

Capital Projects Advisory Review Board  
**Business Equity/Diverse Business Inclusion Committee**

## **Report to Legislature**

**In response to section 20 of SB 5032**

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# Executive Summary

The Capital Projects Advisory Review Board (CPARB) has compiled recommended practices and guidelines to sustain and increase opportunities in public works contracting for minority-, women-, and veteran-owned businesses and small businesses (small and diverse businesses) by addressing barriers to accessing opportunities, capital, and training. The recommendations identify five groups with the power to make changes: public owners, prime contractors, small and diverse businesses and organizations that exist to support them, and the Legislature.

Creating meaningful culture shift requires an expanded view of equity and access in public contracting by changing the hearts and minds of the construction industry. Progress on equity stalled over the past 20 years, and that cannot be repeated. The committee is working with the Office of Equity to embrace policies and actions that are Pro-Equity and Anti-Racism (PEAR) in public contracting. This will ensure firms have what they need to develop and thrive, compete, and become first choice in public works.

Washington is an incredibly diverse state in which challenges and opportunities are not spread evenly across 39 counties. Some communities are home to many public projects for which every effort must be made to enhance the competitiveness for small and diverse businesses, while other communities have few such opportunities. Some communities are home to an established pool of diverse businesses needing greater support while other communities have few such businesses to hire in the first place. This imbalance between the availability of public projects and availability of small and diverse businesses to bid for them is not conducive to simple, one-size-fits-all strategies to promote equity.

To this end, the board focused on access to opportunities, access to capital, and access to training as fundamental areas to improve in making small and diverse businesses first choice. The report attempts to answer the following questions for each category:

- What are the most impactful barriers?
- What can each of us do to make the future better?
- Are there changes to be considered by the legislature?
- How do we hold ourselves accountable?

Within Access to Opportunities, many barriers have been identified through previous reports such as the 2019 state-wide disparity study. Opportunities include networking/outreach, pipeline, and rosters. Supporting small and diverse businesses in their development will create a healthier, more efficient and more competitive environment for design and construction in public works and the Washington state economy.

Within Access to Capital, opportunities exist to support small and diverse businesses' access to capital through all phases of a business's involvement, before, during and after contract signing. The committee identified areas where each of the five groups can proactively work within current statutes to ensure small and diverse businesses have access to the capital they need to thrive and grow. Further legislative effort around prompt pay, bonding, and defining of small business for the purpose of support programs would provide avenues to further allowable tools in practical ways, supporting small and diverse design and construction businesses in their development and capitalization.

Access to training opportunities for small and diverse businesses are abundant, but can be daunting and confusing. Legislative action could create coordination to make opportunities accessible in a central location and identify gaps and overlap between them. Trainings should also be targeted towards businesses' actual needs, including on-the-job components to put learning into practice, and track and measurable outcomes. Trainings for public agency and prime contractor staff should focus on inclusion in contracting to ensure all staff on a project understand the importance of inclusion goals and plans and how to implement them.

The purpose behind all these recommended practices is to change the hearts, minds and culture of public agencies, contractors, and the construction industry while at the same time empowering small and diverse businesses to develop, grow and create a Washington State design and construction environment where they are safe to become first choice contractors in public works.

# Executive Summary

A special thank you to all of the people who made this report possible.

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# Small and Diverse Business as First Choice

The 2021 legislature directed the Capital Projects Advisory Review Board (CPARB) to create guidelines for increasing and sustaining access to contracting opportunities in alternative public works for minority-, women-, and veteran-owned businesses, and small businesses. As a result of this charge, the Business Equity/Diverse Business Inclusion committee brought together a cross section of public owners, contractors, architects, engineers, trades organizations, support organizations, diverse business owners, and industry professionals to create a space where opposing opinions and a willingness to agree to disagree without being disagreeable opened the door to productive discussion, analysis, and conversation around inclusion in Alternative Public Works.

One of the foundational questions that the committee asked is how to change the hearts and minds of the industry and create an environment where diverse business is first choice. Ensuring equitable contracting opportunities for small and diverse businesses gives Washington state government access to a wider array of business solutions, helps drive innovation, and strengthens economic growth. The success of these businesses makes Washington's economy and families more resilient, strengthens our communities, and improves the quality of life for all Washingtonians. Understanding the value small and diverse businesses bring to public works contracting is critical to creating meaningful change.

In order to sincerely change hearts and minds, a culture of inclusivity must permeate across the industry. This requires viewing culture as a verb, creating space where small and diverse businesses are understood to be integral to the collective success of the industry. An actionable change from leadership down through every level of an organization, so that each person truly embraces the values of diversity, equity, inclusion, and equal opportunity in public contracting. It is critical that policy and procedural changes are accompanied by shifts in organizational culture. Agencies and businesses can complete all the steps recommended for them and still see no progress on inclusion of small and diverse businesses if the people making decisions every day within the organization don't see the value or understand the need for inclusion.

Change will not come about through a "check the box, go through the motions mentality", therefore this report is intended to start a dialogue rather than prescribe specific practices that will fit all circumstances. While Public Owners and Prime Contractors/Consultants are often positioned to have greatest impact on practices to increase equity, the involvement of Small and Diverse Business and the support organizations that serve them is needed as well. By examining the barriers to small and diverse business inclusion through open dialog, a full picture of the landscape was born that allowed the committee to determine future legislative topics to support growth and bring back a rich tapestry of these businesses in public works, and specifically alternative public works. Ultimately there is no substitute for thoughtful planning by each stakeholder in this industry. Each of us needs to use the same critical and innovative thinking processes we utilize daily in our business and nonbusiness lives in looking at our sphere of influence, and make nuanced and targeted changes, whether large or small, that create forward progress.

Proposing change without accountability has not and will not accomplish the goals and objectives of culture shift. Documenting and reporting goals, activities and accomplishments must be requirements for successfully implementing change and building confidence in the commitment to change. Utilization reporting measures the results in money spent. Effort measurements look at the increased actions, programs and tactics to assess performance of a firm working towards inclusion. The tension between the two methods of measurement arise when either is used without the other. Measuring

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solely results can excuse poor policy choices or lack of effort when the results are positive for reasons other than intentional effort. Measuring solely effort can excuse a lack of progress and reward policy and practices that are ineffective. A holistic and accurate understanding of progress requires measuring both effort and results and using those metrics to inform future decisions.

Similarly, the 2019 Washington Statewide Disparity Study identified a need for additional performance measures for a complete understanding of progress towards equity in public contracting. Their list of additional benchmarks included increases in bidding by certified firms increased prime contract awards to certified firms increased diversity of the types of industries in which women- and minority-owned businesses receive dollars (a decrease in market segregation), and increased “capacity” of certified firms as measured by factors like bonding limits, size of jobs, and profitability.

A foundation of accountability, with an overarching culture of inclusion frames the report that is to follow. Historically, many programs for contracting equity have focused on outreach and procurement opportunities. While important, these practices alone cannot overcome decades of systemic bias. Barriers to public contracting exist in accessing opportunities and training as well as maintaining the capital needed for businesses to survive and grow. Each of these areas must be addressed to create an environment where small and diverse businesses can succeed. This report builds on existing work by others like the Office of Minority and Women’s Business Enterprises (OMWBE), the Washington State Department of Transportation (WSDOT), the Governor’s Subcabinet on Business Diversity, the newly formed Office of Equity, and those firms and agencies active in Alternative Public Works. It focuses on areas where the Board sees the greatest opportunities for improvement based on existing practices and literature. Each section provides a brief overview of the barriers around access to opportunities, capital and training, followed by practices to consider organized by stakeholder groups, with supporting materials and links to references in the appendices.

# Chapter 1: Access to Opportunities

Access to opportunities in alternative public works, traditional public works, and associated design services is impacted by inequity of finding, obtaining and competing for the work. Two distinct factors contribute to this inequity, and the strategies to address these factors can differ. The first is that many existing small and diverse businesses are performing similar work in the federal and private sectors, but the barriers to contracting with state and local public owners deter them or make it impossible to compete. The second is that there is a disparity in the number and capacity of women- and minority-owned businesses available. There is a need to reduce barriers for existing businesses, and a need to support new and upcoming businesses as they grow and develop.

The BE/DBI Committee conducted a survey, the results of which can be found in the appendices. The survey results demonstrate that perspective plays a large role in access to opportunities. Owners seem to come from a perspective that barriers in opportunity are of a low priority, while diverse businesses tended to rate it as a higher priority. Primes perspective tended to be in the middle. How to navigate the opportunities and choose should be focused on how to help grow small businesses.

Much of the preparation work that takes place to submit bids on public works projects must happen before a solicitation is opened. The period of time when a solicitation is open for bids may not be long enough for businesses to adapt their strategies or seek out training or other support to make themselves more competitive. As a result, businesses need information about public owner processes and approaches as far in advance as possible in order to compete. This is especially true in alternative public works where owner teams are often innovating and reinventing their processes. In addition, businesses need information about **upcoming projects** as far in advance as possible to prepare for bidding or seeking out the solicitations.

**Building connections** between small and diverse businesses and prime designers and general contractors is critically important, and public owners can play a role in facilitating those connections. Pursuing relationships with primes often requires such time and effort that it creates a barrier for small and diverse businesses. However, when challenges arise on a project, the power imbalance with Primes and public owners can leave small and diverse businesses at a distinct disadvantage. Support organizations could play a role in facilitating communication, mediating, and advocating for the needs of the small and diverse business within a project. No organization in Washington currently has the formal authority to provide this type of support.

Inconsistencies in how, where, and for how long solicitations are advertised make it difficult for businesses to find the information they need to bid and to be competitive for projects. The **method of solicitation** can vary by size or type of project and RCW; for instance, small works roster projects may not be publicly advertised, and formally bid projects must be advertised in newspapers, while alternative public works processes like design-build and job order contracting require that public owners advertise broadly in a variety of publications, specifically including websites. Unlike the low bid environment of traditional public works, Alternative Public Work selection is based upon qualifications.

While Design-Build provides opportunities to directly include the target market of small and diverse business via subcontracting methods, those same businesses may need an understanding of how alternative public work differs from low-bid procurements to be competitive. For small and diverse businesses seeking to work as subcontractors, there are also differences in the relationships and networking styles needed to be competitive. Alternative public works often requires a **networking and**

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**relationship** approach, which should focus on what the firm can bring to the table and how qualified they are. However, environments where relationships matter are the same place that bias can be found. In the traditional public works, hard bid, environment the lowest bidder who can confidently minimize administrative and oversight effort and maximize their margins of profits while still being lower than the next bidder will get the job. Both models create an advantage for businesses that have experience with a public owner and are familiar with its decisionmakers, processes, and preferences.

When the total contracted amount is below a certain threshold, public owners may have the option of selecting a roster of contractors or a limited number of contractors from a roster, or list, to compete for the work in a low bid scenario instead of offering the project for public bid where entire community of potential bidders have an opportunity to compete. **Small Works Rosters** are currently organized by trade and region, neither of which create an environment with a competitive edge for small and diverse businesses. Additionally, the administrative effort required to join a roster can deter businesses and make rosters an underutilized tool.

Small and diverse businesses are often excluded from consideration to directly contract with the Prime Contractor or Owner due to their size, either in revenue or number of employees, or due to lack of experience with a particular public owner or procurement method. Business owners also report facing **retaliation** for past complaints about the bidding process. It can be difficult to identify who the decision makers are on a project, and to get responses from public owners and primes when a business needs information. Short timelines for responses also create barriers for smaller businesses.

Managers and executive leaders within Owners and Primes may not understand and embrace a culture of inclusivity. Without a foundation where inclusion and equity are core values, there is not a material way that the proactive steps necessary for a successful inclusion program can be implemented. When leaders recite the policy, ordinance, or laws around diverse business inclusion but do not set an active example and push boundaries to ensure inclusion measures are applied sincerely in capital programs, these policies do not result in meaningful inclusion.

Requiring **inclusion plans** is a common practice among public owners especially in Alternative Public Works, but the requirements for inclusion plans vary widely across public owners. However, inclusion plans are sometimes limited to general outreach approaches and business engagement practices without further thought or effort. This allows owner teams and prime contractors to engage in the minimum effort and fail to create real opportunities. In addition, when they are required, the provisions in inclusion plans are often not monitored or enforced. Businesses need clear expectations and accountability for inclusion plans to have an impact.

The Washington State Attorney General's Office has provided a legal opinion that setting **voluntary or aspirational goals** for projects to include small and diverse businesses is allowable under state law. The opinion states that while RCW 49.60.400 prohibits discrimination or preferential treatment based on race, gender, and other characteristics in public contracting, aspirational goals are permitted under state law. The governor's office has published Executive Order 22-02 reinforcing the AG's legal opinion for cabinet agencies and recommending that other state agencies follow suite. Agencies should be informed by the nuances of these opinions, specific requirements associated with funding sources, and culture within their own organizations.

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Setting **voluntary or aspirational goals** for utilizing small and diverse businesses, for a program generally or for a specific project, requires specialized knowledge and understanding. When inclusion goals are generic and do not include consideration of the project scope, size, and characteristics, or business availability and capabilities, the result can be unrealistic processes and unobtainable goals. In addition, goals are often set as a percent of overall contract value, which can be met with one or a few large items without an effort to create real opportunity for a multitude of small and diverse businesses.

Small and diverse business owners report being sought out for help with project proposals and included in responses to obtain the work, only to be replaced or have the prime self-perform once they are selected by the owner. Known as **bait and switch**, this type of misrepresentation on the part of the Prime contractors reinforces inequity and results in the exploitation of small and diverse businesses who have limited remedies for this situation. This has been reported in some cases even with contracts between the prime and small and diverse business in place. In addition, small and diverse businesses continue to face overt discrimination, harassment, bias, and retaliation for making complaints. This is an area where accountability is so important, and safe ways to seek out accountability measures need to be in place.

Increasing the size and scope of projects impact the ability of firms to work on individual projects due to all the additional requirements involved to participate, even as subcontractors. Fitting work packages to match business capabilities is referred to as **unbundling**. This strategy to increase inclusion is a well-documented method, in fact the disparity study specifically includes the process as does the tool kit published by OWMBE. However, it increases the number of subcontracts that owners and primes must manage, requires the ability to communicate the need to leadership and risk management officers, and adds complexity to subcontract management. Unbundling requires resources and support to effectively create opportunity and mitigate risk.

**Certification** of small and diverse businesses set forth a unique set of challenges for businesses navigating opportunities within the State of Washington. There are not only varying levels of rigorous to being “certified” dependent upon the type of certification being sought, but there are multiple organizations and agencies providing certifications. The State recognizes OMWBE certification as the sole agency that certifies minority- and women-owned businesses enterprises for all state and local programs, and the Washington Department of Veterans Affairs as the agency to certify veteran-owned businesses. Small businesses are registered, rather than certified, through DES’s WEBS system. This registration is a self-certification style with no verification step. Additionally, some Owners and independent organizations allow for self-certification with very little scrutiny. This confusing landscape of certifications is perceived to provide very little material benefit to small and diverse business. Therefore, not all small and diverse firms are certified, and it leads to a lack of awareness by primes and public owners.

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## Section 1: Owners and Prime Contractors/Consultants

Owners and Primes play a leadership role in advancing the good work, success, and sustainability of small and diverse business in the alternative public work arena. As the primary source of opportunities for prime contracts (in the case of Owners) and subcontracts (in the case of Primes), it is critically important that foundationally each of these groups have a culture of inclusion, tolerance, and honest effort with the express goal of increasing inclusion as it relates to opportunities public works. This meaningful approach offsets the check the box mentality and puts Owners and Primes in a position to weighing risks and rewards and mitigate them in a business-like way.

With that in mind Owners and Primes have a collection of things they can do within the current environment and legislation to positively impact access to opportunities for small and diverse businesses. Current practices vary widely across agencies and institutions in Washington. The following practices, in use among some public owners, show promise in reducing barriers for small and diverse businesses to access opportunities.

**Forecasting** future spending and making this information public ensures businesses can be prepared to respond competitively to procurement opportunities. This is particularly important for small and diverse businesses that may have difficulty responding to solicitations without sufficient notice. Regular planning and forecasting help organizations build outreach plans, which can lengthen the amount of time bid opportunities are available. This helps to ensure that every purchase is a planned purchase that can benefit small and diverse businesses.

Owners and Primes should have a more general **socialization and engagement** process to introduce their procurement processes and decision makers, answer questions, and engage with business owners. This first step can be critical in understanding the small and diverse business community in a target area. Don't assume what small and diverse businesses need, your culture of awareness should include the ability to ask and hear the needs and be willing to respond. Many of the recommended practices in this section could impact businesses in a positive way, but there may be more targeted or specific ways to provide opportunities that businesses can provide when asked.

Engagement with small and diverse businesses should occur outside of active solicitations as well. Information on how decisions are made, who makes them, and the processes for solicitation dispute resolution should be provided to the public. Public owners and primes can seek opportunities to coordinate their outreach efforts with others to be more efficient with small and diverse businesses' time. Outreach strategies should be tailored to account for regional differences in the availability of businesses and the timing of project opportunities. Outreach should also fit the needs and abilities of the targeted

Owners and primes can look for ways to engage target companies prior to solicitations to understand what work scopes, complexity, requirements and sizes they are capable of and package work accordingly. Strategic **unbundling**, when used appropriately, can provide opportunities for small and diverse businesses to engage in the work at a level they are prepared to handle. It can also benefit public owners by increasing competition and distributing risk. When considering this strategy, owners should assess their capabilities, the number of locations involved in the work, the size and complexity of the project, the trades and services involved, and the timing of the work to ensure that unbundling is the right choice.



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The General Contractor/Construction Manager (GC/CM) procurement method is the most prescriptive of alternative public works methods in statute. CPARB's GC/CM Committee is currently working to identify ways for unbundling to create more fair and equitable contracting opportunities in this contracting method.

### ***Making opportunities more visible***

Contracting opportunities should be advertised in a wide range of places to maximize the opportunity for small and diverse businesses to access them. RCW 39.10 requires Owners to explore all potential sources to **advertise** their procurements, not limiting themselves to newspapers, but seeking out other organizations to publish on their websites. This provides those Owners and Primes who reach out, to begin developing relationships with organizations they may not have previously been aware of or engaged with, and naturally provides a networking path for future engagement. Alternate advertising sources may include an easily accessible location on the public owner's own website, OMWBE's website, WEBS, and community organizations such as Tabor 100. In addition, outreach work can involve working with community organizations, holding events, and directly contacting companies. Advertisements should attempt to offer sufficient project or opportunity details to inform bidders of opportunities. Take into account: Delivery method, approximate dollar value or scope size information, even start and finish dates. Solicitation timeframes/durations should be sufficient to allow development of bids relative to the amount of work required to submit a responsive bid.

Once awards are made, awarded contracts should be published in visible locations so that interested businesses can reach the prime contractors.

To ensure small and diverse businesses used in a prime contractor's **inclusion plan** or proposal are used on the projects where they are listed, public owners and Primes should monitor utilization through all phases of the project. During solicitations, teaming agreements create a contractual relationship between the prime and subcontractor, making it more difficult to exclude a subcontractor after listing them in the inclusion plan. Owners who review teaming agreements of proposing Prime Contractors need to be aware of changes, and should not request Prime Contractors/consultants to invalidate those agreements by asking for changes in proposed subcontractors. Taking measures like these could help reduce the risk of "**bait and switch**" practices and stop public owners from being either an intentional or unintentional party to them.

Some public owners use supplier diversity management software to monitor progress toward their **utilization goals** using actual payment data, allowing them to identify when a subcontractor is excluded, unpaid or their scope of work is reduced. OMWBE is currently in the process of standing up Access Equity which utilizes B2Gnow software to provide tracking of subcontractor payments. This is a great opportunity for Owners and Primes to achieve data analysis and monitoring capabilities without having to stand up their own programs. Some public owners also conduct reviews to ensure small and diverse subcontractors are performing a "commercially useful function" on the project rather than being used as a pass-through entity to give the appearance of inclusion. Owners may also specify a process for prime contractors to change out any subcontractors that has been named in the contract.

Measuring the performance of inclusion work does not need to be limited to **aspirational goals** for inclusion of small and diverse businesses, public owners and primes can implement/take cues from the structure of the federal approach and research availability by work category, availability and capabilities in lieu of percentage goals. Aspirational goals do not have to be limited to metrics of percentage

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utilization, but can include effort measurements to seek out and include business, provide services to support small and diverse businesses, or other types of effort intended to create equity.

Owners and Primes should be utilizing race and gender-neutral measures within the parameters of the law to target markets that likely include diverse business. For example, with a concise and consistent **definition of small business** that is inclusive and validated in some way, Owners may stand up programs and criteria that increase opportunities for small businesses. Until the definition of small business is refined, owners and primes need to carefully navigate and consider how they utilize it as a tool in developing their programs.

An appropriate small business definition that is validated and consistent could allow Owners to create Small Works Rosters that target small businesses and provide greater opportunity and incentive for small and diverse businesses to navigate the public work process, increasing both competition and participation, resulting in increased public benefit.

Rosters have the potential to increase opportunities for small and diverse businesses when the application process is simple and accessible, and contracts use plain language. The Municipal Research and Services Center, MRSC, maintains the rosters for 651 public owners in the state, and hundreds more maintain their own rosters with their own processes. CPARB's Small Work Roster Committee is currently examining options for amending the small works roster process to create a more inclusive and efficient tool for public owners and businesses.



# Chapter 1: Access to Opportunities

## Section 2: Small and Diverse Businesses/Support Organizations

A number of resources exist to improve access to opportunities for small and diverse businesses. This section provides a summary of some of them, with recommendations for improvements.

The following support organizations can be leveraged by small and diverse business to understand, access, and assist in navigating the **certification** process and opportunities available:

The Washington Procurement Technical Assistance Center (PTAC) provides Washington businesses with no cost, confidential, one-on-one technical assistance in all aspects of selling to federal, state, and local governments. PTAC also helps businesses register with the correct databases to compete for government contracts.

The Minority Business Development Agency (MBDA) within the U.S. Department of Commerce, provides services to minority business enterprises. The Washington MBDA business center offers businesses solicitation analysis, bid preparation, assistance with registration and certification, and assistance with targeted teaming arrangements and joint ventures.

The Office of Minority and Women's Business Enterprises (OMWBE) certifies small businesses owned by women and minorities for contracting with state and local government entities and maintains a database of certified businesses for use by public owners and primes in finding contractors. The Washington Department of Veterans Affairs (DVA) certifies businesses owned by veterans, and the Department of Enterprises Services maintains the database WEBS for state and local bidding opportunities with information on businesses certified by OMWBE, DVA and its own self-identified small businesses.

Attentionally there are support organizations like Taber 100, the National Association of Minority Contractors, Northwest Minority Builders Alliance, The Urban League, el Centro de la Raza, and the Black Collective, whose efforts actively cultivate relationship and connections to opportunities for their members.

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## Section 3: Potential Legislative Changes

The barriers to access to opportunities often have a foundation in the need to level the playing field, bringing historically socially and economically disadvantaged businesses up to the same starting place as other businesses in the arena and providing them the same opportunities that they have been denied.

Within the limits of state and federal law, public owners could provide targeted relief on some of the above access to opportunities barriers complying with race and gender-neutral measures by targeting small business.

The 2019 statewide disparity study recommended developing a pilot small business enterprise target market, setting aside some smaller or less complex contracts for bidding only by small businesses. This target market program could be paired with other measures such as quick pay, reduced experience requirements and different retainage rules to maximize the benefit to small and diverse businesses participating in the market. Similarly, Rosters classified around a usable definition of small business could provide race and gender-neutral ways to provide opportunities to small and diverse businesses. Projects let by small works roster could provide a way for public owners to reasonably “unbundle” and appropriately bid projects to a targeted market.

However, any new program to assist small businesses would require a working definition and process for identifying eligible small businesses that is dependable, accurate, and authenticated. Under state and federal law, there are currently several different definitions of small business in use for different purposes and by different agencies. An appropriate small business definition that is validated and consistent would allow Owners to create Small Works Rosters that target small businesses and provide greater opportunity and incentive for small and diverse businesses to navigate the public work process, increasing both competition and participation, resulting in increased public benefit.

Below is an overview of the different ways the state defines “small business”.

For the purpose of **contracting on projects with federal funding** in Washington state, a small business must be independently owned and operated, for-profit, not dominant in its field of operations, under \$28.48 million in annual gross receipts, and meet size standards specific to each industry. For instance, lumber wholesalers are subject to a limit of 150 employees while framing contractors are subject to a limit of \$16.5 million. [Link to SBA size standards] Business owners must also have a personal net worth under \$1.32 million, excluding their primary residence and the business. Business owners must apply to the Office of Minority and Women’s Business Enterprises and provide financial documents to show eligibility.

For the purpose of **state agency procurement** of goods and services under the authority of the Department of Enterprise Services (RCW 39.26.010), a small business is one that is independently owned and operated and meets any one of the following criteria:

1. Has 50 or fewer employees
  2. Has less than \$7 million in annual gross revenue, or
  3. Is certified by OMWBE.
1. Business owners self-attest to their small business status in the Department of Enterprise Services’ electronic bid system called WEBS.

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For the purpose of reducing the **impact to small businesses from state regulations** (RCW 19.85.020), a small business is defined as independently owner and operated with 50 or fewer employees.

For the purpose of providing **small businesses tax relief** on their gross receipts tax obligations (RCW 82.04.4451), qualifying small businesses can have up to \$1,681 in annual B&O tax liability depending on the type of activities that make up most of their liability.

For the purpose of **federal Small Business Administration (SBA) programs**, a small business concern is independently operated, under \$26.29 million in gross receipts annually, and also meets size standards specific to each industry. For instance, lumber wholesalers are subject to a limit of 150 employees while framing contractors are subject to a limit of \$ 16.5 million [[Link to SBA size standards](#)]. Business owners can self-attest to the SBA.

## Chapter 2: Access to Capital

Access to capital is a barrier for many small and diverse businesses competing for contracts or working to grow. Businesses often struggle to obtain bonding, insurance and loans, and to maintain the cash flow needed to pay their bills and employees.

For small and diverse businesses working as subcontractors on public contracts, receiving payment quickly is critical to maintain the cash flow needed to pay workers, buy supplies and prepare for new contracts. While there are laws around **prompt payment**, and many public owners have terms in their contract requiring prompt payment to subcontractors, the practical application of the law and adherence to it are challenging. Subcontractors often do not receive payment for 45-120 days after invoicing for completed work. The long delays in payment impact lenders' willingness to provide credit and borrowers, and require either a lot of working capital, or access to construction lines of credit, which firms may not have. Allowing early payment to at-risk subcontractors may ease some of these issues but could create legal risks and impact subcontractors' ability to obtain surety bonds.

Contractors must secure a number of **bonds** to bid for and perform public works. The types of required bonds include: 1) contractor registration bonds under RCW 18.27 in the amount of \$6,000 for specialty contractors and \$12,000 for general contractors with "blocked deposit accounts" as an alternative; 2) bid bonds/guarantees which are typically 5% of the contract amount; 3) payment and performance bonds consistent with RCW 39.08, which are generally the full contract price with exceptions for contracts \$150,000 or below; and 4) retainage bonds, if sought, pursuant to RCW 60.28.011. There may also be additional bonding requirements for licensed trades like electrical and plumbing. Small and diverse businesses face additional barriers to finding, applying for and receiving bonds. These barriers often relate to lack of credit, experience and information.

The 2019 statewide disparity study identified a gap that the state lacks a bonding and financing assistance program for small businesses. Many states offer bonding guarantee programs, guaranteeing a portion of a bond to lower barriers based on capital, financing and experience. Although state funding cannot be used to guarantee the bonds, organizations to support small and diverse businesses could implement a program using private or federal funding. In addition, some states offer bonding assistance programs that include training and a commitment to provide a bond for businesses that complete their training and mentoring program.

**Insurance** coverage requirements by public owners, intended to minimize risk, can increase costs and create barriers for small and diverse businesses when the insurance requirements exceed the scope of their role in the project or the insurance they can obtain. For instance, in the field of design, insurance coverage typically includes liability related to the business's own negligence.

Insurance requirements in public works contracts are not specified to match individual scopes of work and risk of every sub-task or subcontractor, but are typically written to cover the whole project while also requiring coverage as a "flow down" condition; therefore, creating a barrier for subcontractors, service professionals, and/or smaller firms who cannot obtain the coverage to compete and perform on public contracts.

**Indemnification** clauses can require businesses to take on liability outside what is covered by their insurance, resulting in increased risk to the business. This risk creates a barrier to entry for small and

## Chapter 2: Access to Capital

diverse businesses that lack the cash flow to survive under-insured or non-insurable claims. Some indemnification clauses create liability beyond a firm's own negligence. Indemnification provisions in public works contracts can also be complex or ambiguously written.

Agencies and Support Organizations across the State have programs specifically designed to help small and diverse businesses receive access to capital, bonding support and line of credits. Some examples include the Linked Deposit Program, Business Impact NW, and WSDOT Bonding Program. Utilization of these programs is reportedly low. It is unclear if the barrier to businesses accessing these programs has to do with awareness or timing. Accessing these programs at the right time in the business development and growth could be critical for business success.

# Chapter 2: Access to Capital

## Section 1: Public Owners and Prime Contractors/Consultants

Barriers to capital have the potential to make or break small and diverse businesses who have decided to pursue public works. Without public owners and primes taking steps to alleviate some of these barriers, winning a public works contract can be the end of a small business.

As the entity most often with a direct relationship with small and diverse subcontractors, prime contractors are in an ideal position to help identify and eliminate barriers and ensure project conditions are tailored to their financial circumstances. Public owners can lay a foundation of policies and practices that encourage direct contractual and financial relationships with small and diverse businesses, as well as build a contractual framework that allows primes to create an environment where small and diverse businesses can be financially successful. The following pages outline promising practices prime contractors and public owners can use to reduce barriers to accessing capital for small and diverse businesses.

Outside of individual projects, public owners and primes should evaluate their **internal processes** and procurement practices to identify areas for improvement. For instance, public owners can seek out ways reduce the number of days between receipt and payment of an invoice by reviewing their processes for unnecessary delays in **prompt payment**, efficiencies or creating special processes that can be made to pay certain invoices in a timelier manner. Each public owner should also evaluate its **bonding requirements** compared to the legal minimums and its own needs, to ensure it is not requiring more bonding than necessary to protect the public investment, and that the impacts of carrying down those requirements are fair and reasonable for all tiers of subcontractor or subconsultant involved.

### Project Contract Components

Public owners legally must include provisions for **prompt payment** in their contracts with primes. However, beyond these minimums required by law, terms to consider may include more frequent pay periods, such as biweekly or twice per month, draft invoice processes to allow development and consensus of the invoice in advance of submission, and establishing a process for general contractors to bill for subcontractor materials purchase in advanced and stored before using. Whatever payment terms a public owner requires for a contract, monitoring and enforcement are critically important to ensure they are put into practice.

Public owners can also request plans for **prompt payment** from primes as part of their **inclusion plans**. This practice encourages thoughtful discussion early in the project process about tailored solutions that match individual projects and specific subcontractor needs.

During contract negotiations, prime contractors can advocate for payment terms that will allow them to pay subcontractors quickly and frequently. The specific terms that would be most helpful on a project can vary, so primes should work with their subcontractors to find solutions that are acceptable to both parties. One practice that holds potential is submitting invoices for work by small and diverse subcontractors during the month it is expected to be completed based upon **cash flow** analysis, rather than waiting until the work is finished to begin the payment process. This would allow the work of the subcontractor to be verified as complete but be paid promptly as owner and prime processes for payment occurred in advance, in lieu of verification of completed work being the start of the payment process.

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## Section 1: Public Owners and Prime Contractors/Consultants

Other provisions to consider include invoicing based on percentage completion versus invoicing for time and materials, down payments for materials in advance of fabrication and/or delivery, and the timing for payment after delivery of materials to the jobsite. Payment related terms should be developed in consultation with surety providers to avoid unintentionally making bonding more difficult.

**Joint check** agreements give prime contractors the ability to write checks jointly to a subcontractor and their lower tier subcontractors or suppliers. Similarly public owners can utilize joint checks to pay prime contractors and subcontractors as well. As a result, contractors need the signatures of their lower-tier subcontractors to deposit the check, ensuring those subcontractors are paid at the same time. This practice has the potential to ensure lower tier subcontractors and suppliers are paid quickly, and to skip the multiple tiers of processing time required traditionally.

**Indemnification clauses** that are broader than needed can harm participation by small and diverse businesses. Public owners and primes should carefully review their contract language to ensure indemnification provisions do not exceed the scope of work being performed by subcontractors, or available insurance coverage.

Public owners have a responsibility to make sure **insurance requirements** for project do not exceed what is needed to protect the public investment. Public owners should explicitly note in the contract how insurance requirements may flow down through the tiers of subcontractors, and specify that the insurance requirements for the whole project may be divided among lower tiers based on factors like the scope of work and risk involved.

Alternative insurance products such as Owner Controlled Insurance Programs (OCIP) and Contractor Controlled Insurance Programs (CCIP) allow all the insurance products needed for a public works project to be combined into one package with the public owner, prime contractor and subcontractors all covered for the entire project. These products have the potential to create cost savings and avoid duplication of insurance coverage. This can be more efficient and reduce overlapping insurance coverage. Owners and primes should evaluate whether one of these products meets their needs, and which of them is in the best position to purchase insurance based on credit and ability to obtain policy discounts by insuring multiple projects.

# Chapter 2: Access to Capital

## Section 2: Small and Diverse Business / Support Organizations

For new businesses, and small and diverse businesses expanding into public contracting from other sectors, there are existing resources available to help overcome the barriers to accessing capital to fund, develop and financially grow. Many of these resources can be most helpful before a business starts its first public works project. Planning and considering business cash flow, overhead, lending needs, and capital portfolio are important measures to engage. Support organization such as the Securities and Exchange Commission (SEC), the Department of Commerce, banks, credit unions, Procurement and Technical Assistance Center (PTAC) and the Minority Business Development Agency (MBDA), Small Business Development Centers (SBDC), the Washington State Micro Business Organization, the Small Business Administration (SBA), and financial advisors can provide the technical assistance needed to understand financial planning to navigate barriers around **prompt pay**, connect businesses with appropriate lenders, and find the right tools to support the business's financial stability.

