

# MRSC Update

2023 Public Works Legislation

# Public Works

“Public work” means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein. (see *RCW 39.04.010*)



# Public Works Contracting Types 2022

Type	% of Projects	Count of Projects	% of dollars	Sum of Dollars
Bid-Build (Traditional)	32.37%	13,511	65.79%	4,824,910,887
Limited Public Works (Less than \$50,000)	25.42%	10,612	0.80%	58,433,298
Small Works (Less than \$350,000)	22.76%	9,499	2.71%	198,754,752
Purchased Services	7.04%	2,938	0.94%	69,258,496
Unit-Priced Contract	3.34%	1,396	3.72%	272,586,186
On-Call	3.13%	1,308	0.22%	16,306,600
Job Order Contract (JOC)	2.92%	1,218	1.42%	104,207,307
Emergency Work	1.72%	717	0.44%	32,244,142
Design-Build	1.11%	464	12.90%	945,910,759
General Contractor/Construction Manager (GC/CM)	0.19%	79	11.06%	810,873,634
<b>Grand Total</b>	<b>100.00%</b>	<b>41,742</b>	<b>100.00%</b>	<b>7,333,486,063</b>

# Public Works Contracts Stats

Top procurement method:

- Design-Bid-Build
  - **Small Works Roster**



Over \$7B spent in 2022 on Public Works



Over 4,500 businesses won ~42,000 contracts



Small works projects accounted for over 20,000 of these contracts

# 2023 Legislative Updates for Public Works Contracting





# SB 5268: Modifications to Small Works Roster



# Public Works Small Works Roster

Informal procurement process using a pre-defined contractor list for public works projects estimated to cost less than \$350,000

# Small Works Roster

## **For solicitation of contractors for small public works projects**

- Statewide roster or agency managed roster
- Annual advertisement
- Contractors can join at any time
- Segregated by trade, agency, or geographic region



# Who Can Use Small Works Roster

- State agencies with public works authority
- Authorized local governments including:
  - Cities, towns
  - Counties
  - School districts
  - Port districts
  - Public utility districts
  - and more!

# Small Works Contracting Process

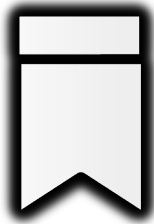
## **Under \$350,000**

- Agencies invite contractors from the appropriate roster to bid
- Informal process
- Award to lowest responsive and responsible bidder

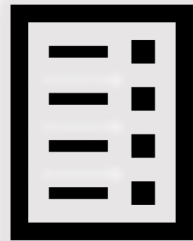
# SB 5268 Purpose

- Administratively efficient
- Promote small and diverse businesses
- Maintain labor protections

# Key changes



Creates  
Small  
Business  
Certification



Establishes  
statewide small  
works roster



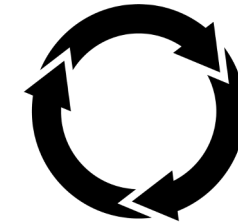
Clarifies  
language



Standardizes  
thresholds &  
adds direct  
contracting



Requires small  
business  
utilization plan



Builds in  
future  
market  
updates

# Small Business Certification

## **Office of Minority & Women's Business Enterprises**

- ✓ Creates a new Public Works Small Business Enterprise (PWSBE) Certification Program
  - Race & gender neutral
  - No additional fees for (state-certified) businesses
    - MBE, WBE, MWBE, CBE, SEDBE
- ✓ Evaluating registration process and requirements
- ✓ Updating Public Works Small Business Certification rules (WAC 326-20-087)



# Statewide Roster

## MRSC

- ✓ Creates single sign-up process for businesses
- ✓ Centralizes reporting
  - Add reporting to portal
  - Notifications
  - Documentation
- ✓ Enhances platform
  - Eligibility
  - Identification
  - Outreach

# Statewide & Independent Rosters

- Integrate OMWBE certification data
- Follows DES rules on rotation, outreach, data collection
- Demographic data collection
- Annual notice

