

[Drew Zavatsky] Hi good morning everyone. Thank you for coming today. I apologize about the earlier snafu with the timing. Unfortunately some folks got inconsistent messages. Some thought we were starting at 8:00, others thought we were starting at 8:30. Actually we still have a technical issue that we're trying to resolve. So it'll be another couple of minutes, hang with us. We're going to mute you for just a sec for the folks listening online and then we'll get started hopefully in about three minutes.

OK great. Thank you very much. All right. Good morning. We're ready to go. So my name is Drew Zavatsky. I'll be starting the presentations today. I'll do the section on Direct Buy followed by Greg Tolbert talking about the EO 18-03. Thank you very much. Executive Order 18-03. Christine Warnock will be speaking about our umbrella of environmental regulations. And then Farrell will be discussing the Contract Management thank you. Contract Management section.

Welcome. So we've got a we've got quite a set of presentations today and let's see if I can get them . . . Of course we can't get this to work . . . there we go. OK. So online folks who dial in. We worked it out. We won't be able to hear you. So what we're going to do is ask you to send us your comments or questions about what's going on online. That address is in the documentation you received when you registered. We will respond to those questions as possible. I will be monitoring the mailbox throughout the morning. In addition I should note that in order for us to track our demographics if you're attending either in person or on the phone or by computer please register if you've not already done so. Let's see. Oh - and the last point before I get into the actual presentation the session for our purposes is being recorded so that we're certain to get all of the ideas that are expressed. So just for notification purposes that's what's going on today. OK.

There are two objectives for this process. It is to streamline our policy development in general. The previous workshop which was last year helped immeasurably with us getting this together, getting it better, getting it more streamlined, and we're looking forward to that happening again today and moving forward. And the second is of course to obtain meaningful feedback on each of the policies and/or executive orders that we'll be addressing today. Any questions so far. Okay. Thank you.

So. Great. So - of course if you're online you will see this slide but if you're not online everything that I've just displayed for you, you have no idea what I'm doing. So what I will say is that we have links and workshop call-in numbers that were all provided to you online but they're also on the Web site for actually registering. So if you're still having a question on how to join us remotely all of that information is on our Web site.

Let's see. Oh - emergency evacuation. In the unfortunate circumstance that something goes wrong in sort of a major way. We have a collection site in case of fire or other types of emergencies other than earthquake. You go out the door here to the left, out the front, and then the gathering point I believe is out by Jefferson. If there's an earthquake, duck and cover and then wait for the clear sign for how to exit the building. Do not leave the building until the all clear sign comes out because you don't want to be injured and or killed by falling glass or other falling objects. And then our PowerPoint presentation is available online and we have screen readers available as well to assist you if you need that assistance. OK.

So this is a listening workshop. The objective is to hear all comments that are going to be made. It's challenging in this day and age to listen. But what we found - what I found personally - with the last workshop that was universally also the experience with

everybody participating was that the listening aspect became really important because when we got to feedback we were certain the message that we had received was in fact transmitted correctly and then responded to appropriately. We're taking notes on all of your questions and the feedback that we receive from participants both here in the room and also of course online. What we're receiving - it is all being collected together. And if those of you who participated in the last workshop actually reviewed our feedback forms you could see that we had extensive feedback and we had extensive response to all the feedback. In fact every single item was responded to.

Let's see, the Web site for feedback, if you're listening by phone or following us online is DESMiEnterpriseProcurementPolicy@DES.wa.gov. But that is also - don't just take my word for it - it's in all of the documents and confirmations that were sent to you to prepare for today. Our feedback deadline for this workshop is June 13th and we will summarize all feedback we receive regardless of how it's received and share it back with you, the stakeholders.

OK, so: Direct Buy policy. The objective for this section is to get all of your input on the revised draft Direct Buy policy, with a focus on the proposed limits. Now of course we're going to accept all feedback but really our focus here is on the limits and the ramifications of what is new. So a lot of what was discussed in the previous sessions we deemed as resolved. The issue here is specifically: what's new. So the new feedback will help us with the new parts of this policy.