Additionally, the Office of Minority and Women's Business Enterprises (OMWBE), The Washington Department of Veterans' Affairs (DVA), and the Department of Commerce all have statutory roles in supporting small and diverse businesses. These agencies and organizations are in a unique position to problem solve issues around access to capital as they have relationships with business owners and can identify unmet needs. Most provide one on one support tailored to the business's specific needs.

The **Linked Deposit Program** is jointly administered by OMWBE, the Washington Department of Veterans Affairs, and the Office of the Treasurer. These agencies partner to provide certified woman-, minority-, and veteran-owned businesses with reduced interest rates on loans from public depositories like banks and credit unions. The MWBE portion of program currently has unused capacity for loans. These three agencies should partner to increase the visibility of the program, ensure it is available across the state with a range of lenders, and seek feedback from business owners on ways to make the program more accessible.

The Department of Commerce also offers programs to provide access to capital for small businesses, such as the **Small Business Flex Fund**. Agencies should explore coordinating to maximize the benefits of these programs and ensure they are accessible across geographies and business types.



# Chapter 2: Access to Capital

## Section 3: Potential Legislative Changes

Access to capital is profoundly important for small and diverse businesses to be successful in public works projects. Navigating bonds, insurance, contracts, payments and cash flow can be daunting. Even with public owners and primes working within the confines of the law to reduce these barriers, there is still such opportunity to improve equity in a meaningful, tangible way, and prompt payment is an area that needs legislative improvement.

Many of the prompt payment barriers can be found in RCW Title 39. Legislative work could be performed around improving the process and allowable methods of payment between public owners and Primes, and between primes and subcontractors. Washington needs to create an auditable and allowable program to make funds available to subcontractors so that their credit is not impacted by the slow payment cycle. Setting up this type of program may require a definition of small business (as recommended for Access to Opportunities) to determine the group of subcontractors who may qualify for this type of program.

## Chapter 3: Access to Training

When project delivery staff and contracting **staff lack training** on inclusion policies and procedures, the scoring and evaluation processes can introduce bias and result in unfair procurements. Inclusion provisions and policies are hollow and ineffective without training to support their implementation. Project staff for prime contractors also require training on owner adopted best practices. In some cases, estimating and subcontracting staff are unaware of the contents of an inclusion plan and may fail to include people and processes intended by the plan. Contract language, forms, templates and other tools for equity cannot have an impact without internal policies, procedures and training to put them into practice.

Doing business with the government can **require specialized knowledge** in addition to a business owner's field of expertise. Subjects like bonding, indemnification and insurance are complex and can have major impacts on a business's survival. Understanding of the different delivery methods and funding sources for public works projects and how they impact the way work is done is vital for businesses to succeed. **Training programs** exist to cover all these topics and more. However, training is conducted by a wide variety of organizations and the state lacks a centralized location for business owners to find and evaluate training opportunities.

Training can be categorized into two broad styles: Lecture and Hands On. Much of the current training available to small and diverse businesses is lecture format, which is removed from the every-day working of running a construction or design firm and can be more difficult to put into practice. Hands-on training, like the apprenticeship programs that many business owners used to enter their respective construction fields, are less available.

**Mentorship** programs are often marketed as a way for small and diverse businesses to build capacity and grow through mentorship with primes. However, when mentorship programs lack structure, they can develop solely focused on networking assistance, which does not meet all the needs of the mentorship businesses to grow and develop. Businesses benefit from comprehensive mentor-protégé programs with active involvement and support throughout the business relationship, rather than solely focusing on networking assistance.

**Data** on inclusion of small and diverse businesses is not collected or stored in a consistent manner, and at the local level no centralized dataset exists. The information that is collected is often unpublished, requiring public records requests to obtain. In addition, some public owners have their own designations for small and diverse businesses, which may overlap with certification by OMWBE and create confusion in reporting.

# Chapter 3: Access to Training

## Section 1: Public Owners and Prime Contractors/Consultants

Leadership within public owners and primes should require that all staff are trained on inclusion processes, policies, and goals. **Training** on contractual inclusion should be mandatory for any staff who participate in the solicitation, management, or enforcement of projects. **Cultural training** offered for all positions within an organization helps build a foundational awareness, acceptance and aptitude for all employees so that as they grow, are prompted, and come into positions of power within the organization they carry forward the core values necessary to keep this inclusion work at the forefront. This will ensure that small and diverse business inclusion is considered in decision-making across all levels of an organization.

Project-specific **inclusion plans** and goals should be developed by the staff who will be involved in the project, including staff of the prime contractor. This ensures awareness and understanding of the goals among those charged with implementing them, and that action plans will be developed with concrete actionable steps.

For those public owners and primes who have the ability and capacity to begin offering training and educational opportunities to the industry, careful contemplation, access consideration, and value-added benefits should be fully thought out to avoid duplication of trainings already available. It is important to explore and find the right fit of offered training not only for the small and diverse businesses who take their valuable time to attend the offering, but to be sure that the training aligns with each organization's practices and culture. A feedback loop that allows for anonymous complaints, questions and critiques of the programs offered provides accountability of the trainings offered.

The Minority Business Development Agency (MBDA), in partnership with WSDOT and Sound Transit, administers the **Capacity Building Mentorship** program that can serve as a model for public owners and primes. Successful mentorship programs identify the specific needs of mentees before matching them with mentors who can meet those needs. They also support mentees with technical assistance and industry specific knowledge rather than solely networking support. Programs should include specific measurable outcomes, such as increased bonding capacity, increased revenue, increased bidding capacity, continuous objectives improvement, and industry survival rates.

The MBDA Capacity Building Mentorship Program is well developed and has served several cohorts of business owners. The current focus of the program is on contractors who work on WSDOT and Sound Transit in horizontal construction. There are opportunities to grow that program through additional agency involvement, but would require additional funding to provide the additional support staff to accommodate the influx of vertical construction firms. Additionally, firms interested in becoming mentors should understand that mentees are interested in hands-on experience, receiving coaching over the course of an actual project working for a mentor rather than talking through the process in the abstract.

Public owners can require that inclusion plans for each project include provisions for training or mentorship style programs, and can consider training in their scoring criteria. Public owners should be monitoring outcomes based upon the inclusion plan from the contractor.

# Chapter 3: Access to Training

## Section 2: Small and Diverse Business / Support Organizations

For new businesses, or small and diverse businesses expanding into public contracting from other sectors, there are many resources and training programs available to help overcome the barriers to accessing training to grow and compete. Many of these resources can be most helpful before a business starts its first public works project.

While **training programs** seem abundant, **locating and evaluating** them can be difficult for owners of small and diverse businesses who must balance the need to develop and grow against the demands of day-to-day operations. Business owners are best positioned to understand their own strengths and training needs, and the time and money they can afford to invest in development. If unsure of their needs, small and diverse businesses can consult with a support organization like the Department of Commerce, Washington State Small Business Center, or OMWBE's Support Services program, to name a few, to help develop a training plan to support their specific growth needs.

For small and diverse businesses interested in WSDOT and Sound Transit work, the Minority Business Development Agency's (MBDA) Capacity Building Mentorship program provides an opportunity for hands on mentorship type training. The federal **Mentor Protégé Programs** are designed to ensure proper transfer of knowledge between the mentor firm and the protégé firm and an officially legally binding Joint Venture agreement in place for a specified period of time, with the ability to specifically target markets based upon gender, race and class. The Washington State **Capacity Building Programs** is Flexible and does not require a joint venture agreement. It motivates and encourages mentors to provide developmental assistance to protégés based on a development plan. The program is built to maximize small business access to DOT's procurement programs, foster long-term business relationships, and enhance small businesses' core capabilities.

OMWBE manages an events calendar on its website with information on upcoming workshops, **classes**, and other events by organizations across Washington. The Washington Procurement and Technical Assistance Center (PTAC), SCORE, and Business Impact NW all offer a combination of workshops and one-on-one assistance to businesses across a range of general business and contracting topics.

For alternative public works, the Design Build Institute of America offers training programs in design-build work. The AGC Education Foundation offers training on the General Contractor/Construction Manager (GC/CM) contracting method. The Washington chapter of the American Public Works Association and the Seattle chapter of the American Institute of Architects also offer training programs in public works contracting.

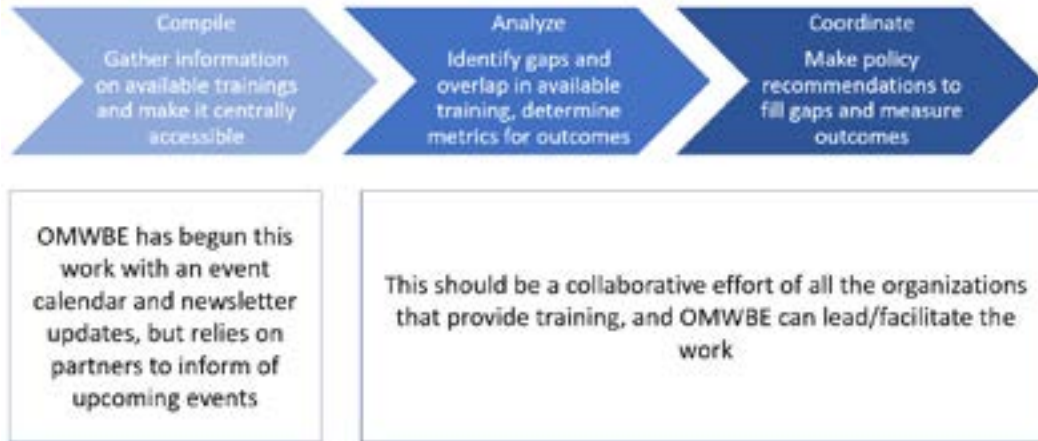
# Chapter 3: Access to Training

## Section 3: Potential Legislative Changes

The multitude of existing support organizations, public agency trainings, and even prime led educational opportunities is an ambiguous and challenging landscape to navigate for small and diverse businesses.

Coordination of existing and available trainings is an area for further exploration. OMWBE currently maintains an event calendar on its website with upcoming workshops and classes, but it is limited to events agency staff can locate or are informed of by partners. No organization has the direction or resources to help coordinate between the entities that offer trainings to identify gaps and duplication in what is offered, provide metrics to identify successful programs, or ensure trainings are accessible in a central location.

The work could begin with an expansion of OMWBE’s calendar but would require resources and coordination between the organizations that offer trainings. One possible path for this work is described below.



# Resources and Reference Materials

2021 SB 5032:

<https://app.leg.wa.gov/billssummary?BillNumber=5032&Year=2021&Initiative=false>

CPARB Website:

<https://des.wa.gov/about/boards-committees/capital-projects-advisory-review-board>

2019 Washington Statewide Disparity Study:

<https://omwbe.wa.gov/governors-subcabinet-business-diversity/disparity-study>

Best Practices (aka Community of Practice) Subcommittee Work Products:

BE/DBI Matrix

Barrier Statements Draft Document

BE/DBI Survey Results

BE/DBI Committee Minutes/Info/Documents:

<https://des.wa.gov/about/boards-committees/capital-projects-advisory-review-board/current-cparb-committees>

BE/DBI Committee Meeting Minutes

April 23, 2021

May 28, 2021

June 25, 2021

July 23, 2021

August 27, 2021

September 24, 2021

October 22, 2021

October 29, 2021

November 19, 2021

December 17, 2021

January 28, 2022

February 25, 2022

March 4, 2022

March 25, 2022

April 1, 2022

April 8, 2022

April 22, 2022

Washington State Office of the Attorney General: AG Opinion: Use Of Race- Or Sex-Conscious Measures Or Preferences To Remedy Discrimination In State Contracting

<https://www.atg.wa.gov/ago-opinions/use-race-or-sex-conscious-measures-or-preferences-remedy-discrimination-state>

# Resources and Reference Materials

Location of Governor's Executive Orders:

<https://www.governor.wa.gov/office-governor/official-actions/executive-orders>

Governor's Executive Order 21-01 "Affirming Washington State Business Resource Groups"

[https://www.governor.wa.gov/sites/default/files/exe\\_order/eo\\_21-01.pdf](https://www.governor.wa.gov/sites/default/files/exe_order/eo_21-01.pdf)

Governor's Executive Order 22-01 "Equity in Public Contracting"

[https://www.governor.wa.gov/sites/default/files/exe\\_order/22-01%20-%20Equity%20in%20Public%20Contracting.pdf](https://www.governor.wa.gov/sites/default/files/exe_order/22-01%20-%20Equity%20in%20Public%20Contracting.pdf)

Governor's Executive Order 22-02 "Achieving Equity in Washington State Government":

<https://www.governor.wa.gov/sites/default/files/22-02%20-%20Equity%20in%20State%20Government%20%28Gov%20signed%29.pdf>

OMWBE – Tools for Equity in Public Spending

<https://omwbe.wa.gov/state-supplier-diversity-reporting/tools-equity-public-spending>

Forecasting FAQ <https://omwbe.wa.gov/sites/default/files/public/tools-for-equity/Forecasting-FAQ.pdf>

Unbundling FAQ <https://omwbe.wa.gov/sites/default/files/public/tools-for-equity/Unbundling-FAQ.pdf>

Contract language best practices <https://omwbe.wa.gov/sites/default/files/public/tools-for-equity/Contract-Language-Best-Practices.pdf>

Inclusion plans FAQ <https://omwbe.wa.gov/sites/default/files/public/tools-for-equity/Inclusion-Plans-FAQ.pdf>

Outreach tools <https://omwbe.wa.gov/state-supplier-diversity-reporting/tools-equity-public-spending/outreach>

Office of Equity

<https://equity.wa.gov/>

Washington State Pro-Equity Anti-Racism (PEAR) Plan & Playbook

## **Mentor Protégé Reference Material**

SBA "What is the SBA Mentor-Protégé Program?"

<https://www.sba.gov/brand/assets/sba/resource-partners/SBA-MPP-FactSheet-508.pdf>

Best Practices Successful Mentor-Protégé Programs (10/4/2019)

Capacity Building Mentorship Program: the CBMP Survey Report (3/8/2022)

WA Small Business Resource Guide

Minority Business Development Agency Business Center U.S. Department of Commerce

<https://mbda-tacoma.com/>

# Resources and Reference Materials

**Resource for technical business financial assistance:**

Washington Small Business Development Center

<https://wsbdc.org/>

SBA:

Small Business Association:

<https://www.sba.gov/>

Dynamic Small Business Space (populated by sam.gov data):

[http://pro-net.sba.gov/pro-net/search/dsp\\_dsbs.cfm](http://pro-net.sba.gov/pro-net/search/dsp_dsbs.cfm)

Small Business Flex Fund:

<https://smallbusinessflexfund.org/>

US Securities and Exchange Commission:

Office of the Advocate for Small Business Capital Formation

<https://www.sec.gov/oasb>

Capital Raising Hub

<https://www.sec.gov/capitalraising>

Annual Report for Fiscal Year 2021

<https://www.sec.gov/files/2021-OASB-Annual-Report.pdf>

Navigating Your Options

<https://www.sec.gov/capitalraising/navigator#1>

Capital Trends: Mapping Investment in America: Where are Companies Raising Capital?

Regulation Crowdfunding

<https://www.sec.gov/capitalraising/trends>

Innovation Cluster Accelerator

<http://icapwashingtonstate.org/>

Washington State Microenterprise Association:

<https://www.wamicrobiz.org/>

Partner Organizations List

<https://www.wamicrobiz.org/members>

Washington State Department of Commerce:

<https://www.commerce.wa.gov/>



# Resources and Reference Materials

Culturally relevant assistance for business owners and organizations affected by COVID-19  
<https://www.commerce.wa.gov/serving-communities/technical-assistance-from-trusted-community-messengers/>

COVID-19 Emergency Funding for Small Businesses  
<https://commercegrants.com/>

Email contract:  
[bizgrants@commerce.wa.gov](mailto:bizgrants@commerce.wa.gov)

Small Business Flex Fund:  
[www.SmallBusinessFlexFund.org](http://www.SmallBusinessFlexFund.org)

Business Impact NW  
<https://businessimpactnw.org/>

OMWBE Linked Deposit Program:  
<https://omwbe.wa.gov/small-business-assistance/linked-deposit-loan-program>

WDVA Linked Deposit Program:  
<https://dva.wa.gov/veterans-their-families/veteran-owned-businesses/linked-deposit>

## **Additional Studies:**

WSDOT Bonding Study:  
<https://wsdot.wa.gov/sites/default/files/2021-11/WSDOT-Surety-Bond-Study.pdf>

Surety Bonding Accessibility Study: OMWBE and HUB Contractors  
<https://wsdot.wa.gov/sites/default/files/2021-11/WSDOT-Surety-Bond-Study.pdf>

## **Some Training:**

OMWBE Calendar of Events  
<https://omwbe.wa.gov/resources/calendar>

Department of Enterprise Services Training:  
<https://des.wa.gov/services/training-and-development>

American Subcontractors Association: Mastering Payment for Stored Materials  
[Mastering-Payment-for-Stored-Materials.pdf \(subcontractorscarolina.com\)](#)

AGC Inland Northwest Chapter: Training Calendar  
<https://www.nwagc.org/upcoming-classes>

AGC Education Foundation:  
<https://www.constructionfoundation.org/>

# Resources and Reference Materials

DBIA Certification Training:  
<https://dbia.org/get-certified/>

American Public Works Association:  
<http://washington.apwa.net/>

JLARC Report on Alternative Public Works:  
[https://leg.wa.gov/jlarc/reports/2020/altpubworks/f\\_c/default.html](https://leg.wa.gov/jlarc/reports/2020/altpubworks/f_c/default.html)

Local and Regional Government Alliance on Race & Equity: Contracting for Equity: Best Local Government Practices that Advance Racial Equity in Government Contracting and Procurement  
<https://www.racialequityalliance.org/2015/12/01/contracting-for-equity/>

## **Some Eastern Washington Support Organizations:**

SCORE Spokane Chapter:  
<https://spokane.score.org/>

AHANA – geared towards minority business in Eastern Washington  
<https://ahana-meba.org/>

Barrier (setting priorities) (non-legislative preference)  <b>(x) = External Engagement Subcommittee Identification of barriers</b>	Barrier Description RCW 39.10, 39.04	External Stakeholder Comments	Working Solutions/General Practices	Committee Recommendations (vetted barriers and solutions)	Lead	Disparity Study/Study					
						DES/OMWBE 2019	Local Govt (MRSC) 2020	Sound Transit 2020	Port of Seattle 2019	WSDOT 2017	City of Tacoma 2018
<b>Section 1: Planning ("start early")</b>											
Outreach (external and internal, engagement, stakeholders) (1)	Too many and inconsistent definitions and options for outreach, diverse businesses, and subcontractors, don't know where to put their valuable time and effort.	We have found out that a few small businesses are looking for one place where everyone can go.	1. Standardize outreach definitions 2. Combine efforts between owners, professional organizations, diverse business community 3. Good faith efforts separated from good business practices (see UW guidance to contractors)		Irene/Linda	X	X	X	X	X	X
Networking (network access, no "old boy network") (1)	Small, diverse businesses excluded from "inner circle" of construction network. Long-standing partner peers.	We agree and are still looking out how this can be resolved.	1. Resources to increase network 2. Resources to access network 3. Similar # of representatives on boards and committees/decision making bodies (not one token diverse) 4. How to use professional organization and advocacy groups		Chip						
Internal policies (SOPs, programming) (see also Inclusion Plans and Contract Language)	Owner and prime contractor lack useable policies and intentional, actionable strategies for diverse business inclusion practices; observed few and far between, and inconsistent Owners often have conflicting procurement priorities that make it hard for target markets to prepare (11)	We highly recommend that the owner/agency should adopt and or develop accountability measurement plan.	1. Develop or highlight examples of SOPs 2. Central repository/links for existing 3. Professional training/consultants 4. OMWBE Public Works Action Committee draft policies 5. City of Seattle 6. Sound Transit 7. Port of Seattle		Aleanna/Brenda	X	X	X	X	X	X
Contract Sizes and Scopes ("right-sizing", aka "unbundling") (4) (8)	Contract sizes and scopes, do not match the target diverse business market Mega projects not broken down appropriately Work distribution confused with programming and funding Being on several rosters with dozens of other businesses yield very little opportunity to compete for small-work; would be easier on the paperwork and monitoring if all owner use the same rosters...by type Rosters are not limited to small, diverse businesses, so diverse firms are still "competing" against large primes Statutes still require all interested eligible firms to be on rosters, with very little room to limit firms on the roster or limit competition within a contracting program	We are not certain of any appropriate course of action on this...it the business that needs to come up with parameters not primes/owners - perhaps this can be a partnership/ teaming up or training item?	Develop advice on how to right-size contracts based on target audience and availability Develop advice to Primes on GC/CM packaging and low-bid tips and tricks		Aleanna	X			X	X	X
Shared Rosters (consultant and small works)	There is not enough notice of upcoming work so diverse businesses, and their partners have time to plan and team in a meaningful way	This is common practice. Almost all are using OMWBE - perhaps get an update and identify more precise questions.	1. Develop non-legislative tips for using rosters more effectively 2. Encourage the use of MRSC for small works 3. Discuss based on owner size 4. Look at legislative changes that may help further the efficiency of small works and A/E rosters.		Olivia/Van MRSC		X				
Forecasting (4)	Inclusion goals are generic and not thoughtful to the project, scope, size, and firm availability. The result is unrealistic inclusion processes. Many owner's and prime do not know how to set goals or are counseled not to	This can also be a part of the item for Networking, announcements and utilizing association platforms and OMWBE website.	1. Support Owners in standardizing their capital plans and budgets 2. DES 3. City of Seattle		Chip Tull						
Goal Setting  <i>See legal comments</i>	Many owner contracting and delivery teams are not trained and do not know how to administer diverse business inclusion policies Many owners do not have contract compliance staff and therefore and efforts or contract requirements are not enforced, in some cases not reviewed at all.	Assign a manager for major pursuits from the owners side to make sure this happens, set accountability measurements. Set the goal as part of the RPF and assign more points to it, having the portion be 5-8% sends a weak message.	1. Federal goal setting policies 2. City of Seattle approach 3. Sound Transit Approach		Aleanna/Brenda	X		X	X	X	X
Owner develops compliance team	Need for support way before any solicitations hit the street 1. Labor 2. Training 3. Availability (ready, willing, able) 4. Capabilities 5. Strategy	The team that is held accountable, include with above comments and get goals that are attainable and measurable.	1. City of Seattle 2. Sound Transit 3. King County 4. Port of Seattle (all have compliance teams, gather position descriptions, governance structures, salaries, etc.)		Aleanna	X					
Pipeline and Business Development (13)	Need for support way before any solicitations hit the street 1. Labor 2. Training 3. Availability (ready, willing, able) 4. Capabilities 5. Strategy	Include this on networking and outreach.	1.1 Federal programs 1.2 MBDA 1.3 UW Ascend 1.4 Prime programs		Bobby (?)						
Federal Programming	(just a consideration, not a barrier)	Lump with Roadshow - education/awareness	Maybe some tips on navigating federal inclusion programs State AG guidance collection? (DES, OMWBE)		Lily						
Legal interpretations/disproportionate legal representation	Various owners with various legal interpretations of laws and advise on what is allowable, etc.	Support Services Topic	Legal advice rendered regarding BDEI Various Owner legal interpretations		Aleanna						
<b>Section 2: Engagement ("transparency")</b>											
Technical Assistance (9)  <i>See also mentor-protégé</i>	1. Diverse and new businesses to the market lack the resources to understand and navigate the bureaucracy of public owner processes 2. Diverse and new businesses lack the support/overhead to hire staff to produce all the paperwork throughout contracts and projects. 3. Support understanding bid forms 4. Support with weekly reporting and audit protocols	There is a need for Pre-qualification for mbes. We strongly recommend Linda due to the DBE Support Services experience and feedback.	1. Tabor 100 2. MBDA 3. PTAC 4. SME's 5. WSDOT		Shelly	X		X	X	X	X

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			6. City of Seattle										
Access to contracting information (7)	It is hard to navigate all the contracting opportunities in the state. feels like every owner and prime uses a different medium, a different approach, different requirements, time frames, etc.  Also, very few owners post past bids and contracts for review by those trying to compete.	Make this part of the item for Networking.	1. Statewide contracting program  2. Recommend advertisement locations  3. WEBS  4. Contract posting best practices		Shelly	X		X		X			
Access to decision makers (4)	Firms that have never worked with owner teams or owner decision makers are not provided access and opportunities to establish a report with decision makers.	Coaching opportunity - training business owners on proper business etiquette or professionalism. "Demeanor/ Proper Etiquette Training" is recommended.	1. Prior to approval capital portfolios are socialized and presented by decision makers to the community for feedback and meet n greets. Part of the budget process.		Aleanna/Brenda								
Certification (5)	<ul style="list-style-type: none"> <li>Public procurement laws point to state certification for inclusion, yet because of I-200 there can be no material advantage to winning contracts.</li> <li>There are other professional organizations/owners that offer certification or registration programs, but perceived as a conflict of interest with OMWBE which leads to multiple certifications and more work for diverse businesses with little return</li> <li>Not all diverse firms are registered or certified, and it leads to lack of awareness by primes and owners</li> </ul>	Coaching opportunity - training business owners on proper business etiquette or professionalism. "Demeanor/ Proper Etiquette Training" is recommended.	Highlight the various opportunities and values/opportunities created with each.		Aleanna	X							
Mentor-Protégé	Not a barrier, a recommendation Sponsored programs where developing firms get to partner with more established firms or primes for specific jobs  Sponsored programs where developing firms "shadow" established firms on various phases of public works.	A lot of information to how this program is operating, we need to gather more information and expand.	WSDOT		WSDOT/Chip Tull	X		X			X	X	
Owner staff training	Owner and Prime project delivery and contracting staff are not aware of SOPs and tools for inclusion, monitoring and enforcement	This is a Outreach item if we just want to share the information or this a training item for owners/agencies.  Get instructors that know what they are doing	"Road Show", training of staff prior to delivery of the capital program, team development of inclusion strategies and goals by project.  Tips and Tricks for training.		Aleanna	X		X		X	X	X	X
Vendor Rotation  <i>See also Rosters</i>	On-call and roster pools are established but internal utilization policies do not lend themselves to equal/equitable utilization and rotation of firms on the rosters.	From Young: From a Prime's POV: "on call list" is established with vendors that is main focused around personal service and favors. It is my opinion that most business owners do not practice proper business development. That is the reason they are not on the list. On the other hand: how are we going to encourage or mandate this to happen? I do not know of a net to catch this creature. We recommend that we strike this item - we can't do anything about it for right now.	Policy/SOP examples and suggestions		Olivia/Van	X							
Advertisement and solicitations (4)	<ul style="list-style-type: none"> <li>Short solicitations times</li> <li>Confusing processes</li> <li>Not enough information for new firms to understand the process or how to be responsive</li> <li>Inconsistent advertising policies</li> <li><b>No consistency in posting bids and opportunities</b></li> </ul>	Language that should be placed in RFP - Owner will need to provide guidelines of the process or the prime must provide their best foot forward with measurements of accountability and IMPOSE penalties and consequences. Perhaps assign a consultant/Auditor appointed by Owner to make sure Prime does their job. Give that department/agent to give Non Conformance (NC) to a prime. Need to hit them where its going to get attention. Accountability and Consequences.	<ol style="list-style-type: none"> <li>Samples and examples of advertisement and solicitation documents</li> <li>Samples and examples of advertisement and solicitations by contract type and size.</li> </ol>		Keith/Carrie								
<b>Section 3: Contract Requirements</b>													
Bonding (9)	Diverse firms not able to bond per project spec	Road Show	<ul style="list-style-type: none"> <li>Sample contract flow-down provisions</li> <li>Town-hall with bonding companies</li> </ul>		Olivia/Van	X	X	X	X	X	X	X	X
Insurance (9)	Diverse firms not able to insure per project spec, state and federal requirements may be in conflict, there is nuance by delivery method.	Road Show/Training/Mentorship/Support Services	<ul style="list-style-type: none"> <li>Sample contract flow-down provisions</li> <li>Town-hall with insurance companies</li> </ul>		Olivia/Van	X	X	X	X	X	X	X	X
Indemnification	Firms asked to indemnify design and owner beyond available underwriting.	Road Show/Training/Mentorship/Support Services	Sample language per contract type, with description of what and how to adjust  Education and training		Olivia/Van								
Inclusion Plans (EEO)	Not all owners are using Inclusions Plans and know how to use them Primes are not using them for larger packages No enforcement of Inclusion Plans	Make it part of the proposal/RFP: assign point value: give it weight. 5-8% sends a weak message.	<p>Samples and SOPs</p> <ol style="list-style-type: none"> <li>WSDOT</li> <li>City of Seattle</li> <li>DES</li> <li>Sound Transit</li> <li>King County</li> <li>Port of Seattle</li> </ol>		Aleanna	X							
Solicitation Times (4)  <i>(See Advertisement and solicitations)</i>	<ul style="list-style-type: none"> <li>Solicitation times are too short and overlap other deliverable timeframes.</li> <li>Unfair advantage to incumbents that can dust off their previous winning submission.</li> </ul>	Road Show/Networking	Guide and policy samples based on type of response needed and how many scopes are involved.		Keith/Carrie	X	X	X	X	X	X	X	X
Prompt Pay/Quick Pay (change orders?) (12)	Lower tier subs are often waiting 120 days+ to receive payments because of the layers of flow from owner to prime and so on. This puts a large constraint on businesses at lower tier to essentially fund the work on credit.	Require the Prime to operate the DBE/MBE on each pay app. Make it a point that the owner assigns a special agent to pay attention to MBE/DBE companies expediting an advanced approval so the MBE/DBE is not stuck riding along a CO. Break it in two payout/month.	<ol style="list-style-type: none"> <li>Statute support – 30 days, interest</li> <li>Federal requirements</li> <li>Prime pays regardless of being paid by the Owner (City of Seattle)</li> <li>Lower tiers pay-when-paid (not 7 days)</li> <li>ACH leverage</li> </ol>		Olivia/Van	X	X	X	X	X	X	X	X
Experience Requirements (4)(10)	Experience requirements are unrealistic unless you already have contracts with an agency. Incumbents the only ones who can win (e.g. 5 years' experience with a public agency of "x" size, etc.)	Recommend doing a detailed study to see what is available prior	Draft experience guidelines that are scalable given the risk of the contract.		Aleanna	X							

