



Washington State  
**DEPARTMENT OF  
ENTERPRISE SERVICES**

# SUPPLIER DIVERSITY – AWARDING CONTRACTS WITH ESTIMATED VALUE UNDER \$150,000 (SHELTERED MARKETS) WASHINGTON CONTRACTS FOR GOODS/SERVICES

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# PRESENTERS

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# OVERVIEW

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- Department of Enterprise Services (DES) is the state's lead procurement agency.
- DES also procures and manages around 200 statewide contracts with around 1,500 vendors.
- DES makes internal purchases for its operational needs.
- DES is responsible for developing and implementing procurement policies and procedures.



# STATUTORY DIRECTIVE

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## RCW 39.26.005

Legislature intends that the state develop procurement policies, procedures, and materials that encourage and facilitate state agency purchase of goods and services from Washington small businesses.



## RCW 39.26.090

Developing procurement policies and procedures, that encourage and facilitate the purchase of goods and services from **Washington small businesses, microbusinesses, and minibusiness, and minority and women-owned businesses** to the maximum extent practicable . . .



## PIE Strategic Plan

Pursuant to RCW 39.26.005, RCW 39.26.090 6, 39.26.125 3, RCW43.19.725 RCW 39.26.160, the Procurement Inclusion and Equity (PIE) Program hereby establishes this 2022-25 strategic plan.

# SUPPLIER DIVERSITY POLICY

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# POLICY ON SUPPLIER DIVERSITY

- Enterprise Services Policy No. [POL-DES-090-06](#) – Supplier Diversity
  - Effective April 1, 2023
- [Supplier Diversity Virtual Handbook](#)



Enterprise Services Policy No. POL-DES-090-06

## Supplier Diversity

Applies to: Any procurement by the executive and judicial branches of state government, including state agencies, departments, offices, divisions, boards, commissions, institutions of higher education as defined in [RCW 28B.10.015](#) and correctional and other types of institutions ([RCW 39.26.010\(1\)](#)) ([RCW 39.26.100](#)) ([RCW 39.26.102](#)) governed by RCW 39.26.

### Authorizing sources:

- State Law [RCW 39.26.090\(6\)](#)
- State Law [RCW 39.26.005](#)
- State Law [RCW 39.26.240](#)
- State Law [RCW 39.26.245](#)
- State Law [RCW 39.26.160\(3\)\(b\)](#)
- State Law [RCW 43.60A.200](#)
- State Law [RCW 39.26.010](#)
- [Executive Order 19-01](#)
- [Executive Order 22-01](#)
- [DES Policy 210-01](#)

### Related sources:

- [Executive Order 05-03](#)

Effective date: April 1, 2023

Last update: N/A

Sunset review date: 5 years from Effective date

Approved by:  Tara C. Smith, Director

### Reason for Policy

The Legislature has directed the Department of Enterprise Services to develop procurement policies and procedures that encourage and facilitate the purchase of goods and services from Washington small businesses, microbusinesses, minibusinesses, diverse, and veteran-owned businesses to the maximum extent practicable. Supplier diversity adds value such as innovation, quality improvements, efficiencies, and cost savings.

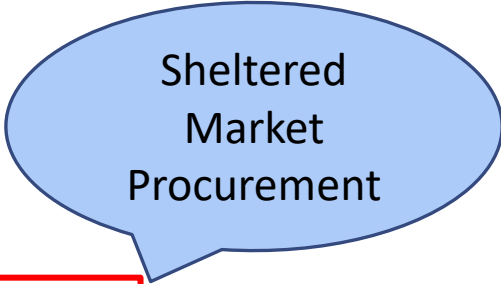
The purpose of this policy is to ensure that all procurement professionals and those with acquisition responsibilities use approved, legally compliant strategies that encourage and facilitate the purchase of goods and services from small, diverse, and veteran-owned businesses to the maximum extent possible. Agencies must take action to remove barriers that prevent small, diverse, and veteran-owned businesses from receiving equitable access to state goods and services procurements.



