

Bill Section / RCW	DES	MRSC	OMWBE	L&I	Advisory Group	Rulemaking	OTC	Feedback Needed	Notes
Sec 2 RCW 39.04.010 Public Works Definitions (7) "Small business" means a business meeting certification criteria for size, ownership, control, and personal net worth adopted by the office of minority and women's business enterprises in accordance with RCW 39.19.030.			Must implement new certification program	L&I to display new certification type		OMWBE to update WAC 396-20 for Certifications	X		
Sec 3 RCW 39.19.030 OMWBE (7)(b) development and maintenance of a central minority and women's business enterprise certification program and a public works small business certification program, ...			Must implement new certification program	L&I to display new certification type		OMWBE to update WAC 396-20 for Certifications	X		
Sec 4 RCW 39.10.200 Alternative Public WorksIn addition, alternative public works contracting can provide increased access to contracting opportunities for small, minority, women, and veteran-owned businesses. The purpose of this chapter is to...and advance contracting opportunities for small, minority, women, and veteran-owned businesses to the extent permitted.								Provide general guidance on how to increase opportunities	
Sec 4 RCW 39.10.200 Alternative Public WorksIt is also the intent of the legislature that inclusion plans required by this chapter may include, with public body approval and the extent permitted by law, features to improve access to opportunities, including outreach and mentorship, capital including modified payment provisions, training, and other features intended to maximize the participation and success of small, minority, women, and veteran-owned businesses.	Update model inclusion plans for state & local government				?			Promote DES's model inclusion plans	
Sec 9 RCW 39.10.330 Alternative Public Works (1)(d)(i) + (ii) Evaluation factors for qualifications/finalists' proposals shall include...the proposer's past performance in utilization of business entities certified with [OMWBE], including small businesses and business entities certified with [DVA],...	?								
Sec 10 RCW 39.10.360 Alternative Public Works (3)(f) The proposer's past performance in utilization of business entities certified with [OMWBE], including small businesses and business entities certified with [DVA] and the inclusion plan for business entities certified with [OMWBE], including small businesses and business entities certified with [DVA]..	?								
Sec 11 RCW 39.10.380 Alternative Public Works (1) ...Bid packages must be prepared to reduce barriers for and increase participation by business entities certified with [OMWBE], including small businesses and business entities certified with [DVA].	?								

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Sec 12 RCW 39.10.385 Alternative Public Works (3)(e) The firm's plan for inclusion of <u>business entities certified with [OMWBE], including small businesses and business entities certified with [DVA],...</u>	? Does DES need to provide/update model policies/templates?								
Sec 13 RCW 39.10.908 Alternative Public Works (2)(d) The general contractor/construction manager's updated inclusion plan for <u>business entities certified with [OMWBE], including small businesses and business entities certified with [DVA]...</u>	? Does DES need to provide/update model policies/templates?								
Sec 14 **New Section** (1)(a) The small works roster shall consist of all responsible contractors who have requested to be on the list, and where required by law, are properly licensed or registered to perform such work in this state in accordance with RCW 39.04.350.					Discuss when it's acceptable to kick contractors off the roster.	DES to update WAC 200-330 for small works roster	Ensure agencies are aware to validate responsibility of contractors before placing them on their roster.		
Sec 14 **New Section** (1)(b) A state agency or authorized local government establishing a small works roster must require contractors desiring to be placed on the roster to indicate if they meet the definition of women and minority-owned business as described in RCW 39.19.030(7)(b), veteran-owned business as defined in RCW 43.60A.010, or small business as defined in RCW 39.04.010, and to <i>keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters on file with the appropriate agency as a condition of being placed on the roster and award of contract.</i>		Must implement on their roster.			Define what it means to keep current records of the contractors. Gain SAO feedback and approval.		Provide guidance to other agencies that have their own roster.		
Sec 14 **New Section** (1)(c) ...provide [OMWBE's] directory of certified firms a notice of the existence of the roster and solicit contractors for the roster.					Determine how firms will notify OMWBE + solicit contractors for the roster.	Determine how firms will notify OMWBE + solicit contractors for the roster.	Provide guidance on how to notify OMWBE and solicit contractors for their roster.	Agencies with own roster	
Sec 14 **New Section** (2) ...The statewide roster must have features to filter the roster by different specialties, categories of anticipated work, or geographic areas served by contractors. The roster must also indicate if the contractor is designated as a small business as defined in RCW 39.04.010.		Must implement on their roster.			Define "geographic area." Does this differ from what MRSC does today?	? Will "geographic area" definition need to be in rule?	Provide guidance to other agencies that have their own roster.	MRSC Agency customers gain approval for how geographic areas are defined today.	
Sec 14 **New Section** (3) ...[MRSC]...to provide guidance on how to use the [statewide roster] authority. The guidance may take the form of a manual provided to local governments.			Develop guidance materials				Work with MRSC to develop and promote guidance materials		
Sec 14 **New Section** (4) A state agency establishing a small works roster shall adopt rules implementing this section...									Need to reach out to DES, Commerce, and WSDOT to confirm if they'll be maintaining their own roster. What other state agency uses their own roster?
Sec 15 **New Section** (2) State agencies and authorized local governments must document good faith efforts annually implementing subsections (6) and (7) of this section.	Create model templates/policies on what good faith may look like.				Define what constitutes as good faith efforts	? Do we need rules on what constitutes as good faith efforts?	Promote DES's model templates/policies		

