

WSR 22-15-098

PROPOSED RULES

WESTERN WASHINGTON UNIVERSITY

[Filed July 19, 2022, 11:44 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-12-028.

Title of Rule and Other Identifying Information: Proposed chapter 516-32 WAC, Small works roster.

Hearing Location(s): On August 25, 2022, at 11:00 a.m. Virtual public hearings necessitated by the COVID-19 pandemic have proven effective in allowing greater public access, eliminating the burden of physical travel, and maintaining public safety. Accordingly, a virtual meeting will be held with an optional in-person component. To attend the virtual public hearing, you must register in advance at <https://wwu-edu.zoom.us/meeting/register/tJwoc-msrzvwHdR-1rpvnSmT0TiGmVcKOP1C>. You may also register at the university rules website at <https://president.wwu.edu/proposed-chapter-516-32-wac-small-works-roster>. After registering, you will receive a confirmation email containing information about joining the public hearing. To attend in person, email the university rules coordinator for meeting location. The hearing will start at 11:00 a.m. and will continue until all oral comments are received.

Date of Intended Adoption: October 14, 2022.

Submit Written Comments to: Jennifer Sloan, Rules Coordinator, 516 High Street, Mailstop 9044, email sloanj2@wwu.edu, by August 22, 2022.

Assistance for Persons with Disabilities: Contact Jennifer Sloan, rules coordinator, phone 360-650-3117, TTY 711, email sloanj2@wwu.edu [sloanj2@wwu.edu], by August 8, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: A small works roster will allow the university to expeditiously solicit bids for contractors on projects with a construction cost of \$350,000 and below.

Reasons Supporting Proposal: Eliminates the requirement to formally advertise for bidding to include a cost saving of \$2,500 per bid and a time saving of three to four weeks.

Statutory Authority for Adoption: RCW 28B.35.120(12), 39.04.155.

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

Name of Proponent: Western Washington University, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Brian Ross, Associate Director Facilities Development and Operations, 516 High Street, Bellingham, WA 98225-9122, 360-650-6539.

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. RCW 34.05.328 does not apply to the university, and the university has not voluntarily decided to apply it.

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 rule content is explicitly and specifically dictated by statute.

July 19, 2020 [2022]
Jennifer L. Sloan
Rules Coordinator

OTS-3920.1

**Chapter 516-32 WAC
SMALL WORKS ROSTER**NEW SECTION

WAC 516-32-010 Purpose and authority. This chapter of the Washington Administrative Code is adopted pursuant to RCW 39.04.155, authorizing Western Washington University 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 \$350,000 or less. The university, in establishing a small works roster, shall use the procedures set forth in this chapter.

[]

NEW SECTION

WAC 516-32-020 Project construction cost. Whenever the estimated cost of any construction or improvement of real property does not exceed \$350,000, the university is authorized to use the 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 516-32-030 Creation of small works roster or rosters. The university may create a single general small works roster, or it may create a small works roster for different specialties or categories of anticipated work. The rosters may make distinctions between contractors based upon different geographic areas served by the contractors.

[]

NEW SECTION

WAC 516-32-040 Notice of small works rosters and solicitation of contractors. At least once per year, the university shall cause to be published, in a newspaper of general circulation within the counties

where small works are expected to be performed, a notice of the existence of any rosters, and shall solicit the names of contractors for such roster or rosters.

[]

NEW SECTION

WAC 516-32-050 Procedure for use. Procedures shall be established for securing telephone, written, or electronic quotations from contractors on the appropriate small works roster to assure that a competitive price is established and to award contracts to the lowest responsible bidder. Bids may be solicited from all appropriate contractors on the roster or, alternatively, from at least five contractors who have indicated the capability of performing the kind of work being contracted. If the estimated cost of the work is from \$250,000 to \$350,000, and bids are not solicited from all appropriate contractors, all appropriate contractors must be notified that bids are being solicited. Detailed plans and specifications are not required as part of the bid invitation.

[]

NEW SECTION

WAC 516-32-060 Applicable statutes. All statutes pertaining to contracts for public works shall be otherwise fully applicable to contracts awarded through the small works roster procedure.

[]

NEW SECTION

WAC 516-32-070 Qualification requirements. To qualify for placement on the Western Washington University small works roster, contractors must demonstrate the following in experience and qualifications:

- (1) Be a licensed contractor in the state of Washington;
- (2) Have successfully completed a public works project, as defined by RCW 39.04.010; and
- (3) Have experience in the area of expertise for which listing is sought.

[]

NEW SECTION

WAC 516-32-080 Administration. The vice president for business and financial affairs, or designee, is authorized to establish procedures for university use of its small works roster.

[]

NEW SECTION

WAC 516-32-090 Denial or removal of contractors from small works roster—Reasons. A contractor may be denied placement on or, after such placement, may be removed from a small works roster for any of the following reasons:

(1) The contractor has failed to respond to five solicitations for bids on jobs offered through the small works roster;

(2) The contractor's past performance has demonstrated the firm not to be a responsible bidder per the provisions in RCW 39.04.350.

[]