



Q&A for October 17, 2023, Lunch 'n Learn Meeting

1. Question: What is the definition of Reserved Award? I've never heard that term used before.

DES Response: From the Supplier Diversity Virtual Handbook (glossary): “Reserved award” means one or more contracts that are designated for Washington small/veteran-owned business(es) under a multiple-award competitive solicitation. And “Multiple award” refers to an award strategy that allows more than one business to provide the same or similar goods and/or services to meet business needs such as geographical supply, increasing availability, and increasing the number of businesses that can participate in the contract.

2. Question: Can you use the reserved award process for a solicitation for a one-time service or one-time delivery of product? As examples, this year we did a solicitation for a Small Business Administration e-vehicle charging station for McNeil Island. A “one and done” acquisition. We also did a solicitation for a pair of specific ADA vans.

DES Response: Good question. Neither situation is an example where you can use the reserved award strategy. You can only use the strategy when you're going to do multiple awards under a single solicitation. Here in the first example, it's only a single award because you're only buying the one charging station for McNeil Island; in the other example, it's a single purchase for two vans.

3. Question: What does 'small' business mean?

DES Response: [Answered live, provided definitions]

Small is defined in RCW 39.26.010(22); "Small business" means an in-state business, including a sole proprietorship, corporation, partnership, or other legal entity, that:

- (a) Certifies, under penalty of perjury, that it is owned and operated independently from all other businesses and has either:
 - i. Fifty or fewer employees; or



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- ii. A gross revenue of less than \$7,000,000 annually as reported on its federal income tax return or its return filed with the department of revenue over the previous three consecutive years; or

(b) Is certified with the office of women and minority business enterprises under chapter 39.19 RCW.

Here is a practice tip: The strategy can be used when considering a small or veteran-owned business, because neither “small” or “veteran-owned” businesses are in a protected class. The policy is focused on race and gender-neutral strategies.

4. Question: I am not seeing that the definition for 'reserved' would be applicable to minority owned and is only for small or veteran owned, right?

DES Response: That’s correct. Only certified veteran-owned and/or Washington small businesses who meet the size or gross revenue standard (as defined in RCW 39.26.010(22)(a)) can be awarded under this strategy. This is permitted under the Constitution because small and veteran-owned businesses are race and gender-neutral categories.

5. Question: Does an agency need preapproval from DES to bid out for multiple awards under one solicitation? If so, is there guidance and a template for getting DES approval?

DES Response: It depends. If the agency is awarding a multiple-award contract exclusively for its own use, then there is no need to seek DES approval. However, if the contract will be used by more than one agency, it is a convenience contract which requires authorization by DES.

A convenience contract is defined in statute ([RCW 39.26.070](#)) as “a contract for specific goods or services, or both, that is solicited and established in accordance with procurement laws and rules for use by a specified group of agencies. A convenience contract is not available for general use and must be approved by the department. Convenience contracts are not intended to replace or supersede master contracts as defined in this chapter.”

To request a convenience contract:



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Submit convenience contract requests to the DES Enterprise Procurement Policy Team at DESmiEnterpriseProcurementPolicy@des.wa.gov; note: the request may be submitted by your procurement or administrative service leads rather than director level. The DES Policy team will review the request, clarify (if needed), and then send the request to the Interim Director of Contracts & Procurement (Rebecca Linville) for approval.

6. Question: If an agency is setting up a convenience contract with a pool of vendors only for their agency division use only. Can that still be considered a statewide contract?

DES Response: It seems like there may be some confusion with terminology. The difference between a statewide contract and a convenience contract is as follows:

Per [RCW 39.26.010](#) (15) "Master contracts" [which DES now refers to as "Statewide Contracts"] means a contract for specific goods or services, or both, that is solicited and established by [DES] in accordance with procurement laws and rules on behalf of and for general use by agencies as specified by the department.

Statewide contracts are only created by DES, not by any other agencies.