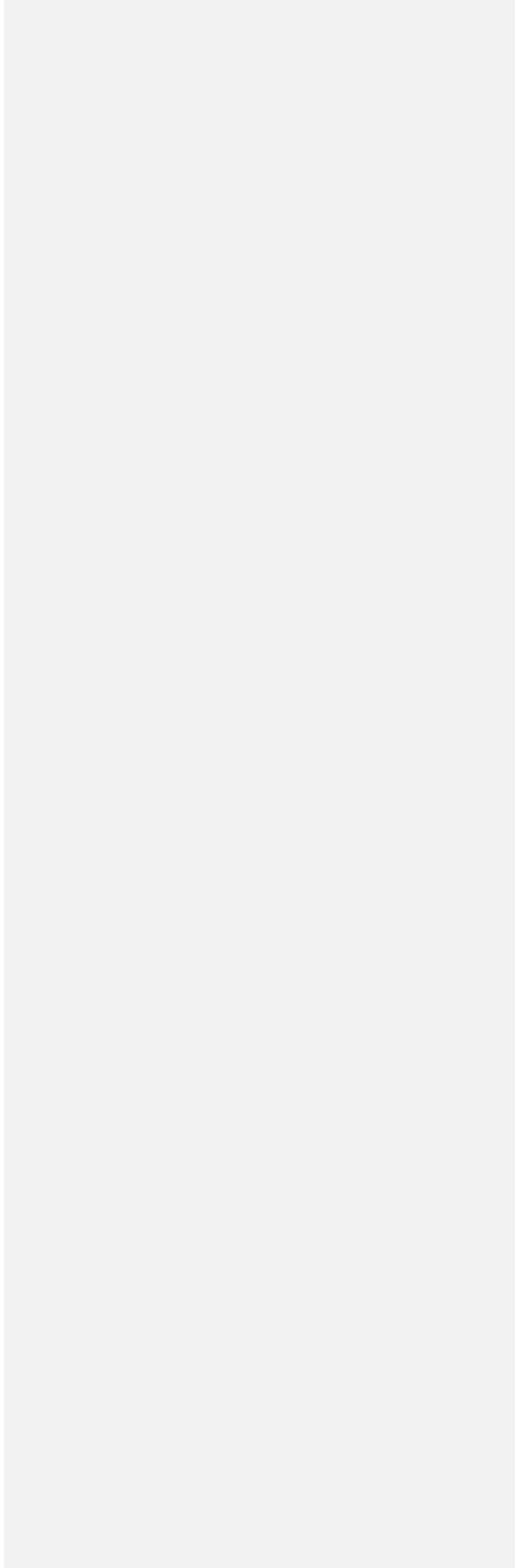
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	Flow-down provision misunderstanding	to making standards.	1. City of Seattle 2. University of Washington 3. Port of Seattle																
"Bid Shopping"/bait n switch (14)	During bid/solicitation phase firms are courted and asked to provide works and contributions; then upon Award of contract Prime seeks other firms, rebids, claims pricing problems, etc. Also, teaming agreements (we hired you to do...track it, perform.	Special Investigative Team to be Created with Attorney assistance, there is a compliance audit available and paid by owner. As activities like this happen - we must get to the bottom of it and start calling out individuals and not companies. Use a big hammer with this one. Again accountability measurements and consequences like penalties.	1. Teams agreements and inclusion plans required as part of the process 2. No changes unless approved by the owner 3. Any inclusion plan names are conditions of award 4. City of Seattle has a process 5. Federal Programs has a process		Olivia/Van														
Scoring and Debriefs (4)	Scoring not consistent with solicitations and appears the "favorite" was picked. Often debriefs are not helpful to non-successful firms on how to really improve.	RFP has to have more stringent requirements and language. Use words like requirement not goal. Give this department more points/value. More value must be assigned or the primes will not take it seriously.	Samples 1. City of Seattle 2. UW 3. Sound Transit 4. DES (?)		DES														
<b>Section 4: Monitoring, Reporting, Tracking</b>																			
Data Collection System (BDMS, B2G)	No one is collecting inclusion data consistently and accessible to the public		1. OMBWE/BDMS/One-Washington 2. PRC/CPARB summaries		Aleanna/Brenda	X	X	X	X	X	X								
Enforcement (even "private" terms) (5)	Many diverse firms are asked to "team" during solicitation to get diversity points, asked to be named on teaming agreements and inclusion plans and then once work is won are told by primes that the budget or project must go with another approach or firm, etc	Special Investigative Team to be Created with Attorney assistance, there is a compliance audit available and paid by owner. As activities like this happen - we must get to the bottom of it and start calling out individuals and not companies. Use a big hammer with this one. Again accountability measurements and consequences like penalties.	Substitution requirements extend to teaming agreements, and must use evidence-based to remove or substitute team members or risk termination 1. Federal 2. WSDOT 3. City of Seattle		Olivia/Van	X													
Contractor Performance/Evaluation Programs (5)	For Inclusion Plans to be material to award and contracting, there must be evaluation and enforcement programs with scoring and/or consequence to not making the grade (Bobby Forch: influencing the tipping point of culture)		1. Federal programs 2. City of Seattle 3. UW		Olivia/Van														
Reporting Type	The State might bget more data if there were sample reports and types of reporting protocols that Owners/Primes could follow	we are looking forward to this	Samples and examples		Keith/Carrie														
Business Growth Monitoring (9)	No metrics/reports are available for understanding if diverse business inclusion is working and diverse businesses are growing. <b>We need to know the "best practices" are working.</b>	What are we going to do with that information? Should we spend the money and time if we don't know how we are going to use the data? I see this item as a great marketing/promotional/road show support material.	(Testimonial – Adept Mechanical)		BDEI Committee									X					X
See also, inclusion and utilization monitoring																			
CPARB/PRC Application	Recommendation that owner's wanting to use alternative public works and/or be certified to use the tools should show internal controls and increasing evidence of diverse business inclusion in their capital portfolio.		Application language should be suggested, and PRC process revisited.		Aleanna; Janice Zahn/Bill Dobyns														
Data Collection Process	No internal controls or practices for collecting data		See other similar topics		Aleanna/Brenda	X	X	X	X	X	X								
<b>Section 5: Discrimination and Harassment</b>																			
Women-owned firm inequity (2)	Women/minority-owned firms are less likely to receive awards over their white and male counterparts.	What is the committee's end goal? Share the information or are looking to boost WBE's revenue? Desires should be part of the RFP - put it in writing.	1. Port of Seattle 2. Sound Transit 3. City of Seattle																
Workplace Safety (antiharassment, violence) (3)	Employees of color and women often are victims of violence, harassment, hazing and other forms of inappropriate treatment	From Young: This is 100 % true: I had to appear in King County Court as a Walsh Area Manager to protect African direct labor force from assaults in Seattle. Long story short and 15K later - a resident near the project was put under a special forced separation order enforced by SPD.	1. Site safety protocols 2. See something say something		City of Seattle (?)														
Retaliation and Retribution (4)	When complaints are filed regarding bid processes, etc. businesses that complain are "black-balled" or ignored and labeled as a nuisance; left out of processes...or much worse	No experience, no comment	Federal processes, federal laws																

Other resources:  
Good Faith Efforts v. General Business Practices UW Guide

Barriers to Including Diverse Businesses in Public Contracting

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**FORWARD**

[BACKGROUND, LEGISLATION]

[ACKNOWLEDGEMENTS]

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2. Part 1: Planning
3. Part 2: Engagement
4. Part 3: Contract Requirements
5. Part 4: Reporting
6. Part 5: Discrimination and Harassment
7. Appendix

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**PURPOSE AND INTENT OF BARRIER STATEMENTS**

[INTENDED AUDIENCE]

[TOOLS FROM MULTIPLE VIEWS WITH MULTIPLE STAKEHOLDERS IN MIND]

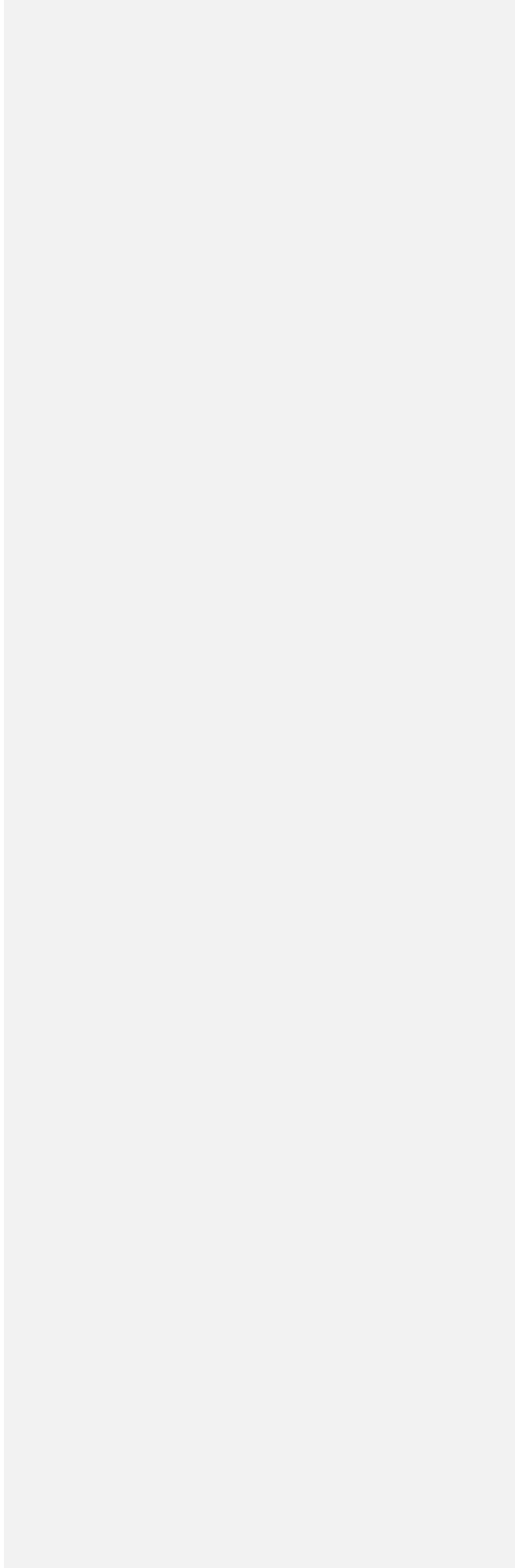
[SOME MAY WORK BETTER, SIZE OF WORK, CONTRACT, AGENCY, ETC.]

[SOMETHING TO TRY IF YOU ARE INTERESTED]

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**DEFINITIONS**

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**PART 1: PLANNING**

**Target:** Contents of this section are practices, ideas, and discussion around activities that public owners, prime contractors, service providers, and subcontractors should consider prior to being actively engaged in public procurement or project delivery. The intent is to provide some helpful tips for planning.

**Practice Highlights:**

- Leadership
- Policy Development
- Training and Education
- Outreach
- Networking
- Project Packaging
- Goal Setting
- Rosters
- Legal Considerations

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**Topic:** Leadership

**Barrier Statement:**

Not enough managers and executive leaders understand and embrace the proactive steps necessary for a successful inclusion program. All too often, leaders recite the policy, ordinance, or laws around diverse business inclusion but do not set an active example and push boundaries to ensure inclusion measures are applied sincerely in capital programs.

**Suggested Practice or solution:**

- Accountability measures for leaders and governance teams, such a performance criteria and expectations.
- Specific training and continuing education around inclusion practices for leaders.
- Ensuring that diverse business inclusion is discussed at leadership meetings.

**Exemplars:**

- Tacoma Public Schools

**Related Barriers:**

1. Training and Education
2. Policy Development
3. Legal Interpretations

**Commented [AK1]:** We intent to include all known examples/agencies/primes, etc. who are attempting to address barriers in case. What should be the criteria for including/not including in all cases?

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**Topic:** Owner/Prime Internal Policies and Standard Operation Procedures for Inclusion

**Barrier Statement:**

To ensure effective inclusion in public contracting, contract language, forms, templates, and similar tools need to be accompanied by internal polices and/or standard operating procedures. Often many solicitations and contract language are put out without or with limited instructions on how to use, respond, and score.

Inclusion strategies, expectations, plans, language, etc. need to be applied in accordance with the different contracting types and funding sources.

Delivery staff and those managing the contracts at times don't have the training on the process and procedures/needed outcomes of the language, forms, etc.

Expectations are not known/published so the metric is not understood.

**Commented [NB2]:** I think this should be further explained.

**Potential Practice/Solution:**

- A. Federal guidance/approach to goal setting and DBE programming
  - a. Research by work category
  - b. Availability
  - c. Capabilities

**Commented [NB3]:** Each of these will require a little more explanation

**Commented [AK4R3]:** Agree. I think the intent is to provide links or documents from the programs and/or have our "subject to federal program" partners comment.

**Exemplars**

- A. OMWBE
- B. City of Seattle
- C. Sound Transit
- D. Port of Seattle

**Commented [NB5]:** Think other state agencies should be included here

**Related Barrier(s):**

- A. Legal Inconsistency
- B. Contract language
- C. Inclusion Plans
- D. Owner training
- E. Community training
- F. Enforcement

**Topic:** Training and Education

**Barrier Statement:**

- Project delivery staff and contracting staff often do not have training on inclusion policies and procedures, the result is either a lack of fair scoring, evaluation (enforcement) and/or ineffective inclusion processes. The provisions and policies are hollow and ineffective.
- Prime project staff as well are not fully trained on owner adopted practices, often the estimating and subcontracting staff are not even aware of the contents of an inclusion plan.
- Primes that have “inclusion experts” on staff but don’t utilize those staff until it is too late to be effective or not at all.

**Possible practice or solution:**

- A. All staff should be trained on inclusion processes, policies, and goals. Owner programs should not allow staff who have not taken inclusion (in contracting) training to solicit, manage, or enforce projects.
- B. Staff proposed for a certain project develop the inclusion plan and goals for the project. Both owner teams and prime teams. An approach to meeting those inclusion goals should be clear and actionable not speculative.

**Related:**

- A. Contract language
- C. Good Faith Efforts
- D. Enforcement

DRAFT

**Topic:** Diverse Business Inclusion Goal Setting

**Barrier Statement:**

- Inclusion goals are generic and not proportional to the project, scope, size, availability, and capabilities. The result is unrealistic inclusion processes and unobtainable goals.
- Many owners and primes do not know how to set justifiable/measurable goals for contracts or programs.
- Many owners are counseled by their legal teams that inclusion goals are not appropriate under I-200.
- Goals are typically based on percentage of the contract value. (limiting)
- Responses to solicitations are often not realistic, simply states “a good faith effort to meet the contract/program goal”
- Goals being met with “big ticket” items and not always looking at all opportunities in the projects

**Practice/Solution by Practitioner:**

- A. Federal approach to goal setting and DBE programming
  - i. Research by work category
  - ii. Availability
  - iii. Capabilities
- B. City of Seattle Inclusion Tracking
  - a. Past performance of inclusion sets goals for future projects
- C. Sound Transit
  - a. FTA goal setting?
- D. Port of Seattle
  - a. Process and publication

**Commented [AK6]:** Include the various program summary, and links or sample guidance for the appendix.

**Related:**

- A. Legal counsel inconsistent across owners
- B. Contract language
- C. Inclusion Plans
- D. Tracking and reporting
- E. Bait and switch/ghosting
- F. Training

**Topic:** Rosters**Problem/Issue Statement:**

Rosters are often used to increase opportunities for small and diverse businesses with the thought that a simple application process can provide regular and “first” access to opportunities for work both in construction and professional services. The current reality is that rosters can often be difficult to find with application processes that are time consuming to complete. Further, roster opportunities, once you are accepted to the roster, don’t seem to be opportunities you are interested in or there is still too much competition. Roster information can be buried on an owner’s website making it difficult to find an application or opportunities. Some owners use their own roster and some use MRSC making it necessary for contractors to complete multiple applications taking administrative time for very little return on the investment.

**Possible practice or solution:**

- A. Advertise for rosters in multiple locations – local newspapers, OMWBE website, networking groups
- B. Make roster information and associated opportunities easy to find on websites
- C. Provide clear direction and/or support to complete roster applications. Consider directions in multiple languages.
- D. Consider combining rosters and restrict public owners in their use and application.
- E. Consider a single entry to all open rosters in the state.

**Related:**

- A. Where to find work
- B. How to find work
- C. Policies
- D. Contracts (how rosters are formed and awarded, etc.)

**Known Examples:**

- A. MRSC
- B. K12 District
- C. Higher Education District
- D. Department of Enterprise Services



**Topic:** Rosters and Bid Thresholds

**Problem/Issue Statement:**

The only available roster for public works is small works. The small works roster is limited in size and owners. These restrictions do not maximize opportunity for small and disadvantaged businesses.

**Possible practice or solution:**

- Open small works rosters all public owners
- Address thresholds regularly and timely. 5–10-year cycles are not enough to keep up with the cost of construction and goods
- Enable minimum bid thresholds more consistently among all owners

*Example: School Districts have a 100K minimum bid threshold for public works. That allows districts to choose a contractor for small projects, under 100k with no solicitation of three bids, which gives the ability to mentor them through the process. This builds experience for bidding larger projects.*

**Related:**

- A. MRSC Bid Thresholds for Public Works Projects (matrix by government type)

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**Topic:** Finding and connecting diverse firms with Designers & GCs (Outreach)

**Problem/Issue Statement:**

It is of paramount importance to find and connect diverse firms with Designers & GCs for the wide array of design and construction project opportunities.

Reports indicate that most connections are made on a whim or because of the diverse business having to pursue primes and GCs relentlessly. This is a huge barrier for small businesses that don't have extra time and money to be the pursuer.

**Possible practice or solution:**

- A. Recognize that the State of Washington varies widely from west to east and north to south in terms of available diverse firms and availability of continuous project opportunities; and many ways of communicating, advertising, and ways they connect.
- B. There are many outreach efforts across the State. We should consider a central repository or public information storage that gathers all the information from those outreach efforts, so we are not over-taxing the diverse firms by duplicating requests for information that have already been conducted. Create an information pool.
- C. Look at opportunities to coordinate the outreach efforts of the multiple agencies and primes to be more efficient with their, the diverse firms, designers, and GCs' time.
- D. Conducting outreach sessions virtually targeting firms located in rural areas or firms who have limited staff/no staff to attend those sessions.

**Exemplars:**

- A. Regional Contracting Forum

**Related:**

- G. Networking
- H. Rosters
- I. Owner Training
- J. Access

**Topic:** Networking

Networking is a form of outreach, focused on the process of interaction to exchange information and develop contacts.

**Barrier Statement:**

It has been touted that you must get out there and meet people, create, and foster relationships, but networking needs to be worth the investment. Some of the problems with networking:

- A. Not enough time to network
- B. Not sure how/what to say
- C. Not confident I will come across as professional
- D. The time investment didn't pay off when I tried it in the past
- E. Good conversations and connections feel like the lead nowhere

**Possible Practice or Solution:**

Create a statewide networking platform for public works. One place, with clear purpose, create opportunities that are also monitored.

**Exemplars:**

???

**Related:**

1. Outreach
2. Access to Leadership
3. Planning
4. Notification, Advertisement, and Solicitations
5. Bait n switch, Ghosting
6. Rosters

**Commented [AK7]:** Same as previous comments and if there are any one doing this really well that we want to highlight as an example.

**Topic:** Owner Staff Training

**Barrier Statement:**

- Project delivery staff and contracting staff do not have training on inclusion policies and procedures, the result is either a lack of fair scoring and evaluation (enforcement) and ineffective inclusion processes. The provisions and policies are hollow and ineffective.
- Prime project staff as well are not fully trained on owner adopted practices, often the estimating and subcontracting staff are not even aware of the contents of an inclusion plan.
- Primes that have “inclusion experts” on staff don’t utilize those staff until it is too late to be effective or not at all.

**Possible practice or solution:**

- A. All staff should be trained on inclusion processes, policies, and goals. Owner programs should not allow staff who have not taken inclusion (in contracting) training solicit, manage, or enforce projects.
- B. Staff proposed for a certain project develop the inclusion plan and goals for the project. Both owner teams and prime teams. An approach to meeting those inclusion goals should be clear and actionable not speculative.

**Related:**

1. Contract language
2. Training
3. Business practices v. good faith efforts
4. Enforcement
5. Legal Interpretations

**Topic:** Legal Interpretations

**Barrier Statement:**

- Different owners -may have different interpretations/applications on what is advisable, or legal, under I-200 regarding inclusion.
- Some owners are encouraged to be conservative and not score, rank, or judge performance based on inclusion plans leading to too many varied approaches and lack of authentic or value-added inclusion strategies.
- "Inclusion Plans" are often used as outreach approaches with little more than general business engagement practices.
- Allows owner teams to "phone in" the real effort it takes to be effective in this space.
- This lackluster approach trickles into contract language and no progress are truly made.

**Commented [NB8]:** Not sure about this one?

**Commented [AK9R8]:** I think the sentiment was that I-200 is interpreted and applied differently by owners and it often creates confusion as to why certain owners feel comfortable to do certain measures while others do not. Definitely an area to continue to work through.

**Commented [NB10]:** Are we referring to the scoring values for inclusion plans?

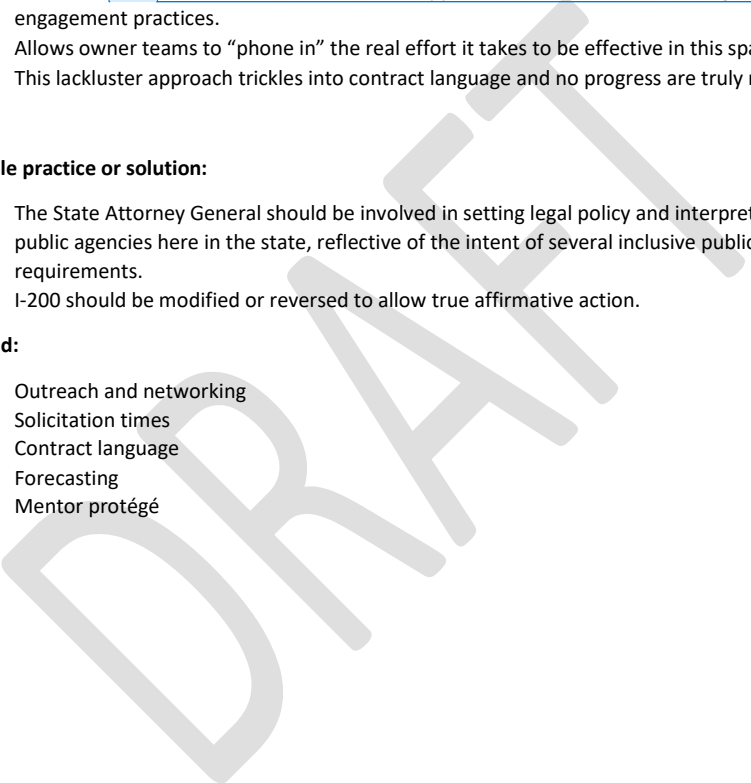
**Commented [NB11]:** I would be more inclined to say that the value of those plans are not consistent. Ex: ST holds you to what and who you listed from your plan.

**Possible practice or solution:**

- A. The State Attorney General should be involved in setting legal policy and interpretation for all public agencies here in the state, reflective of the intent of several inclusive public business requirements.
- B. I-200 should be modified or reversed to allow true affirmative action.

**Related:**

1. Outreach and networking
2. Solicitation times
3. Contract language
4. Forecasting
5. Mentor protégé



**PART 2: ENGAGEMENT**

**Target:** contents of this section are tasks, activities and practices that owner, primes and diverse businesses should consider when involving the public procurement market.

**Practice Highlights:**

- Technical Assistance
- Access to contract information
- Certification, registration, self-identification
- Mentor-Protégé
- Advertisement and solicitation

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**Topic:** Certification

**Commented [AK12]:** This is one of the top issues and could use more flesh out.

**Barrier Statement:**

- Certification program in the State of Washington is a focused on a small subset of diverse AND small businesses not the broader community.
- Certification program in the State of Washington is hard and cumbersome, often feeling like we are having to prove we are “human” other businesses don’t have to do that
- Public procurement laws point to state certification, yet because of I-200 there can be no material advantage to winning contracts as a certified firm
- There are other professional organizations/owners that offer certification or registration programs, but perceived as a conflict of interest with OMWBE which leads to multiple certifications and more work for diverse businesses with little return
- Not all diverse firms are registered or certified, and it leads to lack of awareness by primes and owners
- Certified firms have a reputation for being “more professional”. If certification is modified or removed, diverse firms should somehow be trained on proper etiquette or somehow be trained to a higher standard of engagement.
- Other states (e.g. Idaho, Oregon) have a system far less cumbersome more akin to registration, Washington should stream line.
- Perhaps having a regional program certification/registration (e.g. federal region X)

**Possible practice or solution:**

- State laws should encourage self-identification not unlike employment since there is no material advantage in contracting there is no reason to “game the system.”
- I-200 should be modified or reversed to allow true affirmative action.
- Owners should adopt a broader tracking system and allow for all forms of diverse business identification and inclusion
- Needs to be a crosswalk and alignment with federal requirements

**Commented [AK13]:** More discussion around possible solutions. There is a lot of merit on both sides of the discussion and several disparity studies seem to imply that layering systems of certification and self-identification is a valid approach to capturing the extent of diverse businesses in the state.

**Exemplars:**

- A. City of Seattle
- B. UW

**Commented [AK14]:** Who is using a robust program that is including state certification, registrations, self-identification, etc. How are we recommending in this space??

**Related:**

1. Legal interpretations
2. Inclusion Plan/Inclusion requirements
3. Contract language
4. Reporting
5. Coaching and training businesses

**Topic:** Access to decision makers

**Barrier Statement:**

Firms that have never won work with an owner team have an unfair disadvantage to incumbents because they don't understand the owner process, who the decision makers are, or the "style" of response or expectations.

**Possible practice or solution:**

- A. Owners should not just hold pre-bid meetings, but they should have a socialization and engagement process, where their processes and decision makers are introduced, and general questions and engagement take place. This can be outside of active solicitations so that there is no conflict with the public process.
- B. Decision makers should be the contacts for questions on active solicitations or at least part of the dispute process so they are known to the public.
- C. Owners should use "templates" sparingly so as to not allow incumbents to know what "winning" responses/bids look like.

**Exemplars:**

???

**Related:**

- 1. Outreach and networking
- 2. Solicitation times
- 3. Contract language
- 4. Forecasting
- 5. Mentor protégé

**Commented [AK15]:** Anyone attempting to address this? Anyone more accessible than others?



**Topic:** Access to Contracting Information

**Barrier Statement:**

Public owners use various methods to solicit bids for projects often depending on size or type of project. Small Works projects are not always posted and formally bid projects are posted where an owner chooses. This makes it challenging for contractors to know what job opportunities are available or even where to start looking for those opportunities.

**Possible practice or solution:**

- A. Standardize, across the State, places for owners to post contracting opportunities in addition to their local postings that may be required by law or policy. Possible websites: OMWBE and DES are common.
- B. Owners to post all opportunities on owner website in location easily accessible.
  - 1. Current Projects: Include project requirements and link to project information if using a platform such as Builder’s Exchange of Washington (www.bxwa).
  - 2. Future Projects: Include projected timeline for upcoming projects
  - 3. Past projects: Include all awarded contracts within a certain period (one year?)
- C. Require pre-bid conferences on projects estimated to cost over \$1M.
- D. Leverage local organizations to make them aware of current and upcoming opportunities (e.g. OMWBE, PTAC, etc.)

**Commented [NB16]:** Should using MSRC be listed as a solution?  
Making a concerted effort to examine if the existing rosters are not as diverse as they should be?

**Commented [AK17R16]:** Let bring up WEBS and MRSC, are we going to “endorse” both equally?

**Exemplars:**

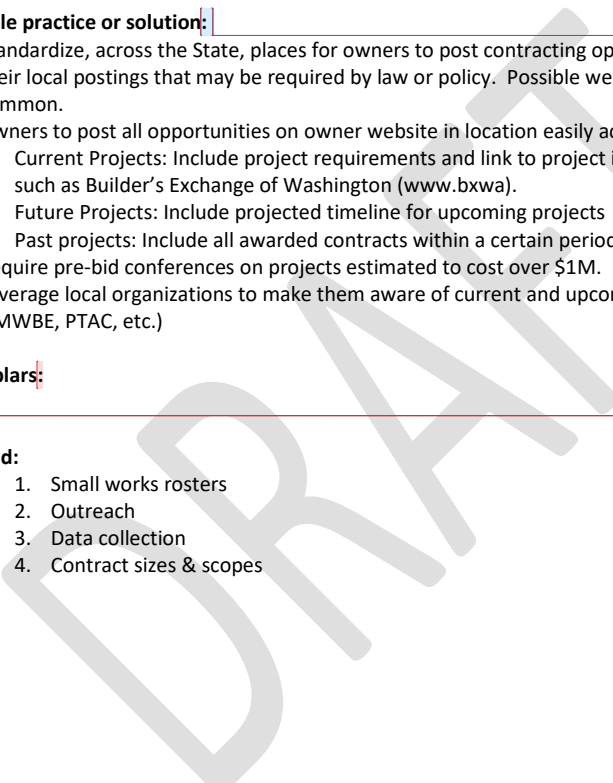
[????]

**Commented [AK18]:** Anyone doing this really well?  
Suggest programs that include not just access to current open projects but up coming and awarded information. Life-cycle.

**Related:**

- 1. Small works rosters
- 2. Outreach
- 3. Data collection
- 4. Contract sizes & scopes

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**Topic:** Technical Assistance

**Problem Statement:**

Technical assistance can be helpful, if the assistance is tailored to either the public owner or the prime and to specific projects/pursuits. Not all assistance programs are helpful to diverse businesses in preparing for locating, winning, and being successful on public projects.

**Possible Practice or Solution:**

- Targeted assistance programs (e.g. bidding, bonding, record support, payroll, etc.)

**Related:**

- A. Contract language
- B. Networking
- C. Training and education

**Examples:**

1. MBDA
2. WSDOT
3. City of Seattle
4. Tacoma
5. Tabor 100

**Commented [AK19]:** Would be great to have a discussion/definition around technical assistance. We are seeing a lot of different programs for a variety of different things all stating technical assistance. Is one defined type of aid the practice or multiple?

**Commented [AK20]:** Need more examples and get summary of programs

DRAFT

**Topic:** Mentor – Protégé Programs

**Barrier Statement:**

Mentor Protégé programs are often marketed as a way for diverse businesses to build capacity and grow businesses through mentorship with primes. More information is needed to ensure no outreach and networking are included and ensure that real help is provided with measurable outcomes to track.

1. Programs are expensive to run, therefore limited
2. Need to ensure benefits to all parties involved
3. Need to track outcomes and performance and ensure programs are doing what they say they are going to do.

**Possible Practice or Solution:**

1. Sizeable/Scalable/Proportional versions of WSDOT/Sound Transit

**Exemplars:**

- A. WSDOT/Sound Transit
- B. US Small Business Administration
- C. MBDA (is administrator for WSDOT/Sound Transit Capacity Building Mentorship Program)

**Related:**

- A. Training and Education
- B. Networking
- C. Contract Requirements

**Commented [AK21]:** Based on the agreed programs included, develop a larger summary of the actual practice...what does the program include (how long? Guaranteed work? Contractors pay?)

**Topic:** Advertisement and Solicitations

**Barrier Statement:**

There are inconsistent advertising practices among public agencies and primes pursuing work. Inconsistencies, which include, but are not limited to, a lack of key project information, advertising locations, and solicitation timeframes.

**Possible practice or solution:**

- A. All agencies at a minimum advertise on OMWBE website. This may not be the only location owners/GCs/Subs utilize to advertise work opportunities.
- B. Advertisements should attempt to offer sufficient project or opportunity details to inform bidders about compatibility. Even if information is subject to change as projects evolve. Include estimates of each.
  - 1. Delivery Method
  - 2. Approximate Dollar value or size information
  - 3. Scope
  - 4. Schedule
  - 5. Budget
  - 6. Key requirements
  - 7. Contact information
- C. Diverse Businesses monitor and sort advertising to locations to help identify the opportunities that fit their business model.
  - 1. Geographic Filtering
  - 2. Delivery Method Filtering
  - 3. Size/Type Filtering
  - 4. Requirements
- D. Solicitation timeframes/durations should be sufficient to allow development of bids relative to the amount of work required to submit a responsive bid.

**Commented [NB22]:** Providing sufficient "look ahead" is important as well

**Commented [NB23]:** And should be shared in an equitable manner to both primes and subs

**Commented [AK24]:** Proportionality

**Commented [AK25]:** Do we even want to mention practitioners here? Seems like this is more about a general practice, may not need to name anyone in particular.

**Commented [AK26]:**

**Related:**

- A. Mentor Protégé
- B. Training/Education
- C. Outreach
- D. Contract Requirements

**Topic:** Pipeline and Business Development

**Barrier Statement:**

- By the time solicitations hit the street, the business community is not ready with the necessary labor, training, capabilities, or strategies to effectively compete.
- Particularly in the alternative public workspace, many owner teams are trying to reinvent their processes, try new approaches, or similar. Without socializing requirements, approaches, expectations advertisements just hit the street and give 3-4 weeks to respond. Target businesses are not sure how to react and have not been given enough time to prepare for the response.

**Possible practice or solution:**

- A. Leverage on-going business support networks such as Minority Business Development Agency. Owners should be spending time helping business understand upcoming work, size, complexity, requirements, etc.
- B. Owners and primes should engage target companies prior to solicitations to understand what work scopes and sizes they are capable of and package accordingly.
- C. *Prior to releasing new contract language, process, or contracting approaches, owners and primes should be required to circulate for feedback to the construction and professional services community and receive feedback.*

**Related:**

- A. Outreach and networking
- B. Solicitation times
- C. Contract language
- D. Forecasting
- E. Mentor protégé

**Commented [NB27]:** Not sure I agree for “feedback” as opposed to allowing for sufficient notification before implementation OR it stating feedback it should be directed to include feedback from diverse businesses.

**Commented [AK28R27]:** So another approach would be softer for a standard industry practice of a timeframe for notification (e.g. 6 months)

**Commented [AK29]:** Any practitioners attempting to address this?

### **PART 3: CONTRACT REQUIREMENTS**

**Target:** this section is focused on equitable and inclusive contracting practices. Owners and primes should consider these when developing and administering contracts. Subcontractors/subconsultants should understand contract provisions and their impacts. This section is not intended to provide legal advice.

#### **Practice Highlights:**

- Prompt Pay
- Insurance Requirements
- Bonding Requirements
- Indemnification
- Inclusion Plans
- Subcontracting
- Experience Criteria and Qualifications Based Selection
- Bid Shopping/ "bait n switch"/ "ghosting"

#### **Key Tool:**

- Proportionality

DRAFT

**Topic:** Prompt Pay/Quick Pay

**Barrier Statement:**

The subcontracting community experiences delay in receipt of payment for work performed on public contracts.

A typical duration for a subcontractor to receive funds would be approximately 45-60 days. This can be a significant barrier to entry or problem for small/disadvantaged businesses to manage because cash flow is of critical importance to smaller firms.

**Possible practice or solution:**

- A. Lump sum packaging, pay 90% of lump sum on a draw-down schedule for consistent payments through the duration of the project, withhold a small amount at the end.
  - B. Pay all undisputed items on a monthly interval regardless of being paid by the Owner.
  - C. Critical to understand, negotiate what timing is needed to support a subcontractor through the execution of work.
    - a. Use mobilization provisions for percentage paid upon NTP
    - b. Use admin cost provisions for materials in advance of fabrication and/or delivery.
    - b. Timing for payment after delivery of materials to the jobsite. Vendor discounts can flow back to project for incentive.
    - c. Labor resourcing over time to develop payroll/labor costs for full onsite duration.
    - d. GC's and subcontractors can/should be transparent about these details and work to incorporate them into the project SOV's so that payments can be made with mutual agreement.
  - B. Use of Joint Checks to subcontractor suppliers can help ensure payment to downstream suppliers or subcontractors in reduce total payment durations.
  - C. Review owner contract for provisions on process to support billing for materials offsite.
  - D. Most public contracts are billed on a monthly interval. Owner support of bi-monthly or even weekly invoicing to better support downstream subcontractors needs?
  - E. Consider retention bonds to eliminate 5% withholding.
- Most contracts are based in "progress" completion at the jobsite. Monthly Interval.
    - Work Completed through end of month is billed. Owner Payment approximately 30 Days later. GC payment to sub up to 7 days later.
      - Example: Completed OMWBE Masonry Wall February 2022. Billed to owner March 1, payment received by sub April 7<sup>th</sup>.
  - Prompt Pay Concept: GC's, Owners, Arch recognize and allow inclusion of **OMWBE scopes to be billed including the following month of scope which is scheduled.**
    - Completed work as well as scheduled OMWBE work included in progress billing for following month billed.
      - Example: OMWBE Masonry Wall scheduled for completion in February 2022 included in January 2022 Progress billing.
        - Verification at end of February that Masonry wall is satisfactory. Payment received by sub March 7<sup>th</sup>. (reduction of 30 Days duration)
  - How to:

**Commented [AK30]:** Given discussions and meeting input this is a priority topic so it only seems right that this barrier have robust options, thoughts, ideas. Need more input.