# SUPPLIER DIVERSITY TOOLS

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- C-1 – Forecasting
- C-2 – Outreach
- C-3 – Unbundling
- C-4 – Contracts \$150,000 or less
- C-5 – Pre-Bid Conferences
- C-6 – Solicitation/Contract Language
- C-7 – Other Strategies
- C-8 – Transparency



# SHELTERED MARKET PROCUREMENTS

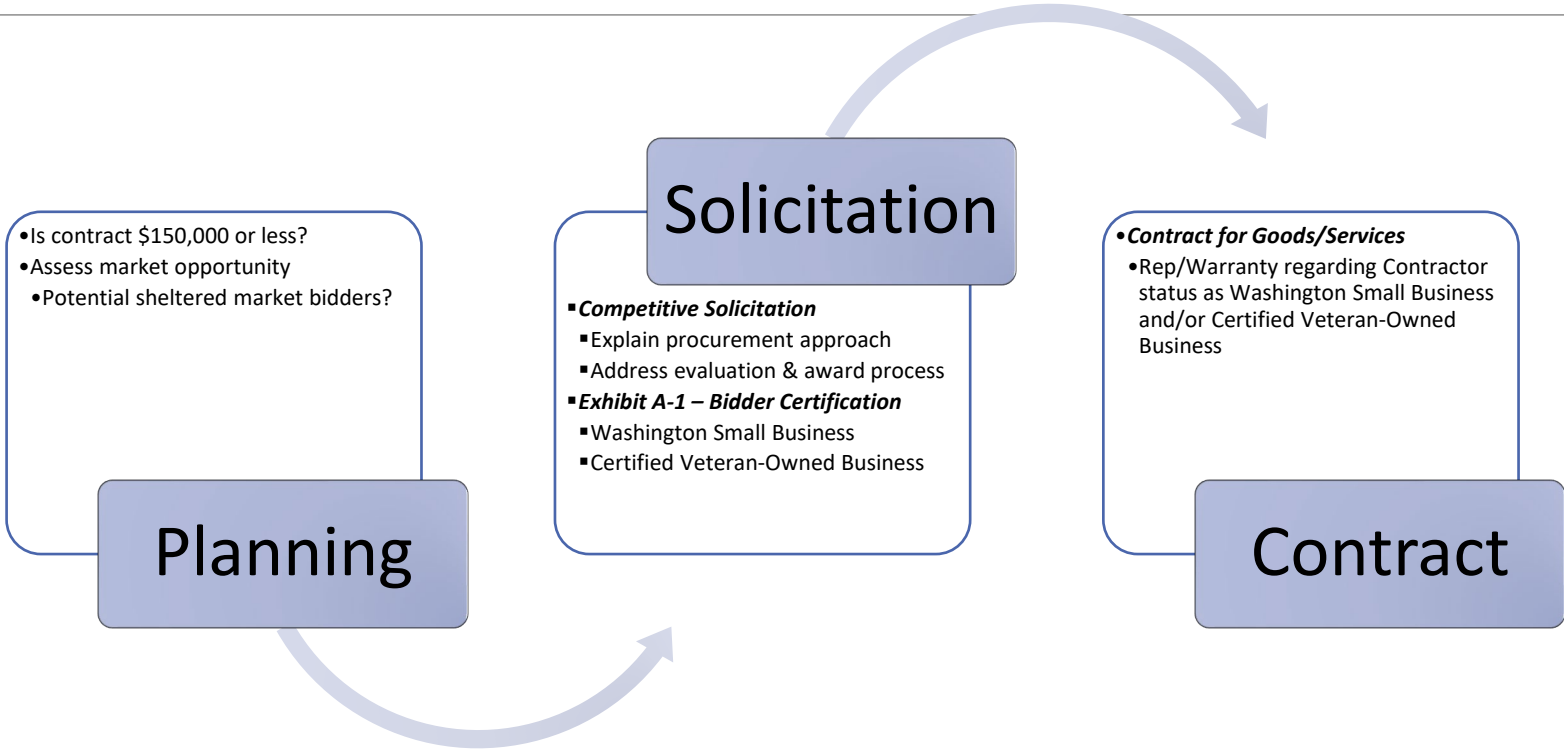
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## STRUCTURE & OPTIONS