# Standardized Thresholds

## Updated Solicitation Process: Small Works Roster Projects up to \$350,000

- Agency estimate does **not** include sales tax
- Agency invite **all** Contractors from the applicable roster
- \*Effective July 1, 2024

# Optional Direct Contracting

## Under \$150,000

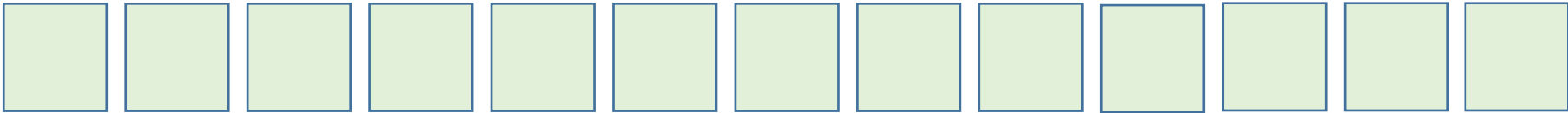
- **Direct contract:** Agencies may direct contract through negotiation with a contractor from the appropriate roster
- **Notification:** Agencies must notify all contractors on the roster
- **Rotation:** Agencies must rotate and not select the same firm repeatedly
- **Small Business preference:** six or more rule

# Six or more rule – direct contracting

Under \$150,000



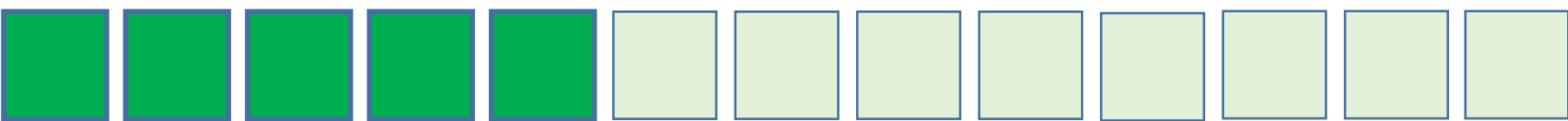
**No small business**  
Contract with any



**6 or more small**  
Contract with small



**5 or less small**  
Contract with any





# Department of Enterprise Services

- ✓ Updating its Public Works rules (WAC 200-330)
  - Rotation
  - Documentation
  - Contract cap
  - Responsibility criteria
- ✓ Creating bidding templates

# Department of Labor & Industries

- ✓ Updating prevailing wages rules for contracts under \$2,500 (WAC 296-127-050)
- ✓ Providing education and technical assistance to public works firms

# Retainage and Bonding Changes

For contracts greater than \$5,000:

- Agencies may reduce or waive retainage
  - Agencies take on liability for unpaid wages and taxes.
- Agencies no longer allowed to waive performance and payment bonds

# Retainage and Bonding Changes (continued)

For contracts less than \$5,000:

- No retainage or bonds required

# Get Ready For Changes

## **If adopting the statewide roster**

- ☐ Sign up now for the roster through MRSC

## **If keeping independent roster**

- ☐ Integrate OMWBE certification data
- ☐ Set up demographic data collection
- ☐ Follow DES rulemaking



[bit.ly/SmallWorksChanges](https://bit.ly/SmallWorksChanges)



# HB 1050: Apprentice Utilization



# Current Utilization Requirements

**RCW 39.04.320** applies to school districts, four-year institutions of higher education, and certain state agencies.

**Requirement for apprentices to contribute a minimum of 15% of total labor hours on:**

- Public works projects estimated to cost \$1 million or more, and
- Washington State Department of Transportation projects estimated to cost \$2 million or more.

