



Washington State  
**DEPARTMENT OF  
ENTERPRISE SERVICES**

**BIDDER CONTRACTING GUIDE  
FOR  
AGENCY CONTRACTS  
FOR  
GOODS AND SERVICES**

*Dated January 22, 2025*

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## INTRODUCTION

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This *Bidder Contracting Guide for Agency Contracts for Goods/Services* (“*Contracting Guide*”) provides useful information regarding Washington state agency competitive procurements for goods/services. This *Contracting Guide* applies to the following agency contracts:

- Agency contracts resulting from Competitive Solicitations for goods/services issued by the Washington State Department of Enterprise Services (“Enterprise Services,” “Procuring Agency,” or “Purchaser”) for use by Enterprise Services;
- Agency contracts resulting from Competitive Solicitations for goods/services issued by Enterprise Services, as the procurement coordinator, for use by a specified Washington state small agency (“Procuring Agency” or “Purchaser”), in which case the Procuring Agency is the Washington state small agency identified in the Competitive Solicitations; and
- *If stated as applicable in the Competitive Solicitation*, Agency contracts resulting from Competitive Solicitations for goods/services issued by a Washington state agency (“Procuring Agency” or “Purchaser”) for use by the Washington state agency issuing the Competitive Solicitation.

Bidders who are interested in bidding on competitive solicitations for agency contracts for goods/services must review the information included in this *Contracting Guide*. Bidders who have questions and/or concerns regarding the information in this document may raise such questions and/or concerns during the Pre-Bid Conference and the Question & Answer Period for the applicable Competitive Solicitation.

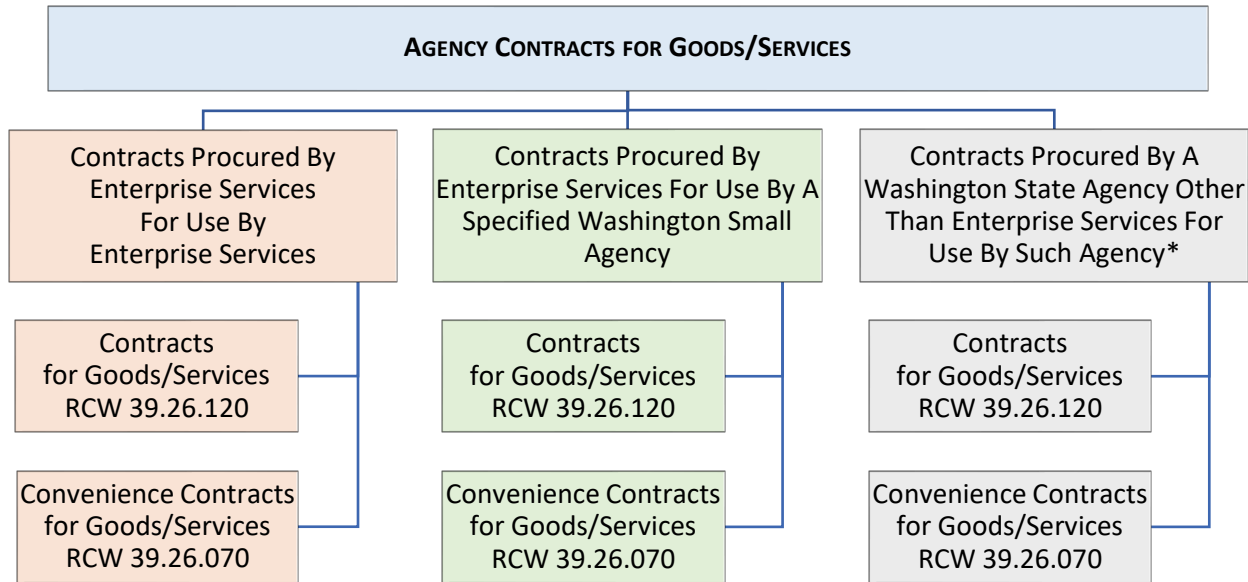
This document is organized into five sections, as follows:

- Section 1: Agency Contracts for Goods/Services;
- Section 2: Competitive Solicitations: Bidder Complaints, Debrief Conferences, & Protest Requirements;
- Section 3: Contracting With the State of Washington for Goods/Services Contracts;
- Section 4: Required Contract Provisions, Contract Provisions that Are Highly Unlikely To Be Included, and Certain Economic Provisions that Bidders May Request Modification; and
- Section 5: Good/Services Contracting Opportunities for Small & Diverse Businesses

In addition, this document also includes a helpful glossary of terms. See ***Appendix A – Terminology Pertaining to Competitive Solicitations for Agency Contracts for Good/Services***.

**§ 1 – AGENCY CONTRACTS FOR GOODS/SERVICES**

In establishing Washington’s Procurement Code for Goods/Services ([RCW 39.26](#)), the Washington State Legislature directed that, unless exempted [see, e.g., [RCW 39.26.100](#)] or excepted, [see [RCW 39.26.125](#)], agency purchases and/or contracts for goods/services must be competitively solicited and awarded. See [RCW 39.26.120](#); see also, [RCW 39.26.160](#). As used in this *Contracting Guide*, agency contracts for goods/services include the contracts depicted in the following diagram.



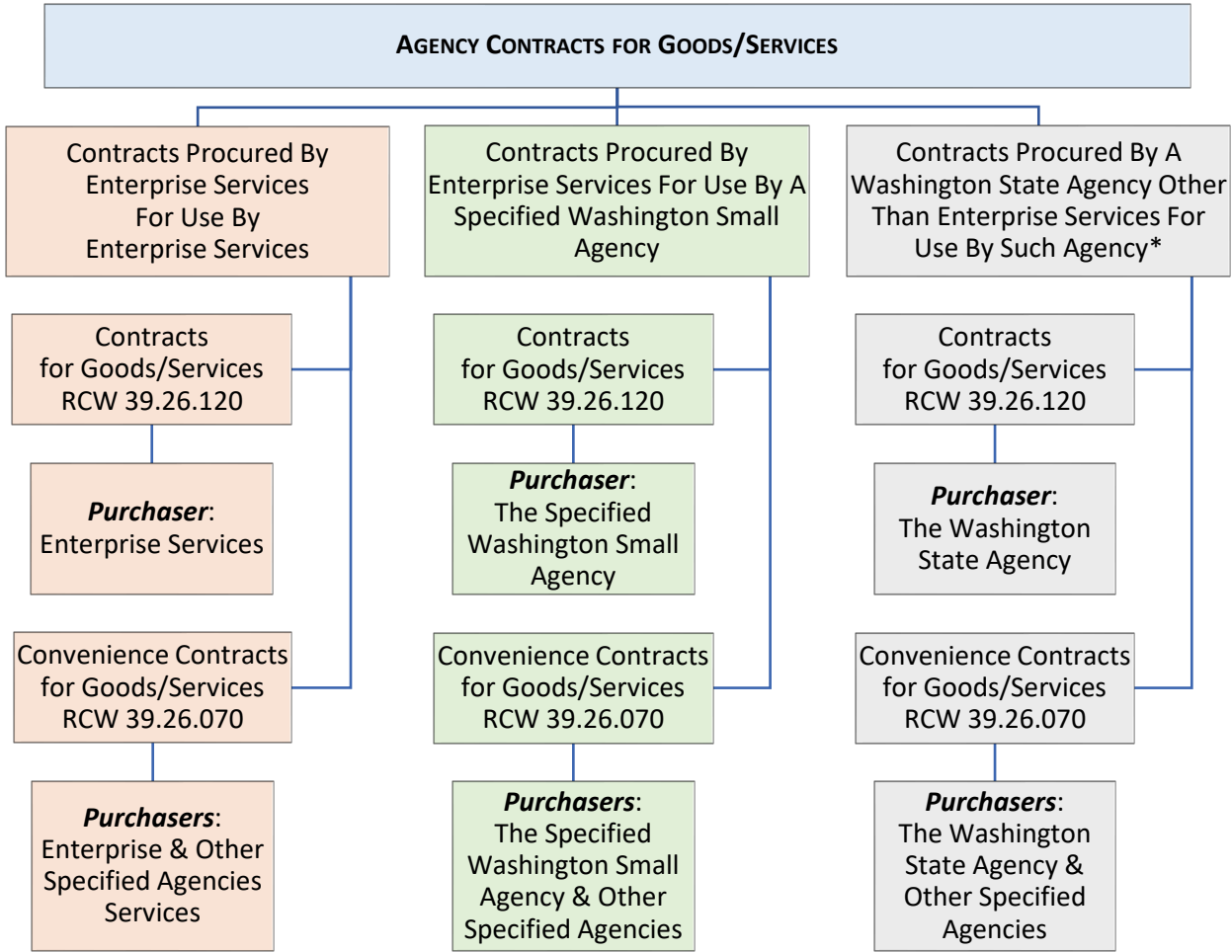
\*As stated above, this *Contracting Guide* applies to agency contracts resulting from Competitive Solicitations for goods/services issued by a Washington state agency other than Enterprise Services ONLY if the Competitive Solicitation for such procurement incorporates this *Contracting Guide*.