**Commented [AK31]:** Only in situations when credit is an issue. Regular contract payments should help alleviate the need for Joint Check.

**Commented [AK32]:** Statutes require owners allow if requested

- Mutual agreement between Owner, GC, Arch that the project does wish to reduce payment durations for OMWBE participants.
  - Main Contract terms which support/allow this. Define “progress” to include OMWBE following month of effort.
  - SOV identification of certified OMWBE scopes/subs.
  - Monthly progress evaluation includes the following month of scheduled OMWBE work.
    - Subsequent monthly evaluations can include confirmation of previously scheduled work progress.
    - Leverage GC receipt of owner funds as separate control check point for OWMBE payment release.

**Exemplars:**

- City of Seattle (pay every XXX, even if not paid by the owner)

**Related:**

- A. Contract Language
- B. Enforcement
- C. Owner training
- D. Flow-down contracting provisions
- E. Retainage
- F. Bonding
- G. Insurance

**Commented [AK33]:** In the same vain of the comments, let's gather information from owners who are trying to address this in their contracts and processes.

DRAFT



**Topic:** Insurance (risk)

**Barrier Statement:**

Insurance requirements in public works contracts are not specified commensurate/proportional with individual scopes of work and risk of every sub-task or subcontractor but are typically written to cover the whole project while also requiring coverage as a “flow down” condition; therefore, creating a barrier for subcontractors, service professionals, and/or smaller firms who cannot obtain the coverage to compete and perform on public contracts.

All type of contracting (DBB, DB, GCCM, JOC, etc.)

Not just amount of coverage but also type of coverage. – example: Owners requiring additional professional liability insurance, which is not a possibility. Understanding how the products work and what they are covering.

Other Insurance vehicles.

Evaluate through an owner procurement process. Example: DB – insurance structure as part of the qualification requirements. Understanding what the insurance plans are by the DB.

Scalable insurance requirements that match the risk of the party you are trying to contract with. The insurability of a firm is going to impact the type of work they can be involved with. Risk – Insurance – Scope of Work.

Techniques for increasing participation impeded by insurance requirements through other methods.

**Possible practice or solution:**

- A. Contract language discussing flow-down process and giving space for Owners to specify that the insurance requirements for the whole project may be divided among lower tiers commensurate with individual scopes, packages, risk, or similar.
- B. Insurance training for owners and contractors/subcontractors/professional service providers.
- C. Template insurance provisions

**Related:**

- A. “flow down” provisions
- B. “legal” requirements vs. owner preferred
- C. Insurance limits on projects (general)
- D. Broader training on how to appropriately assign contractor vs. professional service insurance as well as how to specify coverage to subs and lower-tier scopes

**Exemplars:**

- A. City of Seattle
- B. University of Washington
- C. Department of Enterprise Services

Topic: Bonding

Commented [AK34]: Let have a review by Kara Skinner, Integrity

**Barrier Statement:** Contractors must secure several bonds to bid for and perform public works. Such bonds include: (1) contractor registration bonds under RCW 18.27 in the amount of \$6,000 for specialty contractors and \$12,000 for general contractors with “blocked deposit accounts” as an alternative; (2) bid bonds/guarantees which are typically 5% of the contract amount; (3) payment and performance bonds consistent with RCW 39.08, which are generally the full contract price with exceptions for contracts \$150,000 or below; and (4) retainage bonds, if sought, pursuant to RCW 60.28.011. There may also be additional bonding requirements for licensed trades like electrical and plumbing.

1(a). Do the above-referenced bonds impose unreasonable barriers on the ability of disadvantaged business enterprises and small business entities to bid for and successfully perform public works?

1(b). If yes, how so?

2. While cash can be deposited in lieu of bid bond in some cases, do disadvantaged business enterprises and small business entities face barriers to successfully perform public works if they cannot later obtain a payment and performance bond (*i.e.*, by forfeiting the cash in lieu of bid bond)?

3. Can lack of contracting experience impact bonding capacity and, if so, how so?

4. Are there other contractual, rather than statutorily imposed, bond obligations that act as barriers to bidding for and successfully performing public works that any public owners require?

**Possible practice or solution:**

- A. More education on back end (not field) of running business.

**Related:**

- A. Insurance requirements
- B. Contract Language – Flow down provisions
- C. Subcontractor registration
- D. Training and education

**Exemplars:**

- A. City of Seattle
- B. [Other public owners with right-sized bonding requirements and proportional flow-down provisions]

**Topic:** Indemnification

**Barrier Statement:**

Public owners are commonly very risk adverse. There are numerous reasons why this can be true, including: limited budgets, inexperience, requirements from their own insurers, as well as political pressure.

Insurance coverage is frequently dictated by insurance pools whose requirements are dictated by aversion to taking on risk frequently without regard for risks in small or low risk projects.

This risk aversion manifests itself in terms of both pricing risk and liability risk into public works projects. One of the areas of liability risk where the professional design community finds public procurement most problematic is the area of indemnification (and relatedly liability insurance) AND contract requirements for insurance coverage whether for professional or other liability

Indemnification creates a contract law-based liability potential. However, design professionals' insurance only provides coverage for their own negligence which is based in tort law. Their coverage does not extend to claims based in contract law. This is entirely analogous to legal liability for medical professionals.

This being the case, there are significant barriers to entry into the public works marketplace for design firms because of the potential they will not have sufficient or even relevant insurance coverage. This is especially true for small and diverse firms which can be threatened with their very survival should they be subjected to even a single under-insured or non-insurable claim.

The second area surrounding indemnification that arises as a barrier is when public owners use indemnification (contract language) to attempt to make firms liable for more than those firms' own negligence. Indemnification provisions in public works contracts are often complex, ambiguously written, and/or can bring into question whether portions of them are even legal under a statute that limits indemnifications, RCW 4.24.115. While most design professionals understand and agree with the fair-minded standards provided in RCW 4.24.115, they also often see public owners trying to find any manner possible to abrogate those standards using overly complex language or by attempting to make design firms responsible for the costs of defense and claims for which they had no responsibility in causing.

Given these concerns, many firms, especially small and diverse firms decline entering public works projects.

Big issue to the Design Community – revolves around professional liability. Where is the genesis of liability and what are you liable for? Standard of care – very much like a doctor. Based in Tort, based in negligence.

Professional liability insurance is protecting common law liability. If the contract terms that creates a risk or liability that goes above and beyond negligence – the insurance isn't available. Whether or not something is insurable is paramount. Where there is uncertainty risk is mitigated.

Tries to create a different standard of care, all claims regardless of if the firm was at fault or not. That is not insurable. Inability to price the risk – mitigate through scoping, defensive design. It ends up costing the owner more money.

**Commented [AK35]:** Another top priority based on discussions and meetings. This section needs some clarity and focus. Lets get some discussion.

**Commented [NB36]:** Should include what owners have to say about this as to their "why"

If there are questions about tort law – “proximately caused”, versus “all damages”.  
Whose negligence are you covering, your own or others? Because flow down can cause a bad relationship between a prime and sub.

**Commented [NB37]:** Should provide more detail on this since requiring flow down language is important

From contractor perspective – indemnification horror story – clause that is broader than when your insurance covers. What you agree to indemnify must match what you are insured for.  
Business issue across the board – more of barrier for small firms and you are small without access to capital.

Do new firms even understand the risk that they signing onto?  
Small firms could be put out of business if they cannot cover their risks in indemnification if it is beyond what their insurance.

Barrier for firms to gain entry and expand.

Should indemnification and insurance be as mixed together as they are when liability is mixed with indemnification?

Whether or not the requirement is statutory and contract?

Whether or not it is appropriate to the risk?

Overkill requirements that lead to several issues that are barriers to diverse businesses and new businesses. RCW 4.20.115

**Possible practice or solution:**

- A. Standardize indemnification language for public owners in the state both for professional services and for contractors.
- B. Mutual indemnification
- C. Limitation of liability for all parties
- D. More training to understand the process

**Related:**

- A. Contract language
- B. Risk Management
- C. Legal advice
- D. training and Education

**Exemplars:**

- A. City of Seattle
- B. University of Washington

**Commented [AK38]:** We need examples of mutually agreeable prime language “mutual indemnification” should work.

**Commented [NB39]:** Agreed

**Topic:** Subcontracting

**Barrier Statement:**

- Issues around more equitable, fair, and transparent subcontracting opportunities are multiple and nuanced:
- For small diverse firms in consulting or construction, being part of alternative public works projects can frequently make them victims of bait and switch particularly in some sectors.
- Established construction firms have difficulty recruiting diverse firms depending on work and project site location.
- Complexity of public contracting bureaucracy is often a barrier to diverse firms that are developing or small.
- In design fields, difficulty in scoping work for diverse firms (e.g., structural engineering)
- Does not address business model of consulting firms. Break even or profit based on hours billed. Allocating hours outside firm reduces margin without necessarily reducing liability.
- Over reliance on certification for work. Certification is no longer "incubator"
  - Consider: limited term, graduation
  - Consider: use of "emeritus" certified firms

**Commented [NB40]:** Safe Harbor requirements? Unwillingness by owners to unbundle work to allow for smaller contractors to participate? Limited to no proactive measures for subs to prime work?

**Possible practice or solution:**

- "Snowball" sub selection where possible. Owners who request that the team be proposed with just the Designer of Record and the Builder, with the expectation that the team be built after selection.
- Accountability programs. When the Owner determines that the Team should list their subs, requiring accountability to use the firms proposed is paramount.
- Seek out firms, then scope based on capability of those firms
- Accountability includes firms solicited not just firms awarded
- Mentor protégé program as part of contract award
- Seek out firms, then scope based on capability of those firms

**Commented [NB41]:** OR provide extra points in evaluation

**Related:**

- A. Mentor-Protégé
- B. Contract Language
- C. Certification

**Known Examples:**

- A. JOC programs

**Commented [AK42]:** Any practitioners out there?

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**Topic:** Inclusion Plans

**Barrier Statement:**

Generally accepted that inclusion plan development and use are a practice during public procurement to ensure that owner expectations around diverse business inclusion are clear and contractor/consultant approaches are measurable and realistic. However, not all owners are using inclusions plans, expectations are not clear, and inclusion plans are not enforced or enforceable.

**Possible Practice of Solution:**

1. Sample policies
2. Sample inclusion plans for various contract types (e.g. DBB, DB, GC/CM, JOC, etc.)

**Related:**

- A. Contract provisions
- B. Enforcement
- C. Legal advice
- D. Flow-down provisions

**Exemplars:**

1. City of Seattle
2. University of Washington
3. DES
4. Sound Transit

**Commented [AK43]:** Hot Topic and lots of momentum to recommend Inclusion Plans in all cases Diversity Studies confirm. This needs some more solutions and thoughts around recommendations.

**Commented [AK44]:** Same comments as other sections. Many owners and primes using inclusion plans. Should we include all as links? Just simply state see Appendix?

DRAFT

**Topic:** Experience Requirements/Qualifications Based Selection

**Barrier Statement:**

In qualifications-based selections, it is often the case that the experience requirements preclude new firms from entering the marketplace, therefore creating a barrier for diverse businesses to advance and expand capabilities. (e.g. in order to propose on a DB team you have to have had prior experience on a DB team and/or 5 years of experience in some sort of alternative delivery model).

**Possible Practice of Solution:**

- A. Sample RFQ/RFP and scoring recommendations where experience is broken down into more tangible criteria (e.g. preparing estimates, bid packing, risk mitigation practices, etc.)

**Related:**

- 1. Contract language
- 2. Legal advice

**Examples:**

- A. [Possible to gather and agree on several owners/primes approached here?]

**Commented [AK45]:** Good opportunity to just include some ideas

DRAFT

**Topic:** Bid Shopping/Bait n Switch/Ghosting

**Barrier Statement:**

It has been reported that diverse businesses are engaged during project pursuits and asked to provide input into proposals and responses for teams to get “diversity points” then after award either never contacted again or told primes are going to pursue other competition to drive down price, or even the prime will self-perform. It is even reported in situations where there was a teaming agreement in place.

**Possible Practice of Solution:**

1. Owners require inclusion plans at all phases of selection and delivery
2. Inclusion plans include teaming agreements and owner verified diverse business inclusion along with commercially useful function assessment
3. Owners require process to change out any named subs (consultants or contractors)
4. Performance metrics are defined and enforced – owners are going to have to get more involved in prime/sub business terms in extreme non-compliance cases.

**Related:**

- A. Contract Language
- B. Enforcement
- C. Training and education

**Exemplars:**

- A. City of Seattle

DRAFT



**PART 4: MONITORING, REPORTING, TRACKING**

**Target:** this section provides examples and recommendations around monitoring, reporting, and tracking diverse business inclusion in public procurement. The section attempts to address information and data collection efforts in a consistent and useable manner across the state.

**Practice Highlights:**

- Technology Applications
- Forms and Templates
- Reporting Processes
- Enforcement
- Project Review Committee

DRAFT

**Topic:** Tracking – Reporting

**Commented [AK46]:** Hot topic! Probably should align with OMWBE and HB 1120???

**Barrier Statement:**

There is inconsistent reporting by owners and construction projects, or lack of reporting all together. Reporting is the best way to understand current state and utilization.

When there is reporting it is often compromised with multiple certifications, registrations, designations and or self-identification. (e.g. OMWBE, MMSDC, WBEC, King County SBC, etc.) There is no consistency on which certification(s)/designations should be recognized and used when reporting diverse business utilization for their Contracts. This inconsistency skews any reporting that is provided.

**Possible practice or solution:**

- Consistent contract language discussing which certification(s)/designations/registrations are accepted and counted for utilization percentages should be defined by project
- Aligning and/or standardizing a consistent certification process or agency which ALL public work recognizes. (OMWBE? Referenced in RCW now)
- Utilizing B2Gnow for monitoring, tracking, and reporting per State of Washington

**Exemplars:**

- A. City of Seattle
- B. University of Washington
- C. Sound Transit

**Related:**

- A. Contract Language
- B. Training
- C. Policies
- D. Legal Interpretations

**Topic:** Data Collection Systems

**Commented [AK47]:** Hot Topic! Need input

**Problem/Issue Statement:**

- There is not one consistent way to collect utilization and project data and/or a central repository to collect inclusion data, what firms, what percentages, certified, not certified, ethnicity data, etc.
- Any data that may be collected by owners is not readily available to the public, in most cases you must assert a public records request to various public owners and collect for yourself. These processes are most often long and again data is inconsistent.

**Possible practice or solution:**

- A. All public owners in the state should leverage the OMWBE/Washington State Business Diversity Management System through B2Gnow. <https://omwbe.wa.gov/state-supplier-diversity-reporting/business-diversity-management-system>
- B. Federal reports should be posted on the owner's webpages or some central repository.
- C. Reports should be collected with and PRC application and posted to the PRC website.
- D. Reporting protocols should be minimally required by statute in 39.10 and 39.04 on at least a annual basis.

**Exemplars:**

- A. OMWBE
- B. City of Seattle
- C. Sound Transit

**Related:**

- A. Reporting (general)

**PART 5: DISCRIMINATION & HARASSMENT**

**Target:** This section focuses on situational cases that have been shared that have led to discrimination and harassment. We are creating this section to bring awareness and create tools to help avoid similar events.

**Practice Highlights:**

- WMBE firm Inequity
- Retaliation and Retribution
- Site Safety
- DEI training for owners, primes and subs

DRAFT

**Topic:** Women-owned firm inequity

**Commented [AK48]:** Reference disparity study recommendations about classifications and categorization.

**Barrier Statement:** minority women-owned firms are less likely to receive awards compared to the white women-owned businesses.

**Possible Practice:** use a women-owned and minority-women-owned category separately with separate, proportional goals...don't lump together

**Exemplars:**

- A. OMWBE
- B. ???

**Related:**

- 1. Inclusion Plans
- 2. Policy development

DRAFT

**Topic:** Construction Workplace Safety

**Barrier Statement:** Employees of color and women often are victims of violence, harassment, hazing and other forms of inappropriate treatment.

**Possible Practice:** Labor equity programs, site safety requirements in contracts, training, and education

**Exemplars:**

1. City of Seattle
2. King County
3. WSDOT

**Related:**

- C. Contract Language
- D. Training and Education

**Commented [AK49]:**

From Young: This is 100 % true: I had to appear in King County Court as a Walsh Area Manager to protect African direct labor force from assaults in Seattle. Long story short and 15K later - a resident near the project was put under a special forced separation order enforced by SPD.

**Commented [AK50]:** Whole other topic but might be ok to reference future pieces.

DRAFT

**Topic:** Retaliation and Retribution

**Commented [AK51]:** Anti-retaliation laws are in place and we should sight/leverage clarification around what is required by law and definitions considering the same.

**Barrier Statement:** when/if complaints and inquiries are filed with agencies regarding bidding, award or general contracting practices; the inquiring businesses feel “black-balled” or put on some sort of “list” of “problematic” business.

**Possible Practice:** owners/primes establish anonymous avenues for complaints questions, etc. These avenues (websites, emails, etc.) are monitored and responded to within 24 hours from knowledgeable staff such as project managers or contracting professionals.

**Exemplars:**

???

**Related:**

- A. Policy
- B. Training and Education
- C. Contract Language

DRAFT

**APPENDIX**

1. Bibliography
  - a. Disparity Studies
  - b. MSRC Report
2. Resources
  - a. OMWBE Tool Kit
  - b. Samples/Examples
  - c. Papers and Reports

**Commented [NB52]:** I think we should try to include the DES survey results and OMWBE toolkit

DRAFT



Capital Projects Advisory Review Board  
Business Equity/Diverse Business Inclusion Committee  
Survey Results  
March 3, 2022

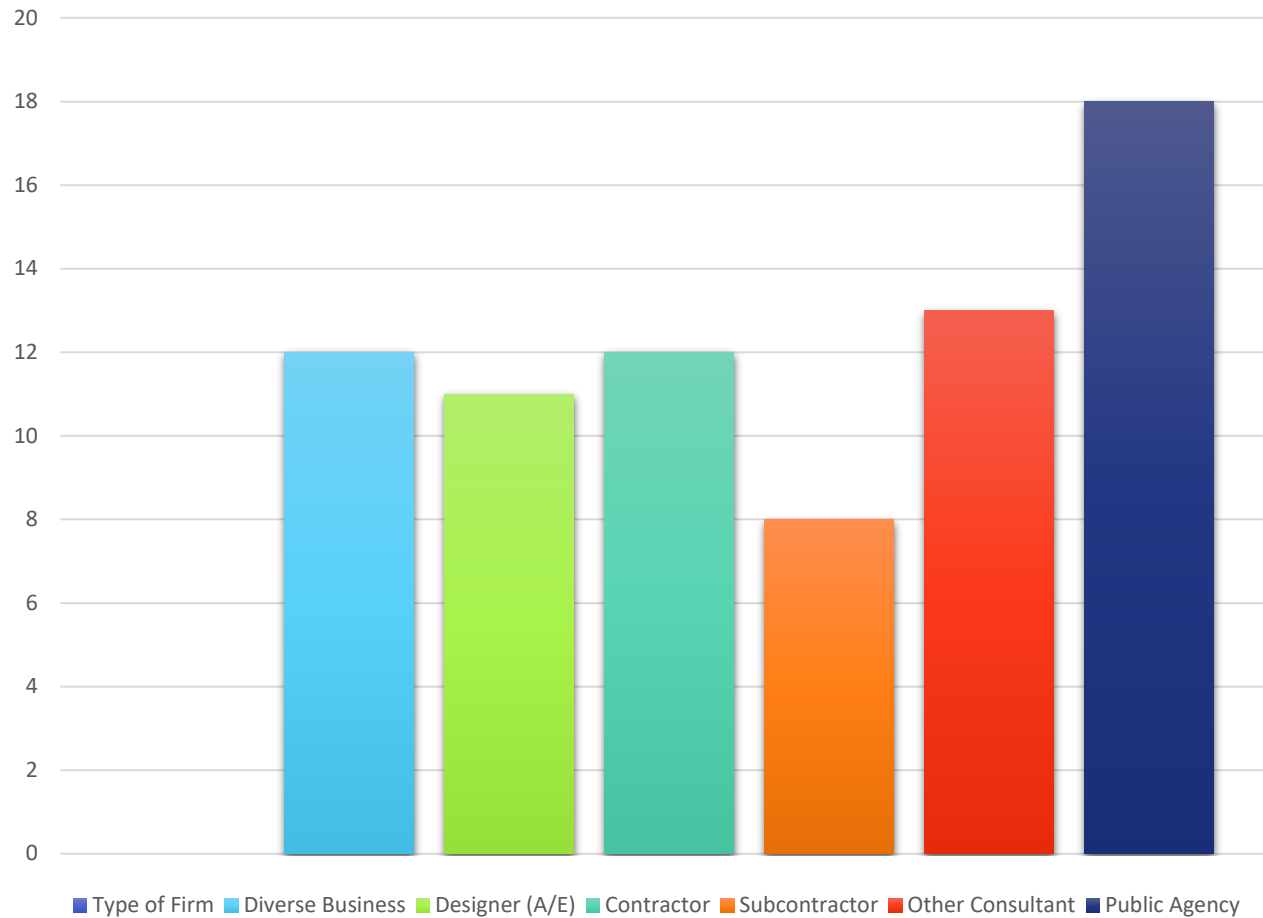
During the first two months of 2022 CPARB asked members of the Alternative Public Works community to respond to a survey around access to equity as it relates to 39.10 RCW.

The following represents the results of the survey.

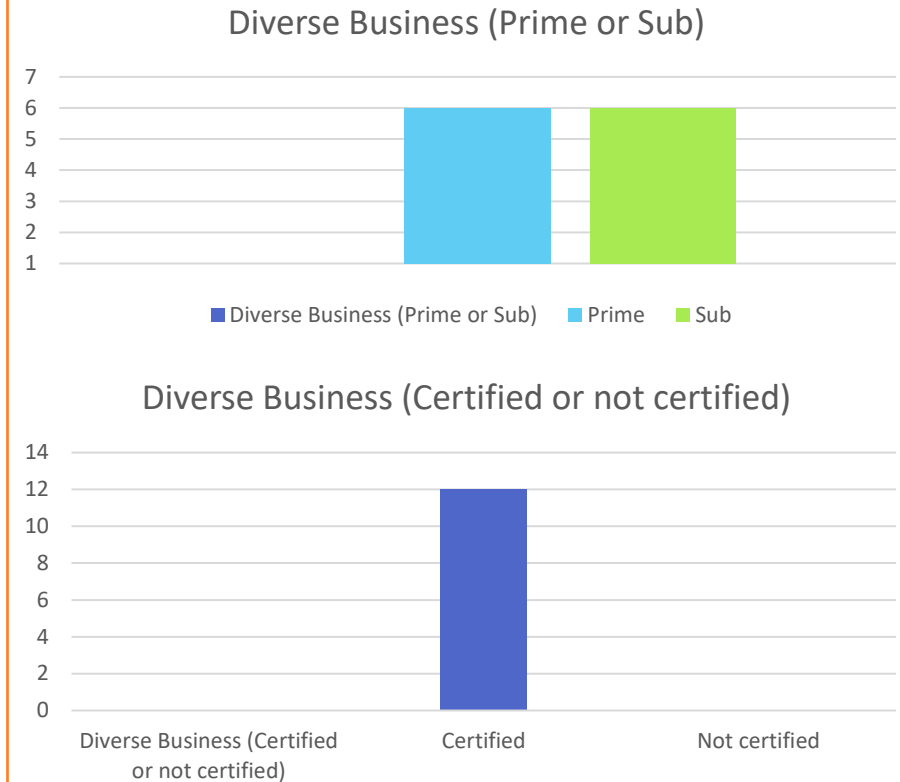
# The Respondents

74 total people responded

Type of Firms



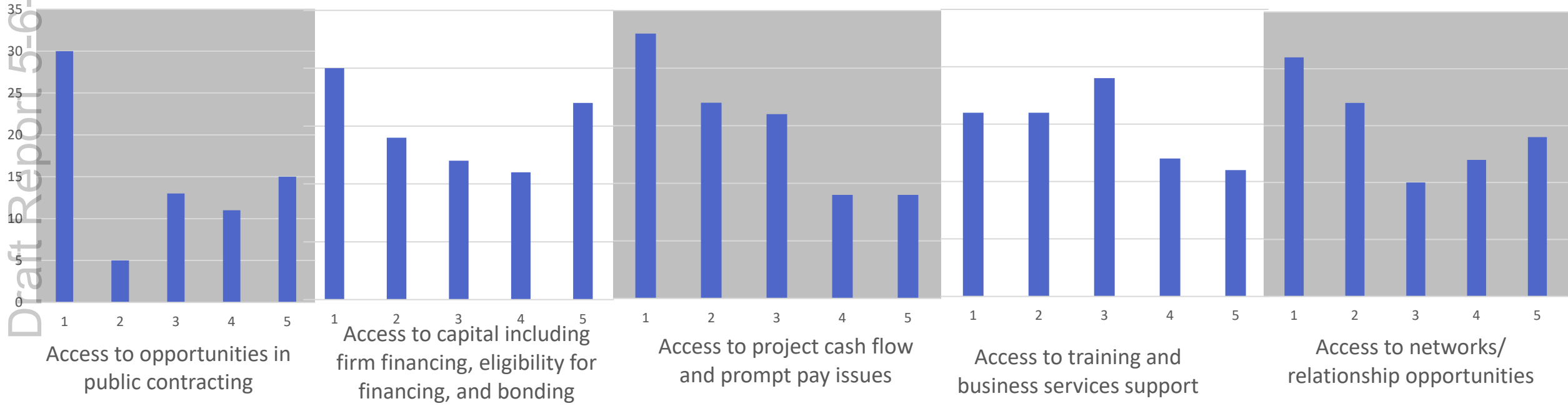
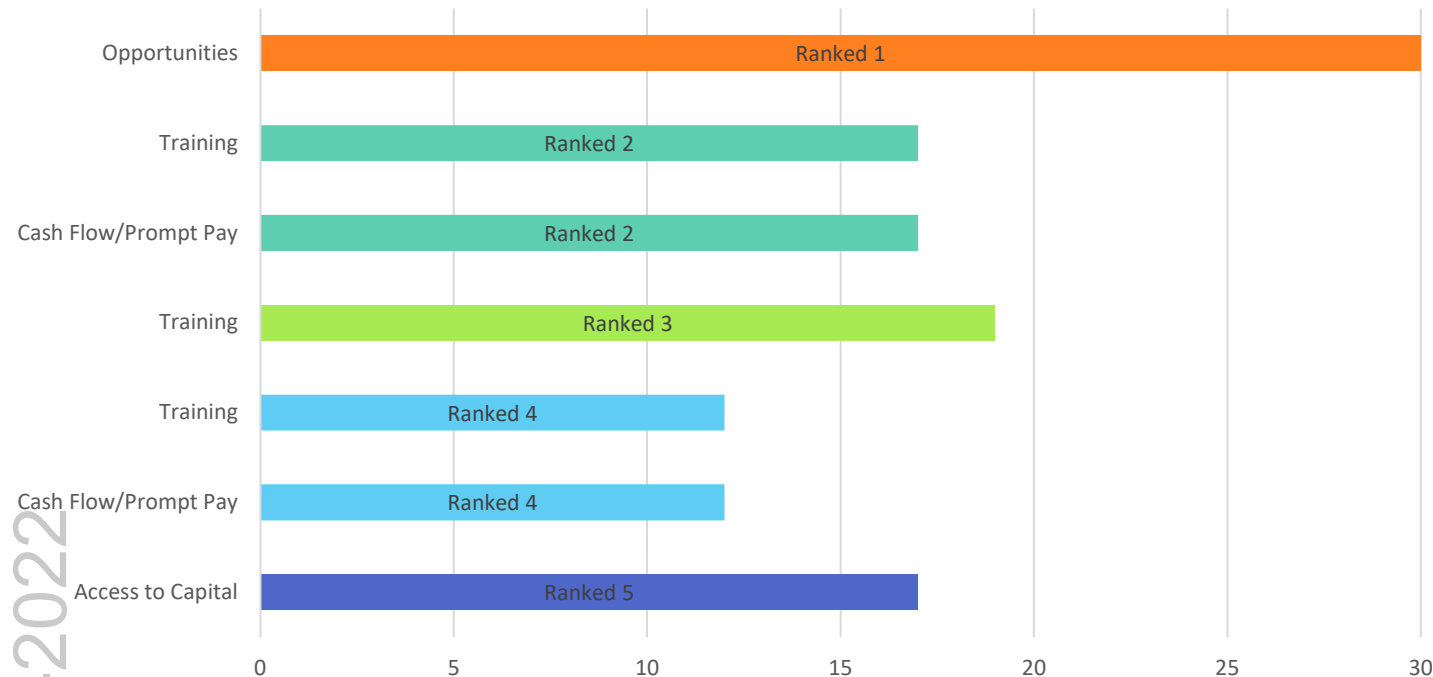
Of the Diverse Businesses who responded:



# Rank the Barriers

We asked the survey respondents to rank the barriers that they think are most impactful to their role in the industry.

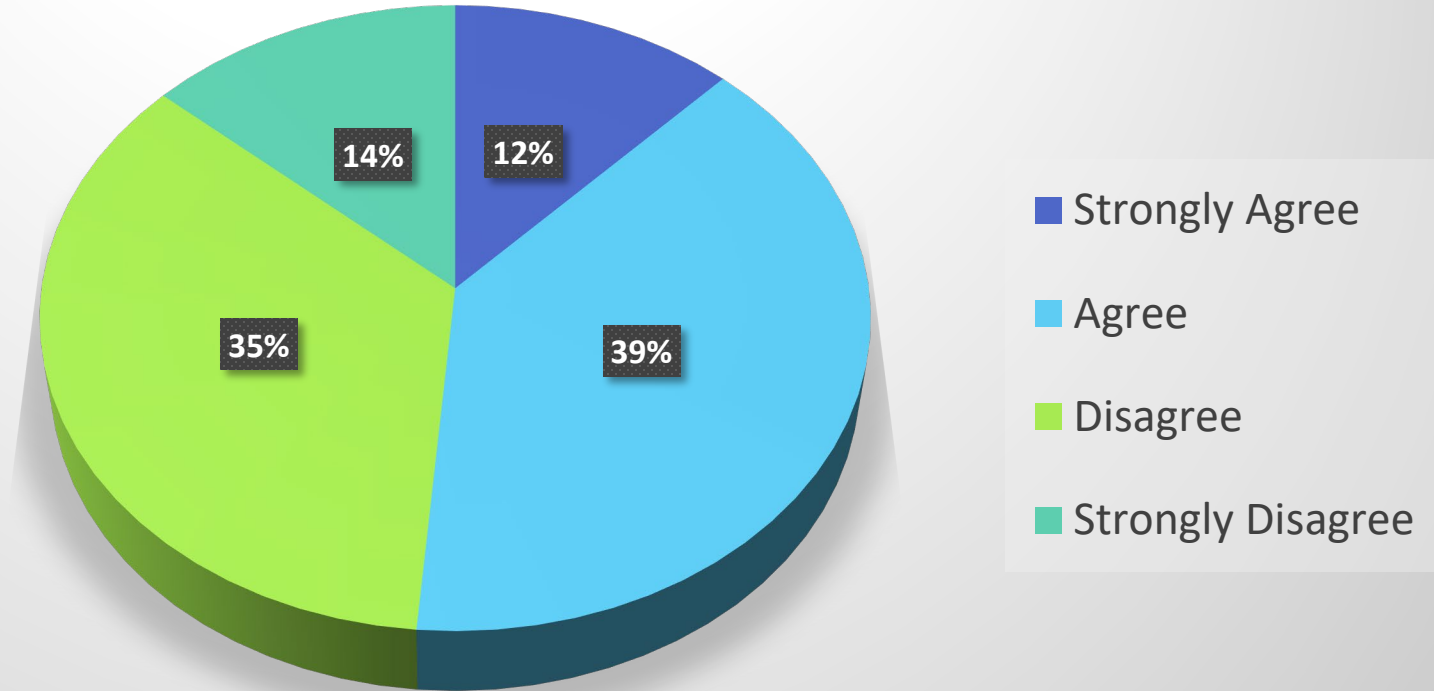
Ranking from 1 most important to 5 least important.