# COMPETITIVE PROCUREMENT STRUCTURE

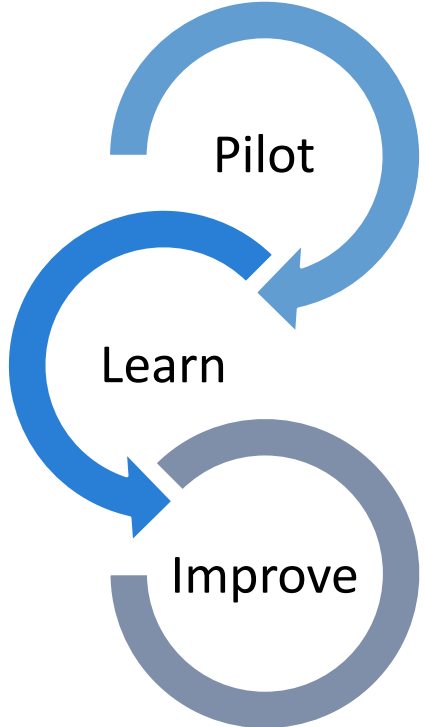





# SHELTERED MARKET PROCUREMENT OPTIONS

1  
Open to All Bidders, But Award to Best Sheltered Bidder

2  
Open to All Bidders, But Award to Best Sheltered Bidder IF Winner or IF Within A Stated Percentage of Winning Non-Sheltered Bid





# 1. OPEN TO ALL BIDDERS, BUT AWARD TO BEST SHELTERED BIDDER

## SOLICITATION

- Competitive Solicitation is open to ALL bidders – sheltered and non-sheltered.

### Pro Tip:

- This may be a good option when there are at least 5 small and/or veteran businesses identified in WEBS as selling in this area.
- Do an RFI or Sources Sought to ID potential bidders.
- Add not to exceed parameter.

## EVALUATION & CONTRACT AWARD

- This best value Competitive Solicitation is structured to award Contract, regardless of bid evaluation scoring, to the responsive, best value, responsible sheltered bidder.
- *Note:* If there is no responsive, responsible sheltered bidder, the contract is awarded to the responsive, best value, responsible non-sheltered bidder.


# OPTION 1: IMPLEMENTATION CONSIDERATIONS

## ADVANTAGES

- Small Business Participation & Competition. Sheltered procurement increases opportunities for sheltered bidders. May encourage MORE sheltered bidders to compete for state contracts & increase awareness of state contracting opportunities.
- Very Likely Successful Procurement. Because procurement is open to ALL bidders, there is a procurement 'safety valve' – i.e., agency may award contract to non-sheltered bidder IF (1) there are NO responsive, responsible sheltered bidders; and (2) there is at least one responsive, responsible non-sheltered bidder.
- Competitive Appearance. Because the competitive Solicitation is open to ALL bidders (and there is a possibility that a non-sheltered bidder may be awarded the contract, this option appears to provide for greater openness and competition.

## CHALLENGES

- Cost. Large businesses may not bid.
- Quality. Reduced competition may compromise bidder value propositions resulting in inferior quality and/or service.
- Sustainability. Over the longer term, rational non-sheltered firms may question the openness/fairness of state procurements and exit the state procurement marketplace. May Drive larger firms out of the state market.



## 2. OPEN TO ALL BIDDERS, BUT AWARD TO BEST SHELTERED BIDDER IF WINNER OR IF WITHIN A STATED PERCENTAGE OF WINNING NON-SHELTERED BID

### SOLICITATION

- Competitive Solicitation is open to ALL bidders.