This *Contracting Guide* provides guidance for the contracts and convenience contracts identified above.

Although specified convenience contracts are included, these procurement solutions are not frequently used. When applicable, the Competitive Solicitation clearly will state whether the procurement is for a convenience contract – i.e., a contract for goods/services that, with advance approval from Enterprise Services, may be used by specified agencies.

**PURCHASER(S)**

Agency contracts for goods/services will specify the procuring agency and/or purchaser(s). The diagram below depicts the typical purchaser(s) in the various agency contracts for goods/services included in this *Contracting Guide*:



\*As stated above, this *Contracting Guide* applies to agency contracts resulting from Competitive Solicitations for goods/services issued by a Washington state agency other than Enterprise Services ONLY if the Competitive Solicitation for such procurement incorporates this *Contracting Guide*.

## § 2 – COMPETITIVE SOLICITATIONS: BIDDER COMPLAINTS, DEBRIEF CONFERENCES, & PROTEST REQUIREMENTS

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This section provides detailed information regarding Bidder opportunities to question and/or challenge competitive solicitations for agency contracts for goods/services and the applicable requirements for Bidder complaints, Bidder debrief conferences, and Bidder protests. This section includes the following:

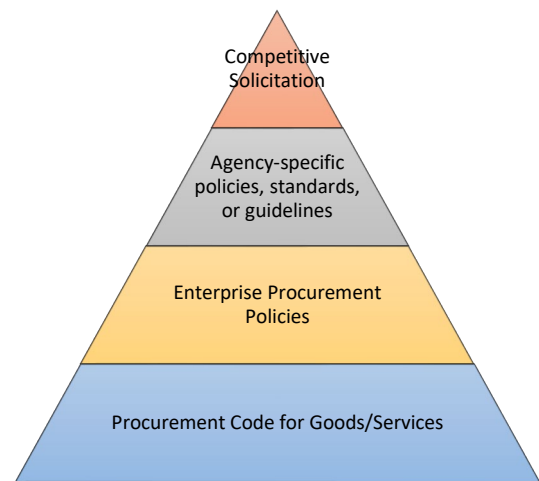
- An overview, including relevant legal requirements, and information to contextualize these processes;
- Bidder complaints;
- Bidder debrief conferences; and
- Bidder protests.

### OVERVIEW REGARDING BIDDER OPPORTUNITIES TO QUESTION AND/OR CHALLENGE COMPETITIVE SOLICITATIONS AND CONTRACT AWARDS

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Competitive solicitations for agency contracts for goods/services are governed by:

- Washington’s Procurement Code for Goods/Services ([RCW 39.26](#)). See [RCW 39.26.120](#) and [RCW 39.26.070](#).
- Applicable enterprise procurement policies promulgated by Enterprise Services that are applicable to all Washington state agencies contracting for goods/services pursuant to Washington’s Procurement Code for Goods/Services. See [RCW 39.26.080\(1\) & \(2\)](#).
- Applicable procurement policies, standards, or guidance adopted by the procuring agency pertaining to its competitively solicited agency contracts for goods/services.
- The requirements set forth in the specific competitive solicitation.

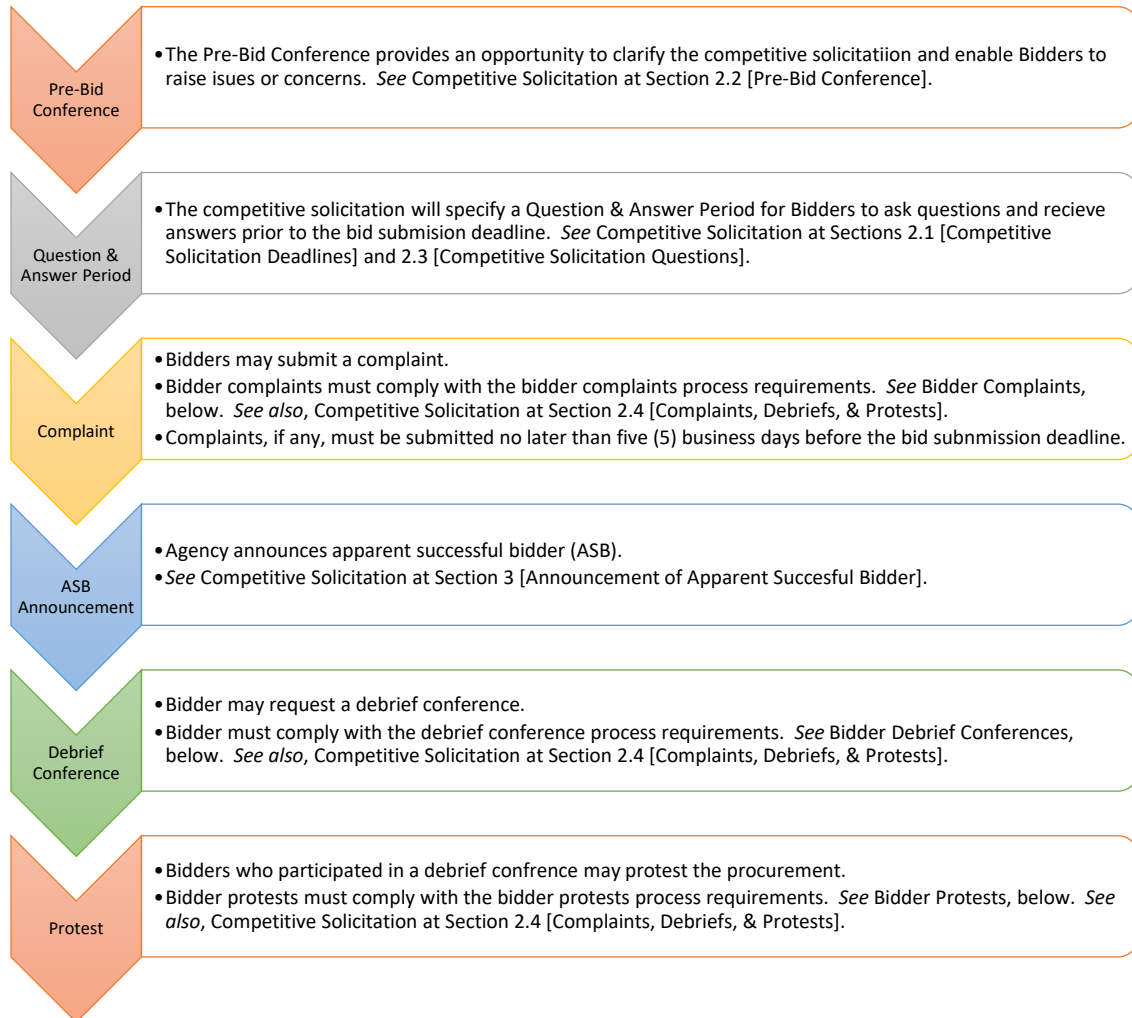


Collectively, these authorities, provide multiple opportunities for Bidders to question and/or challenge competitive solicitations for agency contracts for goods/services:

- Washington’s Procurement Code for Goods/Services requires the procuring agency to have clear and transparent processes for Bidder complaints and Bidder protests. See [RCW 39.26.170\(1\)](#) (Bidder complaints) and [RCW 39.26.170\(2\)](#) (Bidder protests).
- Applicable enterprise procurement policy establishes procedural requirements for Bidder complaints, Bidder protests, and Bidder debrief conferences. See [ENTERPRISE PROCUREMENT POLICY NO. POL-DES-170-00](#).
- Enterprise Services, through its competitive solicitations for agency contracts for goods/services provides for:
  - Pre-Bid Conferences in which Bidders may raise questions and/or concerns;

- Question & Answer Periods in which Bidders may raise questions and/or concerns; and
  - Debrief Conferences in which Bidders may discuss their bid and evaluation with Enterprise Services.
- Washington State Agencies other than Enterprise Services may have differing requirements. In such case, the agency will specify such requirements.

Chronologically, the above-described opportunities for Bidders to question and/or challenge competitive solicitations for agency contracts for goods/services are depicted as follows:



Importantly, the above-described opportunities for Bidders to question and/or challenge competitive solicitations for agency contracts for goods/services are not without limitation. Rather, these opportunities are designed to accomplish two primary public policy goals pertaining to the procurement:

1. **Optimize Participation:** Enable interested parties to ask questions regarding the procurement, gain clarity regarding procurement requirements, and provide feedback to the Procuring Agency regarding the procurement; and
2. **Reduce Procurement Integrity Risks:** Enable interested parties to challenge procurement requirements, assumptions, structure; and processes that create



procurement integrity risks (e.g., the procurement as structured unnecessarily reduces competition; the procurement evaluation process is biased or unfair; the procurement is unnecessarily ambiguous or unclear; evaluator bias, discrimination, or conflict of interest; failure to follow specified procurement process).