Draft Report 5-6-2022

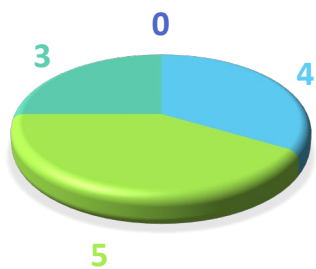
Access to opportunities in public contracting is satisfactory

### All Responses

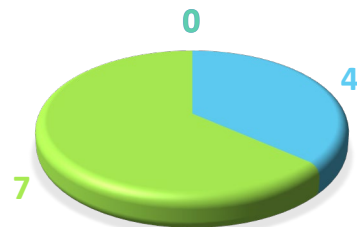


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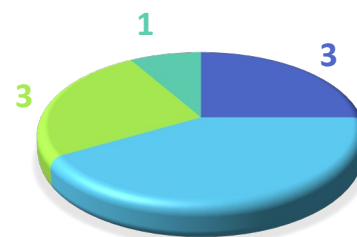
#### DIVERSE BUSINESS



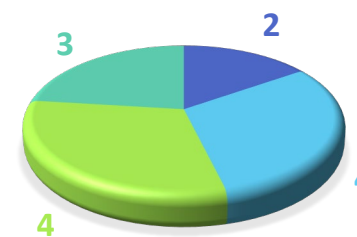
#### DESIGN (A/E)



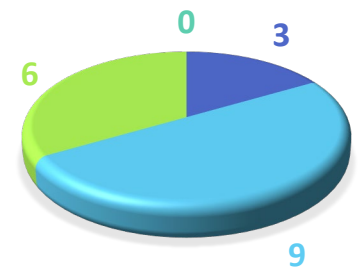
#### CONTRACTOR



#### OTHER CONSULTANT

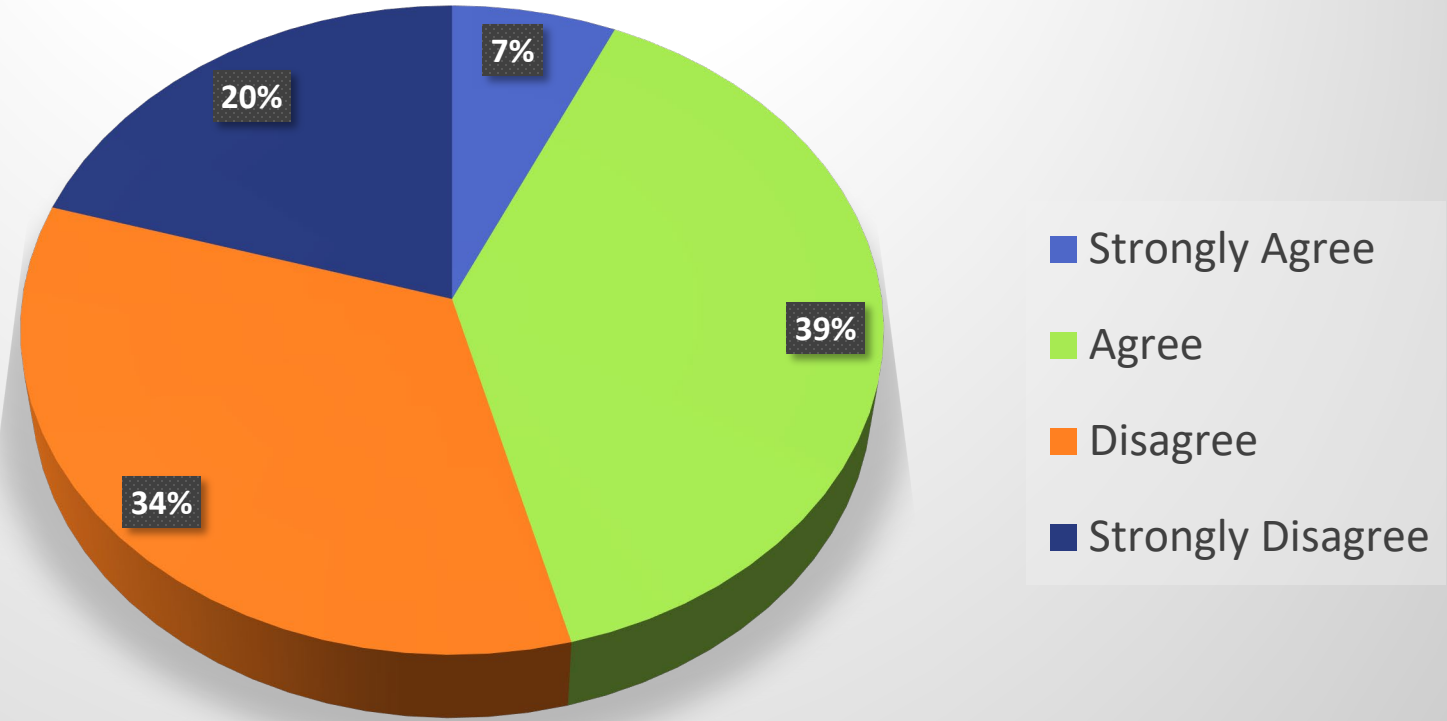


#### PUBLIC AGENCY



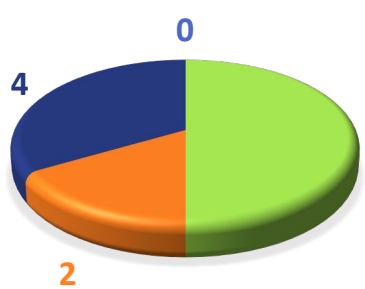
Access to capital including firm financing, eligibility for financing, and bonding is satisfactory

All Responses

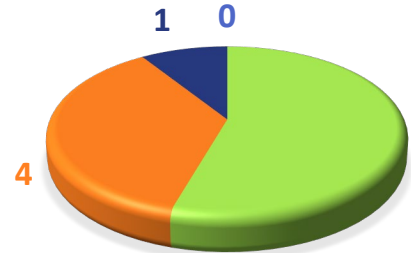


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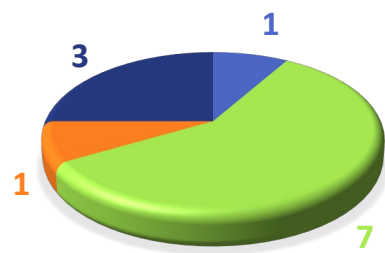
DIVERSE BUSINESS



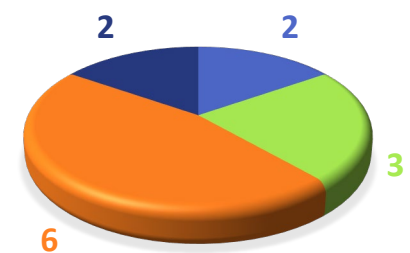
DESIGNER (A/E)



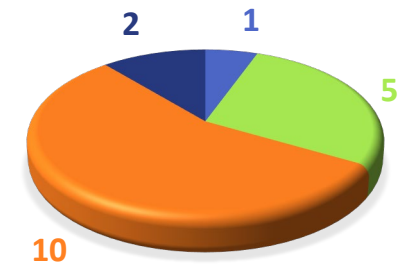
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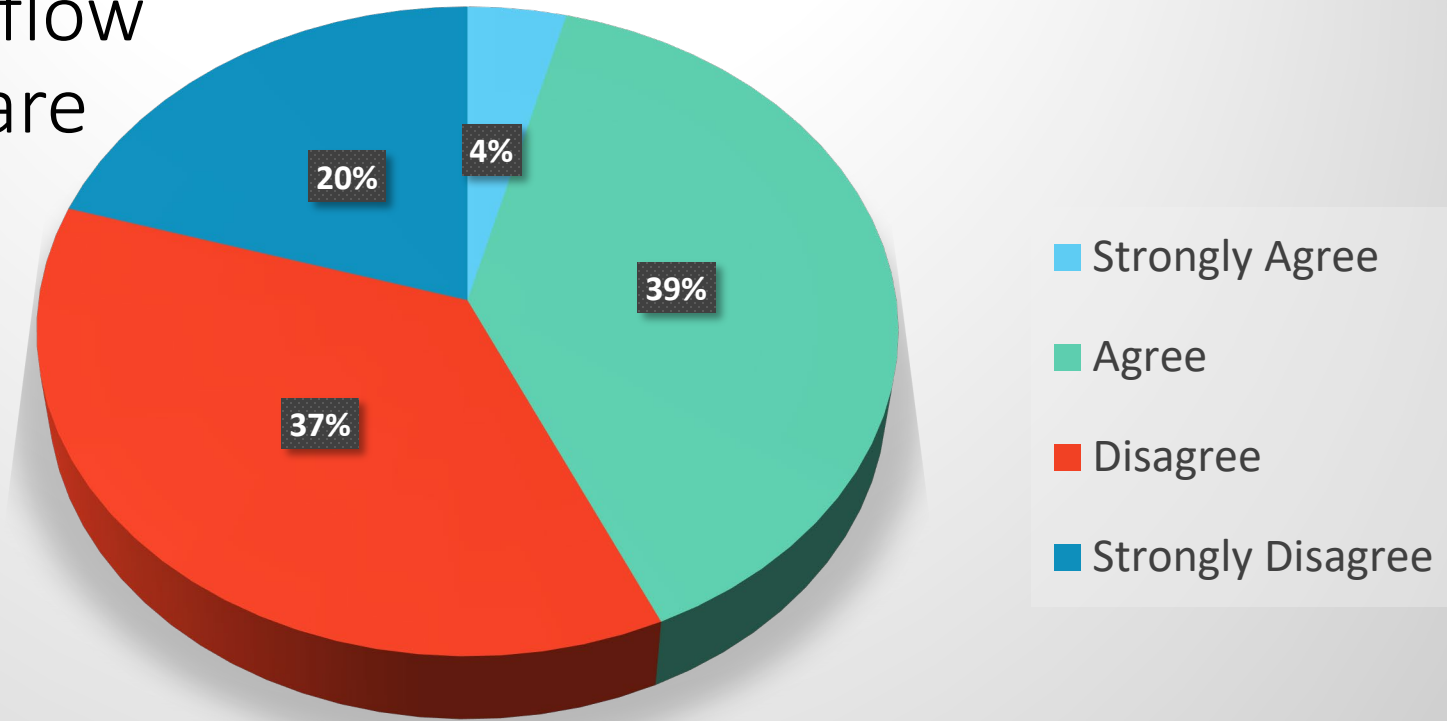


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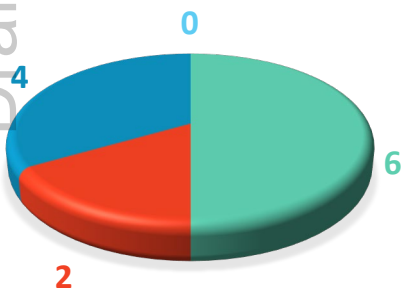


Access to project cash flow and prompt pay issue are satisfactory

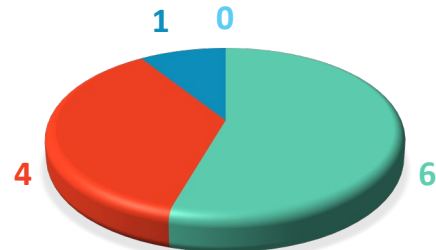
### All Responses



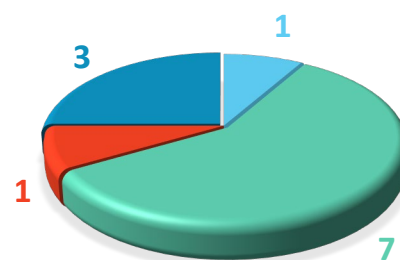
### DIVERSE BUSINESS



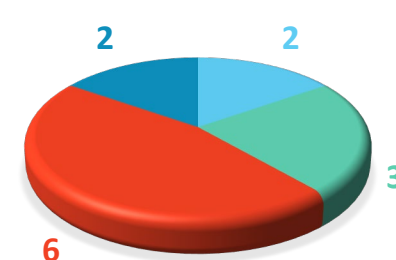
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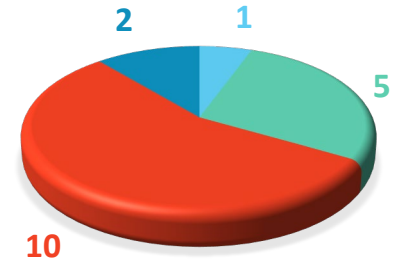
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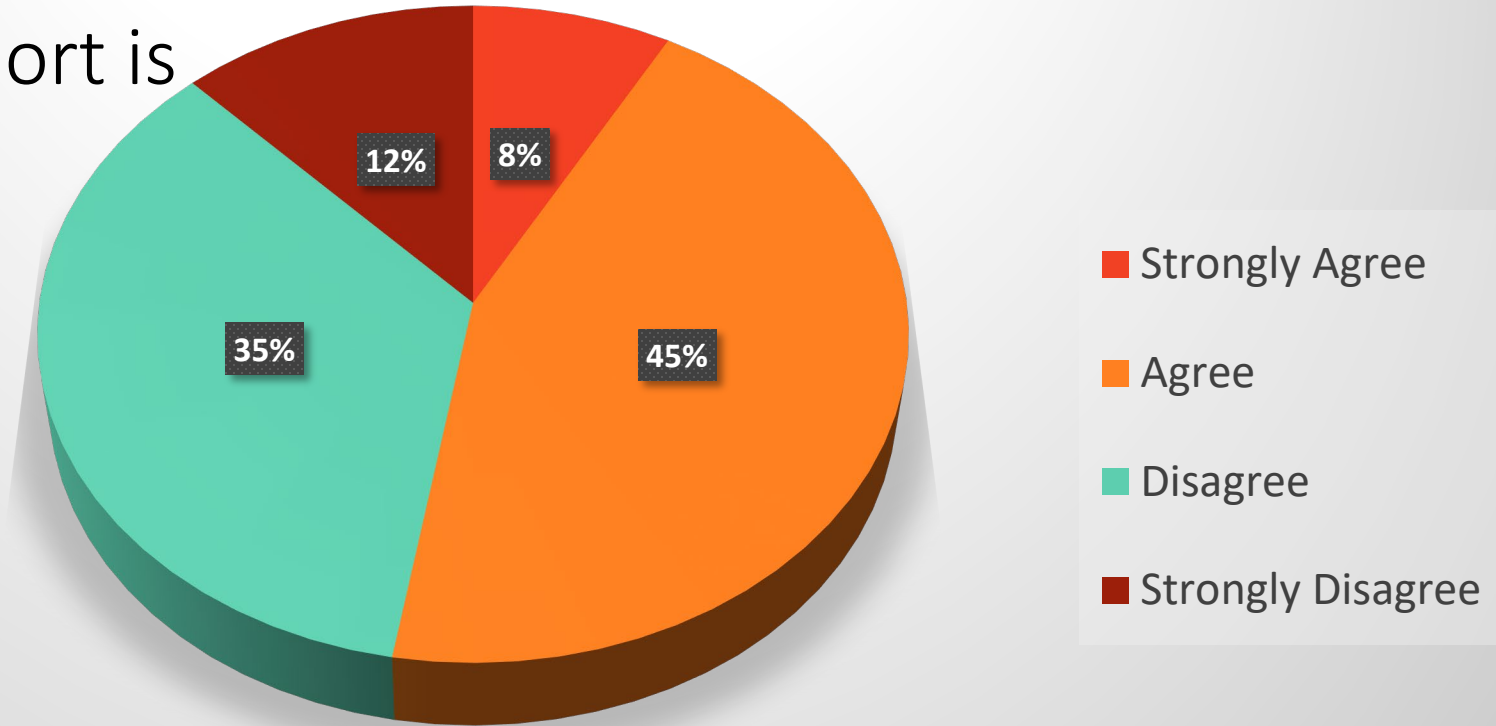


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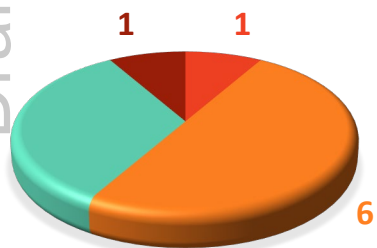
Access to training and business services support is satisfactory

### All Responses

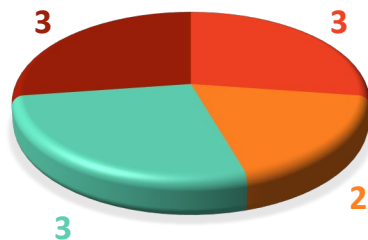


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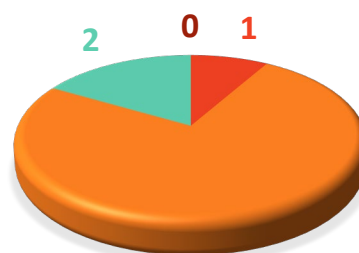
#### DIVERSE BUSINESS



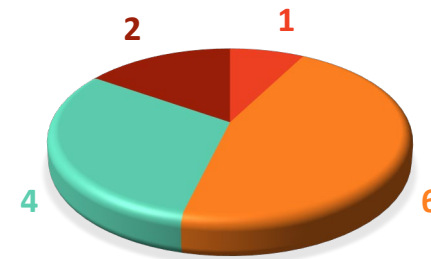
#### DESIGNER (A/E)



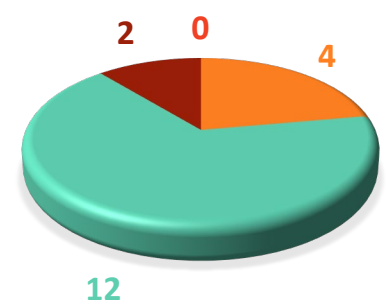
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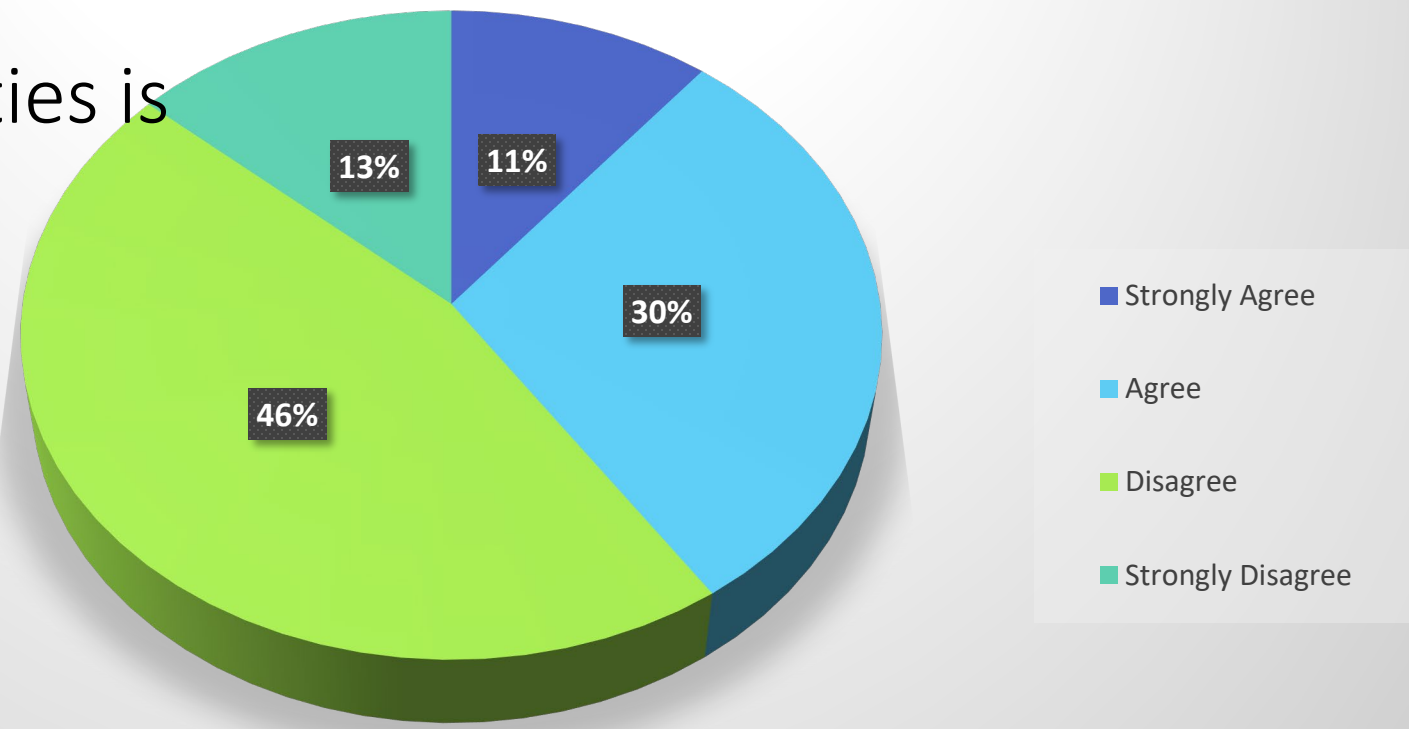


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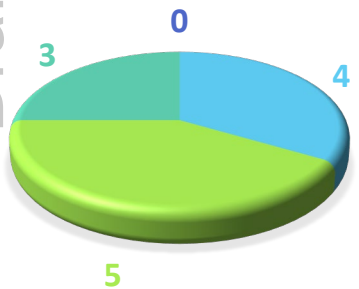


Access to networks/  
relationship opportunities is  
satisfactory

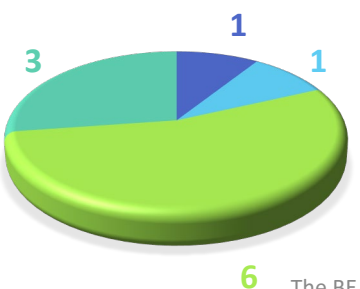
### All Responses



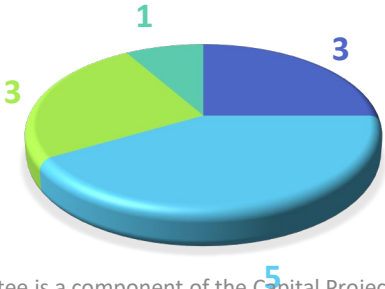
### DIVERSE BUSINESS



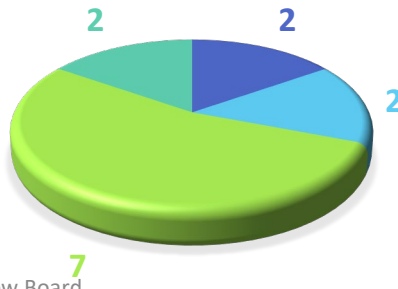
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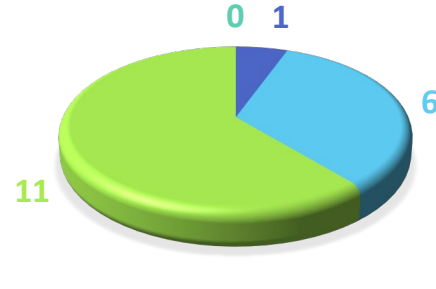
### CONTRACTOR



### OTHER CONSULTANT



### PUBLIC AGENCY





# Additional Comments Received

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- I believe if you want it you can make it happen. If you don't want it you will make excuses as to why you cannot achieve something.
- UW both makes a lot of effort to improve inclusion within the constraints we have as a public agency, and also welcomes new ideas we should consider to do even better.
- As a School District access to funding for new schools is the largest issue. Our voters have difficulty supporting bond measures based on property valuation. As property values increase, even maintenance levies and bonds increase their taxes. Super Majorities, make passage of bonds onerous to school districts. A constitutional modification to this law is in order. Training for ways to work with contractors to increase their equity, diversity, and outreach to minority, and women-owned, veterans and small business enterprises would be beneficial.
- I recommend looking at the Tacoma Public Schools' Diversity best practice program for positive insights. The City of Seattle is also exploring ideas to break down barriers; again, I recommend gleaming insights from their WMBE committee.
- Lack of certified businesses in WA State A/E industry to hire in the primary problem, especially in E WA. Certification process looks at larger and smaller firms in the same manner, seems like criteria should shift to recognize inherent differences in business at these two scales.
- There are other barriers not discussed here that should be considered. Training for owner staff, inclusion plan use and most of all reporting and accountability.
- Access to work for engineering companies in the DB delivery model is problematic. There is less work for smaller engineering firms in this project model and its harder to get. Even large engineering firms are optioning out of the DB projects and pursuing other work. This needs to be dealt with legislatively. While DB is the delivery model of choice for owners it has had adverse effects on the engineering community as whole. Since its working for owners, the DB model needs to be altered to make it more fair for engineering companies.
- These issues are posed as if my organization is a small DBE firm. I have answered them as a government employee in public works and what my perception that that the barriers would be to those firms being in a position to obtain contracts with my agency. But my perception could be off.

# Additional Comments Received Continued

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- As a public agency we find contractors submitting bids on our projects are often deterred by the DBE requirements established on federal projects. Smaller firms have a hard time meeting the commitments. DBE's are often not locally available or they do not have the resources to properly bid or provide documentation on large scale projects even as a subcontractor. This drives contract prices up disproportionately and makes contract administration increasingly difficult. Any implementation of additional resources and requirements should take in to consideration of local demographics and the contractor base in the areas.
- Those affected by certain capital projects such as those working in a building that is slated to undergo building renovation or new building construction are often not consulted or labeled as stakeholders but they should be.
- One barrier is access to capital, and bid bonds are hard to get qualified.
- Accessing opportunities is great, but if the people evaluating submissions are biased and the criteria is not inclusive allowing new businesses to compete with existing businesses.
- A barrier to contracting for small business is the frequent requirement that the SB/DB has to perform greater than 50% of the labor. Frequently in construction or environmental consulting jobs the small business needs to subcontract those opportunities, and does not immediately have the labor to do 50 % or greater. This should be changed to facilitate future opportunities.
- WSDOT does not recognize the most common form of small business, which is a pass-through single-member LLC. As an independent consultant providing professional services, I have a single member LLC pass-through entity with zero employees. It is impossible to determine a salary-derived rate. WSDOT therefore excludes my firm from all of their professional services contracts. Other DOTs interpret the Federal DBE law differently and provide a threshold contract value under which my firm can, as a subconsultant, establish a "reasonable" hourly rate. In Utah, this is \$25,000. The Federal government excludes small businesses from the FAR, but WSDOT imposes FAR-based accounting rules on my tiny little one-person firm making less than \$100,000 per year. I can hold Federal contracts as a prime for up to \$250,000 using a "reasonable" hourly rate that is not salary-derived. In Washington, I can't even hold a \$5,000 subcontract. Consequently, my firm is unable to work in my home state at all.

# Additional Comments Received Continued

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- As a sole proprietor consulting engineer in a very narrow technical field (solid waste management), my responses should not be considered typical. Since I'm semi-retired and don't have to pay employees, my need for capital is minimal. After 40+years in this technical field, I have a pretty wide network, but if I were starting out or had just 10 years of experience, it would be quite difficult.
- Cronyism drives selection.
- DBE certification is not an advantage in an RFP system that does not include DBE requirements, percentage minimums, or points in the evaluation process. Oregon RFPs always say they want DBE applicants but never systematically reward us for the burden of the DBE certification process. This needs to change.
- Net payment terms hurt small business subcontractors - large primes hold onto cash as long as possible. Perhaps large contracting primes can pay their subs PRIOR to being paid by the government.
- Community banks' hands are tied when it comes to lending to small business. SBA avenues force small businesses to work with a huge government bureaucracy, required dedicated FTEs simply to comply with all of the red tape. Instead, unleash local community banks to lend to those small businesses in their community.
- Methods of developing Indirect Cost Rates don't apply to all small businesses (especially Owner-Employees) and the costs of hiring accountants, etc to figure it out are prohibitive for many of us. There should be an easier way of determining fair pay, not some arbitrary multiplier. My fees are based on my expertise, including the years of education and experience it took me to earn it. I should be able to charge what I am worth for my professional services, what it is worth my time to do -not what some actuary who doesn't understand what I do thinks I should be paid.
- Dumb, you think you can ask me a set of questions and then on the next page claim fame and your on it ? Dumb

# Additional Comments Received Continued

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- A one stop cost effective or free service provided to small contractors offering resources from the inception of their business to completion of the first project. To include: access to plan room, bonding, OCIP, help with bid doc's, specifications, special agreements PLA/CWA's progress payments, working with the communities, outreach etc.
- The barriers for small firms (at least in the professional services side) are still strong. These are very relationship-based businesses where project teams are built far ahead of public notices. Primes holding half-day long meet and greets that don't result in any work are just a waste of time for us. One-on-one mentoring programs or other ways that relationships can actually be built might be more useful.
- Navigating any government process or system is cumbersome at best, confusing and overwhelming most of the time. Historically disenfranchised and justice involved people are usually not adept at these processes, have barriers to access/certification, don't have the time/funding to invest in lengthy bid/RFP's. Make it easier to do business with.
- In WA state there is a lack of caring, commitment and opportunity. In WA state public agencies and prime contractors have demonstrated that they will hire, recruit and contract with out of state individuals and companies before they will hire and contract with minorities that are state residents. CPARB is a prime example of discriminatory practices in WA state. CPARB functions solely for the benefit of its members and not the benefit of the state and especially the minority citizens of the state of Washington. Until there are explicit directions from the governor and state legislature and enforced reporting requirements CPARB will continue to operate in a manner that is not in the best interest of the state . Thanks for the opportunity to respond to this survey and hopefully someone will read and investigate the truthfulness and accuracy of these statements.
- I only manufacture airfield equipment and I have a hard time finding current FAA AIP funded projects. It seems that when there is a DBE goal it is eaten by labor so, manufacturers don't receive any benefit from DBE goals. I wish they would separate the labor from the materials purchased in DBE goals.
- PLA's, State registered Apprenticeship requirements limit access.

# Additional Comments Received Continued

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- I'm in somewhat a different situation as a consulting firm that is less capitally intensive than a construction firm. At this stage, some of the "disagree" selections are more of an "I don't know." In my case, there are many public agencies interested in what I do, but the system is slow with poor, outdated perceptions, or culturally insensitive behaviors from large firms. There needs to be better understanding on the role of a small firm to fulfill agency needs, how healthy prime/sub relationships work where appropriate, what business diversity (not conformity or obedience) means in achieving value for everyone involved.

1 **Capital Projects Advisory Review Board**

2 **Business Equity/Diverse Business Inclusion Committee**

3 Meeting Summary April 1, 2021

4 **1. Committee co-chair Walter Schacht called the meeting to order at 9:02 a.m. A quorum was**  
5 **established.**

6  
7 **2. Welcome and introductions.** Co-chair Walter Schacht welcomed the attendees and took roll.

8 Committee members in attendance unless otherwise noted:

- 9
- 10 • Walter Schacht, Mithun CPARB Co-chair
  - 11 • Lisa van der Lugt, OMWBE CPARB Co-chair
  - 12 • Bill Frare, DES CPARB
  - 13 • Irene Reyes, The Glove Lady CPARB
  - 14 • Janice Zahn, Port of Seattle CPARB
  - 15 • Olivia Yang, Washington State University
  - 16 • Cheryl Stewart, AGC Eastern Washington
  - 17 • Chip Tull, Hoffman Construction
  - 18 • Aleanna Kondelis, University of Washington
  - 19 • Brenda Nnambi, Sound Transit
  - 20 • Santosh Kuruvilla, Exeltech Consulting

20 Other attendees include:

- 21
- 22 • Rebecca Keith, City of Seattle CPARB
  - 23 • John Salinas, Salinas Construction CPARB
  - 24 • Dan Seydel, Platinum Group
  - 25 • Tammie Wilson, Department of Labor and Industries
  - 26 • Maja Huff, Washington State University
  - 27 • Monica Acevedo-Soto, University of Washington
  - 28 • Cindy Magruder, University of Washington
  - 29 • Nancy Deakins, DES
  - 30 • Jolene Skinner, Department of Labor and Industries
  - 31 • Melissa Van Gorkom, SCS

32 **3. Review and approve agenda.** Co-chair Schacht reviewed the agenda, today's focus is on long  
33 term goals and progress toward those goals over the next two meetings so we can share our  
34 progress with the board.

- 35
- 36 a. Aleanna Kondelis notified the committee that this is her final meeting representing the  
37 University of Washington and would like to transition into a role to represent the private  
38 industry. Chair Schacht recommended reaching out to the board to ensure appropriate  
39 changes are made.
  - 40 b. Approval of today's agenda – Motion (Aleanna), Second (Cheryl), passed to approve the  
41 meeting agenda.

42 **4. Review and approve last meeting's minutes.**

- 43
- 44 a. Approval of October 29, 2020 meeting with the following changes –
    - i. Co-chair Schacht represents Mithun.

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- ii. On page 7, line 295 to 297, include the following clarifying language: Owners should include MWBE rationale in applying to PRC for use of alternative project delivery method.
  - iii. Include Nancy Deakins as a participant.
  - iv. Dan Seydel represents Platinum Group.
  - v. On page 5, line 239 to 242, revise the following sentence to include what's in red: The certification asks for five years of data to report on the projects **as well as documenting** cost overruns or schedule delays.
  - vi. On page 6, line 301 to 303, revise the following sentence for clarification: Janice Zahn noted there has been many years of discussion on data collection reporting, **and CPARB's role**. We need to keep working on **explaining it in** parallel with our efforts here.
- b. Motion (Janice), Second (Irene), Passed to approve the October 29, 2020 meeting minutes as corrected.
5. **Invitation to the public to participate.** Co-chair Schacht explained this committee meeting is open to participation from non-committee members. If you wish to speak, use the chat function or hand raise function.
6. **Reauthorization update.** Rebecca Keith thanked everyone for their participation. CPARB and the Reauthorization Committee has acknowledged that inclusion of minority and women-owned businesses, small businesses, and veteran-owned businesses were not adequately represented in the Reauthorization Bill SB 5032. The bill passed the senate with no opposition where it was moved to the House Capital Budget Committee. Representative Santos proposed amendments to provide further provisions of inclusion. After reviewing it was clear that the revisions had substantive provisions. I worked with Representative Tharinger to delay the bill from being voted out of the committee to allow CPARB to hold a special meeting last Tuesday. CPARB authorized me to provide a statement that highlights concern of the proposed language. The main change was a deletion of the language, "subject to CPARB's capacity and funding we will collect quantitative and qualitative data." It was identified by other board members that there was potential of a fiscal impact. The biggest concern for unintended consequences was in the Design-Build statute – they required an inclusion plan in the RFQ phase and moved it out of the RFP phase. There may be unintended consequences for project agreements, school districts, and other single users of the statute. Finally, there were concerns that the inclusion plans were mandatory without signifying to the extent permitted by law, language the AG previously advised to include. We're working with the Senate to make sure these changes are looked at.
- a. Dan Seydel – I would encourage folks to consider language that allows the design builder to continually modify and improve their inclusion plan as they move from the qualification to the proposal phase. Part of the intent when we changed the selection process for Design-Build and GCCM was that the prime firms would be selected based on inclusion and past performance, which is sometimes overlooked.
    - i. Rebecca Keith confirmed that the statute still requires past performance in the RFQ phase.
  - b. Co-chair van der Lugt – Where does the amendment state anything is mandatory?
    - i. Rebecca Keith shared her screen to show that the inclusion plan was moved to the RFQ phase, making it mandatory and not limited to the extent permitted by law. In the next phase, Evaluation Factors for Finalist Proposals, it says evaluation factors may also include, but not be limited to, technical design concept and outreach plan. They deleted inclusion plan from this section.