OK so let me go through the summary of the changes from the last workshop session in September. We increased the limit. The proposal goes from ten thousand and thirteen thousand, to thirty thousand and forty thousand - we'll talk about that a little more in a moment. We added several items to the Frequently Asked Question document, because there were certain ramifications of what we're doing that it seemed appropriate to have things that were not actually in the policy - because they're not dictating about the policy - but some of the ramifications of the policy, are appropriate to put in an FAQ.

There are various conditions and clarifications that we added related to things such as: purchases from large business' e-commerce site; shipping costs are now included in the limits, or clarified to be included in the limit; Direct Buy purchases cumulate annually per vendor; repetitive purchases are discussed; Direct Buy purchases in excess of delegated authority are discussed - what happens, how is that possible - not how is that possible, but what does that mean in practice - what to do about it; Agencies' responsibility to qualify vendors for Direct Buy Level 2, also, that idea is confirming that it is a small business - for example, how do you do that; we also clarified the use of DES approved cooperative contracts because there was some question about the language before used to be about using master contracts and cooperative contracts, what does that really mean in practice, we hopefully clarify that here. In addition, with sensitivity to the idea that a lot of these are new ideas, rather than have the typical five year refresh period on a policy we said, "no, the refresh year is going to be two years because we're going to be able to take a look at it in two years and say whether or not a lot of the changes that we propose - how well are they working, right? Do they go far enough, or do they go too far." We'll find out. So there is the proposed limits. Any comments about this at this point?

Yes sir. Yup. [question off-microphone] So as I understand it, hang on, for the folks online the question was, in the second line of the slide for the forty thousand proposed limit, "do minority owned businesses fall within the ambit of the purchases from Washington small

businesses or the certified,” and the short answer is, yes they do. Because as I understand it those businesses are all small businesses. Yeah. Thank you.

Yes. Another question. [question off-microphone] Question is, “do they have to be certified by OMWBE to be certified and therefore within the policy?” That's the question. Answer: [off-mic comments] yes, and I've got to tell you that we when we were drafting this proposal the intent was to be broad, right? So in other words all of those are included because the statute states that small business is a broad, wide area.

Okay so we had a question here, and in the back, and then on the side. [Vendor comment, intermittently garbled] OK so that was a comment from a vendor. And as a company that does a lot of software with a smaller dollar limit, and I'm paraphrasing, smaller dollar limit your entry into the competitive state market will be reduced, per your statement, because you're not going to be able to bid on things that will allow you to build a history that would then be recognized by a state to hire your company. So you would like this to be reduced from the 40 thousand amount to the 30,000. Yeah. I mean 30 is your request. OK thank you.

Yes. [question off-microphone] So, thank you. The comment was about the certified businesses through OMWBE and the difference, I guess, between those who are self-certified and those that are actually certified by the agency. [response off-microphone]

All right, thank you. Yes, there was a comment back here and then up here. All the way back. [question off-microphone] OK. So the question, or the ask is, does a business in fact have to be or show actual certification by OMWBE to fit within this, or are they self-certifying, and the self-certification will be sufficient for this. Am I getting that right? OK. Thank you. Yes sir.

[question off-microphone] OK – so the question is, what are the benefits of certification? And does this policy currently or the proposed policy differentiate between those two categories of certified and not certified. OK. Thank you very much.

Yes. [question off-microphone] OK, so, I'm not even sure I can paraphrase that. [laughter] But it sounded good; it sounds like the concern here in part is this is not assisting the small minority women owned businesses participate in the marketplace. It's another barrier instead or it's part. I'm sorry. It's unclear whether or not this is a benefit or a barrier. OK and you're now nodding somewhat. OK, excellent.