Accordingly, Bidder opportunities to question and/or challenge competitive solicitations for agency contracts for goods/services are designed – deliberately – to identify problems, if any, as early as possible so that, as appropriate, the procurement can be amended or modified to address the issue in a cost-effective and efficient manner. This also explains why opportunities to challenge such competitive solicitations are more limited later in the procurement process.

## BIDDER COMPLAINTS

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### PURPOSE OF THE COMPLAINT PERIOD

The complaint period is an opportunity to raise objections or concerns or suggest changes to the competitive solicitation that were not addressed during the Question & Answer Period (*see **Competitive Solicitation*** at Section 2.4) or during the Pre-Bid Conference (*see **Competitive Solicitation*** at Section 2.5).

A Bidder's failure to raise a complaint during the complaint period may waive its right for later consideration. The Procuring Agency will consider all complaints but is not required to modify the Competitive Solicitation, in part or in full. If bidder complaints result in changes to the competitive solicitation, the Procuring Agency will post to WEBS written amendments to the Competitive Solicitation.

### COMPLAINT PERIOD

Competitive solicitations for agency contracts for goods/services include a complaint period for Bidders to raise objections to the competitive solicitation. The complaint period ends five (5) business days before the deadline for submitting bids (bid due date) set forth in the competitive solicitation. *See **Competitive Solicitation*** at Section 2.4 [Competitive Solicitation Deadlines].

### CRITERIA FOR COMPLAINT

A complaint may be based only on one or more of the following grounds:

1. The Competitive Solicitation unnecessarily restricts competition;
2. The Competitive Solicitation's evaluation or scoring process is unfair or flawed; or
3. The Competitive Solicitation's requirements are inadequate or insufficient to prepare a response.

### INITIATING A COMPLAINT

A complaint must:

1. Be in writing;
2. Clearly articulate the basis of the complaint and include a proposed remedy (*note: a complaint MUST be based only on one or more of the criteria for complaint set forth above*);
3. State all facts and arguments on which the complaining is relying as the basis for its complaint;

4. Include any relevant documentation or other supporting evidence;
5. Be signed by the complaining Bidder or an authorized agent;
6. Identify the competitive solicitation number;
7. Conspicuously state “Complaint” in any subject line of any correspondence or email;  
and
8. Be timely delivered to the email address or postal address specified below.

#### HOW TO SUBMIT A COMPLAINT

To submit a complaint, Bidders timely must send an email message to the procurement coordinator specified in the Competitive Solicitation, such that it is timely received. *See **Competitive Solicitation*** at Section 2.6 [Competitive Solicitation Questions]. The email message must include “Complaint” in the subject line of the email message.

Alternatively, timely mail the complaint to the procurement coordinator specified in the Competitive Solicitation, such that it is timely received. For Enterprise Services solicitations complaints can be mailed to the following address:

Attn: Procurement Coordinator – Complaint  
Contracts & Procurement Division  
Washington State Department of Enterprise Services  
P.O. Box 41411  
Olympia, WA 98504-1411

Complaints must be timely delivered to and received by the procurement coordinator no less than five (5) business days prior to the deadline for bid submittal [see **Competitive Solicitation** at Section 2.4 (Competitive Solicitation Deadlines)]

#### RESPONSE TO A COMPLAINT

When a complaint is received, the Procurement Coordinator (or designee) will consider all the facts available and respond, in writing, prior to the deadline for bid submittals, unless more time is needed. The Procurement Coordinator will post to WEBS the response(s) to such complaint(s).

#### RESPONSE IS FINAL

The Procurement Coordinator’s response to a complaint is final and not subject to administrative appeal. Issues raised in a complaint may not be raised again during the protest period. Furthermore, any issue, exception, addition, or omission not brought to the attention of the Procurement Coordinator prior to bid submittal may be deemed to be waived for protest purposes.

#### BIDDER DEBRIEF CONFERENCES

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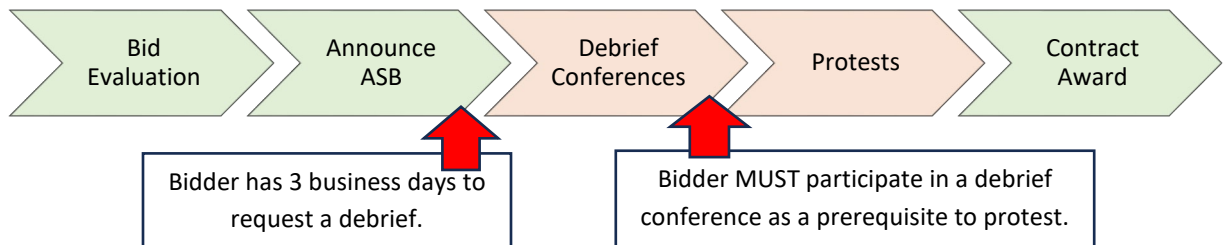
##### PURPOSE OF A DEBRIEF CONFERENCE

Any Bidder who has submitted a timely bid may request a debrief conference. A debrief conference provides an opportunity for the Bidder to meet with the Procuring Agency (typically through the Procurement Coordinator for the Competitive Solicitation) to discuss Bidder’s bid and evaluation. It does

not provide an opportunity to discuss other bids and evaluations. As further explained below, a debrief conference is a necessary prerequisite to filing a protest.

#### TIME PERIOD TO REQUEST A DEBRIEF CONFERENCE

Following bid evaluation, the Procuring Agency will announce the apparent successful bidder (“ASB announcement”). See **Competitive Solicitation** at Section 3 (Announcement of Apparent Successful Bidder). The ASB announcement may be made by any means. Enterprise Services, for example, likely will use email to each bidder’s email address provided by bidder in Bidder’s Certification. See **Competitive Solicitation** at **Exhibit A – Bidder’s Certification** (see bidder information).



Bidders will have three (3) business days to request a debrief conference, if desired.

If a debrief conference is timely requested, the Procuring Agency will offer the requesting Bidder one meeting opportunity and notify the Bidder of the debrief conference place, date, and time. Please note, because the debrief process must occur before making contract awards, the Procuring Agency likely will schedule debrief conferences shortly after the ASB announcement and the Bidder’s request for a debrief conference. The Procuring Agency will not allow the debrief process to delay contract awards. Accordingly, Bidders should plan for contingencies and alternate representatives.

**Bidders who wish to protest must first participate in a debrief conference. Bidders who are unwilling or unable to attend the debrief conference will lose the opportunity to protest. A debrief conference is a required prerequisite for a bidder to file a protest.**

#### INITIATING A DEBRIEF CONFERENCE

A debrief conference request must:

1. Be in writing;
2. Be signed by the requesting Bidder or an authorized agent;
3. Identify the competitive solicitation number;
4. Conspicuously state “Debrief” in any subject line of any correspondence or email; and
5. Be timely delivered to the email address specified below.

#### HOW TO REQUEST A DEBRIEF CONFERENCE

To request a debrief conference, Bidders must, within three (3) business days following ASB announcement, send an email message to the procurement coordinator specified in the competitive solicitation. See **Competitive Solicitation** at Section 2.3 [Competitive Solicitation Questions]. The email message must include “Debrief” in the subject line of the email message.

Debrief conferences may be conducted either in person or virtually (e.g., by telephone or web-based virtual meeting such as MS Teams), as determined by the Procuring Agency, and may be limited by the Procuring Agency to a specified period of time.

#### BIDDER PARTICIPATION IN A DEBRIEF CONFERENCE IS A PERQUISITE TO A BIDDER PROTEST

A Bidder's failure to request a debrief conference within the specified time and attend the debrief conference constitutes a waiver of the right to submit a protest.

#### BIDDER PROTESTS

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Following a Debrief Conference, Bidders may protest the award of a Contract.

#### CRITERIA FOR A PROTEST

A protest may be based **ONLY** on one or more of the following:

1. Bias, discrimination, or conflict of interest on the part of an evaluator;
2. Error in computing evaluation scores; or
3. Non-compliance with any procedures described in the competitive solicitation.

Because protests occur both at the end of a costly and time-consuming process and after Bidders have had opportunities to raise issues or concerns in a Pre-Bid Conference, a Question & Answer Period, a complaint process, and a debrief conference, the protest officer has very narrow jurisdiction and properly may consider a Bidder protest **ONLY** if such Bidder protest clearly meets the criteria for protest set forth herein. Bidder protests that do not meet the criteria for protest set forth herein shall be dismissed and not considered.

#### INITIATING A PROTEST

Any Bidder may protest a contract award to an ASB. A protest must:

1. Be in writing;
2. State all facts and arguments on which the protesting Bidder is relying as the basis for its protest;
3. Include any relevant documentation or other supporting evidence;
4. Be signed by the protesting Bidder or an authorized agent;
5. Identify the competitive solicitation number;
6. Conspicuously state "Protest" in any subject line of any correspondence or email; and
7. Be timely delivered to the email address or postal address specified below.

