



Washington State Department of
Enterprise Services

Executive Order 18-03

Progress and Impact Report

June 2019

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REPORT HIGHLIGHTS

- The Department of Enterprise Services (DES) has proceeded with implementing the Executive Order (EO) in a staged, prioritized manner. Accordingly, our recommendation is to prioritize implementation by beginning with competitive goods and services procurements and consider applying the EO to other categories of purchases in the future.
- Since June 2018, when the Executive Order was issued, DES has piloted a preference for compliant contractors in six contracts. A vast majority (83% – 100%) of contractors who responded to one of these solicitations, were in compliance with the Executive Order, and received a preference.
- The DES is set to fully implement the Executive Order by providing a policy along with the needed tools and training to proceed with rolling out to the covered agencies on July 1, 2019.
- DES has created a [webpage](#) for agencies to refer to, with regular status updates, points of contacts and pertinent information regarding the Executive Order.

BACKGROUND

Executive Order 18-03, issued June 12, 2018, seeks to empower employees to collectively address workplace violations. In a recent United States Supreme Court decision, it was held that if employees sign an arbitration agreement requiring individual arbitration proceedings as a condition of employment, then those agreements preclude employees from pursuing a class or collective action against their employer to resolve disputes.

Collective power is a real force for change, and Washington seeks to influence employers via responsible stewardship of public dollars. Agencies shall make every effort to encourage and support employers who demonstrate that they value workers' rights to collectively address workplace disputes.

This report covers the actions DES has taken towards implementation since the issuance of the EO on June 12, 2018.

IMPLEMENTATION TIMELINE

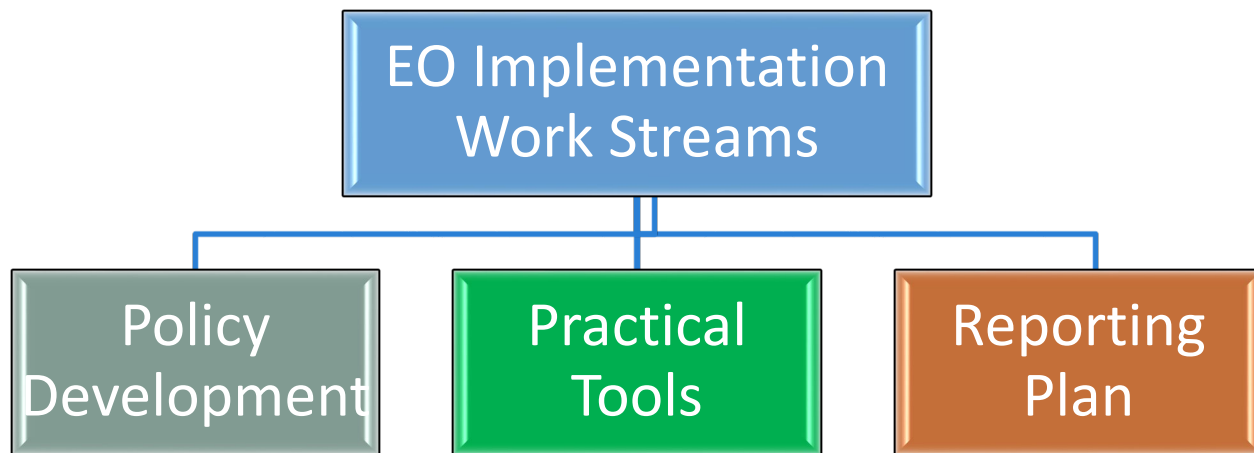


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The timeline outlines the steps the Department took to effectively communicate, collaborate, and create value. First by working directly with the governor's policy office to develop an end state vision, then by working with the AGO and agency stakeholders to develop and build operationally efficient tools that drive change and also build a viable procurement bridge between customer agencies and innovative vendors.

