

# SENATE BILL REPORT

## SB 5684

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As of February 7, 2023

**Title:** An act relating to small works rosters.

**Brief Description:** Concerning small works rosters.

**Sponsors:** Senator Hasegawa.

**Brief History:**

**Committee Activity:** State Government & Elections: 2/07/23.

### Brief Summary of Bill

- Defines small business to mean a business that is certified by the Office of Minority and Women's Business Enterprises (OMWBE).
- Establishes uniform small works roster requirements, including authorization for a state agency or authorized local government to use a statewide small works roster to create and maintain one or more small works rosters for different specialties or geographic areas served by contractors on the roster.
- Requires that at least once per year, each agency or authorized local government provide to OMWBE's directory of certified firms, and publish, a notice of the existence of the roster and solicit contractors for the roster.
- Requires the Municipal Research and Services Center to develop a statewide small works roster by June 30, 2024, and develop criteria for the roster with collaboration from affected agencies.
- Establishes uniform small works roster provisions to award contracts.

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## SENATE COMMITTEE ON STATE GOVERNMENT & ELECTIONS

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Danielle Creech (786-7412)

**Background:** Small Works Roster Requirements. Small works rosters consist of responsible contractors who have requested to be on the list, and where required by law, are properly licensed and registered to do work in Washington. Contractors on small works rosters can bid for eligible projects below \$350,000. Agencies may require prospective contractors to keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters on file with the appropriate state agency or local government as a condition of being placed on a roster. Agencies should require contractors to update their information each year. A state agency or authorized local government may create a single general small works roster, or may create a small works roster for different specialties or categories of anticipated work. A roster can make distinctions between contractors based upon different geographic areas served by the contractor.

Procedure. Agencies must publicly advertise the roster at least once per year in a newspaper of general circulation within the district, soliciting the names of eligible contractors. At least once per year, agencies must post a list of all small works roster contracts awarded regardless of dollar value, including the date, name of the contractor, the amount of the contract, a brief description of the type of work performed, and the location where the bid quotations for these contracts are available for public inspection. Procedures must be established for securing quotations from contractors to assure that a competitive price is established and to award contracts to the lowest responsible bidder. Invitations for quotations must include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished, but detailed plans and specifications are not required to be included.

Awards. For projects awarded under the small works roster process, a state agency or authorized local government may waive the statutory retainage requirements, thereby assuming the liability for contractors nonpayment of laborers, mechanics, subcontractors, material persons and suppliers, and taxes, increases, and penalties that may be due from the contractor for the project.

**Summary of Bill:** A state agency or authorized local government contracting through a small works roster must invite bids notifying all contractors on the applicable roster that have indicated interest in performing work in the applicable geographic area. For small public works projects with an estimated cost less than \$150,000 state agencies and local governments may, and are encouraged to, direct contract with small businesses without a competitive process before direct contracting with other contractors on the appropriate small works roster, as follows:

- if there are two to three contractors meeting the definition of small businesses on the applicable roster, the state agency or authorized local government must direct contract with one of those small businesses that have interest in performing work in the applicable geographic area; and

- if there are more than three 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.

State agencies or authorized local governments must not break a project into units or construct a project in phases if done for avoiding maximum dollar amounts set forth.

State agencies or authorized local governments may not favor certain contracts without documented attempts to direct contract with other contractors on the appropriate roster. If a state agency or local government does not follow these methods, it may not use direct contracting. For small public works contracts under \$5,000, there is no requirement for retainage or performance bonds. After an award is made, bid quotations obtained shall be recorded and made publicly available. Annually, state agencies and authorized local governments must publish a list of small works contracts awarded and contractors contacted for direct negotiation.

**Appropriation:** None.

**Fiscal Note:** Requested on February 5, 2023.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony:** PRO: This bill has been delayed for several years. It is an attempt to level the playing field for roster applicants and will prevent the same candidates from being chosen multiple times. Small businesses have a hard time getting state funding. This bill will make the system simpler which will support them.

OTHER: This bill is not comprehensive for state agencies and small businesses. It has some technical issues that should be fixed. There are some concerns about the exclusivity of the definition of small business included in the bill.

**Persons Testifying:** PRO: Senator Bob Hasegawa, Prime Sponsor; James King, Independent Business Association.

OTHER: William Frare, Washington State Department of Enterprise Services; Sophia Steele, Associated Builders and Contractors.

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