#### HOW TO SUBMIT A PROTEST – ENTERPRISE SERVICES' COMPETITIVE SOLICITATION

If the protest pertains to a Competitive Solicitation issued by Enterprise Services (either for its own use or as the Procurement Coordinator for a Washington Small Agency), send an email message to Enterprise Services' protest officer at the following email address: [DESDLProcurementProtest@des.wa.gov](mailto:DESDLProcurementProtest@des.wa.gov). The email message must include "Protest" in the subject line of the email message.

Alternatively, mail the protest to the protest officer at the following address:

Attn: Protest Officer  
Contracts & Procurement Division  
Washington State Department of Enterprise Services  
P.O. Box 41411  
Olympia, WA 98504-1411

Protests must be received by the protest officer within five (5) business days after the Debrief Conference; *Provided*, however, that Enterprise Services may extend such time period, by written notice, at its discretion.

#### HOW TO SUBMIT A PROTEST – WASHINGTON STATE AGENCY’ COMPETITIVE SOLICITATION

If the protest pertains to a Competitive Solicitation issued by a Washington state agency other than Enterprise Services, send an email message to the Procuring Agency’s protest officer at the email address listed in the Competitive Solicitation. The email message must include “Protest” in the subject line of the email message. Alternatively, mail the protest to the protest officer at the address listed in the Competitive Solicitation.

Protests must be received by the protest officer within five (5) business days after the Debrief Conference; *Provided*, however, that the Procuring Agency may extend such time period, by written notice, at its discretion.

#### PROTEST RESPONSE

For protests that meet the criteria for protest set forth above, the protest officer, after reviewing the protest and available facts, will issue a written response within ten (10) business days from receipt of the protest, unless additional time is needed.

#### DECISION IS FINAL

The protest decision is final and not subject to administrative appeal. If the protesting Bidder does not accept the Procuring Agency’s protest response, the Bidder may seek relief in Thurston County Superior Court.

### § 3 – CONTRACTING WITH THE STATE OF WASHINGTON FOR GOODS/SERVICES

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This section provides additional information regarding how certain aspects of competitive solicitations for agency contracts for goods/services impact how businesses do business with the State of Washington. This section includes information regarding the following:

- WEBS registration;
- Business license and state registration;
- Washington’s Public Records Act & public records disclosure requests;
- State procurement priorities and bid preferences; and
- State procurement priorities – environmentally preferable products.

#### WEBS REGISTRATION

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Individuals and firms interested in contracting opportunities with any Washington state agency should register for competitive solicitation notices at the Washington Electronic Business Solution ([WEBS](#)) [WEBS Registration](#). There is no cost to register in WEBS.

#### WEBS:

- Is the web-based vendor registration and bid notification system administered by Enterprise Services.
- Enables businesses to find and receive notices regarding current public agency competitive solicitations for:
  - Goods/Services;
  - Architectural & Engineering Services;
  - Public Works; and
  - Real Estate Leasing.
- Includes all businesses who are interested in contracting with the state.
- Includes all competitive solicitations for goods/services issued by all Washington state agencies. See [RCW 39.26.150](#).
- Includes contract award results regarding all competitive solicitations for goods/services issued by all Washington state agencies. See [RCW 39.26.160\(7\)](#) (requiring Washington state agencies to enter into WEBS the name of each bidder and an indication as to the successful bidder).

*Note:* To be eligible for a goods/services contract award, Bidders must be registered in WEBS.

#### BUSINESS LICENSE & STATE REGISTRATION

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To be eligible for a contract award to provide goods/services to Washington state agencies, Bidders – including Washington state businesses and out-of-state businesses – must satisfy the following requirements prior to Contract Award:

- Washington Business License: Awarded Bidders must have a Washington Business License issued by the Washington State Department of Revenue;

- Registration with the Washington State Department of Revenue: Awarded Bidders must be registered with the Washington State Department of Revenue (which occurs when applying for a Washington Business License); and
- Registration with the Washington Secretary of State: Awarded Bidders, except for sole proprietors and general partnerships, must be registered with the Washington Secretary of State.

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WASHINGTON'S PUBLIC RECORDS ACT – PUBLIC RECORDS DISCLOSURE REQUESTS

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*Note:* This section applies to Competitive Solicitations issued by Enterprise Services for its own use. Other Washington state agencies, including Washington small agencies, may have different requirements. Bidders should check with the Procuring Agency.

All documents (written and electronic) submitted to Enterprise Services as part of competitive solicitation for an agency contract for goods/services are public records. Unless statutorily exempt from disclosure, such records are subject to disclosure *if* requested. See [RCW 42.56](#), Public Records Act. Enterprise Services and Procuring Agencies strongly discourage Bidders from unnecessarily submitting sensitive information (e.g., information Bidders may categorize as 'confidential,' 'proprietary,' 'sensitive,' 'trade secret,' etc.).

- If, in Bidder's judgment, Washington's Public Records Act provides an applicable statutory exemption from disclosure for certain portions of Bidder's bid, please mark the precise portion(s) of the relevant page(s) of the bid that Bidder believes are statutorily exempt from disclosure and identify the precise statutory basis for exemption from disclosure.
- In addition, if, in Bidder's judgment, certain portions of Bidder's bid are not statutorily exempt from disclosure but are sensitive because these particular portions of Bidder's bid (NOT including pricing) include highly confidential, proprietary, or trade secret information (or the equivalent) that Bidder protects through the regular use of confidentiality or similar agreements and routine enforcements through court enforcement actions, please mark the precise portion(s) of the relevant page(s) of Bidder's bid that include such sensitive information.

In the event that Enterprise Services or the Procuring Agency receives a public records disclosure request pertaining to information that Bidder has submitted and marked either as (a) statutorily exempt from disclosure; or (b) sensitive, Enterprise Services, prior to disclosure, will do the following:

- Enterprise Services' or the Procuring Agency's Public Records Officer will review any records marked by Bidder as statutorily exempt from disclosure. In those situations, where Bidder's designation of the precise portion(s) of the relevant page(s) of Bidder's bid aligns with the stated precise statutory exemption from disclosure, Enterprise Services will redact or withhold the precise portion(s) of the relevant page(s) of Bidder's bid document(s) as appropriate.
- For documents marked by Bidder as 'sensitive' or for documents where Enterprise Services or the Procuring Agency either determines that no statutory exemption to disclosure applies or is unable to determine whether the stated precise statutory exemption to disclosure properly applies, Enterprise Services or the Procuring Agency will notify Bidder, at the address provided in the bid submittal, of the public records

disclosure request and identify the date that Enterprise Services intends to release the document(s) (including documents marked 'sensitive' or exempt from disclosure) to the requester unless Bidder, at Bidder's sole expense, timely obtains a court order enjoining Enterprise Services or the Procuring Agency from such disclosure. In the event Bidder fails to timely file a motion for a court order enjoining such disclosure, Enterprise Services or the Procuring Agency will release the requested document(s) on the date specified. Bidder's failure properly to identify exempted or sensitive information or timely respond after notice of request for public disclosure has been given shall be deemed a waiver by Bidder of any claim that such materials are exempt or protected from disclosure.

#### ENVIRONMENTAL SUSTAINABILITY

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The Washington State Legislature and Governor have enacted or ordered Washington state agencies, through their procurement of goods and services to consider or prefer goods and/or activities that either promote environmental sustainability or reduce adverse environmental impacts (e.g., greenhouse gas reduction). As appropriate, in procuring Goods/Services, Procuring Agencies diligently endeavor to implement various state environmental procurement priorities, including:

- Products containing recycled material. See [RCW 39.26.255](#). See also, [Enterprise Services Policy No. POL-DES-255-00 – Recycled Content Purchasing Preference](#).
- Electronic Products that reduce or eliminate hazardous materials. See [RCW 39.26.265](#). See also, [ENTERPRISE SERVICES POLICY NO. POL-DES-265-00 – Electronic Products Purchasing Preference](#).
- Products and product packaging that do not contain polychlorinated biphenyls (PCBs). See [RCW 39.26.280](#). See also, [ENTERPRISE SERVICES POLICY NO. POL-DES-280-00 – Purchasing Preference for Products and Packaging That Do Not Contain Polychlorinated Biphenyls \(PCBs\)](#).
- Products that do not contain hydrofluorocarbons (HFCs). See [RCW 39.26.310](#). See also, [ENTERPRISE SERVICES POLICY NO. POL-DES-310-00 – Purchasing Preference for Products Not Containing Hydrofluorocarbons \(HFCs\)](#).
- Nonmercury-Added Products. See [RCW 70A.230](#). See also [ENTERPRISE SERVICES POLICY NO. POL-DES-70A-230-00 – Nonmercury-Added Products Purchasing Preference Policy](#).

Bidders, of course, are welcome to inform Enterprise Services and Procuring Agencies of goods and or services that align with such environmental sustainability procurement priorities.

