

**Small Works Committee**

Meeting Notes 8-11-2023

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**Members:** (15 positions, 14 members, 5 alternates, 8 = quorum)

x	Bill Frare, DES – Owner State (Co-Chair)
x	Dawn Egbert, Ports
x	Bobby Forch Jr., Diverse Business
x	Sharon Harvey, OMWBE
x	Josh Klika, MRSC
x	Scott Middleton, MCAWW
	Karen Mooseker, School Districts
x	Brenda Nnambi, Transit

x	Irene Reyes, Private Industry/Diverse Business (Co-Chair)
	Mark Riker, Labor
x	Cathy Robinson, Cities
x	Jolene Skinner, L&I
x	Kara Skinner, Insurance/Surety
	Olivia Yang, Higher Education
	Vacant, Counties

**Alternates:**

	Mark Nakagawara, Cities (alternate)
	Angela Peterson, Ports (alternate)
	Julie Underwood, Cities (alternate)

x	Maja Huff, Higher Education (alternate)
x	Brian Ross, Higher Education (alternate)

**Guests:**

x	Brynn Linville
x	Emilie Brown
x	Janet Jansen

x	Janice Zahn
x	Monique Martinez
x	Reasa Pearson

**The meeting was called to order at 1:32 PM.**

*Agenda Topic: Continued Discussion of Implementation*

**Action: Approve past meeting minutes**

- Co-Chair Frare requested a motion be made to approve the minutes from July 14, 2023. Sharon Harvey requested two corrections be made to the meeting minutes. The senate bill referenced is 5268 and is currently listed as 5368. Also, OMWBE published their rules for comment on August 2, currently listed in the previous minutes as August 5.
- With these changes, Sharon Harvey seconded the motion, and the committee approved the motion by voice vote.

**Subcommittee Updates**

- **DES:**
  - Co-Chair Frare explained that the DES subcommittee has worked internally to develop an outline of revised rules for Small Works. These were submitted to the teams at DES. The revised rules will be posted to the website shortly. DES is also working closely with Communications to develop targeted outreach events to present what has been developed so far and invite feedback. DES has taken into account some of the feedback from the Small Works Committee and the Advisory Team Meeting. Co-Chair Frare suspects that the rotation of direct contracting will need to be more clearly defined moving forward.
- **MRSC:**
  - Josh Klika and Brynn Linville discussed ongoing feedback efforts and the advisory group meetings. Josh shared a PowerPoint Presentation titled: ‘CPARB Small Works Committee, Implementation Update 8-11-2023’ to highlight how MRSC has begun gathering feedback from stakeholders and roster users.
  - Brynn explained that MRSC has interviewed the following stakeholder groups thus far: ports (including Janice Zahn), several cities, several counties, higher education (UW, WSU, and Western WA), Mark Riker with the Building and Construction Trades Council, and Keith Michel with Forma Construction Company. Upcoming, MRSC has meetings scheduled with the State Auditor’s Office (SAO) and DES. They are also working on scheduling a few more meetings with business community members.

