manager opportunity in additional areas, such as websites for business associations or the office of minority and women's business enterprises, to further publicize the opportunity for qualified general contractors/ construction managers."	OMWBE recommendation. It's a bit narrow and outdated to only include the legal newspaper – we can encourage going beyond this minimum requirement and suggest opportunities for inclusion. We understand publication in a legal newspaper is a standard legal requirement and do not suggest removing it, but it would be worthwhile to consider that there at least be an encouragement in addition to the newspaper to publicize this in a more modern, inclusive way that will actually solicit bids.	Notice, Competition, and Inclusion
18	Aleanna	24	RCW 39.10.360, General contractor/construction manager procedure—Contract award process.	In reference to language in subsection (2)(a)	For equity, the Owner should publish any agency or project specific performance and inclusion goals. Contract documents that require the contractor submit plans for inclusion of underutilized firms as subcontractors and suppliers including, but not limited to, the office of minority and women's business enterprises certified businesses, veteran certified businesses, and small businesses as allowed by law.	

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19	OMWBE & Aleanna	25	RCW 39.10.360, General contractor/construction manager procedure—Contract award process.	Added language to evaluation factors for qualifications of the GC/CM: "The proposer's past performance in or proposed approach for utilization of underutilized firms, including those certified by of the office of minority and women's business enterprises certified businesses, to the extent permitted by law."	Added language similar to that in HB 1295 and elsewhere in the document. OMWBE added "or proposed approach" to address comments heard about not letting past performance be a barrier for improvements in inclusion – we should allow people the opportunity to identify shortcomings and get better in this area. This language allows flexibility for that. Additional comments on definitions of terms - see document and comments in RCW 39.10.210	
20	OMWBE	29	RCW 39.10.380, General contractor/construction manager procedure—Subcontract bidding procedure.	Added to subsection (1): "The general contractor/construction manager is encouraged to post the subcontract opportunity in other areas, such as websites for business associations or the office of minority and women's business enterprises, to further publicize the opportunity for qualified subcontractors."	OMWBE recommendation. It's a bit narrow and outdated to only include the legal newspaper – we can encourage going beyond this minimum requirement and suggest opportunities for inclusion. We understand publication in a legal newspaper is a standard legal requirement and do not suggest removing it, but it would be worthwhile to consider that there at least be an encouragement in addition to the newspaper to publicize this in a more modern, inclusive way that will actually solicit bids. There are folks that will only do the bare minimum to avoid having additional options because they want to use a particular subcontractor they already have in mind, thereby closing off opportunity to more diverse firms. And other publication options may even be low to no cost and is not intended to increase administrative costs. We have made this recommendation throughout the document as well. Side note: Outreach is also important to the overall inclusion effort. The OMWBE certified firm directory is available and searchable for outreach too.	Notice, Competition, and Inclusion

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21	OMWBE	29	RCW 39.10.380, General contractor/constructor procedure—Subcontract bidding procedure.	Added language to the new language at the end of subsection (1) to read: "Individual bid packages are to be prepared with trades separated in the manner consistent with industry practice to maximize participation and competition across all trades and to reduce barriers to and increase participation by disadvantaged business entities. Bundling of trades not normally combined into one bid package is not allowed without justification and specific approval by the public entity.	We are grateful that unbundling principles were included by the Reauthorization Committee. The added language here is aimed at the more we state that these things are important and should be considered, the more these practices will be normalized and (hopefully) improve equitable opportunity.	
22	Aleanna	31	RCW 39.10.385, General contractor/constructor procedure—Alternative subcontractor selection process.	Added to the evaluation criteria: "requirement to submit plans for inclusion of underutilized firms as subcontractors and suppliers including, but not limited to, the office of minority and women's business enterprises certified businesses, veteran certified businesses, and small businesses as allowed by law"	Consistency throughout 39.10 when responses, proposal, etc. due and similar language to HB 1295	
23	OMWBE	31	RCW 39.10.385, General contractor/constructor procedure—Alternative subcontractor selection process.	Added language to end of subsection (1)(a): "The public body is encouraged to post the notice in other areas beyond the legal newspaper as required under this subsection, such as websites for business associations and other locations and mediums that will further publicize the intent to use this alternative selection process."	OMWBE recommendation, but less critical than the recommendation for publishing subcontract bidding opportunities. It's a bit narrow and outdated to only include publication in a legal newspaper – we can encourage going beyond this minimum requirement and suggest opportunities for inclusion/notice. We understand publication in a legal newspaper is a standard legal requirement and do not suggest removing it, but it would be worthwhile to consider that there at least be an encouragement in addition to the newspaper to publicize this in a more modern, inclusive way consistent with above recommendations in regards to publishing subcontract bidding opportunities. And other publication options may even be low to no cost and is not intended to increase administrative costs. We have made this recommendation throughout the document as well.	Notice, Competition, and Inclusion

