

WSDOT DBE NEWS

DECEMBER 2014

UPCOMING OPPORTUNITY FORUMS

WSDOT is holding "Opportunity Forums" in late January and early February to share information about transportation contracting prospects and for you to network with project staff. Be sure to save the date and plan on attending at least one of the following events:

- Lakewood, January 27, 5:00 to 7:30 p.m.
- Vancouver, January 28, 5:00 to 7:30 p.m.
- Shoreline, January 29, 5:00 to 8:00 p.m.
- Bellingham, February 3, 5:00 to 7:30 p.m.
- Union Gap, February 4, 5:00 to 7:30 p.m.
- Spokane, February 5, 5:00 to 7:30 p.m.

We will be sending out more information soon.

QUESTIONS, COMMENTS AND SUGGESTIONS...

Do you have ideas on how to improve the DBE Program or concerns that need to be addressed? Please send your questions, comments and suggestions to WSDOT Office of Equal Opportunity at DBESS@wsdot.wa.gov or call toll free (888) 259-9143.

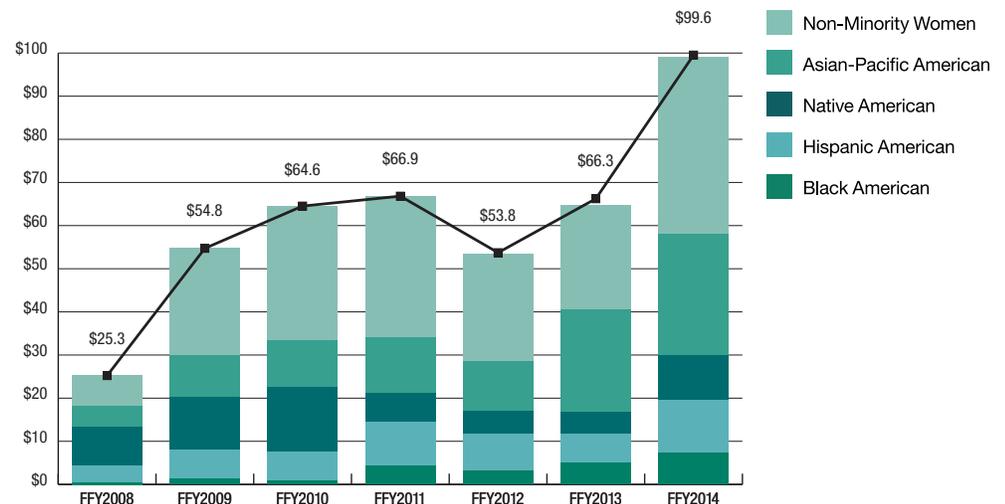
Business After Hours Event Was a Success!

Thank you to everyone who attended this year's Business After Hours event on Nov. 13. This year's event had the largest attendance so far, with approximately 250 participants. We hope you made meaningful connections, established new business relationships and most importantly, that you've gained contracts and business opportunities.

We also congratulate and thank Skanska for being this year's Champion of Inclusion by embracing diversity throughout its organization. This is obvious from Skanska's workshops, mentoring programs and exceeding an aggressive DBE goal on a complex mega project.



DBE Awards/Commitments*



* This Information is based upon Federal reporting requirements.

Additional DBE participation occurs, but cannot be counted towards the overall DBE goal.

Because you asked...

Q: As a consultant, how can I be successful in navigating through the Safe Harbor process?

A: Safe Harbor is a pilot program that is intended to remove a potential, initial financial barrier that might otherwise prevent or inhibit new, small and disadvantaged architectural and engineering (A/E) consulting firms from entering the state-administered, federally-funded engineering services market.

The Safe Harbor Pilot Program is called the “Path to Compliance.” Use of Safe Harbor provides new and/or small firms with an indirect cost rate that can be used in their billing rates. Using the Safe Harbor rate allows firms to meet federal requirements as it learns to develop an actual indirect cost rate in accordance with the Federal Cost Principles (CFR 48, Part 31), based on the firm’s actual costs.

Tips to navigate the Safe Harbor process successfully:

- The WSDOT Audit Office is available to meet with small firms one-on-one at the Headquarter building in Olympia to assist them with the process, as needed. These face-to-face meetings have proven to be beneficial for the firm as well as for WSDOT, and as a result, a firm can be enrolled in the Safe Harbor program within the week.
- Read the information on the website and follow up with the Audit Office if you have questions. For more information, please contact Laura Trainer at (360) 705-7819, or visit: www.wsdot.wa.gov/Audit/SafeHarbor.htm.

The Safe Harbor Program is not the only rate-approval process for working on consultant agreements. If you run into issues with Safe Harbor, please contact the Consultant Services Office at (360) 705-7638.

Q: What is the DBE Advisory Group and what is its role with WSDOT?

A: The DBE Advisory Group is a member organization formed in 2011 when WSDOT started its Disparity Study. The advisory group was formed as a way of keeping stakeholder organizations informed on the status of the study and to seek their perspectives. Additionally, with stakeholder organizations directly involved in the study process; the public, DBEs and contracting community in general would be better informed about activities occurring in the DBE Program.

The DBE Advisory Group was originally facilitated by the Director of the Office of Equal Opportunity, but in the last year it has expanded with key members including the Secretary of Transportation, Deputy Secretary of Transportation and other members of the WSDOT Executive Team, as well as key members from the National Association of Minority Contractors – Washington Chapter, Women in Highway Construction, Tabor 100, Association of General Contractors, Washington Asphalt Pavement Association and other stakeholder organizations. The DBE Advisory Group is now providing various perspectives to assist WSDOT with process improvements related to the DBE Program reforms. You will be kept informed as WSDOT make changes to improve the DBE Program’s implementation within the agency.

Q: What steps can a subcontractor take to ensure timely payment?

A: First and most importantly, be sure to read your contract with the prime contractor. The payment terms are outlined in your contract. Frequently, payments are delayed due to improperly submitted or missing required documents such as:

- Intent to pay prevailing wage
- Materials testing documents or certification
- Monthly request/certification for payments
- Lien releases
- Request for release of retainage
- Affidavit of amounts paid

Your prime contractor has an obligation through the subcontract to make payments within a prescribed timeframe for work performed by you. The key is to communicate often with your prime. Establish, provide and document what is required for monthly payments. If you get into a dispute over payment the records (emails, letters, etc.) you create will serve you well.

Following are a few state laws which may be useful for you to review:

- **RCW 39.76.011:** If the prime withholds funds due to you, they must comply with notice requirements. Late payments may entitle you to interest payments.
- **RCW 39.04.250:** Outlines the process for disputed payments amounts between you and a prime contractor.

Review the Subcontract and Prime’s Contract with WSDOT: Read the provisions in the contract that provide for contract changes and disputes. If you believe that the work has changed from the work as described in your subcontract, you may be entitled to additional payment from the prime or the owner as a change to the contract. Protect your rights by strictly complying with the notice provisions and protest/escalation process.

How do I get payment information from the WSDOT?

You may request payment information from the WSDOT Project Engineer office in charge of the contract.

What if I’m still not getting paid?

If you are unable to resolve issues and you believe the prime is not complying with the prompt pay provisions then bring the issue to the attention of the WSDOT project engineer. While WSDOT did not sign your subcontract and isn’t a “party” to it, we still have the ultimately responsibility to ensure that our DBE firms are being paid promptly.

As such, we are in the process of developing a new prompt payment tool and enforcement mechanism. Hopefully we can get this new tool implemented quickly, stay tuned!