

WSR 24-04-093

PROPOSED RULES

WASHINGTON STATE UNIVERSITY

[Filed February 7, 2024, 8:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-01-139.

Title of Rule and Other Identifying Information: Chapter 504-50 WAC, Small works roster

Hearing Location(s): On March 12, 2024, at 4:00 p.m. Join Zoom meeting from PC, Mac, Linux, iOS, or Android <https://wsu.zoom.us/j/91870669159?pwd=KzFLeElVU1ZNbXpsdllKU2pmeEMzd09>, Meeting ID 918 7066 9159, Passcode 182424; or join by phone +1-253-215-8782, +1 669 900 9128, or +1-646-558-8656; or One-tap mobile call +12532158782,,91870669159# or +16699009128,,91870669159# (enter meeting ID and passcode when prompted). No in-person hearing locations are being scheduled for this hearing.

Date of Intended Adoption: April 19, 2024.

Submit Written Comments to: Deborah Bartlett, Rules Coordinator, P.O. Box 641225, Pullman, WA 99164-1225, email prf.forms@wsu.edu, by March 12, 2024.

Assistance for Persons with Disabilities: Contact Joy Faerber, phone 509-335-2005, email prf.forms@wsu.edu, by March 8, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Washington State University (WSU) is updating the rules regarding the small works roster, chapter 504-50 WAC.

Reasons Supporting Proposal: The proposed amendments modify, clarify, and update WSU's rules regarding the small works roster, in accordance with amended chapter 39.04 RCW, effective July 1, 2024.

Statutory Authority for Adoption: RCW 28B.30.150.

Statute Being Implemented: Chapter 39.04 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Public.

Name of Agency Personnel Responsible for Drafting: Maja Huff, Director, Capital Contracts, Facilities Services, McCluskey Services Building, Pullman, WA 99164-1150, 509-335-9082; Implementation: Olivia Yang, Associate Vice President, Facilities Services, McCluskey Services Building, Pullman, WA 99164-1150, 509-335-9024; and Enforcement: Leslie Brunelli, Executive Vice President for Finance and Administration, French Administration 442, Pullman, WA 99164-1045, 509-335-5524.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not necessary for this rule. This rule only relates to internal governmental operations that are not subject to violation by a nongovernment party pursuant to RCW 34.05.350

(5)(b)(ii). The specific operations are drafting procedures regarding the creation of a local, or utilization of a statewide small-works roster. Further, these rules adopt without material change RCW 39.04.151 [and 39.04.]152, and clarify and correct language regarding WSU's ability to use statewide or create local small works rosters. A cost-benefit analysis is not required pursuant to RCW 34.05.350 (5)(b)(iii)-(iv).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of exemptions: WSU is adopting language from RCW 39.04.151 and [39.04.]152 which corrects and clarifies its ability to utilize statewide and create its own small works rosters. Nongovernmental parties are not subject to violations of these rules.

Scope of exemption for rule proposal:

Is fully exempt.

February 7, 2024
Deborah L. Bartlett, Director
Procedures, Records, and Forms
and University Rules Coordinator

OTS-5157.1

AMENDATORY SECTION (Amending WSR 09-19-071, filed 9/15/09, effective 10/16/09)

WAC 504-50-010 Purpose and authority. This chapter of the Washington Administrative Code is adopted pursuant to RCW ((39.04.155)) 39.04.151, authorizing Washington State University to utilize a statewide small works roster in accordance with RCW 37.04.151 (1) and (2) or to adopt procedures to ((award contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of real property in lieu of other procedures for such work with an estimated cost of three hundred thousand dollars (\$300,000) or less. The University, in establishing a small works roster, shall use the procedures set forth in this chapter)) establish one or more small works rosters for different specialties, categories of anticipated work, or geographic areas served by contractors on the roster that have registered for inclusion on that particular roster.

AMENDATORY SECTION (Amending WSR 09-19-071, filed 9/15/09, effective 10/16/09)

WAC 504-50-020 Project construction cost. Whenever the estimated cost of any construction ((... or improvement of real property)) does not exceed ((three hundred thousand dollars (\$300,000))) \$350,000, the

university is authorized to use the statewide small works roster, or a WSU established small works roster in lieu of public advertisement for bids. In the event that the legislature further increases the small works roster limit, the university is authorized to use the small works roster for any projects up to the legislatively authorized limit. No project shall be broken into units or phases for the purpose of avoiding the maximum dollar amount of a contract that may be met using the small works roster.

NEW SECTION

WAC 504-50-032 Procedures for use. Procedures must be established for securing telephone, written, or electronic quotations from contractors on the appropriate statewide or WSU established small works rosters to assure that a competitive price is established and to award contracts to the lowest responsible bidder. Detailed plans and specifications are not required as part of the bid invitation. Bids may be solicited from all appropriate contractors on the statewide or WSU established rosters, or, alternatively, if the estimated cost of the work is less than \$150,000, the university may direct contract with small businesses as defined by RCW 39.04.010. In the event that the legislature further increases the small business limit, the university is authorized to use small businesses for any projects up to the legislatively authorized limit. Procedures must be established for rotation, notification, and annual publication of small works contracts awarded and contractors contacted for direct negotiation pursuant to RCW 39.04.200.

NEW SECTION

WAC 504-50-042 Administration. The associate vice president for facilities services, on behalf of the board of regents, is authorized to establish procedures for university use of the statewide and WSU established small works rosters.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 504-50-030	Creation of small works roster or rosters.
WAC 504-50-040	Notice of small works rosters and solicitation of contractors.
WAC 504-50-050	Contractors application form— Information required.
WAC 504-50-060	Qualification requirements.

WAC 504-50-070

Denial or removal of contractors from
small works roster—Reasons, notice, and
hearing.

WAC 504-50-080

Procedures for use.