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24	Aleanna	32	RCW 39.10.385, General contractor/constructor manager procedure—Alternative subcontractor selection process.	Adjusted language in subsection (3)(e) as follows: "The firm's plans for inclusion of underutilized firms as subcontractors and suppliers including, but not limited to, the office of minority and women's business enterprises certified businesses, veteran certified businesses, and small businesses as allowed by law "	Consistent language with HB 1295	
25	OMWBE	36	RCW 39.10.400, General contractor/constructor manager procedure—Prebid determination of subcontractor eligibility.	Added language in (1)(b) regarding notice of intent to evaluate: "The public body is encouraged to post the notice in additional areas beyond the legal newspaper as required under this subsection, such as websites for business associations and other locations and mediums that will further publicize the intent to use this alternative selection process;"	OMWBE recommendation, but less critical than the recommendation for publishing subcontract bidding opportunities. It's a bit narrow and outdated to only include publication in a legal newspaper – we can encourage going beyond this minimum requirement and suggest opportunities for inclusion/notice. We understand publication in a legal newspaper is a standard legal requirement and do not suggest removing it, but it would be worthwhile to consider that there at least be an encouragement in addition to the newspaper to publicize this in a more modern, inclusive way consistent with above recommendations in regards to publishing subcontract bidding opportunities. And other publication options may even be low to no cost and is not intended to increase administrative costs. We have made this recommendation throughout the document as well.	
26	OMWBE	39	RCW 39.10.430, Job order procedure—Contract award process.	Recommend adding the underlined language as follows: (2) The public body shall make an effort to solicit proposals from certified minority- or certified woman-owned contractors to the extent permitted by the Washington state civil rights act, RCW 49.60.400. <u>The public body is encouraged to use the directory of certified minority- and women-owned businesses maintained by the office of minority and women's business enterprises to do outreach to raise awareness of the bidding opportunity.</u>	OMWBE Recommendation. This language will help those public bodies that may be new to this or serve as a good reminder of the availability of this information to encourage its use and improve opportunities for and increases to inclusion of MWBEs.	

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27	OMWBE	39	RCW 39.10.430, Job order procedure—Contract award process.	Add the underlined language to subsection (3) as follows: (3) The public body shall publish, at least once in a statewide publication and legal newspaper of general circulation published in every county in which the public works project is anticipated, a request for proposals for job order contracts and the availability and location of the request for proposal documents. <u>The public body is encouraged to post the request for proposals for job order contracts and the availability and location of the request for proposal documents in other areas, such as websites for business associations or the office of minority and women’s business enterprises, to further publicize the opportunity.</u> The public body shall ensure that the request for proposal documents at a minimum includes:	The JOC publication requirements are actually inconsistent with the language in other areas – elsewhere it only states “legal newspaper” and does not also include statewide publication” like it does here. OMWBE recommendation. It’s a bit narrow and outdated to only do newspaper publication – we can encourage going beyond this minimum requirement and suggest opportunities for inclusion. We understand publication in a legal newspaper is a standard legal requirement and do not suggest removing it, but it would be worthwhile to consider that there at least be an encouragement in addition to the newspaper to publicize this in a more modern, inclusive way that will actually solicit bids. And other publication options may even be low to no cost and is not intended to increase administrative costs. We have made this recommendation throughout the document as well.	
28	Aleanna	39	RCW 39.10.430, Job order procedure—Contract award process.	Add new subsection (d) under subsection (3) as follows: "Requirements for the job order contractor to submit plans for inclusion of underutilized firms as subcontractors and suppliers including, but not limited to, the office of minority and women's business enterprises certified businesses, veteran certified businesses, and small businesses as allowed by law."	Consistent 1295 language throughout 39.10	
29	OMWBE	43	RCW 39.10.460, Job order procedure—Required information	Add the underlined language to subsection (3): (3) A list of subcontractors hired under each work order, <u>including whether those subcontractors were certified small minority-, woman-, or veteran-owned businesses;</u> and	This is just asking for an additional data point to be collected on information that is already required and is about obtaining the data that is so sorely needed. We will be able to obtain this data more readily from state agencies as we implement the electronic data collection system enterprise-wide, but it will not cover political subdivisions/all public bodies so this addition will help us gather that data here.	



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30	Aleanna	53	New Section – General contractor/construction manager – Heavy Civil Construction Projects	Add a subsection under (1)(a): "Require the General Contractor/Construction Manager to submit plans for inclusion of underutilized firms as subcontractors and suppliers including, but not limited to, the office of minority and women's business enterprises certified businesses, veteran certified businesses, and small businesses as allowed by law "	Inserted language for consistency with HB 1295	
31	Aleanna	54	New Section – General contractor/construction manager – Heavy Civil Construction Projects	Adjust language in (1)(b)(iv) to include: "plans for inclusion of underutilized firms as subcontractors and suppliers including, but not limited to, the office of minority and women's business enterprises certified businesses, veteran certified businesses, and small businesses as allowed by law"	Inserted language for consistency with HB 1295	