#### POLYCHLORINATED BIPHENYLS (PCBs) NOTICE

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Polychlorinated biphenyls, commonly known as PCBs, have adverse effects on human health and the environment. Accordingly, the State of Washington, through its procurements of goods/services, is trying to minimize the purchase of products with PCBs and to incentivize its contractual vendors to sell products and products-in-packaging without PCBs.



## § 4 – REQUIRED CONTRACT PROVISIONS, CONTRACT PROVISIONS THAT WILL NOT BE INCLUDED, & CERTAIN ECONOMIC PROVISIONS THAT BIDDERS TIMELY MAY REQUEST BE MODIFIED

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### OVERVIEW: CONTRACT REQUIREMENTS FOR AGENCY CONTRACTS FOR GOODS/SERVICES

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Agency contracts for goods/services, in addition to addressing procurement-specific transactional issues (e.g., ordering, delivery, performance requirements, etc.), must comply with:

- Washington’s Procurement Code for Goods/Services ([RCW 39.26](#));
- Enterprise Procurement Policies pertaining to procurements for goods/services;
- State procurement priorities (e.g., contracting and procurement requirements established by the Washington State Legislature and the Governor);
- Other applicable laws; and
- Procurement integrity requirements.

Accordingly, agency contracts for goods/services necessarily must:

- **Include** certain terms and conditions that are NOT negotiable and that may be unfamiliar to parties who do not frequently contract with governmental entities; and
- **Exclude** certain terms and conditions that, although perhaps common in private sector contracts for goods/services, are not permitted as a matter of law or policy in state contracts for goods/services.

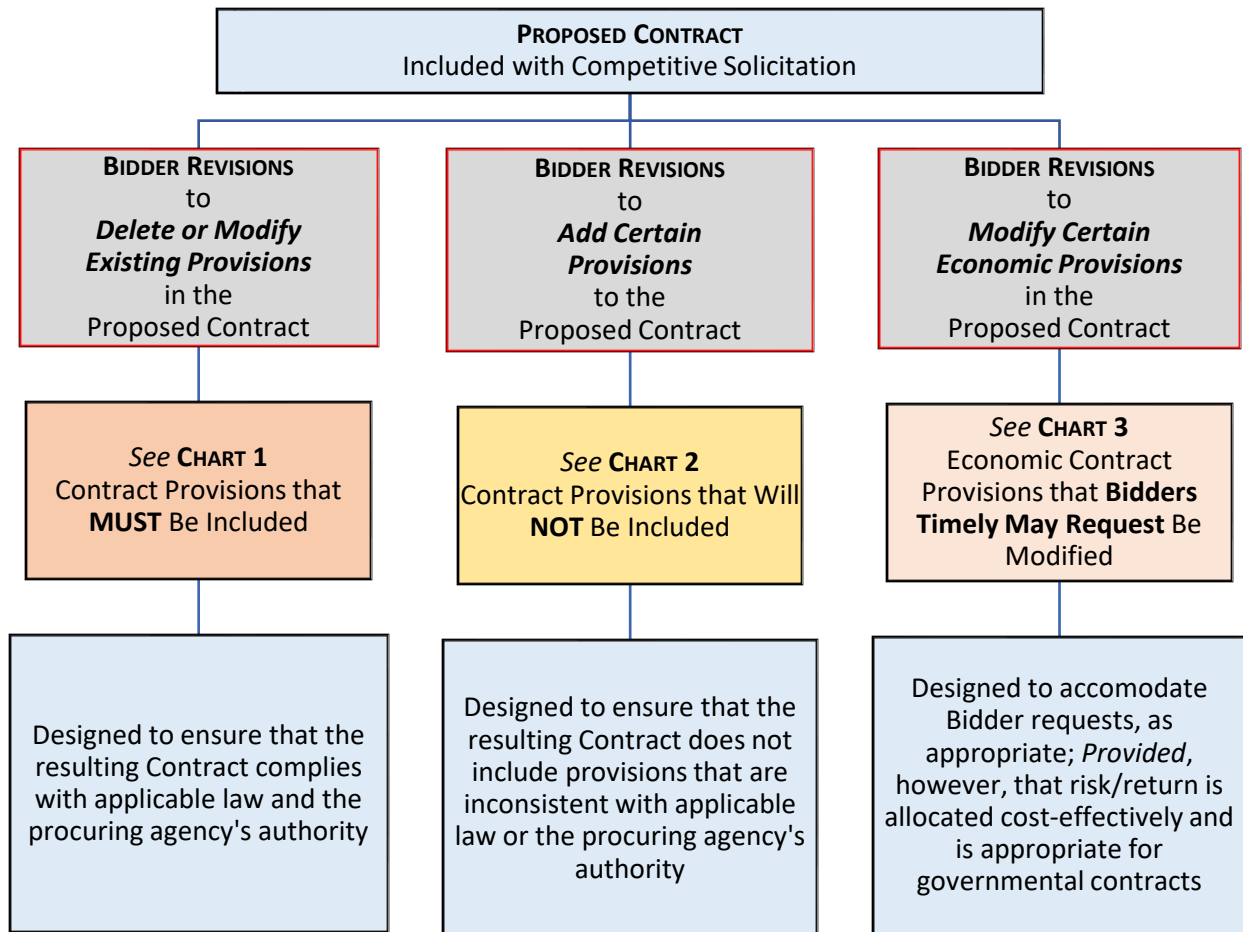
This section includes three high level summary charts:

- *Chart 1 – Contract Provisions that MUST Be Included in Agency Contracts for Goods/Services;*
- *Chart 2 – Contract Provisions that Will NOT Be Included in Agency Contracts for Goods/Services; and*
- *Chart 3 – Economic Contract Provisions that Bidders Timely May Request Be Modified.*

*Charts 1 and 2* are designed to provide Bidders a high-level overview and identify certain contract provisions that MUST be included (*Chart 1*) or will NOT be included (*Chart 2*) in the resulting contract for goods/services as well as a brief summary explaining why the particular provision either must be included or will NOT be included. *Chart 3*, by contrast, is designed to identify contract provisions that Bidders timely may request be modified – prior to close of the Question & Answer Period – for ALL Bidders.

The above-referenced charts are differentiated to provide greater clarity, transparency, and fairness to all stakeholders. In addition, because the charts address different concepts, the charts are separated.

As depicted in the graphic below, without certain limitations on substantive modifications to proposed contracts for goods/services (either to delete or modify existing provisions or to add certain provisions), the contracting and procurement process can become needlessly complex and uncertain, both of which are factors that undermine cost-effective and efficient procurement.



This clear, transparent approach to procurement and contracting is designed to promote procurement integrity. Competitive Solicitations for goods/services contracts that lack clear, transparent, known limitations regarding substantive modifications to the proposed contract, create unnecessary inefficiencies in the procurement process. For example, without clear, transparent, known limitations regarding substantive modifications to the proposed contract:

- Bidders, incorrectly, may be tempted to price in contract performance that does not align with the proposed contract but rather with a hypothetical contract that the bidder is hopeful to end up with through a negotiation process to eliminate or modify certain contract provisions and include other contract provisions designed to benefit the bidder.
- Bidders, who believe they have market or negotiating power, are incentivized to seek contract modifications to their benefit, typically late in the procurement process where the procurement authority has sunk costs and competing bidders may have been eliminated.
- Bidders may seek to have the procuring agency accept contract provisions that are beyond the agency’s authority or create ambiguity regarding such contract provisions

- (e.g., 'to the extent allowed by law') that serve to benefit only the bidder, while undermining the agency's efforts to turn square corners.
- Bidders, if economically rational, will be incentivized to propose or demand contract provisions (e.g., cap on damages) that fundamentally change the procurement by abandoning the proposed risk/return allocation and substituting a different approach ... again ... late in the procurement process.