Yes sir. [question off-microphone] So the comment was it appears that there are different limits depending on the status of either the purchase or the purchaser. [off mic statements] Not for direct buy. [off mic statements] So the comment was add in the definitions of small business and what that actually means in terms of number of employees and business volume, sales volume, because that would make this more clear. That's fair to say. That's OK. I think I've repeated back to what you said and I think I'm getting nods that yes I did. So I guess I'll leave it. I guess I'll leave it there. Excellent. Thank you very much.

Yes. [question off-microphone] Yeah. Yeah, everything's possible. [comments off-mic] Yeah. I think the short honest answer is I don't know. Seriously I don't know. Because - and this is something that I actually thought of your agency when this was being discussed, because if in fact - let's say that the seller is Target. Okay, so DSHS wants to buy and Target is the best place to get snow shovels. Right. And yeah, everybody needs a snow shovel these days because things are that way, and we need to buy twenty

thousand snow shovels this next season. They're not going to cost a buck fifty each. Right. So you can't do a Direct Buy. That's as straightforward as I can make it. So what that means is you have to compete that.

[Comment off-microphone] Ok, so the comment is that the original policy is better and that we need to rethink this to make the idea fit for all size agencies. OK. Thank you.

There were a lot of comments that popped up. I'm going to say here, here, here, and there. I feel like I'm running an auction! [Comment off-microphone] Right, so I'm going to paraphrase again, I'm sorry. Please tell me if I don't get it right. But, the idea is this may not be workable considering an agency that has multiple offices and multiple purchasers, and in fact very difficult to communicate amongst the purchasers of whether or not you're reaching or exceeding the particular spending limit. Is that what I heard? Ok. Yeah. I'm sorry.

[Comment off-microphone] OK, so the discussion - the issue is the cumulative aspect of it, for a large agency with multiple purchasing entities.

So all the way in the back and then moving forward. [Comment off-microphone] OK, so, more discussion on ramifications of what is possible. I'm seeing some head nods, yes and some head shakes, no. So and I'm saying that for - just for general purposes, because it's pretty clear that there's differences of ideas, maybe not, of opinions because we don't have opinions yet.

Yes sir. [Comment off-microphone, laughter] See, it's at this point that I kind of wish I had taken the Donohue method of running around with a microphone, but unfortunately we can't do that. The only mic that's being picked up to send out to folks is right here. I'm going to try to capture what you just said. DOT echoes the DSHS concern about the cumulative aspect of the Direct Buy policy change. And then the DOT gentlemen wanted to comment about an earlier comment. But I think that we're going to move on. When you remember what the comment is maybe we'll get back to you? Great.

And then you were next? [Comment, picked up by microphone:] Yes. I'm with DOC. We also have decentralized purchasing, and a real concern about being able to track - we don't have a way to track what one part of the agency might be purchasing, in a timely fashion - eventually, we might get to know, but in a timely fashion, there is no way that we would know if we'd reached the 30,000 or 40,000 threshold. So that's an issue. My further comment is I don't know that going back to the current way, or old way of doing this is any better or helpful because we still have the same problem with the threshold. It's a lower threshold, but you still have the same issue. How do you know when you've reached that threshold in different parts of the agency? So that's an issue. And then I want to appreciate, I appreciate the clarification that it's supposed to be agency-wide and appreciate that the limits have raised significantly because that will help our agency quite a bit in resources and time for contracting purposes. And the last part is, I think that maybe we're forgetting that a lot of small item purchases can be done off the master contracts. And, I look at this, at least from the way we perceive it at DOC, as services based more so. OK. An example could be a facilitator for training or retraining or whatever, but if I was going to get snow shovels, I'd first check with purchase services and, you know what Master Contracts do we have and then you don't have a limit. OK. Thank you.

I am going to get to you in just a second sir. I'm going to try to sum that up. I know it's ridiculous. Or, I'll make you an offer. If you e-mail us your comments, we'll be sure to

include it. OK. Perfect. All right. And then you'll see that in the consolidated comments. Yes sir.