- 94 c. Aleanna Kondelis – It makes more sense that inclusion and strategies is part of the
- 95 proposal phase. We don't get the same outcome by moving it.
- 96 d. Rebecca Keith sent this document to the Committee Co-Chairs who will make it available
- 97 on the committee website.
- 98 e. Co-chair Schacht – I do think there is a lot of untested legal landscape. The public bodies
- 99 regulated by RCW 39.10 are not the same in terms of what they are limited or not limited
- 100 to, which is why the extent permitted by law language was added. The intent was to
- 101 encourage an environment of inclusion.
- 102 f. Rebecca Keith – Our suggestion was to leave the inclusion plan in the RFP phase and
- 103 voice concern over the legal implications.
- 104 g. Co-chair Schacht – I continue to believe Best Practices are the core tool to developing
- 105 inclusion in the process. Owners go about selection processes in different ways, asking
- 106 for different levels of qualifications in their teams. We won't make a breakthrough in the
- 107 statutory side, but we can make a breakthrough by providing clear goals and values as
- 108 detailed in the Best Practices.
- 109 h. Co-chair van der Lugt – There could be a striker and we aren't sure what the final product
- 110 will look like. I'm not sure we can put together a strategic workplan in time.
- 111 i. Rebecca Keith – I believe there will be minimal changes given the statement I provided to
- 112 the house.
- 113 j. Olivia Yang – I would like to think the Best Practices we come up with will also address
- 114 how firms stay profitable after they win the work. There are so many things that can help
- 115 the firms flourish that we haven't talked about. I'm hoping we can talk about how to help
- 116 small businesses once they are on the project.

117  
118 **7. Identify top three issues for the committee.** Co-chair Schacht asked the committee members  
119 to share their top three issues for the committee, allowing other attendees to contribute after if  
120 there is time.

- 121 a. Co-chair Schacht's top three issues are all Best Practices – I think we were most
- 122 successful starting with the Best Practices and then finding opportunities to change the
- 123 statutes.
- 124 b. Co-chair van der Lugt – We need to work on the CPARB board. It's outside of this group
- 125 but it affects what we do here. Our board needs equity training. We also need to focus on
- 126 our board's membership.
- 127 c. Santosh Kuruvilla – I think we need to raise DEI awareness within the board. We need to
- 128 build it into our values instead of just assigning a committee. Another is education and
- 129 Best Practices to help smaller firms be more effective in alternative delivery space. We
- 130 can also get more into the horizontal space and include WSDOT and Sound Transit in
- 131 these conversations and bring them in as active participants in this committee.
- 132 d. Irene Reyes – Establishing the board's core values is important as it trickles down into all
- 133 our committees. Equity and inclusion should focus on training and Best Practices. We
- 134 also need to revisit the goals of this committee to make sure we are on track.
- 135 e. Janice Zahn – I think the diverse community is exhausted from the surveys and studies. It
- 136 isn't that our community hasn't been engaged and speaking loudly about the issues
- 137 they're seeing. Are we willing to engage in a way that is meaningful to work through the
- 138 barriers and get to the solutions and root causes? We need to have a value statement
- 139 that centers this work as the foundation. This subcommittee is supposed to be advisors to
- 140 the board. I'm not sure if this subcommittee is doing that. We tend to spin around in
- 141 circles not knowing if we can legally make changes. We need more people to understand
- 142 this is a benefit to our work and community and not something we just have to do.



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- f. Olivia Yang – I would like to see truly helpful Best Practices that address challenges of small businesses. I agree we need to work on core values, and not just check the box that we formed this committee. We have different issues in Eastern Washington getting participation, and we need common values that address geographic differences.
  - g. Cheryl Stewart – I would agree on Best Practices for contractors and small business because our challenges are different in Eastern Washington. Meeting the requirements are setting these small businesses up to fail. This work also needs to be a movement within the industry. However, we can make changes within the industry that will make a bigger difference than what we do as a committee.
  - h. Chip Tull – We should develop a safe space within this committee to promote a healthy dialogue. We also need to look at sustained opportunities that allow small firms to grow, and create consistency in the way public bodies are certified.
  - i. Aleanna Kondelis – We should refocus on what our charge is for this committee, and make sure we are effective in assisting CPARB achieve its mission. We need to revisit items left on the table during the reauthorization and look at what passed and what was left for further discussion to help inform our Best Practices. Finally, supporting new representation, diverse businesses, and spreading the wealth by being a cheerleader for BE/DBI.
  - j. Brenda Nnambi – This subcommittee can play a critical role in making sure that all the work being done in the different subcommittees are looked at with equity lenses. I'm not sure what our level of influence is on the other committees, but we need to share this work through rich discussions. We also need to make sure we are inclusive enough in sharing our work with all our stakeholders, inviting them to the table, and making sure there is consistency. We need to do our part in addressing barriers to participation and allow diverse perspectives to share their thoughts on how we incorporate that into the Best Practices.
  - k. Irene Reyes – I would add that having core values and focus on DEI produce equitable Best Practices, and that inclusion also includes community engagement and input. If we establish our core values, that will lead into other great outcomes.
  - l. Dan Seydel from the chat – I would love having labor involved. We need stakeholders with resources and organizations with power to "move the needle" (to steal from Janice). The Best Practices is key, and those without internal resources can benefit from dozens of external resources that can assist firms new to government contracting and MWDBE inclusionary strategies. In line with Olivia, there needs to be a common language where stakeholders are not offended while creative solutions are being developed. Many cultures could misinterpret our exchanges and discussions, so we should have CPARB member training that embraces differences and celebrate unique perspectives to develop more comprehensive solutions.
  - m. Co-chair van der Lugt – On the CPARB board, I would add that I don't think we are fully embracing equity yet. Discussions where someone speaks as an OMWBE or diverse business when they aren't one shuts those discussions down. I agree with Chip and others that we need a safe space in our board meetings where people can disagree.
  - n. Janice Zahn – Sometimes we think of Best Practices as what has been done for a long time. In this work, it's not what we've done, it's moving beyond that to improve. Putting equitable in front of Best Practices isn't going to do it. I would like to consider new language, perhaps Community Practice as has been said.
  - o. Irene Reyes – Adding that word, equitable, is higher than equity.
  - p. Olivia Yang – I consider Best Practice as going above the run of the mill requirement. Submitting an inclusion plan that you thought through checks the box but doing the

- 192 research and selecting the diverse firms based on X requirement is what I consider a  
193 Best Practice.
- 194 q. Co-chair Schacht – I think it’s fair to say the whole process we went through to draft the  
195 Design-Build Best Practices changed the landscape of Design-Build in Washington State.  
196 The Best Practices were based on an open dialogue about what was and wasn’t working  
197 in the procurement process, and to give opportunities to the parties pursuing the work to  
198 show where they were and were not succeeding. Then we used what we learned along  
199 the way. We talked about real outcomes and then responded to that. BE/DBI was a very  
200 important issue. I don’t think Best Practices are writing down what we’ve done, I think it’s  
201 an exploration of what we might be able to do in the future based on what is happening.
- 202 r. Santosh Kuruvilla – I think we are all saying the same thing. The issues are how we are  
203 looking at the desired outcome. Instead of focusing on Best Practices, we need to focus  
204 on desired outcomes. Instead of pushing a plan together, we should position ourselves at  
205 the end, look at desired outcomes, and then pull the plan through.
- 206 s. Dan Seydel from the chat – What I’m hearing from Olivia is getting to the heart of the  
207 matter – intent. Outreach Plan is typically the check-the-box, the Inclusion Plan describes  
208 how a firm will execute and achieve objectives. Past performance is how we measure  
209 real intent and results vs. commitments.
- 210 t. Irene Reyes – We would all like to see outcomes that improve BE/DBI. Some of us are  
211 not community engaged, so how can you relate to the challenges of the community if you  
212 are not community engaged.
- 213 u. Rebecca Keith – I’ve appreciated all the comments so far. We asked long ago if we  
214 should create a subcommittee for BE/DBI, or if we should incorporate it into CPARB. I  
215 think it’s both. We need to work on the board’s training, and I would like to follow up with  
216 the Governor’s Boards and Commissions Office to provide support. CPARB doesn’t get  
217 things done except through committees. We don’t have the resources in the few board  
218 meetings we have. If we are going to get the work done of Section 20, we need a  
219 committee that can do that work. I welcome revamping the committee.
- 220 v. Santosh Kuruvilla shared a push/pull graphic on his screen. I think Best Practices are  
221 usually push oriented. We start at the beginning of the process and we plan what we are  
222 going to do, then push the process. There’s also a pull way to think about it. If we look at  
223 the BE/DBI objectives and then pull the process through, we keep the end in mind with  
224 actionable and measurable goals.
- 225 w. Co-chair Schacht – I’m suggesting we used the pull methodology when developing the  
226 Design-Build Best Practices.
- 227 x. Santosh Kuruvilla – I will also add that this committee needs to be the instigator of  
228 change. I don’t think it’s taking on more than we can handle.
- 229 y. Janice Zahn – I agree with Walter that we used the pull methodology. At the same time,  
230 the timing of that was before we had this focus on BE/DBI. Yes, we have an amazing  
231 document that moved us in the Best Practices for Design-Build. At the same time, without  
232 the focus on DEI, I don’t think we were pulling the same topics through.
- 233 z. Olivia Yang – I think Janice is correct. I think Walter is saying the Design-Build Best  
234 Practices wasn’t about the old way of doing things and is more about sharing the  
235 process. That committee did not get into the issues we are getting into now. It’s more  
236 about the outcome. I wonder if we can get into what Section 20 is about in our next  
237 meeting.
- 238 aa. Rebecca Keith from the chat – 100% agree Santosh and Walter and if this committee  
239 wants to recommend a change to CPARB in the committee’s charge, I would 100%  
240 support bringing that forward to the board.

- 241 bb. Rebecca Keith – If SB 5032 passes, which I think it will, we must get Section 20 done in  
242 one way or another or else we need to go back to CPARB.  
243 cc. Co-chair Schacht – I agree with Olivia and think we need to spend less time on the big  
244 picture and talk specifically about what Section 20 asks us to do. We need to start  
245 mapping out what we can do and what resources we have.  
246 dd. Olivia Yang – I would like to put a workplan together at our next meeting. For future  
247 meetings, what if we assume we have the same core values with the assumption that if  
248 we disagree it's to make the idea better and not because we are anti this or that.  
249 ee. Co-chair van der Lugt – It's hard to do DEI work when the board still needs to learn about  
250 DEI. I agree we need to think about our core values and give each other the space to  
251 disagree.  
252
- 253 **8. Committee workplan.** The committee did not have time to discuss the committee workplan at  
254 this time.  
255
- 256 **9. Next steps.** The committee plans to discuss the work plan at the next meeting on Apr. 23, 2021.  
257  
258 **10. Adjourn.** The committee M/S/A to adjourn the meeting at 10:58 a.m.

# Business Equity/Diverse Business Inclusion Committee Capital Projects Advisory Review Board

28 May 2021

Committee focus:

- Consistent with the standards established in Section 20 of SB 5032, create best practices guidelines for increasing and sustaining access to contracting opportunities in alternative public works for minority, women, and veteran-owned businesses, and small businesses. Create consistency in statutory language.
- Provide CPARB recommendations for any changes to state law that are advisable based upon the best practices guidelines.
- Committee to provide drafts of the best practices and any recommended changes to CPARB by February, 2022 and work with CPARB as needed to finalize the best practices and report to the legislature by June 30, 2022.

<input checked="" type="checkbox"/> Olivia Yang	Washington State University	CPARB
<input checked="" type="checkbox"/> Santosh Kuruvilla	Exceltech	CPARB
<input checked="" type="checkbox"/> Lisa Van der Lugt	OMWBE	CPARB
<input checked="" type="checkbox"/> Bill Frare	DES	CPARB
<input checked="" type="checkbox"/> Irene Reyes	The Glove Lady	CPARB
<input checked="" type="checkbox"/> Janice Zahn	Port of Seattle	CPARB
<input checked="" type="checkbox"/> Bill Dobyms	Lydig	CPARB
<input type="checkbox"/> Jackie Bayne	WSDOT OEO	
<input type="checkbox"/> Linda Womack	MBDA	
<input type="checkbox"/> Bobby Forch	Forch Consulting	
<input checked="" type="checkbox"/> Lily Keefe	USDOT - Northwest SBTRC	
<input checked="" type="checkbox"/> Cheryl Stewart	Inland Northwest AGC	
<input checked="" type="checkbox"/> Chip Tull	Hoffman Construction	
<input checked="" type="checkbox"/> Aleanna Kondelis	Akana	
<input checked="" type="checkbox"/> Brenda Nambi	Sound Transit	
<input type="checkbox"/> Cathy Robinson	City of Lynnwood	
<input checked="" type="checkbox"/> Sarah Erdman	OMWBE	
<input checked="" type="checkbox"/> Shelly Henderson	Mukilteo School District	
<input checked="" type="checkbox"/> Van Collins	ACEC Washington	
<input type="checkbox"/> Arlene Moore	Exceltech	
<input checked="" type="checkbox"/> Maja Huff	Washington State University	
<input checked="" type="checkbox"/> Keith Michel		
<input checked="" type="checkbox"/> Jerry VanderWood		

## AGENDA

Item	Purpose	Start
Welcome and committee member introductions	Information	10:00 am
Review & approve agenda	Action	10:05 am
Review & approve 4/23/21 meeting minutes	Action	10:10 am
Invitation to the public to participate	-	10:15 am
Finalize subcommittees and members	Action	10:16 am
Finalize schedule and work plan	Action	10:30 am
Committee members/co-chairs	Discussion	11:40 am
Adjourn	Action	12:00 pm

### DIGITAL CONFERENCE ACCESS

The committee meeting will be conducted entirely by Zoom digital conferencing. (zoom info next page)

# Business Equity/Diverse Business Inclusion Committee Capital Projects Advisory Review Board

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Online

Join Zoom Meeting

<https://us02web.zoom.us/j/85356139148?pwd=dINrLytiQ3lkTFBFZHQyWW9PZlFuUT09>

Meeting ID: 853 5613 9148

Passcode: 359024

One tap mobile

+12532158782,,85356139148#,,,,\*359024# US (Tacoma)

+13462487799,,85356139148#,,,,\*359024# US (Houston)

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## MINUTES

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### Item: Welcome and committee member introductions

- Call to Order
- Quorum confirmed

Action by: BE/BDI Committee

Status: Approved and complete

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### Item: Review & approve agenda

Action by: BE/BDI Committee

Status: Approved and complete

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### Item: Review & approve 4/23/21 meeting minutes

- No updates required

Action by: BE/BDI Committee

Status: Approved and complete

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### Item: Finalize subcommittees and members

Introduction to the short term plan pre-read.

Introduction to the Kanban pre-read.

Name	Agency/Firm	CPARB Member	BE/BDI Member	Outreach Subcommittee	Best Practices Subcommittee
Olivia Yang	Washington State University	CPARB	X	X	X
Santosh Kuruvilla	Exeltech	CPARB	X	X	X
Lisa Van der Lugt	OMWBE	CPARB	X	X	X
Bill Frare	DES	CPARB	X		X
Irene Reyes	The Glove Lady	CPARB	X	Co-Chair	X
Janice Zahn	Port of Seattle	CPARB	X	X	X
Jackie Bayne	WSDOT OEO		X		?
Linda Womack	MBDA			Co-Chair	X
Bobby Forch	Forch Consulting			?	
Lily Keefe	USDOT - Northwest SBTRC			X	X
Cheryl Stewart	Inland Northwest AGC		X	X	
Chip Tull	Hoffman Construction		X		X
Aleanna Kondelis	Akana		X	x	Co-Chair
Brenda Nnambi	Sound Transit		X	X	Co-Chair
Cathy Robinson	City of Lynnwood				
Sarah Erdman	OMWBE			X	X
Bill Dobyms	Lydig	CPARB			X
Shelly Henderson	Mukilteo School District			x	X

**Business Equity/Diverse Business Inclusion Committee  
Capital Projects Advisory Review Board**

Van Collins	ACEC Washington				X
Arlene Moore	Exceltech				
Maja Huff	Washington State University			X	X

Action by: BE/BDI Committee  
Status: Active

Item: **Finalize schedule and work plan**

- Subcommittee Standing Meetings: 2 hours each meeting
  - Outreach – 1<sup>st</sup> & 3<sup>rd</sup> Wednesday 3-5 PM
  - Best Practices – 2<sup>nd</sup> Wednesday 3-5 PM

Action by: WSU will schedule  
Status: Active

Item: **Committee members/co-chairs**

- Outreach Chair: Irene and Linda
- Best Practices: Aleanna and Brenda
- Introduction to dashboard pre-read by Santosh

Action by: Santosh to share plans with Chairs,  
Santosh to host Teams groups for each subcommittee.  
Status: Active

Ad Hock Item: **Meeting Improvements**

- Standing agenda item – subcommittee reports
- Standing agenda item – coordination of efforts by other groups/organizations
- Come prepared and willing to engage, we are asking for as much participation as possible.

Ad Hock Item: **Next Agenda Recommendations**

- Chairs of subcommittees use first meeting to get organized and outcome oriented.
- WSU will continue to host via Zoom.

Adjourn 11:43

**Zoom Meeting Recorded.**

**Record of Zoom Meeting Chat:**

10:24:33 From Van Collins : I am sorry that I have to leave so early, but as I indicated, I am about to board a flight. I will catch up with Olivia and Santosh as to where and how I can be of best service. I look forward to working with you all. Cheers and have a very Happy Memorial Day.

10:43:31 From Brenda Nnambi : I agree with Lisa's comments and would also add that other disparity studies in the state should be considered in addition to the 2019 state study.

10:46:31 From Bill Frare : I'd like to join the best practices committee

10:47:54 From Lisa van der Lugt : OMWBE will be on both. either myself or someone else.

10:49:04 From Lily M Keeffe : NW SBTRC would like to be in outreach. Thank you

10:49:13 From Lisa van der Lugt : Good point, Olivia.

10:50:05 From Irene Reyes : I would like to participate in both sub committees. Thank you.

10:51:36 From Shelly Henderson : I'm same as Aleanna, I will plan to be primarily on Best Practices and come to Outreach as schedule allows

10:51:48 From Chip Tull : I would like to be on the best practices committee

10:52:05 From Lily M Keeffe : Actually now I would like to both as well (sorry)

10:53:18 From Cheryl Stewart : I would like to sit on the Outreach committee

**Business Equity/Diverse Business Inclusion Committee  
Capital Projects Advisory Review Board**

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10:59:46 From Lisa van der Lugt : Friday mornings are very difficult for OMWBE.  
10:59:54 From Lisa van der Lugt : we have a standing meeting.  
11:00:20 From Shelly Henderson : Wednesday or Thursday mornings?  
11:01:08 From Jerry VanderWood : sorry I have to jump off.  
11:02:33 From Bill Frare : I like 1-3 wednesday  
11:03:53 From Cheryl Stewart : I vote for 1-3 as well  
11:06:13 From Lisa van der Lugt : BRB  
11:15:19 From Lily M Keeffe : Thank you for an excellent meeting, as I mentioned in the email I have to jump off. Thank you for inviting me (Irene). Have a wonderful holiday weekend.  
11:19:40 From Shelly Henderson : Have to step out for a couple minutes  
11:26:56 From Lisa van der Lugt : agreeable  
11:27:11 From Cheryl Stewart : Teams works great for us.  
11:27:23 From Bill Dobyns : I have to jump off, thank you everyone  
11:33:13 From Chip Tull : I really appreciate all the work effort Santosh and Olivia put into preparing for this meeting and sharing the pre-reads. That resulted in this meeting being well organized and efficient! Thank you!  
11:35:52 From Lisa van der Lugt : Thank you Olivia and Santosh for a very good meeting.  
11:39:50 From Chip Tull : To Olivia's point, I suggest we all come to meetings with a mindset of curiosity.

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Draft Report 5-6-2022

## Business Equity/Diverse Business Inclusion Committee Capital Projects Advisory Review Board

25 June 2021

Committee focus:

- Comprehensive review of RCW 39.10 with the lens of equity (include RCW 39.04 & 39.80).
- Create consistency in statutory language.
- Evaluate and bring forth effective strategies and opportunities for firms to compete.

<input checked="" type="checkbox"/> Olivia Yang	Washington State University	CPARB /Committee Member
<input checked="" type="checkbox"/> Santosh Kuruvilla	Exeltech	CPARB /Committee Member
<input checked="" type="checkbox"/> Lisa Van der Lugt	OMWBE	CPARB /Committee Member
<input checked="" type="checkbox"/> Bill Frare	DES	CPARB /Committee Member
<input checked="" type="checkbox"/> Irene Reyes	The Glove Lady	CPARB /Committee Member
<input checked="" type="checkbox"/> Janice Zahn	Port of Seattle	CPARB /Committee Member
<input checked="" type="checkbox"/> Jackie Bayne	WSDOT OEO	Committee Member
<input checked="" type="checkbox"/> Cheryl Stewart	Inland Northwest AGC	Committee Member
<input checked="" type="checkbox"/> Chip Tull	Hoffman Construction	Committee Member
<input checked="" type="checkbox"/> Aleanna Kondelis	Akana	Committee Member
<input checked="" type="checkbox"/> Brenda Nnambi	Sound Transit	Committee Member
<input checked="" type="checkbox"/> Linda Womack	MBDA	
<input checked="" type="checkbox"/> Bill Dobyns	Lydig	CPARB
<input checked="" type="checkbox"/> Bobby Forch	Forch Consulting	
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<input checked="" type="checkbox"/> Cathy Robinson	City of Lynnwood	
<input checked="" type="checkbox"/> Sarah Erdman	OMWBE	
<input checked="" type="checkbox"/> Shelly Henderson	Mukilteo School District	
<input checked="" type="checkbox"/> Van Collins	ACEC Washington	
<input checked="" type="checkbox"/> Cathy Ridley	Exeltech	
<input checked="" type="checkbox"/> Maja Huff	Washington State University	
<input checked="" type="checkbox"/> Keith Michel		
<input checked="" type="checkbox"/> Jerry VanderWood		

### AGENDA

Item	Purpose	Start
Welcome and committee member introductions	Information	10:00 am
Review & approve agenda	Action	10:05 am
Review & approve 5/28/21 meeting minutes	Action	10:10 am
Invitation to the public to participate	-	10:15 am
Committee Name Change	Discussion	10:16 am
Plan for nominating voting committee members to CPARB in September	Discussion	10:35 am
Report from subcommittee members/co-chairs	Discussion	10:55 am
Confirmation of Work Plan	Action	11:20 am
"Final word" (from committee members)	Discussion	11:40 am
Adjourn	Action	12:00 pm



# Business Equity/Diverse Business Inclusion Committee Capital Projects Advisory Review Board

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## DIGITAL CONFERENCE ACCESS

The committee meeting will be conducted entirely by Zoom digital conferencing.

Online <https://wsu.zoom.us/j/97615048848>

Meeting ID: 976 1504 8848

Join by telephone

Dial: US: +1 253 215 8782 or +1 669 900 9128 or +1 646 558 8656

Meeting ID: 976 1504 8848

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## MINUTES

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### Item: Welcome and committee member introductions

- Call to Order
- Quorum confirmed -- 6 appointed committee members
- Aleanna, Sheryl, Janice, Chip, Santosh, Olivia.

In the future, committee members that is present can act as a delegate.

Can we meet without a quorum?

Action by: BE/BDI Committee Status: Not considered an official meeting.

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### Item: Review & approve agenda

- Agenda Approved.

Action by: BE/BDI Committee

Status: Approved and complete

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### Item: Review & approve 5/28/21 meeting minutes

- No updates required

Action by: BE/DBI Committee

Status: Approved and complete

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### Item: Committee Name Change

- The Joint Subcommittees names are officially changed to Best Practices Subcommittee and External Stakeholder Engagement Subcommittee.
- Scope and purpose of each communicated and aligned.
- Main committee proposed name: Diversity Equity and Inclusion Committee. Informal until approved by CPARB meeting in September.
- Proposal regarding committee membership: two types: 1) 11 Voting Members, 2) SME/focus groups/visiting scholars.

Action by: Irene to connect with Dr. Johnson.

Status: Active

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### Item: Plan for nominating voting committee members to CPARB in September

- Subcommittee Standing Meetings: 2 hours each meeting
  - Outreach – 1<sup>st</sup> & 3<sup>rd</sup> Wednesday 3-5 PM
  - Best Practices – 2<sup>nd</sup> Wednesday 3-5 PM

Action by: Irene to connect with Dr. Johnson.

Status: Active

## Business Equity/Diverse Business Inclusion Committee Capital Projects Advisory Review Board

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### Item: Report from subcommittee members/co-chairs

- Standing agenda item – subcommittee reports
- Standing agenda item – coordination of efforts by other groups/organizations
- Come prepared and willing to engage, we are asking for as much participation as possible.
- Committees have been combined to best coordinate between best practices and outreach.
- Discussed identifying three barriers from MBDA and other disparity studies across US: 1) access to opportunities/networking, 2) systemic/historic racial biases and inequality in contracting. 3) Access to capital. Proposed access to FINANCE vs. access to capital. These are KRAs. Suggest we survey, with gift card incentive. Communicating constantly w Olivia and Santosh re: decisions.
- Have also identified framework: 1) advocate for WA state certified firms to increase participation in public contracting, 2) develop action plan for determining market segmentation, 3) identify systemic barriers (already identified) and recommend best practices /priorities (public/private partnerships) for disparity study's recommendations (key performance results).
- Discussed outline of best practices guide, workgroups working on specific topics like contracting requirements, etc.

Action by: Subcommittees – documents available on Teams  
Status: Active

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### Item: Confirmation of Work Plan

- Santosh updated in Kanban.

Action by: Santosh will re-send Teams invitation to everyone.  
Status: Active

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### Ad Hoc Item: "Final word" (from committee members)

- We all want the same thing and should keep that center. All here for the right reasons. Will produce a lot of performance indicators.
- Congratulations to Janice the new co-chair CPARB.
- Request was made to make sure we don't overlook non-certified firms. Make sure outreach looks at non-certified firms and represents them. How do we make sure we tap into all available info/surveys that already exist?
- Stakeholder mapping – a matrix to identify missing stakeholders, WA state map to ID where representation is missing (color code owners, contractors, WMBEs, etc.). Data visualization.
- We need to continue being honest, genuinely curious, and respectful, and model good behavior for how to disagree without being disagreeable.
- Lisa has offered to share/present on Business Diversity Management info, governor's subcabinet activities, B2GNow progress at a meeting.

Action by: Cathy Ridley to develop chart/visual for stakeholder mapping.  
Olivia and Santosh – schedule Lisa to present at future meeting.

Status: Active

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Adjourn 11:55

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### **Zoom Meeting Recorded.**

#### **Record of Zoom Meeting Chat:**

- **Aleanna Kondelis**44:42

sorry, project issue

- **Lisa van der Lugt**53:48

just a reminder that we can pull data from certified firms and that does not include all mwbe biz in the state.

- **Aleanna Kondelis**57:55

June 25, 2021

BE/DBI Meeting Minutes

## Business Equity/Diverse Business Inclusion Committee Capital Projects Advisory Review Board

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Back, so sorry

- **Lisa van der Lugt**01:00:18

I have to step away for a minute. BRB

- **Brenda Nnambi**01:08:00

I know there has been lots of discussion about roles/resps for the Committees. My understanding is that the Best Practices Committee will develop the issue statement describing barriers and potential solutions (best practices) from the disparity studies then the External Stakeholder Engagement (formerly called Outreach) Committee will vet them with Stakeholders. Is that correct?

- **Lisa van der Lugt**01:08:51

I think Irene's suggestions works just fine.

- **Irene Reyes**01:23:42

Great point Lisa

- **Lisa van der Lugt**01:47:13

Adorable grandchild, Santosh!

- **Chip Tull**02:02:41

Congratulations Janice!!

---

## Business Equity/Diverse Business Inclusion Committee Capital Projects Advisory Review Board

23 July 2021

Committee focus:

- Comprehensive review of RCW 39.10 with the lens of equity (include RCW 39.04 & 39.80).
- Create consistency in statutory language.
- Evaluate and bring forth effective strategies and opportunities for firms to compete.

<input checked="" type="checkbox"/> Olivia Yang	Washington State University	CPARB /Committee Member
<input checked="" type="checkbox"/> Santosh Kuruvilla	Exeltech	CPARB /Committee Member
<input type="checkbox"/> Lisa Van der Lugt	OMWBE	CPARB /Committee Member
<input type="checkbox"/> Bill Frare	DES	CPARB /Committee Member
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<input type="checkbox"/> Bill Dobyns	Lydig	CPARB
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<input checked="" type="checkbox"/> Cathy Ridley	Exeltech	
<input checked="" type="checkbox"/> Maja Huff	Washington State University	
<input checked="" type="checkbox"/> Keith Michel	FORMA	
<input type="checkbox"/> Jerry Vanderwood	AGC	
<input checked="" type="checkbox"/> Jolene Skinner	L&I	
<input checked="" type="checkbox"/> Charles Wilson	Department of Enterprise Services	Delegate for Bill today
<input checked="" type="checkbox"/> Stephanie Caldwell	Absher Construction	
<input checked="" type="checkbox"/> Carrie Whitton	FORMA	

### AGENDA

Item	Purpose	Start
Welcome and committee member introductions	Information	10:00 am
Review & approve agenda	Action	10:05 am
Review & approve 6/25/21 meeting minutes	Action	10:10 am
Invitation to the public to participate	-	10:15 am
Report from External Stakeholders Co-Chairs	Discussion	10:20 am
Report from Best Practices Co-Chairs	Discussion	10:50 am
Review & Confirm Kanban	Action	11:20 am
"Final word" (from committee members)	Discussion	11:40 am
Adjourn	Action	12:00 pm

# Business Equity/Diverse Business Inclusion Committee Capital Projects Advisory Review Board

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## DIGITAL CONFERENCE ACCESS

The committee meeting will be conducted entirely by Zoom digital conferencing.

Online <https://wsu.zoom.us/j/97615048848>

Meeting ID: 976 1504 8848

Join by telephone

Dial: US: +1 253 215 8782 or +1 669 900 9128 or +1 646 558 8656

Meeting ID: 976 1504 8848

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## MINUTES

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### Item: **Welcome and committee member introductions**

- Call to Order
- Quorum confirmed -- 8 appointed committee members
- Aleanna, Irene, Janice, Chip, Santosh, Olivia, Brenda, and Charles (representing Bill)

Action by: BE/BDI Committee

Status: Approved and complete

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### Item: **Review & approve agenda**

- Agenda Approved.

Action by: BE/BDI Committee

Status: Approved and complete

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### Item: **Review & approve 5/28/21 meeting minutes**

- No updates required

Action by: BE/BDI Committee

Status: Approved and complete

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### Item: **Subcommittee Report – Best Practices**

- Aleanna presented Diversity and Inclusion Matrix (aka measles chart). Chart is comparing available disparity studies and recommendations, listing assignments for the subcommittee work groups.
- Looking for volunteers and call for recruitment for items in the matrix that need a leader.
- Feedback requested from anyone willing to provide feedback – invited to do so in the document in the Teams site. We would welcome all voices and perspectives.
- Bobby Forch invited to join Contracts Issues Work Group.
- Topic of business culture discussed.

Action by: Aleanna – revisit nomenclature within the Matrix at next subcommittee meeting. Olivia - invite Bobby to the Contracts Issues Work Group reoccurring meetings.

Status: Active

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### Item: **Subcommittee Report – External Stakeholders**

- Welcoming anyone who would like to join the committee.
- Working closely with the Best Practices Subcommittee to be sure that all barriers are being included.
- Presented report from subcommittee.
- Asking for people to report to this subcommittee any challenges as they are heard. Provide your opinions, they are welcome. A simple email would suffice.
- Bobby Forsh has committed to contributing to both subcommittees.
- Discussed the intent to send out a survey once CPARB permission received, hopefully in September, to

## **Business Equity/Diverse Business Inclusion Committee Capital Projects Advisory Review Board**

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obtain feedback as to the accuracy of the challenges we have identified.

Action by: Irene  
Status: Active

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Item: **Review & Confirm Kanban**

- Santosh showed updated Kanban.

Action by: Santosh  
Status: Active

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Item: **"Final word" (from committee members)**

- Appreciate the leadership work on this committee and subcommittee.

Action by: Committee  
Status: Active

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Adjourn 11:28

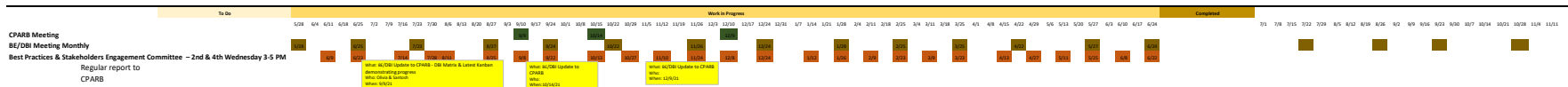
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**Zoom Meeting Recorded.**

**Record of Zoom Meeting Chat:**

- **Janice Zahn**26:07  
Hello everyone. Sorry to be late.
  - **Stephanie Caldwell**31:19  
Are the committee reports available to the public?
  - **Stephanie Caldwell**33:43  
Thank you.
  - **Jolene Skinner, L&I**56:34  
I have to jump to another meeting and will be back in a little bit.
  - **Santosh Jacob Kuruvilla**56:51  
Thank You Jolene
- 

Draft Report 5-6-2022



Task	Start Date	End Date	Lead
Identify groups/associations and point person	5/29	6/13	Who: Orlan & Linda When: 5/29/21
Identify and Gather Barriers	5/29	6/13	Who: Orlan & Linda When: 5/29/21
Identify and Gather Working Solution/Best Practices	5/29	6/13	Who: Orlan & Linda When: 5/29/21
Committee Recommendations for Vetted Barriers and Solutions	5/29	6/13	Who: Orlan & Linda When: 5/29/21
Gather KRAs and KPIs?	5/29	6/13	Who: Orlan & Linda When: 5/29/21

Still being developed.....  
Comments are welcome!