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- From these meetings, Brynn shared that they've heard two major requests. The first request was for more education and outreach to the agency community from MRSC. Also, they've heard requests for clear and transparent communication to both the agency and business communities.
- Josh shared that MRSC has held two meetings so far with project advisors that are members of the Project Advisory Group. The group members are Janet Jansen with DES, Aubrey Collier with City of Lacey, Jason Nechanicky with City of Spokane, Axel Swanson with WSAC, Sharon Harvey with OMWBE, Jolene Skinner with L&I, Debbie Pennick with SAO, Dawn Egbert with Ports, and Brian Ross with Higher Education. This group reviews discussion items, then discusses development of good practice recommendations. For example, the group discussed the potential best practice of direct contracting. This would allow agencies to set their own policy with the RCW as a guide.
- The Project Advisory group is on track, and has future meetings scheduled.
- Co-Chair Reyes requested clarification regarding outreach methods. Brynn shared some background from their stakeholder feedback sessions. In conversations, they've taken many of the same items for clarification discussed in the advisory groups, such as rotation of direct contracting, centralized needs or desires for centralized data, and general roster improvement feedback. Josh shared the Advisory Group has discussed policy, rulemaking process, a process to record and make bids public, centralized or decentralized process for who is awarded contracts, and more. These topics then get pushed to the stakeholder groups. Co-Chair Reyes recommends that the same questions are asked of every stakeholder group, in order to develop clear data for the Small Works Committee to review, compare and analyze. If new questions come up in later interviews, the same question can be taken back to groups already interviewed in order to promote quality feedback data. Josh responded that the current process in place aligns with this, and he appreciates this good recommendation.
- **OMWBE:**
  - Sharon shared a PDF titled SB 5268 Implementation Timeline. OMWBE is on track according to their projected implementation timeline. They have established a name for their certification, the Public Works Small Business Enterprise. Also, they have hired staff for the PWSBE Certification Unit. They expect the new staff will be trained to begin processing applications by March of 2024.
  - For OMWBE's rules implementation goal, they have filed their CR-105 and proposed rules for comment. This can be viewed on OMWBE's website (<https://omwbe.wa.gov/about-omwbe/rulemaking-activity/draft-rules>), as well as the Code Reviser Office's website. The public is currently able to comment, and the rules are expected to be adopted by September 6. Then, OMWBE will file their CR-103P. By October 20, they plan to have the rules permanent and in effect.
  - IT implementation is also on track. Requirements and negotiated contracts have been collected, and they are working with MRSC to import data and develop testing.
  - OMWBE has an internal implementation team that meets weekly. Sharon wanted to share her confidence that the roster will be populated by next year, as they've heard concerns that this will not happen. They have contacted DES, WSDOT and MRSC to receive a list of public works businesses that are currently eligible to receive contracts with WA state. OMWBE will reach out to these businesses to let them know of their new program and invite them to be on the roster.

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- Janice Zahn requested clarification on how long it would take for a business to be added to the roster if they voiced interest. Sharon advised that if the business is already certified with the agency but under another category, and they are in the public works business, then the company is automatically eligible for the Public Works Small Business Enterprise Program and automatically eligible for the roster. Janice agreed that there are two types of firms, those already certified as a WMBE firm, and those that are WMBE but not yet certified or are simply a small business. Janice asked for further clarification on how long it would take for a business not yet certified to be added to the roster. Sharon explained that is dependent upon the state certification timeline, which is currently at maximum 60 days for processing. OMWBE is working with MRSC and L&I to see if this period of time can be reduced.
- The roster applications will be processed March through June. This allows a number of months for businesses to become certified, and therefore eligible for the OMWBE roster.
- Co-Chair Reyes requested clarification on if businesses certified with WMBE should also apply to be registered with MRSC. Josh confirmed that businesses should also register for MRSC right away, in particular if they want to be on the Small Works Roster. Registering with MRSC allows L&I to confirm all requirements for the Small Works Roster are also in place. Co-Chair Reyes suggests those already meeting with small businesses to advertise this encouragement for those already certified to also register with MRSC.
- Co-Chair Reyes also suggested that a dry run of this Small Works Roster be launched in April or May, before the predicted July 2024 lunch date.
- Josh also remarked that there are two components for businesses to be ready for the roster. The first is to have obtained certifications, the second is to be registered to do business on the roster.
- Co-Chair Frare expressed appreciation to OMWBE for the name Public Works Small Business Enterprise, which addresses previous confusion around multiple definitions of small business.
- **L&I**
  - Jolene Skinner and Reasa Pearson provided an update on L&I's progress in identifying what needs to be updated in their IT system.
  - Jolene explained that L&I is seeking input from advisory groups regarding the potential to require agencies to set up the project within L&I's Awarding Agency Portal when the direct contracting option is used for the Small Works Roster and the project is under \$150,000. L&I is looking at adding an identifier of contract type for the Small Works Direct Contracting. They recognize that there are two ways a project can be set up within the L&I system. The first is set up by the awarding agency. The second is set up by the prime contractor at the time they file the initial statement of intent. Often, the prime does not know the direct contracting type, and the field is entered incorrectly. L&I wants to make sure that direct contracting is only selected correctly. One option to eliminate incorrect submissions is to limit who can select this contract type to only agencies. L&I cannot mandate that agencies use the Awarding Agency Portal and set up their own projects in the system. L&I has considered requesting this to be required through the DES direct contracting rulemaking process. L&I seeks feedback from the Small Works Committee on this consideration. Feedback on this can be sent to Jolene and Co-Chair Frare by August 18. Feedback prompt is as follows: L&I is seeking input on requiring agencies to set up projects in L&I's system when direct contracting is used. This would allow for more reliable data and