CHART 1 – CONTRACT PROVISIONS THAT MUST BE INCLUDED IN AGENCY CONTRACTS FOR GOODS/SERVICES

The following chart identifies contract provisions that **MUST** be included in agency contracts for goods/services. Accordingly, the Procuring Agency will **NOT** negotiate these provisions. **Bids that are conditioned on modifying any of these provisions will be deemed to be nonresponsive and such bids will not be considered.**

<b>CHART 1</b>	<b>CONTRACT PROVISIONS THAT MUST BE INCLUDED IN AGENCY CONTRACTS FOR GOODS/SERVICES</b>
PROVISION	REASON FOR REQUIRING THE CONTRACT PROVISION
<i>Prohibition on Advance Payment</i>	Unless expressly allowed by statute, advance payment for goods/services is prohibited. See <a href="#">RCW 43.88.160</a> . The State considers payment for goods/services in advance of delivery/performance to be an impermissible extension of the State’s credit. In addition, as a public policy matter, advance payment for goods/services is an unacceptable financial risk for stewards of public funds. See also, Washington Office of Financial Management, <a href="#">STATE ADMINISTRATIVE AND ACCOUNTING MANUAL, at ch. 85.32</a> .
<i>Records Retention</i>	As stewards of public funds and as a procurement integrity matter, state agencies are obligated to maintain contract records and require contractual counterparties to do the same. Records must be maintained for the applicable statutory period, which is 6 years following expiration or termination of the contract. See <a href="#">RCW 40.14.060</a> .
<i>Audit</i>	State contracts for goods/services are subject to audit by the Washington State Auditor. See <a href="#">RCW 43.09.055</a> . The right to audit state contracts is an essential procurement integrity safeguard.
<i>Workers’ Compensation</i>	Pursuant to Washington law, unless exempted, employers are required to provide workers compensation. See <a href="#">Title 51, RCW</a> .
<i>Termination for Nonappropriation, Reduction of Funds, or Change In Law</i>	Washington state agencies must act within their authorized authority. The Washington State Legislature is empowered to change or limit state agency authority. Accordingly, agency contracts for goods/services must include provisions to accommodate Legislative actions that would impact agency contracts.
<i>Termination for Public Convenience</i>	State agencies, as stewards of public funds, must include the option to terminate a contract for public convenience.
<i>Public Records Act</i>	Unless statutorily exempt from public disclosure, contracts for goods/services and all related records are subject to public disclosure as required by Washington’s Public Records Act. See <a href="#">RCW 42.56</a> .

<b>CHART 1</b>	<b>CONTRACT PROVISIONS THAT MUST BE INCLUDED IN AGENCY CONTRACTS FOR GOODS/SERVICES</b>
PROVISION	REASON FOR REQUIRING THE CONTRACT PROVISION
<i>Nondiscrimination</i>	The Washington State Legislature requires that contracts for goods/services include this provision. See <a href="#">RCW 39.26.245(3)</a> .
<i>Wage Theft</i>	The Washington State Legislature requires that contracts for goods/services not be awarded to any person or entity who has violated specified prohibitions against wage theft. See <a href="#">RCW 39.26.160(2)(f)</a> .
<i>Assignment</i>	The contract is the result of a competitive solicitation in which the contract must only be awarded to a responsible bidder. See <a href="#">RCW 39.26.160(2)</a> . Accordingly, awarded contractors are prohibited from assigning the contract except as set forth in the contract.
<i>Assignment of Antitrust Rights</i>	This provision is required as a result of the U.S. Supreme Court's decision in <a href="#">Illinois Brick Co. v. Illinois, 431 U.S. 720</a> (1977) so that the State, as an indirect purchaser, is not precluded from recovering antitrust damages for price fixing.
<i>Governing Law</i>	This is a contract for goods/services with a Washington state agency. Accordingly, the contract is governed by Washington law.
<i>Jurisdiction &amp; Venue</i>	This is a contract for goods/services with a Washington state agency. Accordingly, Enterprise Services, contractually, will not agree to jurisdiction and venue other than as set forth in the contract provision.
<i>Washington's Electronic Business Solution (WEBS)</i>	Washington's Electronic Business Solution (WEBS) is the State's contract registration system. See <a href="#">RCW 39.26.150</a> ; <a href="#">39.26.160(7)</a> . State contractors are required to be registered in WEBS and certify that the contractor's information therein is current and accurate.
<i>Washington's Statewide Payee Desk</i>	To be paid, contractors must register with Washington's Statewide Payee Desk. See Washington Office of Financial Management, <a href="#">Statewide Payee Desk</a> .

CHART 2 – CONTRACT PROVISIONS THAT WILL NOT BE INCLUDED IN AGENCY CONTRACTS FOR GOODS/SERVICES

The following chart identifies certain contract provisions that Enterprise Services will NOT include in agency contracts for goods/services. Generally speaking, Enterprise Services (or, as applicable, the specified Washington state small agency) has not been granted authority to include these specific provisions in agency contracts for goods/services (e.g., including such provision would violate applicable law, impermissibly intrude on another agency’s authority, etc.). Accordingly, **bids that are conditioned on modifying the contract to include any of the provisions set forth in Chart 2 will be deemed to be nonresponsive and will not be considered.**

<b>CHART 2</b>	<b>CONTRACT PROVISIONS THAT WILL NOT BE INCLUDED IN STATE CONTRACTS FOR GOODS/SERVICES</b>
PROVISION	REASON FOR NOT INCLUDING SUCH CONTRACT PROVISION
<i>Waiver of Sovereign Immunity</i>	The State of Washington is a sovereign governmental entity and will not include any contract provision(s) to agree to waive its sovereign immunity.
<i>Mutual Termination</i>	Procurements for agency contracts for goods/services are the result of a competitive procurement process in which contracts are awarded to responsible bidders. The procurement requires that the contract be for a specified period of time. Accordingly, early termination by a contractor would not enable the Procuring Agency to compare and evaluate bids. In addition, contractors who would seek to terminate the contract prior to the agreed term would NOT qualify as a responsible bidder for purposes of contract award. See <a href="#">RCW 39.26.160(2)</a> .
<i>Mutual Indemnification</i>	Pursuant to state law, Washington state agencies are prohibited from agreeing to indemnify contractual counterparties unless the Washington State Legislature <u>expressly has provided</u> the agency with authority to indemnify. The Washington State Legislature has <i>NOT</i> provided the Procuring Agency with any authority to indemnify contractual counterparties in contracts for goods/services. See <a href="#">RCW 43.19</a> .
<i>Confidential Pricing</i>	Agency contracts for goods/services are public records and the public is entitled to know the contract pricing. In addition, confidential pricing would create obvious substantial procurement integrity risks and violate Washington’s Public Records Act. See <a href="#">RCW 42.56</a> .
<i>Confidentiality / Non-Disclosure</i>	Unless statutorily exempt from public disclosure, contracts for goods/services and all related records are subject to public disclosure as required by Washington’s Public Records Act. See <a href="#">RCW 42.56</a> . Accordingly, the Procuring Agency cannot contractually agree not to disclose public records.

<b>CHART 2</b>	<b>CONTRACT PROVISIONS THAT WILL NOT BE INCLUDED IN STATE CONTRACTS FOR GOODS/SERVICES</b>
PROVISION	REASON FOR NOT INCLUDING SUCH CONTRACT PROVISION
<i>Binding Arbitration</i>	As a sovereign immunity issue, the Procuring Agency will not contractually agree to binding arbitration to resolve contract disputes.
<i>Hyperlinks</i>	Procuring Agency will not agree to contract provisions that impose obligations by reference – i.e., hyperlinks to additional terms and conditions that a contractor can modify unilaterally.

CHART 3 – ECONOMIC CONTRACT PROVISIONS THAT BIDDERS TIMELY MAY REQUEST BE MODIFIED

Bidders, however, may request Contract modifications to any of the provisions set forth in *Chart 3*; *Provided*, however, that such Bidder request must timely be made, in writing, during the Competitive Solicitation’s Question & Answer Period. In addition, such Bidder requests must provide a compelling reason as to why the requested provision is in the best interest of the Procuring Agency/State (e.g., a damage cap results in lower costs to Purchasers) and would not present unnecessary risk to the State.

Bidder requests to modify the Contract to include any of the provisions set forth in *Chart 3* that merely opine that such provision is ‘customary,’ the ‘normal course of business,’ or similar reasoning are presumed to be insufficient justification to modify the Contract to include such provisions.

<b>CHART 3</b>	<b>ECONOMIC CONTRACT PROVISIONS THAT BIDDERS TIMELY MAY REQUEST BE MODIFIED</b>
PROVISION	RATIONALE FOR CONTRACT PROVISION & MODIFICATION LIMITS
<i>Economic Adjustment</i>	<p>RATIONALE FOR CONTRACT PROVISION: Agency contracts for goods/services are competitively solicited and awarded. Accordingly, in making contract awards, the Procuring Agency must be able to evaluate and compare bids, including the pricing for the goods/services. As a procurement integrity matter, the competitive solicitation specifies bid pricing and, as appropriate, the Contract includes economic adjustment provisions to address price risks typically beyond the Contractor’s control (e.g., economic adjustment for inflation).</p> <p>MODIFICATION LIMITS: Except as expressly set forth in the contract included as part of the Competitive Solicitation, Procuring Agency will not agree to any contract revisions, modifications, or additions designed to enable Contractor, unilaterally, to increase prices for included Goods/Services.</p>
<i>Limitation of Liability and/or Damage Caps</i>	<p>RATIONALE FOR CONTRACT PROVISION: Agency contracts for goods/services are designed to be commercially reasonable and to allocate risk/return to, among other things, incentivize prudent, responsible behavior. Provisions that limit a contractor’s liability for damages <u>caused by the contractor</u> and/or cap or exclude damages <u>caused by the contractor</u> result in transferring such risk to the agency who is NOT in a position to manage such risk effectively or obtain financial concessions for doing so.</p> <p>MODIFICATION LIMITS: Except as expressly set forth in the contract included as part of the Competitive Solicitation, Procuring Agency will not agree to any contract revisions, modifications, or additions designed to:</p> <ul style="list-style-type: none"> <li>▪ Cap or limit Contractor’s liability;</li> <li>▪ Exclude damages for personal injury, property damage, or intellectual property infringement; or</li> <li>▪ Exclude damages that are reasonable and foreseeable.</li> </ul>