Section	Content
General	<ul style="list-style-type: none"> <li>What Issues: Best Practices Manual Outline</li> <li>Who: BE/DBI Committee</li> <li>Outline: 1) INTRODUCTION</li> <li>Section: "Start early"</li> <li>SECTION 2: CONTRACTING</li> <li>Section: "Open, consistent, candid"</li> <li>SECTION 4: MONITORING/REPORTING</li> <li>Section: "Roller through, gather data, share"</li> </ul>
Best Practices Manual	<ul style="list-style-type: none"> <li>What: BE/DBI Committee</li> <li>Who: Orlan, Alonah, Miki, Scott, Van, Keith, Amy, Cathy, Cindy</li> <li>Topic: <ul style="list-style-type: none"> <li>Key Contract Topics</li> <li>Insurance</li> <li>Bidding - Start/End Date</li> <li>Payment/Track/Pay - Arch/Midset</li> <li>Submittal/Order - Van/Cathy</li> <li>"Start" - Cindy/Cathy</li> <li>Change/Order Tracking/Agreements/Responsibilities - Orlan/Van</li> <li>Performance/Inspection - Final/Post about - Orlan / Cindy</li> <li>Submittal/Order/Change/Order/Change</li> <li>Sample Forms and Contract Language - Leave for Later</li> </ul> </li> </ul>

Still being developed.....  
Comments are welcome!

Task	Start Date	End Date	Lead
Best Practice Manual Work Group Activity	5/29	6/13	Who: Orlan & Linda When: 5/29/21
Work Group - "Bidding"/procurement?	5/29	6/13	Who: Orlan & Linda When: 5/29/21
Work Group - "On the project?"	5/29	6/13	Who: Orlan & Linda When: 5/29/21

Barrier (setting priorities) (non-legislative preference)  (x) = External Engagement Subcommittee Identification of barriers	Barrier Description RCW 39.10, 39.04	Working Solution/Best Practice	Committee Recommendation (vetted barriers and solutions)	Lead	Disparity Study/Study					
					DES/OMWB E -2019	Local Govt (MRSC) -2020	Sound Transit -2020	Port of Seattle -2019	WSDOT -2017	City of Tacoma -2018
<b>Section 1: Planning ("start early")</b>										
Outreach (external and internal, engagement, stakeholders) (1)	Too many and inconsistent definitions and options for outreach, diverse businesses, and subcontractors, don't know where to put their valuable time and effort.	<ol style="list-style-type: none"> <li>Standardize outreach definitions</li> <li>Combine efforts between owners, professional organizations, diverse business community</li> <li>Good faith efforts separated from good business practices (see UW guidance to contractors)</li> </ol>		Irene/Linda	X	X	X	X	X	X
Networking (network access, no "old boy network") (1)	Small, diverse businesses excluded from "inner circle" of construction network. Long-standing partner peers.	<ol style="list-style-type: none"> <li>Resources to increase network</li> <li>Resources to access network</li> <li>Similar # of representatives on boards and committees/decision making bodies (not one token diverse)</li> <li>How to use professional organization and advocacy groups</li> </ol>		Chip/Lily						
Internal policies (SOPs, programming)  <i>See also Inclusion Plans and Contract Language</i>	<ul style="list-style-type: none"> <li>Owner and prime contractor lack useable policies and intentional, actionable strategies for diverse business inclusion practices; observed few and far between, and inconsistent</li> <li>Owners often have conflicting procurement priorities that make it hard for target markets to prepare (11)</li> </ul>	<ol style="list-style-type: none"> <li>Develop or highlight examples of SOPs</li> <li>Central repository/links for existing</li> <li>Professional training/consultants</li> <li>OMWBE Public Works Action Committee draft policies</li> <li>City of Seattle</li> <li>Sound Transit</li> <li>Port of Seattle</li> </ol>		Aleanna/Brenda	X	X	X	X	X	X
Contract Sizes and Scopes ("right-sizing", aka "unbundling") (4) (8)	<ul style="list-style-type: none"> <li>Contract sizes and scopes, do not match the target diverse business market</li> <li>Mega projects not broken down appropriately</li> <li>Work distribution confused with programming and funding</li> <li>Being on several rosters with dozens of other businesses yield very little opportunity to compete for small-work; would be easier on the paperwork and monitoring if all owner use the same rosters...by type</li> <li>Rosters are not limited to small, diverse businesses, so diverse firms are still "competing" against large primes</li> <li>Statutes sill require all interested eligible firms to be on rosters, with very little room to limit firms on the roster or limit competition within a contracting program</li> </ul>	<ul style="list-style-type: none"> <li>Develop advice on how to right-size contracts based on target audience and availability</li> <li>Develop advice to Primes on GC/CM packaging and low-bid tips and tricks</li> </ul>		Aleanna GC/CM Best Practices	X			X	X	X
Shared Rosters	<ul style="list-style-type: none"> <li>Being on several rosters with dozens of other businesses yield very little opportunity to compete for small-work; would be easier on the paperwork and monitoring if all owner use the same rosters...by type</li> <li>Rosters are not limited to small, diverse businesses, so diverse firms are still "competing" against large primes</li> <li>Statutes sill require all interested eligible firms to be on rosters, with very little room to limit firms on the roster or limit competition within a contracting program</li> </ul>	<ol style="list-style-type: none"> <li>Develop non-legislative tips for using rosters more effectively</li> <li>Encourage the use of MRSC for small works</li> <li>Discuss based on owner size</li> <li>Look at legislative changes that may help further the efficiency of small works and A/E rosters.</li> </ol>		Olivia/Van MRSC		X				
Forecasting (4)	There is not enough notice of upcoming work so diverse businesses, and their partners have time to plan and team in a meaningful way	<ol style="list-style-type: none"> <li>Support Owners in standardizing their capital plans and budgets</li> <li>DES</li> <li>City of Seattle</li> </ol>								
Goal Setting  <i>See legal comments</i>	Inclusion goals are generic and not thoughtful to the project, scope, size, and firm availability. The result is unrealistic inclusion processes. Many owner's and prime do not know how to set goals or are counseled not to	<ol style="list-style-type: none"> <li>Federal goal setting policies</li> <li>City of Seattle approach</li> <li>Sound Transit Approach</li> </ol>		Aleanna/Brenda	X		X	X	X	X
Owner develops compliance team	Many owner contracting and delivery teams are not trained and do not know how to administer diverse business inclusion policies. Many owners do not have contract compliance staff and therefore and efforts or contract requirements are not enforced, in some cases not reviewed at all.	<ol style="list-style-type: none"> <li>City of Seattle</li> <li>Sound Transit</li> <li>King County</li> <li>Port of Seattle</li> </ol>		City of Seattle	X					





Advertisement and solicitations (4)	<ul style="list-style-type: none"> <li>Short solicitations times</li> <li>Confusing processes</li> <li>Not enough information for new firms to understand the process or how to be responsive</li> <li>Inconsistent advertising policies</li> <li><b>No consistency in posting bids and opportunities</b></li> </ul>	<ol style="list-style-type: none"> <li>Samples and examples of advertisement and solicitation documents</li> <li>Samples and examples of advertisement and solicitations by contract type and size.</li> </ol>								
<b>Section 3: Contract Requirements</b>										
Bonding (9)	Diverse firms not able to bond per project spec	<ul style="list-style-type: none"> <li>Sample contract flow-down provisions</li> <li>Town-hall with bonding companies</li> <li>Sample contract flow-down provisions</li> <li>Town-hall with insurance companies</li> </ul>		Olivia/Van	X	X	X	X	X	X
Insurance (9)	Diverse firms not able to insure per project spec	<ul style="list-style-type: none"> <li>Sample contract flow-down provisions</li> <li>Town-hall with insurance companies</li> </ul>		Olivia/Van	X	X	X	X	X	X
Indemnification	Firms asked to indemnify design and owner beyond available underwriting.	Sample language per contract type, with description of what and how to adjust education and training		Olivia/Van						
Inclusion Plans (EEO)	Not all owners are using Inclusions Plans and know how to use them Primes are not using them for larger packages No enforcement of Inclusion Plans	<p>Samples and SOPS</p> <ol style="list-style-type: none"> <li>WSDOT</li> <li>City of Seattle</li> <li>DES</li> <li>Sound Transit</li> <li>King County</li> <li>Port of Seattle</li> </ol>		Aleanna/Bobby Owners	X					
Solicitation Times (4) <i>(See Advertisement and solicitations)</i>	<ul style="list-style-type: none"> <li>Solicitation times are too short and overlap other deliverable timeframes.</li> <li>Unfair advantage to incumbents that can dust off their previous winning submission.</li> </ul>	Guide and policy samples			X	X	X	X	X	X
Prompt Pay/Quick Pay (change orders?) (12)	Lower tier subs are often waiting 120 days+ to receive payments because of the layers of flow from owner to prime and so on. This puts a large constraint on businesses at lower tier to essentially fund the work on credit.	<ol style="list-style-type: none"> <li>Statute support – 30 days, interest</li> <li>Federal requirements</li> <li>Prime pays regardless of being paid by the Owner (City of Seattle)</li> <li>Lower tiers pay-when-paid (not 7 days)</li> <li>ACH leverage</li> </ol>		Olivia/Van	X	X	X	X	X	X
Experience Requirements (4)(10)	Experience requirements are unrealistic unless you already have contracts with an agency. Incumbents the only ones who can win. (e.g. 5 years' experience with a public agency of "x" size, etc.) Flow-down provision misunderstanding	<p>Draft experience guidelines that are scalable given the risk of the contract.</p> <ol style="list-style-type: none"> <li>City of Seattle</li> <li>University of Washington</li> <li>Port of Seattle</li> </ol>			X					
"Bid Shopping"/bait n switch (14)	During bid/solicitation phase firms are courted and asked to provide works and contributions; then upon Award of contract Prime seeks other firms, rebids, claims pricing problems, etc Also, teaming agreements (we hired you to do...track it, perform.)	<ol style="list-style-type: none"> <li>Teams agreements and inclusion plans required as part of the process</li> <li>No changes unless approved by the owner</li> <li>Any inclusion plan names are conditions of award</li> <li>City of Seattle has a process</li> <li>Federal Programs has a process</li> </ol>		Olivia/Van						
Scoring and Debriefs (4)	<ul style="list-style-type: none"> <li>Scoring not consistent with solicitations and appears the "favorite" was picked.</li> <li>Often debriefs are not helpful to non-successful firms on how to really improve.</li> </ul>	<p>Samples</p> <ol style="list-style-type: none"> <li>City of Seattle</li> <li>UW</li> <li>Sound Transit</li> <li>DES (?)</li> </ol>		DES						
<b>Section 4: Monitoring, Reporting, Tracking</b>										
Data Collection System (BDMS, B2G)	No one is collecting inclusion data consistently and accessible to the public	<ol style="list-style-type: none"> <li>OMWBE/BDMS/One-Washington</li> <li>PRC/CPARB summaries</li> </ol>		Aleanna/Brenda	X	X	X	X	X	X

<p>Enforcement (even "private" terms) (5)</p> <p>(See also inclusion plans)</p>	<p>Many diverse firms are asked to "team" during solicitation to get diversity points, asked to be named on teaming agreements and inclusion plans and then once work is won are told by primes that the budget or project must go with another approach or firm, etc.</p>	<p>Substitution requirements extend to teaming agreements, and must use evidence-based to remove or substitute team members or risk termination</p> <ol style="list-style-type: none"> <li>1. Federal</li> <li>2. WSDOT</li> <li>3. City of Seattle</li> </ol>		<p>Olivia/Van</p>	<p>X</p>					
<p>Contractor Performance/Evaluation Programs (5)</p>	<p>For Inclusion Plans to be material to award and contracting, there must be evaluation and enforcement programs with scoring and/or consequence to not making the grade</p>	<ol style="list-style-type: none"> <li>1. Federal programs</li> <li>2. City of Seattle</li> <li>3. UW</li> </ol>		<p>Olivia/Van</p>						
<p>Reporting Type</p>	<p>The State might be more data if there were sample reports and types of reporting protocols that Owners/Primes could follow</p>	<p>Samples and examples</p>								
<p>Business Growth Monitoring (9)</p> <p>See also, inclusion and utilization monitoring</p>	<p>No metrics/reports are available for understanding if diverse business inclusion is working and diverse businesses are growing. <b>We need to know the "best practices" are working.</b></p>	<p>(Testimonial – Adept Mechanical)</p>		<p>BDEI Committee</p>				<p>X</p>		<p>X</p>
<p>CPARB/PRC Application</p>	<p>Recommendation that owner's wanting to use alternative public works and/or be certified to use the tools should show internal controls and increasing evidence of diverse business inclusion in their capital portfolio.</p>	<p>Application language should be suggested, and PRC process revisited.</p>		<p>Janice Zahn/Bill Dobyns</p>						
<p>Data Collection Process</p>	<p>No internal controls or practices for collecting data</p>	<p>See other similar topics</p>		<p>Aleanna/Brenda</p>	<p>X</p>	<p>X</p>	<p>X</p>	<p>X</p>	<p>X</p>	<p>X</p>
<p><b>Section 5: Discrimination and Harassment</b></p>										
<p>Women-owned firm inequity (2)</p>	<p>Women/minority-owned firms are less likely to receive awards over their white and male counterparts.</p>	<ol style="list-style-type: none"> <li>1. Port of Seattle</li> <li>2. Sound Transit</li> <li>3. City of Seattle</li> </ol>								
<p>Workplace Safety (antiharassment, violence) (3)</p>	<p>Employees of color and women often are victims of violence, harassment, hazing and other forms of inappropriate treatment</p>	<ol style="list-style-type: none"> <li>1. Site safety protocols</li> <li>2. See something say something</li> </ol>		<p>City of Seattle</p>						
<p>Retaliation and Retribution (4)</p>	<p>When complaints are filed regarding bid processes, etc. businesses that complain are "black-balled" or ignored and labeled as a nuisance, left out of processes...or much worse</p>	<p><b>Federal processes, federal laws</b></p>								
<p>How do we prioritize and understand the consistency between the recommendations?</p>										

Report External Stakeholders Sub-Committee July 14, 2021

## Disparity Study Qualitative Findings

(The numbers in red text are the Qualitative Findings of the Disparity Study, and the bulletized points are the various challenges the team added. The last few highlighted in green were added to capture most comments we have compiled.)

1. M/WBEs experience negative bias & exclusion from networks.
  - Attending networking events, acceptance in the “good old boys” network
  - Identifying which trade associations to join and meetings to attend.
  - Prime contractors keep using preferred peers and sub-contractors.
2. Women continue to suffer from sexism, harassment & hostile work environments.
  - Men always are more than likely to be awarded contracts.
  - Caucasians are sometimes the front companies.
3. Blacks reported some instances of worksite harassment and bullying.
  - There is a vital need to stop systemic racism in the workplace and contracting.
4. Most M/WBEs reported it is extremely difficult to obtain work on State projects.
  - Labeled as not big enough for the project based on number of employees.
  - Retribution and Retaliation (past complaints about bid process)
  - Responding to Bids and Solicitations
  - Experience Requirements
  - Not big enough based on size or revenues.
  - Identifying the Influencer and the Official Decision makers in a project.
  - Solicitation and bid short due dates.

- Non-responsive Individual points of contact from owners and prime contractors
- Small firms found it difficult to access contracting information.
- Contracts were often too large for small firms.
- No State Procurement Project Forecast
- Retired Former Public Employees are becoming mwbe/business owners and are directly competing with their former MBE customers or vendors.

5. M/WBE certification conferred few benefits.

- Lack of benefits to MWBE
- No goals set aside for certified firms.
- No measurements of accountability when Primes and Owners do not utilize MWBEs.
- No OMWBE representative is identified as an advocate in construction.
- Need an agency to police and monitor results and hold people accountable.

6. Long established firms recounted the negative impact of Initiative 200.

7. Small firms found it difficult to access contracting information. (#4)

8. Contracts were often too large for small firms. (#4)

9. Insurance, bonding

- Access to finance
- Lack of basic business financial knowledge
- Lacking the connection to insurance brokers
- Need a pool of insurance brokers and agents for the MWBEs
- Need more training about bonding.
- Some MWBEs have bad credit or no credit.
- Bond requirements are not met by MWBEs
- Bond rates are based on credit and experience.
- Some small businesses do not have an experienced bookkeeper.

10. Experience requirements (#4)

11. Antiquated & decentralized state systems are challenges.

- Conflicting procurement priorities

12. Prompt Payment (added)

13. Help in finding labor and work force in all projects. (added)
  - Union labor is costly according to others.
14. "Bait and Switch" is that a firm has been part of the bid submittal and after the prime contractor has been awarded, the prime contractor shopped around and eventually ended up replacing the MWBE Firm for a lower quote/ contract without any accountability. (added)

## Recommendations and Suggestions by Colette and Co.

### M/WBE Suggestions

- Adopt mentor-protege programs.
- Reduce contract sizes.
- Review qualification, financing, bonding & insurance requirements
- Centralize procurements.
- Adopt a race & gender-neutral small business target market program.
- Implement race- & gender-conscious contract goals; inclusion plans are not effective.

### State Staff Suggestions

- Increase outreach to targeted industries.
- Provide more training & resources to contracting & procurement personnel to advance equity & inclusion.
- Adopt agency specific contracting forecasts.
- Provide technical assistance & supportive services to M/WBEs.
- Review insurance & bonding requirements

### Disparity Study Recommendations

- Implement an electronic data collection & monitoring system.
- Examine current policies & provide best practices.
- Conduct pre-bid conferences.
- Post winning bidders/proposers to WEBS

- Conduct additional outreach efforts.
  - Conduct special outreach to M/WBEs in industries where they have received few opportunities .
  - Focus outreach on agencies with low M/WBE utilization Disparity Study Recommendations
- Increase technical assistance to M/WBEs & small firms.
- Lengthen solicitation times.
- Review contract sizes & scopes
- Raise the Direct Buy limits
- Adopt “quick pay” policies.
- Review insurance, surety bonding & experiences requirements
- Train state staff on how to increase diversity in contracting Disparity Study Recommendations
- Develop pilot race- & gender-neutral SBE programs
- Bonding & financing support
- Target Market program
- Mentor-protégé program
- Develop performance measures for success.

## Additional Reading:

# USE OF RACE- OR SEX-CONSCIOUS MEASURES OR PREFERENCES TO REMEDY DISCRIMINATION IN STATE CONTRACTING

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[Use Of Race- Or Sex-Conscious Measures Or Preferences To Remedy Discrimination In State Contracting | Washington State](#)

## Business Equity/Diverse Business Inclusion Committee Capital Projects Advisory Review Board

27 August 2021

Committee focus:

- Comprehensive review of RCW 39.10 with the lens of equity (include RCW 39.04 & 39.80).
- Create consistency in statutory language.
- Evaluate and bring forth effective strategies and opportunities for firms to compete.

<input checked="" type="checkbox"/> Olivia Yang	Washington State University	CPARB /Committee Member
<input checked="" type="checkbox"/> Santosh Kuruvilla	Exeltech	CPARB /Committee Member
<input checked="" type="checkbox"/> Lisa Van der Lugt	OMWBE	CPARB /Committee Member
<input type="checkbox"/> Bill Frare	DES	CPARB /Committee Member
<input type="checkbox"/> Irene Reyes	The Glove Lady	CPARB /Committee Member
<input checked="" type="checkbox"/> Janice Zahn	Port of Seattle	CPARB /Committee Member
<input type="checkbox"/> Jackie Bayne	WSDOT OEO	Committee Member
<input type="checkbox"/> Cheryl Stewart	Inland Northwest AGC	Committee Member
<input checked="" type="checkbox"/> Chip Tull	Hoffman Construction	Committee Member
<input checked="" type="checkbox"/> Aleanna Kondelis	Akana	Committee Member
<input type="checkbox"/> Brenda Nnambi	Sound Transit	Committee Member
<input type="checkbox"/> Linda Womack	MBDA	
<input type="checkbox"/> Bill Dobyms	Lydig	CPARB
<input type="checkbox"/> Bobby Forch	Forch Consulting	
<input type="checkbox"/> Lily Keefe	USDOT - Northwest SBTRC	
<input checked="" type="checkbox"/> Cathy Robinson	City of Lynnwood	
<input type="checkbox"/> Sarah Erdman	OMWBE	
<input checked="" type="checkbox"/> Shelly Henderson	Mukilteo School District	
<input checked="" type="checkbox"/> Van Collins	ACEC Washington	
<input type="checkbox"/> Cathy Ridley	Exeltech	
<input checked="" type="checkbox"/> Maja Huff	Washington State University	
<input checked="" type="checkbox"/> Keith Michel	Forma	
<input type="checkbox"/> Jerry Vanderwood	AGC of Washington	
<input checked="" type="checkbox"/> Young Sang Song	Representing Linda Womack, Song Consulting Services	
<input checked="" type="checkbox"/> Timolin Abrom	OMWBE	
<input checked="" type="checkbox"/> Charles Wilson	Representing Bill for DES	
<input checked="" type="checkbox"/> Stephanie Caldwell	Absher Construction	
<input checked="" type="checkbox"/> Melissa Van Gorkom	Senate Committee Services	

## AGENDA

Item	Purpose	Start
Welcome and committee member introductions	Information	10:00 am
Review & approve agenda	Action	10:05 am
Review & approve 7/23/21 meeting minutes	Action	10:10 am
Invitation to the public to participate	-	10:15 am
Report from External Stakeholders Co-Chairs	Discussion	10:20 am
Report from Best Practices Co-Chairs	Discussion	10:45 am
Matrix	Action	11:00 am
Next Steps	Discussion	11:20 am
"Final word" (from committee members)	Discussion	11:40 am
Adjourn	Action	12:00 pm

### DIGITAL CONFERENCE ACCESS

The committee meeting will be conducted entirely by Zoom digital conferencing.



Online <https://wsu.zoom.us/j/97615048848>

Meeting ID: 976 1504 8848

### Join by telephone

Dial: US: +1 253 215 8782 or +1 669 900 9128 or +1 646 558 8656

Meeting ID: 976 1504 8848

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Olivia Yang - Washington State University

206 718 0787 [olivia.yang@wsu.edu](mailto:olivia.yang@wsu.edu)

Santosh Kuruvilla – Exeltech Consulting

206 713 1241 [santosh@xltech.com](mailto:santosh@xltech.com)

## MINUTES

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### Item: **Welcome and committee member introductions**

- Call to Order
- Quorum confirmed
- Aleanna, Janice, Chip, Santosh, Olivia, Lisa, and Charles (representing Bill)

Action by: BE/BDI Committee

Status: Approved and complete

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### Item: **Review & approve agenda**

- Agenda Approved.

Action by: BE/BDI Committee

Status: Approved and complete

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### Item: **Review & approve 5/28/21 meeting minutes**

- Update date.
- Include materials shared during the meeting as attachments to the minutes.

Action by: BE/DBI Committee

Status: Approved with updates and complete

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### Item: **Subcommittee Report – External Stakeholders**

- Discussed and shared the 8/17/21 External Stakeholders Report
- Real life examples have been included in the report and discussed during the meeting, patterns in business and behavior listed for reference, both Statewide and Region wide.
- While we are limited to the 39.10 discussion - Horizontal versus vertical has large differences. Our best practices centered on vertical construction could lead by example and have a positive impact on private industry and other RCW driven industry.
- Discussed system level issues and individual level behaviors and use the – and use towards best practices/expectations that can help be used towards capturing in lenses through the problem statements.

Action by: Young on behalf of Irene and Linda.

Status: Active

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### Item: **Subcommittee Report – Best Practices**

- Discussed and shared the 8/11/21 Matrix. Column c now includes the external stakeholders report.
- Column A is Barriers by workflow, bolding is repetitive topics that come up frequently, red numbers are cross-references and showing connections to/from external stakeholders reports. Column B – includes a little more information, stories. Most Column A barriers now have a corresponding problem statement in the team drive.
- Is column A crystalized and at a point that it can be finalized?

- May need to look at overlapping between topics.
- Call to action – that we hear your take and voice, thoughts, and suggestions on the problem statements! We value your time to go through specific topics, begin fleshing out potential solutions.
- Potentially add case studies to the problem statements, or other relevant information. We need all of the different voices and thought included.

Action by: All committee members – invited to review the Problem Statements and provide input.

Status: Active

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Item: **Next Steps**

- CPARB Pre-Reads Folder – Load PDFs to this folder by next Wednesday, September 1, to be able to share with CPARB in advance
- Discussed Kanban dated 8/27/21, and updates to it. Start tracking state of completion of the various parts of the Best Practices Manual.
- Presenting to CPARB – Kanban, two committee reports, and feedback/ input intent.
- How/what is the methodology for the feedback/input that Irene and Linda will be obtaining?
- Qualitative versus quantitative data. The stories are so important and the relationship between data and stories needs to end up in a well-rounded narrative. How to incorporate it and carefully handle the information

Action by: Co-Chairs – Prepare PDF Pre-reads for CPARB Meeting. Santosh – Update Kanban in prep for CPARB Meeting.

Status: Active

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Item: **Final Words**

- Request materials in advance and to be added to the subcommittee CPARB page.
- Call to prime contractors to look at innovative solutions to the barriers.
- Encouraged to see consistency between agencies and certification
- Appreciate the honesty and real issues covered.
- Do we need more time for the presentation at CPARB – we only have 20 minutes? Invitation to listen in on September 16 Local Government Committee meeting as it intersects with the work of the committee.
- GCCM Committee is being cross-pollinated by this committee and they are
- Equity discussions at CPARB can take up more time than expected, recommends longer time than 20 minutes for the presentation. Ask that we consider the timeline for questions.
- If we need real interviews, speakers to tell stories we should invite them to come speak to us as an audience.
- We are trying to be comfortable with what is uncomfortable.

Action by: Co-Chairs – assess length of time to present at CPARB.

Status: Active

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Adjourn 11:50

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Zoom Meeting Recorded and available in BE-DBI Teams.

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<p align="center"><b>Barrier</b> (setting priorities) (non-legislative preference) (x) = External Engagement Subcommittee Identification of barriers</p>	<p align="center"><b>EXTERNAL STAKEHOLDERS COMMENTS</b></p>
<p><b>Section 1: Planning ("start early")</b></p>	
<p>Outreach (external and internal, engagement, stakeholders) (1)</p>	<p>We have found out that a few small businesses are looking for one place where everyone can go.</p>
<p><b>Networking (network access, no "old boy network") (1)</b></p>	<p>We agree and are still looking out how this can be resolved.</p>
<p>Internal policies (SOPs, programming)  <i>See also Inclusion Plans and Contract Language</i></p>	<p>We highly recommend that the owner/agency should adopt and or develop accountability measurement plan.</p>
<p><b>Contract Sizes and Scopes ("right-sizing", aka "unbundling") (4) (8)</b></p>	<p>We are not certain of any appropriate course of action on this...It's the business that needs to come up with parameters not primes/owners - perhaps this can be a partnership/ teaming up or training item?</p>
<p>Shared Rosters</p>	<p>This is common practice. Almost all are using OMWBE - perhaps get an update and identify more precise questions.</p>
<p>Forecasting (4)</p>	<p>This can also be a part of the item for Networking, announcements and utilizing association platforms and OMWBE website.</p>
<p>Goal Setting  <i>See legal comments</i></p>	<p>Assign a manager for major pursuits from the owners side to make sure this happens, set accountability measurements. Set the goal as part of the RPF and assign more points to it, having the portion be 5-8% sends a weak message.</p>
<p>Owner develops compliance team</p>	<p>The team that is held accountable, include with above comments and get goals that are attainable and measurable.</p>
<p>Pipeline and Business Development (13)</p>	<p>Include this on networking and outreach.</p>
<p>Federal Programming</p>	<p>Lump with Roadshow - education/awareness</p>
<p>Legal interpretations/disproportionate legal representation</p>	<p>Support Services Topic</p>

Draft Report 5-6-2022

**Section 2: Engagement ("transparency")**

**Technical Assistance (9)**

*See also mentor-protégé*

There is a need for Pre-qualification for mbes. We strongly recommend Linda due to the DBE Support Services experience and feedback.

**Access to contracting information (7)**

Make this part of the item for Networking.

**Access to decision makers (4)**

Coaching opportunity - training business owners on proper business etiquette or professionalism. "Demeanor/ Proper Etiquette Training" is recommended.

**Certification (5)**

Include this with Outreach Training and Networking

**Mentor-Protégé**

A lot of information to how this program is operating, we need to gather more information and expand.

**Owner staff training**

This is a Outreach item if we just want to share the information or this a training item for owners/agencies.

Get instructors that know what they are doing

**Vendor Rotation**

*See also Rosters*

From Young: From a Prime's POV: "on call list" is established with vendors that is main focused around personal service and favors. It is my opinion that most business owners do not practice proper business development. That is the reason they are not on the list. On the other hand: how are we going to encourage or mandate this to happen? I do not know of a net to catch this creature. We recommend that we strike this item - we can't do anything about it for right now.

**Advertisement and solicitations (4)**

Language that should be placed in RFP - Owner will need to provide guidelines of the process or the prime must provide their best foot forward with measurements of accountability and IMPOSE penalties and consequences. Perhaps assign a consultant/Auditor appointed by Owner to make sure Prime does their job. Give that department/agent to give Non Conformance (NC) to a prime. Need to hit them where its going to get attention. Accountability and Consequences.

**Section 3: Contract Requirements**

**Bonding (9)**

Road Show

**Insurance (9)**

**Indemnification**

Road Show/ Training/Mentorship/Support Services

Draft Report 5-6-2022

Inclusion Plans (EEO)	Make it part of the proposal/RFP: assign point value: give it weight. 5-8% sends a weak message.
Solicitation Times (4) <i>(See Advertisement and solicitations)</i>	Road Show/Networking
Prompt Pay/Quick Pay (change orders?) (12)	Require the Prime to operate the DBE/MBE on each pay app. Make it a point that the owner assigns a special agent to pay attention to MBE/DBE companies expediting an advanced approval so the MBE/DBE is not stuck riding along a CO. Break it in two payout/month.
Experience Requirements (4)(10)	Recommend doing a detailed study to see what is available prior to making standards.
"Bid Shopping"/bait n switch (14)	Special Investigative Team to be Created with Attorney assistance, there is a compliance audit available and paid by owner. As activities like this happen - we must get to the bottom of it and start calling out individuals and not companies. Use a big hammer with this one. Again accountability measurements and consequences like penalties.
Scoring and Debriefs (4)	RFP has to have more stringent requirements and language. Use words like requirement not goal. Give this department more points/value. More value must be assigned or the primes will not take it seriously.
<b>Section 4: Monitoring, Reporting, Tracking</b>	
Data Collection System (BDMS, B2G)	
Enforcement (even "private" terms) (5) <i>(See also inclusion plans)</i>	Special Investigative Team to be Created with Attorney assistance, there is a compliance audit available and paid by owner. As activities like these happen - we must get to the bottom of it and start calling out individuals and not companies. Use a big hammer with this one. Again accountability measurements and consequences like penalties.
Contractor Performance/Evaluation Programs (5)	
Reporting Type	we are looking forward to this

Business Growth Monitoring (9)

See also, inclusion and utilization monitoring

What are we going to do with that information? Should we spend the money and time if we don't know how we are going to use the data? I see this item as a great marketing/promotional/road show support material.

CPARB/PRC Application

NO comment

Data Collection Process

**Section 5: Discrimination and Harassment**

Women-owned firm inequity (2)

What is the committee's end goal? Share the information or are looking to boost WBE's revenue? Desires should be part of the RFP - put it in writing.

Workplace Safety (antiharassment, violence) (3)

From Young: This is 100 % true: I had to appear in King County Court as a Walsh Area Manager to protect African direct labor force from assaults in Seattle. Long story short and 15K later - a resident near the project was put under a special forced separation order enforced by SPD.

Retaliation and Retribution (4)

*More to report next time*

How do we prioritize and understand the consistency between the recommendations?



