

SENATE BILL REPORT

2SHB 2933

As of February 25, 2016

Title: An act relating to small works rosters.

Brief Description: Concerning small works rosters.

Sponsors: House Committee on Capital Budget (originally sponsored by Representatives Gregerson, Santos and Ryu).

Brief History: Passed House: 2/15/16, 94-3.

Committee Activity: Commerce & Labor: 2/24/16.

SENATE COMMITTEE ON COMMERCE & LABOR

Staff: Susan Jones (786-7404)

Background: The small works roster process is a method of delivery for public works projects estimated to cost \$300,000 or less. A small works roster contains any responsible contractor who wants to be on the roster, which may be a single list or lists separated by categories of work or by specialty. Under the small works process, instead of advertising the contract opportunity, the state agency or local government solicits bids from a minimum of five of the listed contractors on the appropriate small works roster. After soliciting the bids, the state agency or local government awards the contract to the lowest responsible bidder.

The small works roster process also allows for a limited public works process for projects estimated to cost \$35,000 or less. Under the limited public works process, the state agency or local government solicits bids from a minimum of three contractors from the appropriate small works roster and awards the contract to the lowest responsible bidder. For limited public works projects, the state agency or local government may waive payment and performance bond requirements and retainage requirements. Retainage is a portion of the contractor's payment, typically from 2-5 percent of the contract amount, that is withheld by the contracting agency until the project is complete. The retainage is used to satisfy claims anyone, such as a laborer or supplier, may have under the contract.

A state agency or local government may use the limited works roster to solicit and award small works contracts to small businesses that are contractors with annual gross revenues under \$1 million. When using the small works or limited works processes, state agencies and

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local governments must make an effort to equitably distribute the opportunity among contractors.

The Department of Commerce and the Municipal Research and Services Center prepare a small works roster manual and notify local governments of their authority to use small works rosters as a method of delivery for public works projects.

Summary of Bill: Small Works Roster Projects. The project cost threshold which allows a state agency or local government to use the small works roster process is increased to \$400,000. That amount will eventually increase to \$500,000. For projects awarded under the small works roster process, unpaid wages and benefits must be the first priority for actions filed against the retainage by a state agency or authorized local government.

Limited Public Works Projects. The project cost threshold which allows a state agency or local government to use the limited public works process is increased to \$150,000. The project cost threshold for limited public works projects in which the retainage and payment and performance bond requirements may be waived is limited to those that cost less than \$35,000.

Equitable Distribution. Quotations may be invited from all appropriate contractors on the appropriate small works roster. As an alternative, quotations must be invited from at least five contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. A state agency or authorized local government using the limited public works process must equitably distribute opportunities for the project among the listed contractors. "Equitably distributes" is defined to mean that a state agency or authorized local government may not favor certain contractors on the appropriate small works roster over other contractors on the same roster who perform similar services.

Mini and Microbusinesses. A state agency or authorized local government may use the limited public works process to solicit and award small works roster contracts to minibusinesses and microbusinesses.

Notification of Authority. The Department of Enterprise Services must work with the Municipal Research and Services Center to notify local governments authorized to use small works rosters of this authority and to provide guidance on how to use the authority. The guidance may take the form of a manual.

Joint Legislative Audit and Review Committee (JLARC) Review. By December 1, 2017, the JLARC must review the implementation of the changes made to the small works roster and limited public works processes and report its findings to the Legislature.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: They are working on bringing the bill closer to the Senate version. They are working on the "equitable" provision and some of the dates in the bill. The concept is good but there are concerns about geographic equity provisions and an exemption if notice is provided would work and give transparency to the roster.

OTHER: There are concerns as it passed the House. The limit on the waiver of the retainage and bond is a problem because the purpose of the bill was to level the playing field for small business. Keeping the dollar amount at \$35,000 instead of \$150,000 for the waiver will not increase the opportunities for small businesses, which are typically owned by minorities and women. The House version does not have the increase the dollar amount in the statute related to the ports.

Persons Testifying: PRO: Representative Mia Gregerson, Prime Sponsor; Michael Groesch, Puget Sound School Coalition.

OTHER: Bill Frare, Dept. Enterprise Services; Jerry Vanderwood, Assoc of General Contractors (AGC); Edwina Martin-Arnold, OMWBE; Ginger Eagle, Washington Public Ports Association.

Persons Signed In To Testify But Not Testifying: No one.