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<p>Sec 15 **New Section** (3) Invitations for bids or direct contract negotiation must include, at a minimum, an estimate for the scope of work including the nature of the work to be performed as well as the materials and equipment to be furnished. Detailed plans and specifications need not be included.</p>	Update model templates/policies	May need to assist/review templates					Provide awareness and promote DES's model templates/policies		
<p>Sec 15 **New Section** (4) [DES] must develop and make available on its public-facing website templates for bid invitations, bidding, and contracting that may be used by state agencies, authorized local governments, and contractors.</p>	Update model templates	May need to assist/review templates					Promote DES's model templates		
<p>Sec 15 **New Section** (4)(a)(ii) A state agency or authorized local government contracting through a small works roster shall invite bids notifying all contractors on the applicable roster that have indicated interest in performing work in the applicable geographical area.</p>					Determine if MRSC's definition for "applicable geographical area" will work.				
<p>Sec 15 **New Section** (4)(b) For small public works projects with an estimated cost less than \$150,000, not including sales tax, to increase the utilization of small businesses, state agencies and local governments are encouraged to and may direct contract with small businesses as defined in this act, before direct contracting with other contractors on the appropriate small works roster without a competitive process as follows:</p>				Update IT systems to capture new threshold and direct contracting type	Create guidance around direct contracting	?	Will direct contracting need to be in rule?	Provide guidance around direct contracting	
<p>Sec 15 **New Section** (4)(b)(i) If there are six or more contractors meeting the definition of small business on the applicable roster, the state agency or authorized local government must direct contract with one of those small businesses on the applicable roster that have indicated interest in performing work in the applicable geographical area. A state agency or authorized local government utilizing direct contracting pursuant to this subsection must rotate through the contractors on the appropriate small works roster and must, when qualified contractors are available from the roster who may perform the work or deliver the services within the budget described in the notice or request for proposals, utilize different contractors on different projects. (ii) If there are five or less contractors meeting the definition of small business on the applicable roster, the state agency or authorized local government may direct contract with any contractor on the applicable roster.</p>	?				Define "rotate" and determine how contractors indicate "interest in performing work"	Define "rotate" and determine how contractors indicate "interest in performing work"	Provide guidance around direct contracting		
<p>Sec 15 **New Section** (4)(b)(iii) The state agency or authorized local government must notify small, minority, women, or veteran-owned businesses on the applicable roster when direct contracting is utilized.</p>					Define the intent of the notification. May need to ask business community to help define. Once defined, we'll need to determine how to implement and what else is needed.			Agencies with own roster	