EO WORK STREAMS



Enterprise Services identified three 'work streams' to accomplish three primary goals:

- **EO Guidance:** Establish best practices and consistent application of the EO. This will be an Enterprise Services procurement policy.
- **Tools:** Practical tools and recommendations for competitive procurements and purchases.
- **Reporting:** A plan to increase the odds of success, keep transaction costs low, and easily measure the impact of the EO.

POLICY DEVELOPMENT

Enterprise Services worked alongside stakeholders to identify and develop elements of a procurement policy that enables covered agencies to implement EO 18-03. The policy prescribes that preference should be limited to 5% as higher percentages could create a risk of challenge from contractors who cannot certify alignment with the EO.

The policy sets the stage and addresses: Impacted agencies, scope, effort, and outcome. *Appendix A* is the policy the Department will implement on July 1, 2019.

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PRACTICAL TOOLS

The goal with the creation of practical tools was to identify and develop common, flexible tools to empower covered agencies. Ease of implementation is the goal. Providing agencies with solicitation and contract provisions, as well as certification templates, will assist agencies in being successful with the implementation of the EO. Competitive procurements offer an opportunity to differentiate contractors, while the opportunity is substantially less for direct buy purchases, which is why the initial focus is on competitive procurements. The 18-03 Worker's Rights training and *Appendix B* contains the tools developed, with stakeholder collaboration.

REPORTING PLAN

Measuring the effectiveness of the EO is crucial to the success of the Order. The Department will be reporting annually on the success of the EO by measuring the number of solicitations containing language addressing the preference as well as measuring and reporting the competitive procurement awards and contractor agreement to the priority as set forth in the solicitation and by the State.

The lack of a single e-procurement system creates reporting challenges. Taking into consideration that OneWashington is underway, DES made modifications to Washington's Electronic Business Solution (WEBS), to capture meaningful metrics around the Order and will be reporting on behalf of agencies the previously stated metrics. In the following fiscal year, DES will explore whether it is possible to expand the Order to include non-competitive procurements.

It is important to note that a significant percentage of spend is via Enterprise Services' Master Contracts and DES will be reporting on the progress as it pertains to agencies' Master Contract purchases.

TRAINING

All Washington State employees who are responsible for the pre-award process of procurements are required to complete the 18-03-Worker's Rights training before January 1, 2020. Employees who are new to these responsibilities will be required to take the 18-03-Worker's Rights training within 6 months of acquiring those responsibilities. The training and assessment are available on the Washington State Learning Management System (LMS).

In addition to the above mentioned 18-03-Worker's Rights training and assessment available on the LMS, a desk aid, documini, and the above mentioned tools are always available on the DES website for all Washington State employees as well as vendors.

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PROGRESS

DES has piloted a preference for compliant contractors in six contracts. A majority of the contractors responding to the solicitations received the preference. Five of the six contracts below are statewide master contracts used by hundreds to thousands of state agencies and political subdivision customers. While some solicitations are still open or in the evaluation stage, below is a summary of the impact.

Contract	Preference Given	Percentage of Compliant Vendors	Awarded to Compliant Vendor
00918 IT Cabling	5/165 points	93%	Yes
02318 Propane	5%	83%	Yes
02918 Survey & Mapping	5%	100%	Pending Award
03418 Audio Visual Solutions	5%	Currently Receiving Bids	N/A
04518 Bulk Foods	5%	100%	Yes
18-0003 Parking OIMS	2%	Currently Receiving Bids	N/A

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RECOMMENDATIONS/ACTION ITEMS

DES recommends prioritizing implementation of EO 18-03 by beginning with competitive goods and services procurements and consider applying the EO to other categories of purchases in the future.

DES will report annually on the success of EO 18-03 by measuring the number of solicitations containing language addressing the preference as well as measuring and reporting the competitive procurement awards and contractor agreement to the priority as set forth in the solicitation and by the State.

Because a significant percentage of spend is via Enterprise Services' Master Contracts, DES will report annually on the progress of implementing EO 18-03 as it pertains to agencies' Master Contract purchases.