<b>CHART 3</b>	<b>ECONOMIC CONTRACT PROVISIONS THAT BIDDERS TIMELY MAY REQUEST BE MODIFIED</b>
PROVISION	RATIONALE FOR CONTRACT PROVISION & MODIFICATION LIMITS
<i>Insurance Requirements</i>	<p>RATIONALE FOR CONTRACT PROVISION: The insurance requirements are designed to:</p> <ul style="list-style-type: none"> <li>▪ Ensure that the awarded contractor will have certain minimal insurance coverages such that, in the event of a claim, the contractor is less likely to go out of business and adversely impact the procurement solution (contractors who do not meet applicable insurance requirements are not responsible bidders for purposes of contract awards); and</li> <li>▪ Provide a source of funds to stand behind the contractor’s contractual indemnity obligation.</li> </ul> <p>MODIFICATION LIMITS: Except as expressly set forth in the contract included as part of the Competitive Solicitation, Procuring Agency will not agree to any contract revisions, modifications, or additions that unnecessarily compromise the rationale for the insurance coverages set forth in <i>Exhibit C – Insurance Requirements</i> of the contract.</p>

## § 5 – CONTRACTING OPPORTUNITIES FOR SMALL & DIVERSE BUSINESSES

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This section provides information regarding Washington State Agencies' efforts to enable Washington's small, diverse, and veteran-owned businesses to compete for and participate in agency contracts for goods/services.

### ENTERPRISE SERVICES' GOALS

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Enterprise Services, in accordance with Washington law, encourages small and diverse businesses to compete for and participate in state procurements as contractors and as subcontractors to awarded Bidders. *See, e.g.*, [RCW 39.19](#) (OMWBE certified businesses); [RCW 43.60A.200](#) (WDVA Certified Veteran-Owned Businesses); and [RCW 39.26.005](#) (Washington Small Businesses). In support of the state's economic goals and to support a diverse supplier pool, Enterprise Services has established the following voluntary numerical goals for Enterprise Services' Competitive Solicitations:

- Ten percent (10%) Minority-Owned Businesses certified by the Washington State Office of Minority and Women's Business Enterprises (OMWBE);
- Six percent (6%) Women-Owned Businesses certified by the Washington State Office of Minority and Women's Business Enterprises (OMWBE);
- Five percent (5%) Veteran-Owned Businesses certified by the Washington State Department of Veterans Affairs (WDVA); and
- Twenty-five percent (25%) Washington Small Businesses, five percent (5%) of which are microbusinesses or minibusinesses as defined in RCW 39.26.010(16) and (17).

Achievement of these goals is encouraged whether directly or through subcontractors.

### WASHINGTON STATE AGENCY GOALS

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Washington state agencies, in accordance with Washington law, encourage small and diverse businesses to compete for and participate in state procurements as contractors and as subcontractors to awarded Bidders. *See, e.g.*, RCW 39.19 (OMWBE certified businesses); RCW 43.60A.200 (WDVA Certified Veteran-Owned Businesses); and RCW 39.26.005 (Washington Small Businesses). In support of the state's economic goals and to support a diverse supplier pool, each state agency has established their own voluntary numerical goals for Competitive Solicitations, which generally are consistent with Enterprise Services' goals, but may vary by agency.

### RESOURCES FOR WASHINGTON SMALL BUSINESSES

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Bidders may contact procurement professionals about small and diverse business inclusion and qualification as a Washington Small Business. If Bidder qualifies as a Washington Small Business, identify Bidder as such in WEBS. Call WEBS Customer Service at 360-902-7400. The qualification requirements to self-certify as a Washington Small Business are set forth in ***Exhibit A – Bidder's Certification***.

## RESOURCES FOR VETERAN-OWNED BUSINESSES – CERTIFICATION AS A CERTIFIED VETERAN-OWNED BUSINESS

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Bidders may contact the [Washington State Department of Veterans' Affairs](#) (WDVA) for information regarding Certified Veteran-Owned Businesses or to become a Certified Veteran-Owned Business. The WDVA can be reached by telephone, (360) 725-2169, or through their website at [WDVA](#). The qualification requirements to be a Certified Veteran-Owned Business are set forth in ***Exhibit A – Bidder's Certification***.

## RESOURCES FOR OMWBE CERTIFICATION

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OMWBE CERTIFICATION. Bidders may contact the Washington State [Office of Minority and Women's Business Enterprises](#) (OMWBE) regarding information on Minority-Owned and Women-Owned certified firms, state and federal certification programs, or to become certified. OMWBE can be reached by telephone, 866-208-1064, or through their website at [OMWBE](#).

## APPENDIX A – TERMINOLOGY PERTAINING TO COMPETITIVE SOLICITATIONS FOR AGENCY CONTRACTS FOR GOOD/SERVICES

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Competitive solicitations for agency contracts for goods/services use terms derived from Washington’s Procurement Code for Good/Services ([RCW 39.26](#)) and certain other commonly used terms. Typically, when a term is defined in the competitive solicitation, the term will be formatted to appear in initial caps – e.g., if the term ‘purchaser’ is defined in the competitive solicitation, the term typically would appear in the competitive solicitation as Purchaser.

Although Bidders should rely on terms defined in the specific competitive solicitation, the following terms commonly are used in competitive solicitations for agency contracts for goods/services (note: if the definition of a particular term uses a defined term, such defined terms are formatted in italics) (if the definition references a document that is specific to a particular procurement – e.g., the Competitive Solicitation that you, as a bidder, may be interested in submitting a bid, those documents are identified ***in bold italics***):

- *Agency Contract for Goods/Services*: A contract or convenience contract for goods/services that is competitively solicited and awarded by:
  - Enterprise Services for its own use (or, in the case of a *convenience contract*, for use by Enterprise Services and the other specified state agencies);
  - Enterprise Services as the Procurement Coordinator for a specified Washington Small Agency for the small agency’s use (or, in the case of a *convenience contract*, for use by the specified Washington Small Agency and the other specified state agencies); or
  - A specified *Washington State Agency* for the specified agency’s use (or, in the case of a *convenience contract*, for use by the specified Washington State Agency and the other specified state agencies).
- *Apparent Successful Bidder (ASB)*: A bidder, who after review and evaluation appears to be a successful bidder. Such bidder also must be determined to be a *responsible bidder* to be eligible for a contract award.
- *Bid*: An offer, proposal, or quote by a bidder for goods/services provided in response to a competitive solicitation for an agency contract goods/services. See [RCW 39.26.010\(2\)](#). The competitive solicitation will state what documents and information bidders must provide to constitute a complete bid (i.e., *required bid submittals*).
- *Bid Protest*: A qualifying protest pertaining to the selection of the *apparent successful bidder*. A bid protest must follow a *debrief conference*, be timely, and comply with the requirements for bid protests identified in the *competitive solicitation*.
- *Bid Submission Deadline*: The deadline stated in the *competitive solicitation* for bidders to submit a timely bid. Because bidders must submit bids electronically, by email, bid submission deadlines frequently are stated as a date (e.g., April 15, 2025) and bidders timely may submit a bid up to one (1) second before midnight on such date. Commonly, however, the *competitive solicitation* will state a precise deadline to submit a bid (e.g., by 11:59:59pm Pacific Time, April 15, 2025).

- **Bid Evaluation:** The process and act of evaluating *bids* pertaining to a *competitive solicitation*.
- **Bidder:** An individual or entity who submits a *bid* in response to a *competitive solicitation* for an *agency contract for goods/services*. See [RCW 39.26.010\(3\)](#).
- **Bidder Contracting Guide for Agency Contracts for Goods/Services:** This document.
- **Bidder's Certification:** *Certifications* provided by a *bidder* as part of a *bid*. See **Competitive Solicitation at Exhibit A – Bidder's Certification**.
- **Certified Veteran-Owned Business:** A business that meets all of the following requirements:
  - The business must be at least fifty-one percent (51%) owned and controlled by: (a) A veteran as defined as every person who at the time he or she seeks certification has received a discharge with an honorable characterization or received a discharge for medical reasons with an honorable record, where applicable, and who has served in at least one of the capacities listed in [RCW 41.04.007](#); (b) A person who is in receipt of disability compensation or pension from the department of veterans affairs; or; and (c) An active or reserve member in any branch of the armed forces of the United States, including the national guard, coast guard, and armed forces reserves.
  - The business must be either an entity that is incorporated in the State of Washington as a Washington domestic corporation or, if not incorporated, an entity whose principal place of business is located within the State of Washington.
  - The business must have certified its Veteran-Owned Business status in [WEBS](#).
  - The business must have provided certification documentation to the Washington Department of Veterans' Affairs (WDVA) and be certified by WDVA and listed as such on WDVA's website (WDVA – Veteran-Owned Businesses).