# Apprentice Utilization Requirements

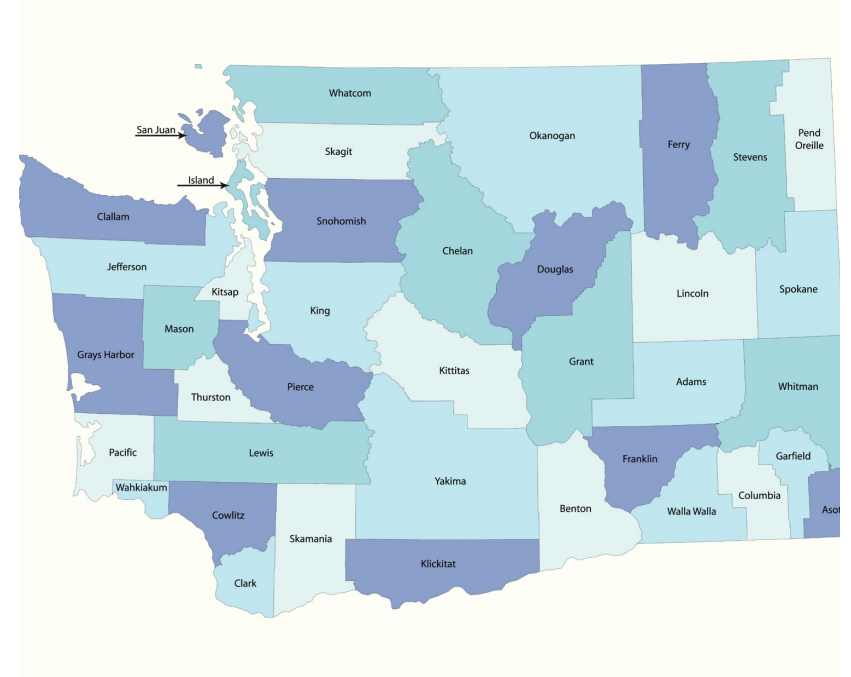
Contracts with apprentice utilization requirements must:

- Specify the apprentice utilization goals that must be met
- Provide monetary incentives and penalties for the goals

# HB 1050: Key Updates

## RCW 39.04.320 revised to include "Municipality":

- Counties
- Cities
- Towns
- Port districts
- Other public agencies



# HB 1050: Key Updates (continued)

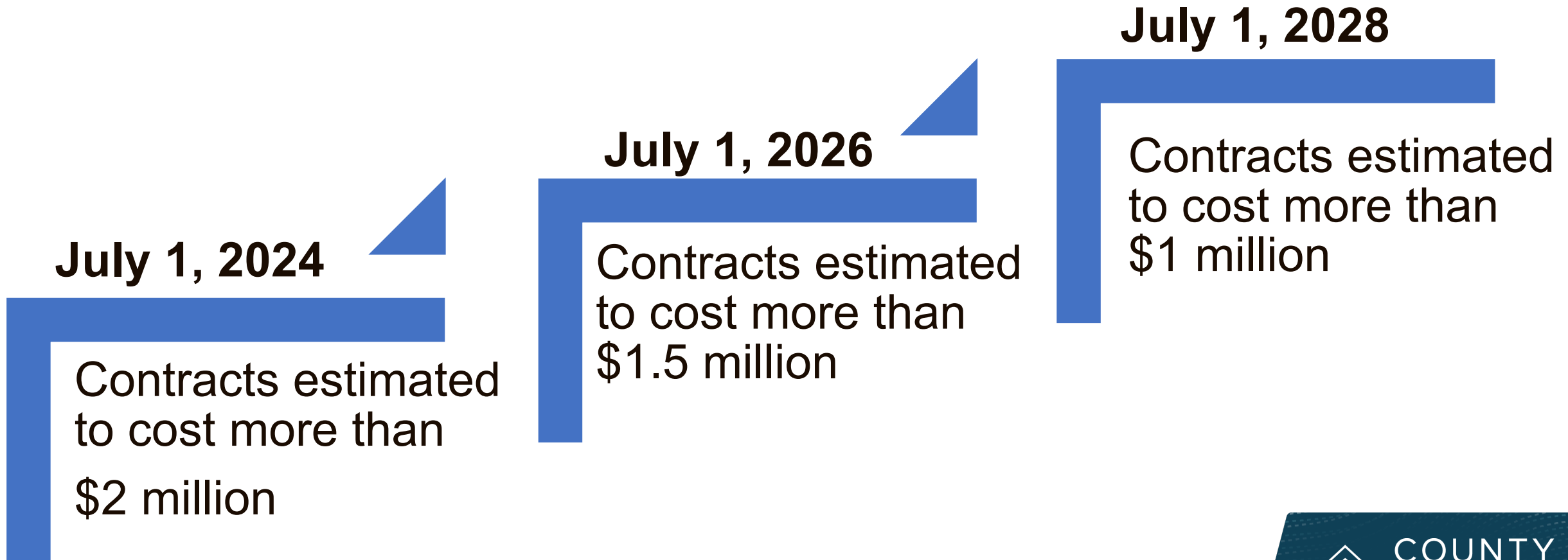
L&I along with MRSC will provide ongoing training, information, and technical assistance to help you comply with the apprentice utilization requirements.





