TO:       Members of the Board of Trustees

FROM:     President Sabah Randhawa on behalf of Joyce Lopes, Vice President for Business and Financial Affairs

DATE:     October 14, 2022

SUBJECT:  APPROVAL OF PROPOSED NEW WAC CHAPTER – CHAPTER 516-32 WAC, SMALL WORKS ROSTER

PURPOSE:  Action Item

Purpose of Submittal:

To obtain approval from the Board to adopt a proposed new chapter in Title 516 of the Washington Administrative Code (WAC).

Proposed Motion:

MOVED, that the Board of Trustees of Western Washington University, upon recommendation of the President, approve the proposed new chapter 516-32 WAC, Small Works Roster as filed in the Washington State Register, WSR 22-15-098.

Points to Consider:

The Small Works Roster is an expedited procurement process for construction contracts that are $350,000 and under. This process reduces consulting and advertising costs incurred by the university, and casts a wider net for contractor selection. Specifically, use of the Roster will target contractors who are in the trade and within the scope of the work needed, and can target certified firms such as small businesses and women or minority owned businesses. In addition, adopting the use of the Small Works Roster removes the requirement of bid bonds and other certification requirements that may eliminate a barrier to small business that precluded submitting bids under a traditional public works bidding process. Per RCW 39.04.155, to establish a Small Works Roster a rule must be adopted.

Stakeholder review included the following: Technical Review Committee and University Policy & Rules Review Group. In addition, a public hearing was held to seek university and community comments.

Supporting Information:

Attachment 1  Proposed new chapter 516-32 WAC, Small Works Roster
Attachment 2  Hearing Officer’s Report
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.
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.

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.

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.

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.

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.
On August 25, 2022, at 11:00 am, a public hearing was held via Zoom to receive comment regarding the proposal to adopt a new chapter under Western Washington University’s title in the Washington Administrative Code (WAC), Chapter 516-32 WAC, Small Works Roster. The hearing was conducted by Jennifer Sloan, Rules Coordinator, and the hearing was held pursuant to the authority provided in the Revised Code of Washington Open Public Meetings Act and Administrative Procedures Act.

Notice of Hearing

Notice of public hearing was posted on the Rules Coordinator’s website, was published in the August 3, 2022, issue of the Washington State Register (22-15-098), and was posted in the University newspaper, The Front, and the University’s online newsletter, Western Today, on August 11, 2022 and August 15, 2022 respectively.

Hearing Attendance

The hearing was attended by: Assistant Attorneys General Kerena Higgins and Melissa Nelson; Brian Ross, Associate Director of Capitol Planning & Development; and Teyra Carter, Budget Analyst.

Background and Overview

Brian Ross provided the background and overview of the proposed new rule. Mr. Ross stated that the Small Works Roster is another avenue to procure construction contracts that are between $25,000 and $350,000. This will allow for expeditious contracting with contractors, reduce advertising costs incurred by the University, and cast a wider net for contractor selection. Specifically, use of the Roster will target contractors who are in the trade and within the scope of the work needed and can target certified firms such as small businesses and women or minority owned businesses. Currently, approximately 150 of those businesses are on the Roster. In addition, adopting the use of the Small Works Roster removes the requirement of bid bonds, and may eliminate a barrier to small business that may not otherwise submit a bid. Insurance and bonding are still required, but that would be after the bid is awarded. The award of a contract will follow RCW 39.04.155 and go to the lowest bidder. In summary, adoption of a Small Works Roster will allow for expeditious, cost-effective bidding, and seek out vendors who are in the trade.
Testimony

The Rules Coordinator reported that no written testimony was received.

Audience Comments and Questions

There were no audience comments, and no testimony was given.

The hearing adjourned at 11:06 a.m.

Conclusion

Considering the thorough review process by university constituents and because the public hearing allowed for an open forum of the University community, I recommend the following:

➢ That President Randhawa approves the adoption of new chapter 516-32 WAC and further, that the proposed new chapter be brought before the Board of Trustees for consideration.

Respectfully submitted,

Jennifer Sloan
Rules Coordinator

JS

Attachment:
Chapter 516-32 WAC – Final Draft of Proposed New Rule