See also, **Competitive Solicitation at Exhibit A – Bidder's Certification**.

- **Competitive Solicitation:** A documented formal process providing an equal and open opportunity to *bidders* and culminating in a selection based on predetermined criteria. See [RCW 39.26.010\(6\)](#); see also, [RCW 39.26.120](#).
- **Complaint:** A qualifying complaint pertaining to a *competitive solicitation*. A complaint must be timely and comply with the requirements for complaints identified in the *competitive solicitation*.
- **Complaint Process:** The process specified in the *competitive solicitation* to submit a *complaint*, have the *complaint* considered, and when applicable, modify the *competitive solicitation*. See [RCW 39.26.170\(1\)](#).
- **Contract:** See *Agency Contract for Goods/Services*.
- **Contract Award:** The formal process of notifying an *apparent successful bidder* that they are being awarded a competitively solicited *contract*.

- *Contracting Guide*: See *Bidder Contracting Guide for Agency Contracts for Goods/Services*.
- *Contractor*: An individual or entity awarded an *agency contract for goods/services* pursuant to which such *contractor* may perform a *service* or provide *goods* to the specified agency(ies) in the *contract*. See [RCW 39.26.010\(7\)](#).
- *Convenience Contract*: A contract for specific *goods/services*, approved by *Enterprise Services* and solicited and established in accordance with *Washington's Procurement Code for Goods/Services*, for use by a specified group of Washington state agencies. See [RCW 39.26.070](#).
- *Cost Factors*: Specified factors to be evaluated that impact the price of the *goods/services* that are being procured.
- *Debrief Conference*: A conference, following announcement of *apparent successful bidder*, between a *bidder* and the *procurement coordinator* to discuss *bidder's bid* and *bid evaluation*.
- *Enterprise Services*: The Washington State Department of Enterprise Services, a Washington state governmental agency.
- *Ethics Act*: See [RCW 42.52](#) – Ethics in Public Service.
- *Goods*: Means products, materials, supplies, or equipment specified in the *competitive solicitation* and resulting *contract* provided by a *contractor*. See [RCW 39.26.010\(12\)](#).
- *Goods/Services or Goods and/or Services*: Means *goods* and/or *services*. When used in a *competitive solicitation* or *agency contract for goods/services*, *goods/services* refers to the specified *goods* and/or *services* that are included in the scope of the procurement.
- *Microbusiness*: Any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that: (a) Is owned and operated independently from all other businesses; and (b) has a gross revenue of less than \$1,000,000 annually as reported on its federal tax return or on its return filed with the Washington State Department of Revenue. See [RCW 39.26.010\(16\)](#).
- *Minibusiness*: Any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that: (a) Is owned and operated independently from all other businesses; and (b) has a gross revenue of less than \$3,000,000, but \$1,000,000 or more annually as reported on its federal tax return or on its return filed with the department of revenue. See [RCW 39.26.010\(17\)](#).
- *Non-Cost Factors*: Specified factors, other than *cost factors*, to be evaluated pertaining to the *goods/services* that are being procured.
- *Notice of Award*: A written notification to the *apparent successful bidder* that such *bidder* is being awarded a competitively solicited *contract*.
- *OMWBE*: The Washington State Office of Minority & Women's Business Enterprises, a Washington state governmental agency.

- *Performance Requirements*: The requirements specified in a *competitive solicitation* for *goods/services* pertaining to the *goods/services* and/or the *bidder's* required performance capability.
- *Pre-Bid Conference*: A conference organized by the *procurement coordinator* to discuss the *competitive solicitation* with interested *bidders*.
- *Procurement Coordinator*: The individual specified in the *competitive solicitation* who is tasked with administering the *competitive solicitation*.
- *Procuring Agency*: The Washington state agency who will execute the *agency contract* for *goods/services* resulting from the *competitive solicitation*. Note: if the *competitive solicitation* is for a *convenience contract*, *procuring agency* includes each agency specified as a *procuring agency* in the *competitive solicitation*.
- *Protest*: A qualifying protest pertaining to the announced *apparent successful bidder* of a *competitive solicitation*. A protest must be timely and comply with the requirements for protests identified in the *competitive solicitation*.
- *Protest Officer*: The person designated to review and respond to a bid protest.
- *Protest Process*: The process specified in the *competitive solicitation* to submit a *protest* and have the *protest* considered. See [RCW 39.26.170\(2\)](#).
- *Public Records Act*: See [RCW 42.56](#) – Public Records Act.
- *Purchase*: To obtain a specified *good/service* included within the scope of a *contract*, by paying the *contractor* for such *good/service*.
- *Purchase Order*: A document used by a purchaser and provided to an *awarded contractor* to *purchase goods/services* included in the scope of the *contract*. A purchase order typically will indicate quantities ordered, delivery location, invoice address, etc.
- *Purchaser*: The Washington state agency(ies) identified in the *competitive solicitation* and the *agency contract for goods/services*. The *purchaser* also may be identified as the 'procuring agency(ies)'. Unless the applicable *agency contract for goods/services* is a *convenience contract*, there will be a single *purchaser* – i.e., the agency for whom the *competitive solicitation* is issued.
- *Question & Answer Period*: The time period specified in the *competitive solicitation* during which *bidders* timely may submit questions regarding the procurement – e.g., procurement scope, specifications, performance requirements, contractual terms and conditions.
- *RCW*: The Revised Code of Washington (RCW) is the compilation of all permanent laws now in force. It is a collection of Session Laws (enacted by the Legislature, and signed by the Governor, or enacted via the initiative process), arranged by topic, with amendments added and repealed laws removed.
- *Required Bid Submittals*: The submittals specified in the *competitive solicitation* that *bidders* must submit as part of a *responsive bid*.
- *Responsible Bidder*: A *bidder* who the *procurement coordinator* determines, on a pass/fail basis, satisfies the bidder responsibility criteria specified in the *competitive*

*solicitation*, including the factors set forth in *Washington's Procurement Code for Goods/Services*. See [RCW 39.26.160\(2\)](#).

- **Responsive Bid:** A *bid* that meets the criteria specified in the *competitive solicitation*.
- **Services:** Means labor, work, analysis, or similar activities specified in the *competitive solicitation* and resulting *contract* provided by a *contractor* to accomplish a specific scope of work. See [RCW 39.26.010\(21\)](#). Services does not include services that are required to be procured through Washington's Public Works Procurement Code ([RCW 39.04](#)) or Washington's Procurement Code for Architectural & Engineering Services ([RCW 39.80](#)).
- **Specifications:** The requirements specified in a *competitive solicitation* for *goods/services*.
- **State Procurement Priority:** A preference or policy consideration to consider *goods/services* that have certain attributes or specified factors pertaining to *bidders* that are deemed to be a priority in *purchasing* such *goods/services*.
- **Washington Small Business:** A business, including a sole proprietorship, corporation, partnership, or other legal entity, that meets all of the following requirements:
  - The business' principal office/place of business is located in and identified as being in the State of Washington. A principal office or principal place of business is a firm's headquarters where business decisions are made and the location for the firm's books and records as well as the firm's senior management personnel. See [RCW 39.26.010\(13\)](#).
  - The business is owned and operated independently from all other businesses and has fifty (50) or fewer employees or has an annual gross revenue of less than \$7,000,000 as reported on its federal income tax return or its return filed with the Washington State Department of Revenue over the previous three (3) consecutive years. See [RCW 39.26.010\(22\)](#).
  - The business must have certified its Washington Small Business status in *Washington's Electronic Business Solution (WEBS)*.

See also, **Competitive Solicitation** at **Exhibit A – Bidder's Certification**.

- **Washington State Department of Enterprise Services:** See *Enterprise Services*.
- **Washington State Small Agency:** Any Washington state agency that, because of its size, is able to have *Enterprise Services* assist it in its procurement and contracting for *goods/services*.
- **Washington's Electronic Business Solution (WEBS):** The web-based vendor registration and bid notification system administered by the *Washington State Department of Enterprise Services* where businesses can find current public agency *competitive solicitations* for *goods/services*. Washington state agencies are required to post *competitive solicitations* for *goods/services* in *WEBS*. See [RCW 39.26.150](#). In addition, Washington state agencies must enter into *WEBS* the name of each *bidder* and an indication as to the successful *bidder*. See [RCW 39.26.160\(7\)](#). Note: *WEBS* also includes current public agency solicitations for engineering, architectural



consulting, construction, and real estate leasing. Businesses interested in contracting with the state must register in *WEBS*.

- *Washington's Procurement Code for Goods/Services*: See [RCW 39.26](#) – Procurement of Goods and Services.
- *WDVA*: The Washington State Department of Veterans' Affairs, a Washington state governmental agency.
- *WEBS*: See [Washington's Electronic Business Solution](#).