#### Pro Tip:

- This may be a good option when there are less than 3 small and/or veteran businesses identified in WEBS as selling in this area.
- Do an RFI or Sources Sought to ID potential bidders and potential cost range.
- If there is a wide range of costs identified. Think about putting cost range in solicitation.
- Add a not to exceed parameter

### EVALUATION & CONTRACT AWARD

- This best value Competitive Solicitation is structured to award the contract to a sheltered bidder; *Provided*, however, that such sheltered bidder **MUST** either:
  - be the responsive, best value, responsible bidder (among ALL bids) [i.e., the overall winning bid]; or
  - be within a defined percentage of the responsive, best value, responsible non-sheltered bid as specified in the Competitive Solicitation [i.e., be within the defined percentage of the overall winning bid].
- *Note:* If no sheltered bidder meets either of the above two requirements, the contract is awarded to the responsive, best value, responsible non-sheltered bidder.



# OPTION 2: IMPLEMENTATION CONSIDERATIONS

## ADVANTAGES

- May Increase Small Business Participation & Competition. Opportunity for sheltered award may encourage MORE sheltered firms to bid for state contracts & increase awareness of state contracting opportunities, but, if bid price window (compared to the non-sheltered bid) is too narrow, sheltered firms may elect not to participate, especially if their cost structures are disadvantaged compared to non-sheltered firms.
- Cost/Price Containment. Because sheltered bidders must win procurement OR be within a predetermined percentage of the otherwise winning non-sheltered bidder, there is cost/price containment for sheltered bid award (otherwise, the agency awards the contract to non-sheltered bidder). *Note:* This advantage evaporates if there are no non-sheltered bidders.
- Very Likely Successful Procurement. Because procurement is open to ALL bidders, there is a 'safety valve' of non-sheltered bidders to award Contract IF (1) NO sheltered bidder meets either of the two requirements for Contract award; and (2) there is at least one responsive, responsible non-sheltered bidder.

## CHALLENGES

- Sustainability. Over the longer term, rational non-sheltered firms may be expected to exit the state procurement marketplace rather than being used as cost/price ceiling benchmark for their sheltered competitors to bid against.
- Cost/Price Pressure. Agency may be reluctant to allow marketplace competition for state contracts (presuming – correctly or otherwise – that sheltered bids are not competitive) and, instead, allow large 'bid discount windows' for sheltered bidders. This – very likely – will create momentum and/or expectations for larger 'bid discount windows' which result in taxpayers paying more (perhaps substantially more) for goods/services based only on the bidding entity.
- Quality. Reduced competition could compromise bidder value propositions resulting in inferior quality and/or service.

# SAMPLE SHELTERED MARKET PROCUREMENT

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## DRAFT COMPETITIVE SOLICITATION

# DRAFT REGIONAL SHELTERED MARKET PROCUREMENT



COMPETITIVE SOLICITATION—No. 22-0004<sup>1</sup>

FOR<sup>2</sup>

REGIONAL SHELTERED-MARKET CONTRACTS<sup>3</sup>

FOR<sup>4</sup>

SNOW-AND-ICE REMOVAL SERVICES<sup>5</sup>

FOR<sup>6</sup>

SPECIFIED STATE PROPERTIES IN KELSO, SEATTLE, & YAKIMA, WASHINGTON<sup>7</sup>

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## INTRODUCTION ¶

The Washington State Department of Enterprise Services ("Enterprise Services") is issuing this Competitive Solicitation pursuant to RCW 39.26. Pursuant to this Competitive Solicitation, Enterprise Services intends to conduct a competitive procurement to award three (3) regional sheltered market contracts ("Contract(s)") for specified snow and ice removal services at designated properties managed by Enterprise Services ("Snow & Ice Removal Services"). ¶

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## SHELTERED-MARKET CONTRACTS ¶