# HB 1050: Municipality Requirements for Public Works

Require no less than 15% of total labor hours be performed by apprentices.



# SB 5088: Expanded Contractor Registration Requirements



# SB 5088:Key Updates

## **Effective July 23, 2023:**

- Bidder responsibility criteria amended in RCW 39.04.350 now includes licensing requirements for plumbing, elevator, and electrical contractors.
- With elevator and electrical contracts already in law, contractor verification for subcontractor responsibility criteria in RCW 39.06.020 amended to include verification of a plumbing contractor license.

# SB 5088:Key Updates (continued)

## **Effective July 23, 2023:**

- Prohibition on bidding on future contract provisions in RCW 39.12.055 is expanded to include violations of unregistered plumbing, elevator, and electrical contractors.
- Independent contractor criteria in RCW 39.12.100 now includes plumbing and elevator contractors that have a valid contractor license registration on the effective date of a public works contract.

# MRSC Support for Counties



**INQUIRY SERVICE**



**MRSC ROSTERS**



**ELECTRONIC BIDDING**



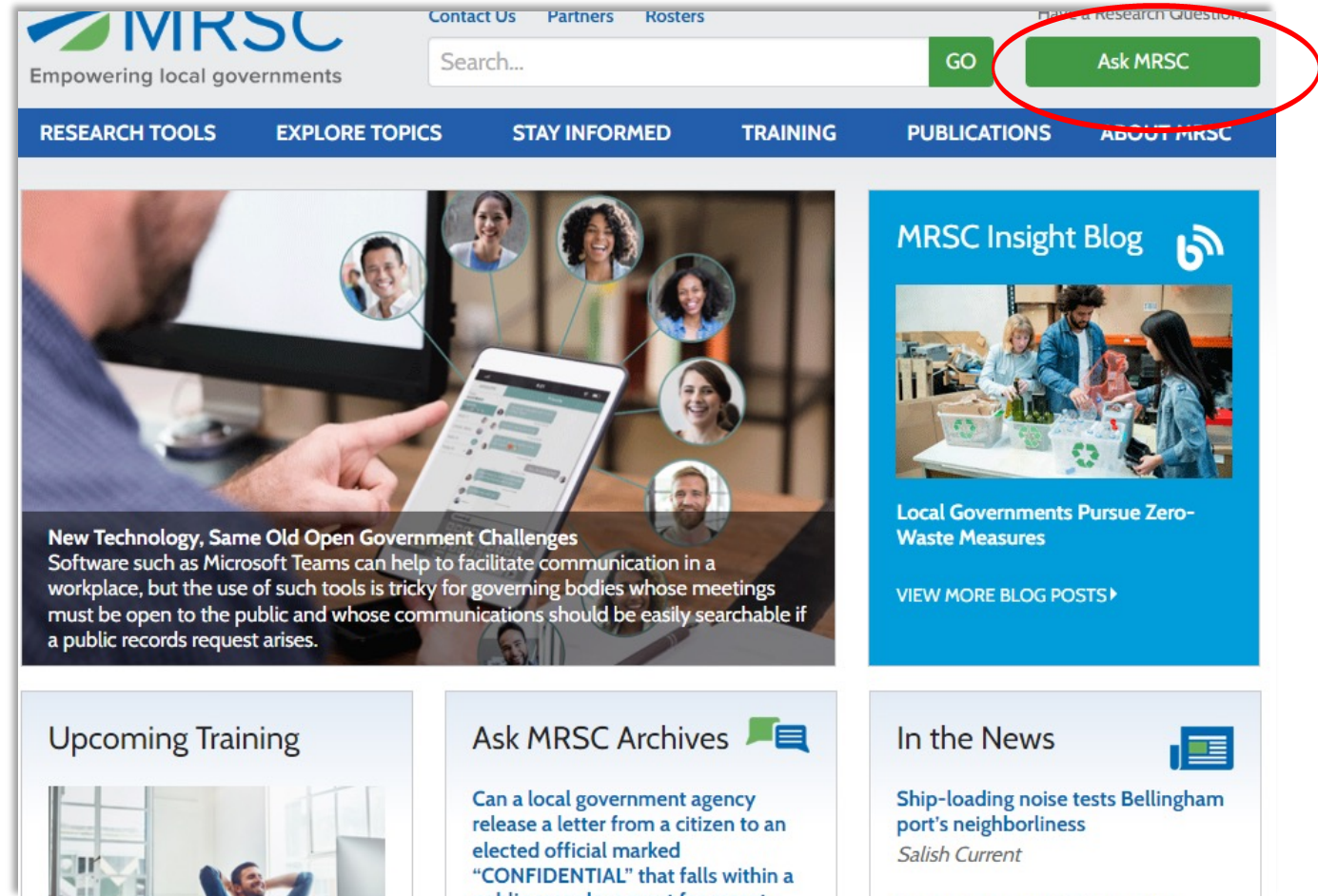
**IN-PERSON TRAINING**



# “Ask MRSC” Inquiry Service

Free for Counties!

- Click the “Ask MRSC” button or call us directly at (206) 625-1300 or (800) 933-6772



# MRSC Rosters

- Only statewide directory connecting businesses to public agencies for small public works projects, consulting opportunities, and goods & services
- Separate website: [mrscrosters.org](https://mrscrosters.org)
- Will become official statewide roster July 1, 2024



Log In