[Comment off-microphone, laughter] They are three of the largest state agencies. [Comment off-microphone] OK so to try to paraphrase - to paraphrase, I think the comment was that it would be helpful to have a way for small businesses to know how to access this market better, given this change. Is that fair to say? OK all right. So point noted.

[Comment off-microphone, laughter] Yeah. Thank you. And, yes. Sure. Yeah. So just as a general note, the agencies are in the position of buyers. Right. So the buyers are deciding what to buy. And a lot of the agencies, you know the first step of their analysis is always, typically - or should be - is to go to the master contract. Right. So the first step for any small company would be, "Am I part of the master contracts?" Right? Then, if there's nothing in master contracts, then they start doing competitive procurements and all that sort of stuff. No? Yes. OK.

Yes. [Comment off-microphone] Ok, so funding may have an impact on available purchases, under the Direct Buy policy. Right. Because you might get the funding after the limit's already been exceeded for all the areas that you want to purchase in. Ok. Yeah.

Going back down this line and then over. So, yes sir. [Comment off-microphone] Yes. Annual. Fiscal year. That's the plan. [Comment off-microphone] No, Direct Buy deals with the items that are pursuant to the Direct Buy. If you already have a contract with a vendor and you're looking to add something through that vendor, especially probably because it's available through the master contract anyway, this wouldn't have any impact on it whatsoever. OK.

Yes, sir. OK, not in the way back, but the one in front of you, and then you. [Comment off-microphone] Great. Yes sir. [Comment off-microphone] OK, so the question as I understand it is, if you could buy through a master contract in a particular area, but then realize that there is a minority small whatever business veteran owned business in the same area but is not under the master contract, and was in the Direct Buy limit, could you instead contract with them? And we will make that clarification thank you.

And then, yes sir. [Comment off-microphone] Thank you. So the comment is to change the word from purchases from all vendors, to purchases of each commodity, individual commodity and/or service. OK. [Comment off-microphone] Yes. Institution can decide. You can always decide to make something more restrictive, because the more restrictive will comply with our policy. Yes.

[Comment off-microphone] OK, so the comment is to rethink making this a cumulative limit, because application of it can be problematic in various scenarios.

Yes, in the back corner. [Comment off-microphone] Oh yeah. Thank you. So the comment was that most states have a much lower limit, but it's a per transaction basis. It's not an annual cumulative basis.

Yes, sir. [Comment off-microphone] So, to paraphrase. Get the change - you understand the change, is not an improvement. I mean that's basically what I'm hearing. Although the previous is not perfect, I mean nobody's saying it is, but it's not an improvement. Is that fair to say? OK, thank you.

Yes, sir. [Garbled comment, then participant is picked up on the mic:] You know, there may be either at your proposed level, or at some mid-point, I think it really needs to be a limit per transaction. Versus cumulative. I think it's very problematic both for buyers and for vendors to comply with reports cumulatively vs. per transaction. [DZ:] All right. So, you believe it is difficult, because of the tracking or record keeping aspect of it per transaction is preferred, is that the comment? Yes. Thank you.

And then there were a bunch of people over here and I'll get back to you. Yeah, in back. [Comment off-microphone] So, two comments there. The first one was advocating for removing the cumulative aspect to this right now, because in practice what is happening currently and what most people are used to doing is - I'm paraphrasing - this transactional analysis, as opposed to cumulative analysis. And the other comment was, and yet there are times when you realize you're getting close to something and maybe you do need to look at repetitive, or at least bulk purchasing; call other regions, find out if you're going to do that, and then go ahead and do that. And that was a DOT comment - and it sounded like a DOT comment. Thank you.

Yes. [Comment off-microphone] So, that was a positive comment. [laughter] I would be happy. I would be happy. That's almost a direct quote. Yes. And, which agency? Thank you. State Investment Board. We listen to you. No, I'm kidding. Yes.