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7. Question: If we have small/diverse suppliers on our contracts, what can we share with them about state agencies' interest/directives to use small/diverse businesses? some agencies have staff specifically working on this I believe (like WSDOT has a person designated)...others may not? Can you provide more insight on there are small spending goals or targets agencies may be trying to meet?



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DES Response: Yes. First of all, remember the context of this conversation is obtaining goods and services – not, for example, Public Works or Architecture & Engineering or Capitol Projects. Second, regarding spending or spending targets, OMWBE is currently setting the agency’s spending targets for goods and services. OMWBE’s website lists [supplier diversity reports and plans](#) for all state agencies and higher education institutions.

8. Question: Would it be ok to add score points for small/veteran businesses or would being a small/veteran business be the factor that would put them in the reserve category?

DES Response: It depends. Whether to do both – adding evaluation points and setting up reserved awards requires some critical thinking that includes knowledge of the marketplace (i.e., based on market research). The ultimate question is whether the solicitation is being done in a fair and transparent way. With this overall consideration, you can combine strategies as much as you want. At some point, though, you need to be cautious about whether you are using so many strategies that it turns out we are unfairly skewing the solicitation.

One practitioner said that “we would either do points or reserved awards, we would not do both. We prefer to use the reserved award strategy due to issues with federal funding and preference points.” Another said, “depending on the numbers and depending on my market research and understanding what the market would allow, if it is pretty clear that there can be a robust response to my solicitation amongst both the larger companies and also the small and veteran-owned businesses, then the fact that I’m adding in evaluation points as well as doing a reserved award procedure is acceptable.”

Example solicitation language:

The purpose of this Competitive Solicitation is to receive competitive bids to evaluate and, as appropriate, award up to four Contracts to the highest scored, responsible, responsible bidders. Additionally, [AGENCY] intends to award up to two Contracts to the highest scored, otherwise not awarded, responsive, responsible Washington Small Business or Veteran-owned business.



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9. Question: Maybe totally off topic but has there been any plan to revisit that RCW next legislative session to give DES more flexibility with the diversity policy?

DES Response: No.

10. Question: Assume this is specific to 39.26? I wonder if reserved awards could be used for A/E contracts procured under 39.80.

DES Response: That's correct, this policy is only applicable to purchases of goods and services under RCW 39.26.

11. Question: DES Policy No. POL-DES-090-06 C.4 says to "competitively procured contracts with an initial value less than \$150,000" shall be awarded to a small or veteran-owned business but doesn't mention multiple-award contracts. Is that not a reserved award, or does the handbook override the policy?

DES Response: That's interesting. Strategy C.4 says that when a solicitation will result in a contract of \$150,000 or less, an agency "Determines the Apparent Successful Bidder . . . the highest responsive and responsible small or veteran-owned bidder that best meets the Competitive Solicitation requirements and presents the best value to the state, including price and other factors as set forth in the solicitation."

Let's consider the hypothetical situation where you think you might use the reserved award strategy if you determine there will be multiple awards under a single solicitation. But, if the contract value will be \$150,000 or less, then all of the reserved awards for responsive and responsible bidders would go to a small or veteran-owned business anyway. So, there would be no need for using the reserved award strategy.

12. Question: Can you provide an example of a reserved award contract that is not a convenience contract?



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DES Response: Recall that a convenience contract is in two flavors: one is a single contract used by multiple agencies. The second flavor – the one at issue here – is when you've got an agency setting up a vendor pool and for the vendor pool, there's no scope of work. Vendors only find out about what work the agency needs to get done when the work order comes in. At that point, the agency will get quotes from the vendor pool; the work scope changes from work order to work order.

A reserved award is different. The scope of work under a multiple award contract does not change. Therefore, the agency does not need to get quotes based on the unique scope of work. Example: WSDOT created a multiple award contract so that it would have an uninterrupted supply chain for deicer in all eight regions of the state. They were able to put aside a reserved award for small and/or veteran-owned businesses.