A screenshot of the MRSC ROSTERS login page. The page has a light blue background. At the top, it says "Log In". Below this, there are two input fields: "Email Address" and "Password". The "Email Address" field has a small icon of a person in the bottom right corner. Below the "Email Address" field, there is a link that says "Still using the old username? Click here to create a new login with email address". Below the "Password" field, there are two links: "Forgot Password?" and "Contact Us". Below these links is a large blue button with the text "LOG IN". Below the button is the word "or". Below "or" is a grey button with the text "JOIN EXISTING PUBLIC AGENCY ACCOUNT". Below this button, there is a link that says "On staff at a public agency? Create your MRSC Rosters login by joining an existing public agency account."

# Electronic Bidding

What is  
Electronic  
Bidding?



Powered by  **Bonfire**

MRSC Rosters is pleased to partner with Bonfire to bring Electronic Bidding as a new program offering



MRSC Electronic Bidding offers an online portal where users can

Manage vendor  
communication

Post bid  
opportunities

Receive  
submissions

Calculate award  
winners



Over time you can expect to see a growing amount MRSC Rosters agencies send solicitation requests through this platform



# In-Person Training ([mrsc.org/training](https://mrsc.org/training))

*REGISTRATION IS NOW OPEN FOR:*

## **(Free) Public Works Training for Counties**

Wednesday, December 13 | 9 AM– 3:00 PM | In-Person

## **(Free) Digging Into Public Works Fundamentals: Sequim**

Thursday, December 14 | 8 AM – 3:30 PM | In-person

*COMING SOON:*

## **(Free) Digging Into Public Works Fundamentals: Olympia & Everett**

January 2024 | 8 AM – 3:30 PM | In-person

# Additional MRSC Resources

***CLICK ON EACH LINK TO LEARN MORE***

[2023 Legislative Session Outcomes for Procurement and Contracting, Part 1](#)

[2023 Legislative Session Outcomes for Procurement and Contracting, Part 2](#)

# Questions after today?

- Submit your inquiries at [Ask MRSC](#) or call us at 206-625-1300.
- You can also reach Josh by email: [jklika@mrsc.org](mailto:jklika@mrsc.org)