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prevents primes from erroneously selecting the Direct Contracting type when setting up the project.

- Reasa then provided an update on rulemaking. She reminded the committee that L&I rulemaking is very minor, with only updates to WAC 296-127-050 regarding the dollar amounts for the combined intent and affidavit form. They will complete their CR-105 to be filed in September, and permanent rulemaking with CR-103 will be done in November. L&I will likely know the exact dates of filings at next month's meeting.
- Cathy Robinson asked if agencies could be clearer in communication regarding contract titles and project numbers to primes so that everyone can enter information correctly. Jolene responded that this may help, but it would be the responsibility of the awarding agency to lead that communication. Cathy was concerned that some of the smaller entities may not have capacity to take on additional work. Jolene responded that the entry process is less than ten fields and shouldn't be time consuming.
- Maja Huff responded that she uses this portal often, and another challenge that comes up is that even if she creates a project upon award, the prime contractor does not always use that project when they enter information in the system. This leads to duplicate projects in the system. Maja wondered if it was possible to give agencies the ability to edit the duplicate projects. Jolene mentioned that this has been considered, but the Statement of Intent filed by the contractor is meant to alert them regarding prevailing wage rates. That form must be posted on the job site. If the awarding agency or contractor is allowed to change information after initial submission, then those wage rates could be affected, and wrong information would be posted. Some updates can be made at specific times, but they are very limited.
- Cities and Counties
  - Co-Chair Frare remarked that there is no one assigned to report on Cities and Counties at present. Co-Chair Frare and Janice will look into recruiting new voices for Cities and Counties.

### **Communications Subcommittee Report**

- Jolene shared a PowerPoint Presentation, and Emilie Brown shared the update. The Outreach, Training, & Communications Workgroup meets every two weeks to address their action plan. The group decided that DES would host the overview website of this workgroup, which will include the options to request a speaker and the list of outreach events. The website is still in progress but will be shared with the Small Works Committee once available. The workgroup is scheduling a series of three workshops to happen in the fall, likely in the month of October. These workshops will cover more technical details. The workgroup is developing a toolkit of co-branded materials for all agencies to be able to use. The website and toolkit will likely be available in the next few weeks.

### **Rules and Format Structure**

- Co-Chair Frare does not believe there is more to share on this topic than what has been shared thus far in the meeting.

### **Action: Next Meeting Agenda 9/8/2023**

- Co-Chair Frare tracked two action items from this meeting.
  - Co-Chair Frare and Janice will be making an outreach effort to Cities and Counties to involve them in the Small Works Committee.
  - Jolene requests feedback on the rule request.

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- Monique Martinez requested to develop the outline for the September 8<sup>th</sup> meeting. Co-Chair Frare suggested the following standing agenda items. No other suggestions were made.
  - Welcome and Introductions
  - Approval of Minutes from August 11, 2023
  - Implementation Update Reports
  - Communication Subcommittee Report

**Action: The meeting adjourned at 2:26pm.** Co-Chair Frare invited a motion to adjourn, which was made by Co-Chair Reyes. Brian Ross seconded the motion, and the meeting was adjourned.

### References\Resources:

- CPARB Small Works Committee PowerPoint, Implementation Update 8.11.23 (Josh Klika)
- SB 5268 Implementation Timeline PDF (Sharon Harvey)
- Outreach, Training, & Communications Workgroup PowerPoint (Jolene Skinner)