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<p>Sec 15 **New Section** (4)(b)(iv) ...A state agency or authorized local government engaging in direct contracting may not favor certain contractors on the appropriate small works roster by repeatedly awarding contracts <i>without documented attempts to direct contract with other contractors</i> on the appropriate small works roster.</p>	<p>?</p> <p>Are model templates/policies needed?</p>				<p>Define "documented attempts"</p>	<p>?</p> <p>Does "documented attempts" need to be defined in rule?</p>	<p>Provide guidance on "documented attempts"</p>		
<p>Sec 15 **New Section** (4)(b)(v) If the state agency or authorized local government elects not to use the methods outlined in this subsection, it may not use direct contracting and must invite bids by <i>electronically notifying all contractors</i> on the applicable roster that have indicated interest in performing work in the applicable geographical area as described in this section.</p>					<p>?</p> <p>Do we need to define "electronically notifying all contractors"</p>		<p>Provide guidance and awareness on "notifying all contractors"</p>		
<p>Sec 15 **New Section** (5) For small public works contracts under \$5,000, there is no requirement for retainage or performance bonds. Small public works contracts valued at more than \$5,000 shall be subject to performance bond requirements set forth in chapter 39.08 RCW and retainage requirements set forth in chapter 60.28 RCW, provided, however, that the awarding state agency or authorized local government may reduce or waive retainage requirements set forth in RCW 60.28.011(1)(a), thereby assuming the liability for the contractor's nonpayment of:(a) Laborers, mechanics, subcontractors, materialpersons, and suppliers; and (b) taxes, increases, and penalties pursuant to Titles 50, 51, and 82 RCW that may be due from the contractor for the project. Any such waiver will not affect the rights of the state agency or local government to recover against the contractor for any payments made on the contractor's behalf. For small public works contracts awarded through a bid solicitation, notice of any retainage reduction or waiver must be provided in bid solicitations.</p>				<p>Update IT systems to capture new thresholds.</p>		<p>L&I to update WAC 296-127-050 for combined forms.</p>	<p>Provide guidance and awareness that bonds+retainage are no longer needed on SWR <\$5,000 + >\$5K, can waive or reduce retainage, bond waiver is no longer allowed. Any reduction or waiver, must be in bid docs and agency can be held liable for unpaid wages, taxes, etc.</p>		
<p>Sec 15 **New Section** (6) After an award is made, the bid quotations obtained shall be recorded, publicly available, and available by request.</p>	<p>?</p> <p>Are model templates/policies needed?</p>				<p>Need to define this in policy. Will it be a central portal where everyone publishes or is each agency/LG responsible for publishing?</p>	<p>?</p> <p>Does this need to be defined in rule?</p>		<p>MRSC Agency customers - gain approval for how documentation will occur</p>	
<p>Sec 15 **New Section** (7) Annually, a state agency or authorized local government must publish a list of small works contracts awarded and contractors contacted for direct negotiation pursuant to RCW 39.04.200.</p>					<p>If L&I can capture Direct Contracting types in their system, will this satisfy the law since all data is published on data.wa.gov. Can create a page to provide data in a more consumable format.</p>			<p>MRSC Agency customers - gain approval for how documentation will occur</p>	

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Sec 16 **New Section** Beginning in 2025 and every five years thereafter, the capital projects advisory review board must review construction cost escalation data for Washington state, readily available in industry publications, roster utilization, and other appropriate data and metrics, and make recommendations to the appropriate committees of the legislature on adjustments to the contracting thresholds described in section 15 of this act.									Make sure we have the data available to help inform CPARB. Are recommendations due to legislature by Dec '25 for the 2026 session or Dec '24 for the 2025 session?
Sec 29 RCW 39.12.040 L&I Statement of Intent + Combined Form (2) As an alternate to the procedures provided for in subsection (1) of this section, for public works projects of \$5,000 or less as allowed under section 15 of this act is followed:				Update IT systems to capture new threshold.		L&I to update WAC 296-127-050 for combined forms.			Provide awareness on awarding agency's ability to utilize the combined intent & affidavit form on SWR projects up to \$5,000 from the current \$2,500.
Sec 31 RCW 53.08.120 Powers (Ports) & Utilities (Increases SW threshold to \$350,000 effective 7/1/23)									Provide awareness that threshold for SWR was increased to \$350K effective 7/1/23.
Sec 35 RCW 87.03.436 Irrigation Districts (Increases SW threshold to \$350,000 effective 7/1/23)									Provide awareness that threshold for SWR was increased to \$350K effective 7/1/23.