Based on prior procurement experience and business judgment, Enterprise Services estimates that the total value of each Contract to be awarded is less than \$150,000. Accordingly, because the total Contract value (over the full term of the Contract) is estimated to be less than \$150,000, Enterprise Services, consistent with state procurement policy, see Enterprise Services Policy No. POL-DES-090-06—Supplier Diversity Policy, intends to award regional sheltered market contracts "Sheltered Market Contract(s)". ¶

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Sheltered Market Contracts are designed to increase opportunities for specified innovative and qualified firms to contract with Washington state agencies. Accordingly, firms that meet either of the following qualifications and provide the bidder certification set forth in *Exhibit A-1—Bidder's Certification*, are eligible to bid and compete for the Sheltered Market Contracts: ¶

- → *Washington Small Businesses*—To qualify as a Washington Small Business, Bidder must meet three (3) requirements: ¶
  - → *Location*—Bidder's principal office/place of business must be located in and identified as being in the State of Washington. A principal office or principal place of business is a firm's headquarters where business decisions are made and the location for the firm's books and records as well as the firm's senior management personnel. ¶
  - → *Size*—Bidder must be owned and operated independently from all other businesses and have either: (a) fifty (50) or fewer employees; or (b) gross revenue of less than seven million dollars (\$7,000,000) annually as reported on Bidder's federal income tax return or its return filed with the

Washington State Department of Revenue over the previous three consecutive years). ¶

- → *WEBS Certification*—Bidder must have certified its Washington Small Business status in Washington's Electronic Business Solution ([WEBS](#)). ¶
- → *Certified Veteran-Owned Businesses*—To qualify as a Certified Veteran-Owned Business, Bidder must meet four (4) requirements: ¶
  - → *51% Ownership*—Bidder must be at least fifty-one percent (51%) owned and controlled by: ¶
    - (a) A veteran as defined as every person who at the time he or she seeks certification has received a discharge with an honorable characterization or received a discharge for medical reasons with an honorable record, where applicable, and who has served in at least one of the capacities listed in RCW 41.04.007. ¶
    - (b) A person who is in receipt of disability compensation or pension from the department of veterans affairs; or ¶
    - (c) An active or reserve member in any branch of the armed forces of the United States, including the national guard, coast guard, and armed forces reserves. ¶
  - → *Washington Incorporation/Location*—Bidder must be either an entity that is incorporated in the state of Washington as a Washington domestic corporation or, if not incorporated, an entity whose principal place of business is located within the State of Washington. ¶
  - → *WEBS Certification*—Bidder must have certified its Veteran-Owned business status in Washington's Electronic Business Solution ([WEBS](#)). ¶
  - → *WDVA Certification*—Bidder must have provided certification documentation to the Washington Department of Veterans' Affairs (WDVA) and be certified by WDVA and listed as such on WDVA's website ([WDVA—Veteran-Owned Businesses](#)). ¶

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## REGIONAL SHELTERED-MARKET CONTRACTS ¶

Pursuant to this Competitive Solicitation, Enterprise Services intends to award three (3) Regional Sheltered Market Contracts based on the following three regions, each of which has one (1) state property managed by Enterprise Services for which the awarded bidder will provide specified Snow and Ice Removal Services as described in *Exhibit B—Performance Requirements*: ¶

- → Northwest Region (Seattle)—see map attached as Exhibit \*\* ¶
- → South-Central region (Yakima)—see map attached as Exhibit \*\* ¶
- → Southwest Region (Kelso)—see map attached as Exhibit \*\* ¶

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In the event that Enterprise Services does not receive responsive bids from responsible qualifying firms for a Sheltered Market Contract, Enterprise Services, at its discretion, shall evaluate bids from non-qualifying firms for Sheltered Market Contracts and award regional Contract(s) to the highest scored responsive, responsible bidder(s). ¶

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# QUESTIONS

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# THANK YOU

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**DEPARTMENT OF  
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