Yes, yeah. [Comment off-microphone] Yeah. Do you want to speak to this or - ? I mean I can, yeah. The basic idea was we went to NASPO and we said, we asked, there's a shared drive, shared system. There's. Yeah. There's an email system way to ask all state procurement groups what that state's rules and/or laws say about Direct Buys. We got these comments back from all these states. Not every state responded. There are, as you might imagine in 50 different states, 50 different ways to slice the apple and some of them it was like, we couldn't understand their response. So we didn't put a number up there. I'm speaking of myself now, I'm not speaking about them. They're smarter than I am. Anyway the one that just stands out to me is the one that I can never remember the name of the state. Sorry but I'm a West Coast boy. But, it basically goes to fifty thousand you know and they're one of the few that is actually way higher than what we are proposing; most are lower. But again, many of these are transactional. OK. So that's, that's kind of what we went in there to take a look at, and help discern what's going on. We relied on some legal analysis, also, and part of why we looked at the 30/40 numbers was that we wanted to keep a relational difference - like, if we are going to increase from 10 and 13, what are we going to move it up to? We're also mindful of the fact that if you go if you go hog wild, then actually it will go beyond a lot of agencies' delegation of authority for goods. You don't want to do that either, right, because that's risk based. So yeah.

[Comment off-microphone] And what's tricky about some of these states too is that right now in our context, we're talking about goods and services right? But guess what. A lot of these have mixed analysis, right? [garbled] To me it was really difficult to have this for every single state.

[Comment off-microphone, attendee picked up on mic:] I really appreciate the interest of reducing the administrative burden for the agencies and for vendors. [garbled, attendee continues:] I think that this analysis is always interesting, but I think I would be particularly curious to know if, of these states, which ones have maybe found greater efficiencies and have actually seen more diversity of vendors that are getting Direct Buys. Not just what the limits are without that efficiency. [DZ:] So the comment was looking at the map specifically, how many of these states, or which of these states actually show a benefit to the small -

I'll say small businesses, but understanding it's an umbrella term for the small businesses – for having the limits at what they are at, or if in fact any of them increase them and whether that was a good impact with that. Is that fair to say as a comment?

And your hand was up over here? [Two garbled comments off-microphone, not restated by DZ] So the comment is, now taking it sort of outside of, or in addition to the realm of the cumulative issue, what the repetitive issue brings, and the idea that repetitive perhaps needs some clarification in the FAQs because yes, if it's repetitive but it's under the limit, and it's you know over a period of three months or five months are we really going to have to compete that – that's what I was hearing you say. Is that fair to say? So yeah. Point taken. We'll clarify that in the FAQs. Thank you.

Other comments. Yes, sir. [Comment off-microphone] So, I'm not even sure how to begin to capture that. [laughter] It sounded like more information about perhaps the challenges of moving business to a small business given either the cumulative aspect of this or – and I'm just assuming now – the repetitive aspect of some of this. Is that fair to say? Yes? Cool. Thank you. OK. Awesome.

I would propose moving . . . I'm sorry. Yes. [Comment off-microphone] OK. Thank you. So what I heard was a request for perhaps streamlining how Direct Buy purchases are made from a vendor perspective. Is that fair? OK. Thank you. I was gonna propose looking at – do I have three minutes left? Wow. I have three minutes. What should I do next? I mean the main thing that I was going to ask at this point was there anything about the FAQs – we already heard a comment about one of them – that raised some either heartburn or warm and fuzzy feelings? Yes, I said warm and fuzzy feelings. Yes.

[Comment off-microphone] So, are registration and certification costs precluding small businesses from the market? Yeah. OK, thank you very much. Quick one. I have a minute left. Do the policy documents, notwithstanding all of your comments, did they improve clarity in some areas somewhere. They did? Okay, so thumbs up? Thumbs down? Okay. Oh yeah. No I'm not saying we don't have issues. I mean it's like “hey let me tell you I'm going to a therapist but I still got issues...” So thank you all for your attention. [BREAK]