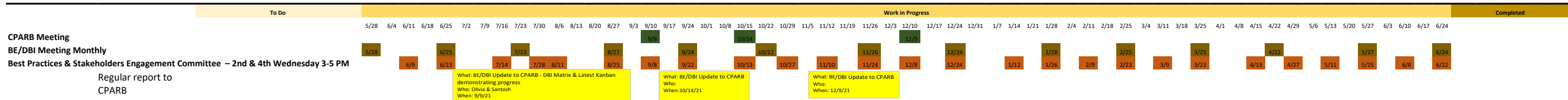
See also mentor-protégé	<ul style="list-style-type: none"> <li>2. Diverse and new businesses lack the support/overhead to hire staff to produce all the paperwork throughout contracts and projects.</li> <li>3. Support understanding bid forms</li> <li>4. Support with weekly reporting and audit protocols</li> </ul>	There is a need for Pre-qualification for mbes. We strongly recommend Linda due to the DBE Support Services experience and feedback.	<ul style="list-style-type: none"> <li>2. MBDA</li> <li>3. PTAC</li> <li>4. SME'S</li> <li>5. WSDOT</li> <li>6. City of Seattle</li> </ul>	Shelly	X		X	X	X	X	X
Access to contracting information (7)	<p>It is hard to navigate all the contracting opportunities in the state, feels like every owner and prime uses a different medium, a different approach, different requirements, time frames, etc.</p> <p>Also, very few owners post past bids and contracts for review by those trying to compete.</p>	Make this part of the item for Networking.	<ul style="list-style-type: none"> <li>1. Statewide contracting program</li> <li>2. Recommend advertisement locations</li> <li>3. WEBS</li> <li>4. Contract posting best practices</li> </ul>	Shelly	X		X		X		
Access to decision makers (4)	Firms that have never worked with owner teams or owner decision makers are not provided access and opportunities to establish a report with decision makers.	Coaching opportunity - training business owners on proper business etiquette or professionalism. "Demeanor/ Proper Etiquette Training" is recommended.	<ul style="list-style-type: none"> <li>1. Prior to approval capital portfolios are socialized and presented by decision makers to the community for feedback and meet n greets. Part of the budget process.</li> </ul>	Aleanna/Brenda							
Certification (5)	<ul style="list-style-type: none"> <li>Public procurement laws point to state certification for inclusion, yet because of I-200 there can be no material advantage to winning contracts.</li> <li>There are other professional organizations/owners that offer certification or registration programs, but perceived as a conflict of interest with OMWBE which leads to multiple certifications and more work for diverse businesses with little return</li> <li>Not all diverse firms are registered or certified, and it leads to lack of awareness by primes and owners</li> </ul>	Coaching opportunity - training business owners on proper business etiquette or professionalism. "Demeanor/ Proper Etiquette Training" is recommended.	Highlight the various opportunities and values/opportunities created with each.	Aleanna	X						
Mentor-Protégé	<p>Not a barrier, a recommendation</p> <p>Sponsored programs where developing firms get to partner with more established firms or primes for specific jobs</p> <p>Sponsored programs where developing firms "shadow" established firms on various phases of public works.</p>	A lot of information to how this program is operating, we need to gather more information and expand.	WSDOT	WSDOT/Chip Tull	X		X			X	X
Owner staff training	Owner and Prime project delivery and contracting staff are not aware of SOPs and tools for inclusion, monitoring and enforcement	<p>This is a Outreach item if we just want to share the information or this a training item for owners/agencies.</p> <p>Get instructors that know what they are doing</p>	<p>"Road Show", training of staff prior to delivery of the capital program, team development of inclusion strategies and goals by project.</p> <p>Tips and Tricks for training.</p>	Aleanna	X		X	X	X	X	X
Vendor Rotation See also Rosters	On-call and roster pools are established but internal utilization policies do not lend themselves to equal/equitable utilization and rotation of firms on the rosters.	From Young: From a Prime's POV: "on call list" is established with vendors that is main focused around personal service and favors. It is my opinion that most business owners do not practice proper business development. That is the reason they are not on the list. On the other hand: how are we going to encourage or mandate this to happen? I do not know of a net to catch this creature. We recommend that we strike this item - we can't do anything about it for right now.	Policy/SOP examples and suggestions	Olivia/Van	X						
Advertisement and solicitations (4)	<ul style="list-style-type: none"> <li>Short solicitations times</li> <li>Confusing processes</li> <li>Not enough information for new firms to understand the process or how to be responsive</li> <li>Inconsistent advertising policies</li> <li>No consistency in posting bids and opportunities</li> </ul>	Language that should be placed in RFP - Owner will need to provide guidelines of the process or the prime must provide their best foot forward with measurements of accountability and IMPOSE penalties and consequences. Perhaps assign a consultant/Auditor appointed by Owner to make sure Prime does their job. Give that department/agent to give Non Conformance (NC) to a prime. Need to hit them where its going to get attention. Accountability and Consequences.	<ul style="list-style-type: none"> <li>1. Samples and examples of advertisement and solicitation documents</li> <li>2. Samples and examples of advertisement and solicitations by contract type and size.</li> </ul>	Keith/Carrie							
<b>Section 3: Contract Requirements</b>											
Bonding (9)	Diverse firms not able to bond per project spec	Road Show	<ul style="list-style-type: none"> <li>Sample contract flow-down provisions</li> <li>Town-hall with bonding companies</li> </ul>	Olivia/Van	X	X	X	X	X	X	X
Insurance (9)	Diverse firms not able to insure per project spec, state and federal requirements may be in conflict, there is nuance by delivery method.	Road Show/Training/Mentorship/Support Services	<ul style="list-style-type: none"> <li>Sample contract flow-down provisions</li> <li>Town-hall with insurance companies</li> </ul>	Olivia/Van	X	X	X	X	X	X	X
Indemnification	Firms asked to indemnify design and owner beyond available underwriting.	Road Show/Training/Mentorship/Support Services	Sample language per contract type, with description of what and how to adjust *education and training	Olivia/Van							
Inclusion Plans (EEO)	<p>Not all owners are using Inclusions Plans and know how to use them</p> <p>Primes are not using them for larger packages</p> <p>No enforcement of Inclusion Plans</p>	Make it part of the proposal/RFP: assign point value: give it weight 5-8% sends a weak message.	<ul style="list-style-type: none"> <li>Samples and SOPS</li> <li>1. WSDOT</li> <li>2. City of Seattle</li> <li>3. DES</li> <li>4. Sound Transit</li> <li>5. King County</li> <li>6. Port of Seattle</li> </ul>	Aleanna	X						
Solicitation Times (4) (See Advertisement and solicitations)	<ul style="list-style-type: none"> <li>Solicitation times are too short and overlap other deliverable timeframes.</li> <li>Unfair advantage to incumbents that can dust off their previous winning submission.</li> </ul>	Road Show/Networking	Guide and policy samples based on type of response needed and how many scopes are involved.	Kieth/Carrie	X	X	X	X	X	X	X
	Lower tier subs are often waiting 120 days+ to receive payments because of the layers of flow from owner to prime and so on. This	Require the Prime to operate the DBE/MBE on each pay app. Make it a point that the owner assigns a special agent to pay attention to	<ul style="list-style-type: none"> <li>1. Statute support – 30 days, interest</li> <li>2. Federal requirements</li> </ul>								



Prompt Pay/Quick Pay (change orders?) (12)	puts a large constraint on businesses at lower tier to essentially fund the work on credit.	It is a point that the Owner assigns a special agent to pay attention to MBE/DBE companies expediting an advanced approval so the MBE/DBE is not stuck riding along a CO. Break it in two payout/month.	3. Prime pays regardless of being paid by the Owner (City of Seattle) 4. Lower tiers pay-when-paid (not 7 days) 5. ACH leverage	Olivia/Van	X	X	X	X	X	X
Experience Requirements (4)(10)	Experience requirements are unrealistic unless you already have contracts with an agency. Incumbents the only ones who can win. (e.g. 5 years' experience with a public agency of "x" size, etc.) Flow-down provision misunderstanding	Recommend doing a detailed study to see what is available prior to making standards.	Draft experience guidelines that are scalable given the risk of the contract.  1. City of Seattle 2. University of Washington 3. Port of Seattle	Aleanna	X					
"Bid Shopping"/bait n switch (14)	During bid/solicitation phase firms are courted and asked to provide works and contributions; then upon Award of contract Prime seeks other firms, rebids, claims pricing problems, etc. Also, teaming agreements (we hired you to do...track it, perform.)	Special Investigative Team to be Created with Attorney assistance, there is a compliance audit available and paid by owner. As activities like this happen - we must get to the bottom of it and start calling out individuals and not companies. Use a big hammer with this one. Again accountability measurements and consequences like penalties.	1. Teams agreements and inclusion plans required as part of the process 2. No changes unless approved by the owner 3. Any inclusion plan names are conditions of award 4. City of Seattle has a process 5. Federal Programs has a process	Olivia/Van						
Scoring and Debriefs (4)	- Scoring not consistent with solicitations and appears the "favorite" was picked. - Often debriefs are not helpful to non-successful firms on how to really improve.	RFP has to have more stringent requirements and language. Use words like requirement not goal. Give this department more points/value. More value must be assigned or the primes will not take it seriously.	Samples  1. City of Seattle 2. UW 3. Sound Transit 4. DES (?)	DES						
<b>Section 4: Monitoring, Reporting, Tracking</b>										
Data Collection System (BDMS, B2G)	No one is collecting inclusion data consistently and accessible to the public		1. OMWBE/BDMS/One-Washington 2. PRC/CPARB summaries	Aleanna/Brenda	X	X	X	X	X	X
Enforcement (even "private" terms) (5)	Many diverse firms are asked to "team" during solicitation to get diversity points, asked to be named on teaming agreements and inclusion plans and then once work is won are told by primes that the budget or project must go with another approach or firm, etc.	Special Investigative Team to be Created with Attorney assistance, there is a compliance audit available and paid by owner. As activities like this happen - we must get to the bottom of it and start calling out individuals and not companies. Use a big hammer with this one. Again accountability measurements and consequences like penalties.	Substitution requirements extend to teaming agreements, and must use evidence-based to remove or substitute team members or risk termination  1. Federal 2. WSDOT 3. City of Seattle	Olivia/Van	X					
Contractor Performance/Evaluation Programs (5)	For Inclusion Plans to be material to award and contracting, there must be evaluation and enforcement programs with scoring and/or consequence to not making the grade (Bobby Forch: influencing the tipping point of culture)		1. Federal programs  2. City of Seattle 3. UW	Olivia/Van						
Reporting Type	The State might bget more data if there were sample reports and types of reporting protocols that Owners/Primes could follow	we are looking forward to this	Samples and examples	Keith/Carrie						
Business Growth Monitoring (9)	No metrics/reports are available for understanding if diverse business inclusion is working and diverse businesses are growing.  We need to know the "best practices" are working.	What are we going to do with that information? Should we spend the money and time if we don't know how we are going to use the data? I see this item as a great marketing/promotional/road show support material.	(Testimonial – Adept Mechanical)	BDEI Committee				X		X
See also, inclusion and utilization monitoring										
CPARB/PRC Application	Recommendation that owner's wanting to use alternative public works and/or be certified to use the tools should show internal controls and increasing evidence of diverse business inclusion in their capital portfolio.		Application language should be suggested, and PRC process revisited.	Aleanna; Janice Zahn/Bill Dobyns						
Data Collection Process	No internal controls or practices for collecting data		See other similar topics	Aleanna/Brenda	X	X	X	X	X	X
<b>Section 5: Discrimination and Harassment</b>										
Women-owned firm inequity (2)	Women/minority-owned firms are less likely to receive awards over their white and male counterparts.	What is the committee's end goal? Share the information or are looking to boost WBE's revenue? Desires should be part of the RFP - put it in writing.	1. Port of Seattle 2. Sound Transit 3. City of Seattle							
Workplace Safety (antiharassment, violence) (3)	Employees of color and women often are victims of violence, harassment, hazing and other forms of inappropriate treatment	From Young: This is 100 % true: I had to appear in King County Court as a Walsh Area Manager to protect African direct labor force from assaults in Seattle. Long story short and 15K later - a resident near the project was put under a special forced separation order enforced by SPD.	1. Site safety protocols  2. See something say something	City of Seattle (?)						
Retaliation and Retribution (4)	When complaints are filed regarding bid processes, etc. businesses that complain are "black-balled" or ignored and labeled as a nuisance; left out of processes...or much worse	No experience, no comment	Federal processes, federal laws							

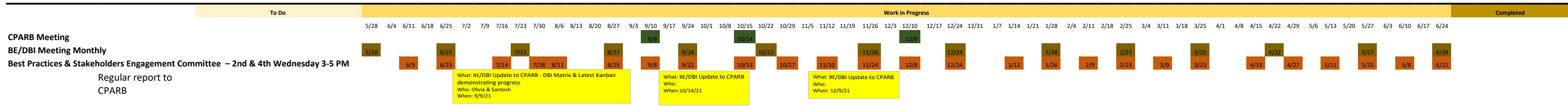
Other resources:

Good Faith Efforts v. General Business Practices UW Guide



Task	What: Ongoing Communication and Recruitment Plan	What: Invite and Gather BE/DBI Community (OMWBE, DES OED, community stakeholders, advocates and SMEs)	What: Consider the barriers to participation, 2019 Disparity Study?	What: See DBI Matrix	What: Consider the barriers to participation, 2019 Disparity Study?	What: See DBI Matrix	What: See DBI Matrix	What: Identify Key Result Areas (KRAs) and Key Performance Indicators (KPIs)	What: Confirm BE/DBI Community Key Result Areas
Identify groups/associations and point person	Who: [Redacted] When: [Redacted]	Who: Irene and Linda When: Ongoing	Who: [Redacted] When: [Redacted]	Who: Irene, Linda, Aleanna & Brenda When: 9/9/21??	Who: [Redacted] When: [Redacted]	Who: [Redacted] When: [Redacted]	Who: [Redacted] When: [Redacted]	Who: [Redacted] When: [Redacted]	Who: Irene & Linda When: Ongoing
Identify and Gather Barriers	Who: [Redacted] When: [Redacted]		Who: [Redacted] When: [Redacted]	Who: Irene, Linda, Aleanna & Brenda When: 9/9/21??					
Identify and Gather Working Solution/Best Practices	Who: [Redacted] When: [Redacted]		Who: [Redacted] When: [Redacted]	Who: Irene, Linda, Aleanna & Brenda When: 10/14/21??					
Committee Recommendations for Vetted Barriers and Solutions				Who: Irene, Linda, Aleanna & Brenda When: 12/9/21??					
Gather KRAs and KPIs?	Who: [Redacted] When: [Redacted]						Who: [Redacted] When: [Redacted]		

Still being developed.....  
 Comments are welcome!



Best Practices  
(Chairs - Aleanna Kondelis and Brenda Nnambi)

General

What: Review Best Practices Manual Outline  
Who: BE/DBI Committee  
Outline:  
SECTION 1: PLANNING  
Themes: "start early"  
SECTION 2: ENGAGEMENT  
Themes: "transparency"  
SECTION 3: CONTRACTING  
Themes: "clear, consistent, careful"  
SECTION 4: MONITORING/REPORTING  
Themes: "follow through, gather data, share"

What: Finalize Best Practices Manual Sections & Assign to Work Groups  
Who: BE/DBI Committee  
Sections:  
SECTION 1: PLANNING  
Themes: "start early"  
Outreach  
Networking, Mentor-Protégé  
Market Analysis (target market)  
Forecasting (strategic sourcing principals)  
Pipeline and Business Development  
Owner Policy and Program Development  
-SOPs  
"right-sizing" work (aka unbundling)  
Team building  
Training (owner and community)  
-SOPs  
Federal Program (e.g. DBE Program Plan)  
Risk  
SECTION 2: ENGAGEMENT  
Themes: "transparency"  
Outreach  
Networking  
Technical Assistance  
Access to Information  
-Shared electronic options including bidding and solicitation approaches  
Access to Decision Makers  
Advertisement/Solicitation  
Timing  
-Advanced Notice  
-Length of solicitation  
Goal setting  
-General  
Inclusion strategies  
SECTION 3: CONTRACTING  
Themes: "clear, consistent, careful"  
Language  
-Inclusion and Expectations  
-Synergy with other social equity themes in contracts  
-Experience requirements  
-"flow down"  
Key Topics  
-Insurance  
-Bonding  
-Prompt Pay/Quick Pay  
-Indemnification  
-"Risk"  
Performance programs  
Rosters (pros-cons)  
Sample Forms and Contract Language  
SECTION 4: MONITORING/REPORTING  
Themes: "follow through, gather data, share"  
Inclusion Enforcement  
Data Collection Processes  
Data Collection Systems  
Who, When, What to report  
Diverse business growth monitoring  
Alternative (39.10) intent and best practice  
-Project Applications and Certification

What: Develop Draft Best Practices Manual - Combine Work Group Sections??  
Who: BE/DBI Committee  
When:

What: Develop Finalize Best Practices Manual & Publish ??  
Who: BE/DBI Committee  
When:

Still being developed.....  
Comments are welcome!

Best Practice Manual  
Work Group Activity

What: Work Groups developing Problem Statements  
Who - Olivia, Aleanna, Maja, Scott, Van, Keith, Amy, Cathy, Cindy  
Topics:  
o Contract Issues  
- Rosters - Olivia/Amy/Cathy  
- Insurance -  
- "Risk" - Olivia/ Cindy  
- Bonding - Scott Middleton  
- Prompt Pay/Quick Pay - Keith Michel  
- Indemnification - Van Collins  
- Teaming Agreements (accountability) - Olivia /Van  
- Subcontracting -  
o Tracking/Reporting -  
o Performance programs - Find out about - Olivia / Cindy  
o Access to Rosters -  
o Engagement "Transparency" Advertisement & Solicitations -  
o Legal Interpretations  
o Pipeline & Business Development  
o Owner Training -  
o Contract Sizes (unbundling, right sizing)  
o Goal Setting -  
o Outreach -  
o Owner/Prime Policies for Inclusion -  
o Access to Decision Makers -  
o Inclusion Compliance -  
o Data Collection - Monitoring & Reporting  
o Sample Forms and Contract Language - Leave for Later

What: Work Group - Finding and connecting diverse firms with Designers & GCs  
Who: Lily & Chip  
Topics:  
o

What: Work Group -On the project??  
Who:  
Topics:  
On the project  
As prime vs as sub  
Front end mobilization funding  
Statute change if prime  
Prompt pay  
Pay app  
Changed work  
Release of retainage

## Business Equity/Diverse Business Inclusion Committee Capital Projects Advisory Review Board

24 September 2021

Committee focus:

- Comprehensive review of RCW 39.10 with the lens of equity (include RCW 39.04 & 39.80).
- Create consistency in statutory language.
- Evaluate and bring forth effective strategies and opportunities for firms to compete.

<input checked="" type="checkbox"/> Olivia Yang	Washington State University	CPARB /Committee Member
<input checked="" type="checkbox"/> Santosh Kuruville	Exeltech	CPARB /Committee Member
<input checked="" type="checkbox"/> Lisa Van der Lugt	OMWBE	CPARB /Committee Member
<input type="checkbox"/> Bill Frare	DES	CPARB /Committee Member
<input checked="" type="checkbox"/> Irene Reyes	The Glove Lady	CPARB /Committee Member
<input checked="" type="checkbox"/> Janice Zahn	Port of Seattle	CPARB /Committee Member
<input type="checkbox"/> Jackie Bayne	WSDOT OEO	Committee Member
<input type="checkbox"/> Cheryl Stewart	Inland Northwest AGC	Committee Member
<input type="checkbox"/> Chip Tull	Hoffman Construction	Committee Member
<input checked="" type="checkbox"/> Aleanna Kondelis	Akana	Committee Member
<input checked="" type="checkbox"/> Brenda Nnambi	Sound Transit	Committee Member
<input checked="" type="checkbox"/> Linda Womack	MBDA	Committee Member
<input checked="" type="checkbox"/> Cathy Robinson	City of Lynnwood	Committee Member
<input checked="" type="checkbox"/> Shelly Henderson	Mukilteo School District	Committee Member
<input type="checkbox"/> Keith Michel	Forma	Committee Member
<input checked="" type="checkbox"/> Young Sang Song	Song Consulting	Committee Member
<input checked="" type="checkbox"/> Stephanie Caldwell	Absher Construction	Committee Member
<input type="checkbox"/> Bill Dobyns	Lydig	CPARB
<input checked="" type="checkbox"/> Bobby Forch	Forch Consulting	CPARB
<input type="checkbox"/> Lily Keefe	USDOT - Northwest SBTRC	
<input type="checkbox"/> Sarah Erdman	OMWBE	
<input checked="" type="checkbox"/> Van Collins	ACEC Washington	
<input type="checkbox"/> Cathy Ridley	Exeltech	
<input checked="" type="checkbox"/> Maja Huff	Washington State University	
<input type="checkbox"/> Jerry Vanderwood	AGC of Washington	
<input checked="" type="checkbox"/> Timolin Abrom	OMWBE	
<input checked="" type="checkbox"/> Charles Wilson	DES replacing Bill Frare	
<input type="checkbox"/> Melissa Van Gorkom	Senate Committee Services	
<input checked="" type="checkbox"/> Amy Stenvall		
<input checked="" type="checkbox"/> Cindy Magruder	University of Washington	
<input checked="" type="checkbox"/> Carrie Whitton	Forma	

## AGENDA

Item	Purpose	Start
Welcome and committee member introductions	Information	10:00 am
Review & approve agenda	Action	10:05 am
Review & approve 8/27/21 meeting minutes	Action	10:10 am
Invitation to the public to participate	-	10:15 am
Report from External Stakeholders Co-Chairs	Discussion	10:20 am
Report from Best Practices Co-Chairs	Discussion	10:45 am
Matrix	Action	11:00 am
Next Steps	Discussion	11:20 am
"Final word" (from committee members)	Discussion	11:40 am
Adjourn	Action	12:00 pm

## DIGITAL CONFERENCE ACCESS

The committee meeting will be conducted entirely by Zoom digital conferencing.

Online <https://wsu.zoom.us/j/97615048848>

Meeting ID: 976 1504 8848

Join by telephone

Dial: US: +1 253 215 8782 or +1 669 900 9128 or +1 646 558 8656

Meeting ID: 976 1504 8848

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Olivia Yang - Washington State University

206 718 0787 [olivia.yang@wsu.edu](mailto:olivia.yang@wsu.edu)

Santosh Kuruvilla – Exeltech Consulting

206 713 1241 [santosh@xltech.com](mailto:santosh@xltech.com)

## MINUTES

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### Item: **Welcome and committee member introductions**

- Call to Order
- Quorum confirmed
- Olivia, Santosh, Lisa, Irene, Janice, Aleanna, Brenda, Linda, Cathy, Shelly, Young, Stephanie, Charles (representing and replacing Bill).

Action by: BE/BDI Committee

Status: Approved and complete

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### Item: **Review & approve agenda**

- Agenda Approved.

Action by: BE/BDI Committee

Status: Approved and complete

---

### Item: **Review & approve 8/27/21 meeting minutes**

- Minutes approved as written

Action by: BE/BDI Committee

Status: Approved with updates and complete

---

### Item: **Public Comment**

- None.

Action by: N/A

Status: N/A

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### Item: **Subcommittee Report – Best Practices**

- Presented 8/23/21 Updated DBI Matrix.
  - Continues to be filled in with more discussion and clarity. A few responses to external stakeholders captured in the matrix.
  - Going to be reformatted to be clearer, and include tabs for responses to outreach.
  - Call to committee to provide feedback.
  - Next Steps: Another layer of engagement and socialization of the matrix.
- Presented Engagement Approach dated 8/23/2021
  - Have more intimate conversation around barriers, document collection, etc. Use Survey Monkey or draft plan; open to comments and feedback.
  - If committee members see a name that is missing – share that as well.

- Discussed collecting the information in a new tab in the DB Matrix. To include who talked, what was gathered or shared. Record preferred by survey or email.
- Looking to survey owners, primes, other organizations not covered by the Stakeholders Subcommittees efforts.
- Suggestion: Obtain list of Owners who have submitted applications to CPARB for 39.10 from Talia.

Action by: Aleanna to obtain Owners list from Talia, Committee members to provide feedback and recommendations of firms.

Status: Active

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Item: **Subcommittee Report – Stakeholders**

- Seeking a gov agency to help seek out the info from the businesses.
- Concerns:
  - MBEs don't want to be identified for fear of retaliation.
  - Have to take time away from business.
  - Tend to ignore and resist surveys.
  - Has to be handled in a fair and anonymous manner – capture comments, but not names.
- Welcome input moving forward – email Irene and Linda Womack.
- Fact finding system needs to be developed.
- Want to get a diverse listing, truncated to tiers based upon establishment of business. Get a systematic approach.
- Call for suggestions on how to carefully meet with the firms impacted.
- Examples of why the deep dive is important:
  - Bait and switch, payment and retaliation.
- OMWBE new system will support monitoring of payment to subcontractors.
- Constructive conversation around Prompt Pay – complex issue, and an incredibly important issue, multiple perspectives discussed and debated. Highlights the importance of the conversation, input and debate beyond the disparity study results because each issue has many facets that need to be explored in order to determine best practices.

Action by: All committee members – recommendations for input and methodology ideas. Governmental Agencies – support or be spokes-agency for the survey. Maja and Olivia will follow up with Bobbie and Van on prompt pay to capture more of the conversation.

Status: Active

---

Item: **Next Steps**

- Revisited current Kanban dated 8/27/2021
- Keep CPARB in the loop.
- Between now and the June best practices report deadline – 45 minutes at every CPARB meeting will be dedicated to BE/DBI committee reporting to get them ready for the end of the report.
- Really plan ahead for each of these presentations so that they are extremely impactful.
- Owners – who have minority businesses on your projects – please reach out to Irene and Linda with firms/people to contact.
- Be sure we are as inclusive as possible.
- Santosh will reach out to Bob Armstad to make sure that he can get into future meetings.
- Timolin did not have an authorized email and WSU will look into the issue.

Action by: WSU – Zoom meeting.

Status: Active

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Item: **Final Words**

- OMWBE has a response to the certification problem statement and will return it to the committee chairs.
- Certified versus non-certified firms. Further discussion around outreach may be needed. OMWBE is reaching out to the 9K Webs small business registered firms to encourage certification. It was recommended that they also reach out to the City of Seattle, and Port of Seattle for their self-certified lists. It was also recommended that the benefits of certification to be shared. For example to be able to tap into federal and local programs that MBDA can help with, firms need to be certified.
- OMWBE is building bigger outreach – major effort on behalf of the OMWBE.

- We see what is occurring, but we need to look though the full issue is to understand the why.
- Santosh shared TED Talk  
[https://www.ted.com/talks/derek\\_sivers\\_how\\_to\\_start\\_a\\_movement?utm\\_campaign=tedsread&utm\\_medium=referral&utm\\_source=tedcomshare](https://www.ted.com/talks/derek_sivers_how_to_start_a_movement?utm_campaign=tedsread&utm_medium=referral&utm_source=tedcomshare)

Action by: N/A

Status: Active

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Adjourn 11:40

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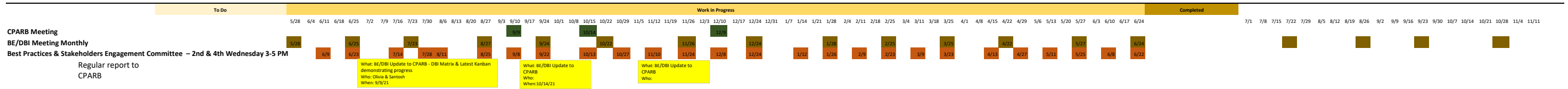
Zoom Meeting Recorded and available in BE-DBI Teams.

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Type	Location	Name	Lead	Contact	Target Deliverable (on top of general matrix review)	
Owner	West	City of Seattle	Aleanna	Miguel Beltran, Elise Young	Inclusion Plan, Contract Language	
Owner	All	DES	Aleanna	Charles Wilson, Erin Lopez	Inclusion Plan, Contract Language	*who are their contacts are in the other parts of the state
Owner	West	Sound Transit	Brenda	Brenda Nnambi	Inclusion Plan, Contract Language, Federal	*Lily???
Owner	West	Port of Seattle	Brenda	Mian Rice	Inclusion Plan, Contract Language, Federal	
Owner	All	WSDOT	Brenda	Jackie Bayne (Local Programs??)	Inclusion Plan, Contract Language, Federal	*perhaps we could get a contact list
SME	All	OMWBE	Brenda	Lisa van der Lugt	Policies and best practices	
SME	All	Bobby Forch	Brenda	Bobby Forch	Inclusion Plans, Contract Language, BP	
SME	All	GCCM BP	Aleanna	Nick Datz	Best Practices	
SME	All	MRSC	Aleanna	John	Barriers	
Owner	West	King County	Brenda	Sandy Hanks	Inclusion Plan, Contract Language	
Owner	West	UW	Aleanna	Cindy Magruder/Steve Tatge	Inclusion Plan, Contract Language	*contracts requirements group
Owner	West	City of Lynnwood	Aleanna	Cathy Robinson	Approach	*on the DBI Committee
SME	East	AGC	Aleanna	Cheryl Stewart	Approach	
SME	West	AGC	Brenda	Brenda, Linda - Diversity Committee	Outreach and networking	
Owner	East	WSU	Aleanna	Olivia Yang/ Maja Huff	Approach	
SME	All	NWMMSDC	Aleanna	Fernando Martinez	Best Practices	
SME	All	CDE	Brenda	Jacob Erbes (HP), Eleanor Oshitoye	Approach	*Construction and Design Entrepreneurs
Prime	All	Absher	Aleanna	Stephanie Caldwell	Approach	
Prime	All	Hoffman	Aleanna	Chip Tull	Approach	
Prime	All	Lydig	Aleanna	Bill Dobyys	Approach	
Prime	All	Granite	Aleanna	Andy Thompson	Approach	
SME	All	WSDOT	Brenda	John Ho, Kyle McKeon		*Resources for East and South concerns
SME	All	Consultant	Aleanna	Darling Nava	Approach	
Owner	South	City of Vancouver		Anna Vogel, Procurement Manager	Approach, Inclusion, Best Practices	
Owner	East	City of Spokane	Aleanna	Alex Gibilisco, Connie Wahl, Purchasing	Approach, Inclusion, Best Practices	
Owner	East	Spokane County	Aleanna	Victor Leamer, Sr. Buyer	Approach	
Prime	East	Burton Construction	Aleanna	Evan Benjamin, Jim Anderson (JOC)	Approach	
Prime	All	Kiewit	Brenda	Dennis Ahl		
Prime	All	Turner	Brenda	Janelle Boyd, Tamaka Thornton		
Prime	All	Skanska	Brenda	Jackie Guilfucci, DBE Compliance Officer		



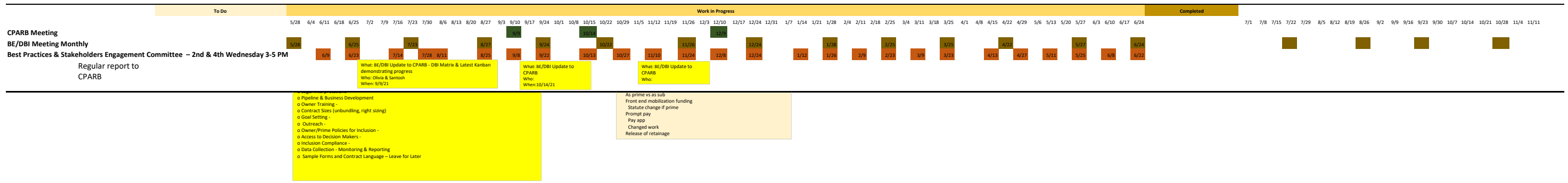
Stakeholders Engagement (Chairs - Irene Reyes and Linda Womack)	Identify groups/associations and point person	Identify and Gather Barriers	Identify and Gather Working Solution/Best Practices	Committee Recommendations for Vetted Barriers and Solutions	Gather KRAs and KPIs?
What: Ongoing Communication and Recruitment Plan Who: When:	What: Invite and Gather BE/DBI Community (DMWB, DES DEE, community stakeholders, advocates and SMEs) Who: Irene and Linda When: Ongoing	What: Consider the barriers to participation; 2019 Disparity Study? Who: What: Consider/Address Local Government Public Works Contracting Report by MSRC ?? Who:	What: Consider the barriers to participation; 2019 Disparity Study? Who: What: Consider/Address Local Government Public Works Contracting Report by MSRC ?? Who:	What: See DBI Matrix Who: Irene, Linda, Aleanna & Brenda When: 9/9/21	What: Identify Key Result Areas (KRAs) and Key Performance Indicators (KPIs) Who: When: What: Who monitors KRAs and KPIs? Who:

Still being developed.....  
Comments are welcome!

Best Practices (Chairs - Aleanna Kondelis and Brenda Nnambi)	General	Work Group Activity
What: Review Best Practices Manual Outline Who: BE/DBI Committee Outline: SECTION 1: PLANNING Themes: "start early" SECTION 2: ENGAGEMENT Themes: "transparency" SECTION 3: CONTRACTING Themes: "clear, consistent, careful" SECTION 4: MONITORING/REPORTING Themes: "follow through, gather data, share"	What: Finalize Best Practices Manual Sections & Assign to Work Groups Who: BE/DBI Committee Sections: SECTION 1: PLANNING Themes: "start early" Outreach Networking, Mentor-Protégé Market Analysis (target market) Forecasting (strategic sourcing principals) Pipeline and Business Development Owner Policy and Program Development -SOPs "right-sizing" work (aka unbundling) Team building Training (owner and community) SOPs Federal Program (e.g. DBE Program Plan) Risk SECTION 2: ENGAGEMENT Themes: "transparency" Outreach Networking Technical Assistance Access to Information -shared electronic options including bidding and solicitation approaches Access to Decision Makers Advertisement/Solicitation Timing -Advanced Notice -Length of solicitation Goal setting -General Inclusion strategies SECTION 3: CONTRACTING Themes: "clear, consistent, careful" Language -Inclusion and Expectations -Synergy with other social equity themes in contracts -Experience requirements -"flow down" Key Topics -Insurance -Bonding -Prompt Pay/Quick Pay -Indemnification -"Risk" Performance programs Rosters (pros-cons) Sample Forms and Contract Language SECTION 4: MONITORING/REPORTING Themes: "follow through, gather data, share" Inclusion Enforcement Data Collection Processes Data Collection Systems Who, When, What to report Diverse business growth monitoring Alternative (30.10) intent and best practice	What: Work Groups developing Problem Statements Who: Olivia, Aleanna, Maja, Scott, Van, Keith, Amy, Cathy, Cindy Topics: o Contract Issues - Rosters - Olivia/Amy/Cathy - Insurance - "Risk" - Olivia/ Cindy - Bonding - Scott Middleton - Prompt Pay/Quick Pay - Keith Michel - Indemnification - Van Collins - Teaming Agreements (accountability) - Olivia /Van o Subcontracting o Tracking/Reporting o Performance programs - Find out about - Olivia / Cindy o Access to Rosters o Engagement "Transparency" Advertisement & Solicitations - o Legal Interpretations

Still being developed.....  
Comments are welcome!

What: Develop Draft Best Practices Manual - Combine Work Group Sections?? Who: BE/DBI Committee When:	What: Develop Finalize Best Practices Manual & Publish ?? Who: BE/DBI Committee When:
What: Work Group - Finding and connecting diverse firms with Designers & GCs Who: Lily & Chip Topics:	What: Work Group -On the project?? Who: Topics: On the project



## Business Equity/Diverse Business Inclusion Committee Capital Projects Advisory Review Board

22 October 2021

Committee focus:

- Comprehensive review of RCW 39.10 with the lens of equity (include RCW 39.04 & 39.80).
- Create consistency in statutory language.
- Evaluate and bring forth effective strategies and opportunities for firms to compete.

<input checked="" type="checkbox"/> Olivia Yang	Washington State University	CPARB /Committee Member
<input checked="" type="checkbox"/> Santosh Kuruvilla	Exeltech	CPARB /Committee Member
<input type="checkbox"/> Lisa Van der Lugt	OMWBE	CPARB /Committee Member
<input checked="" type="checkbox"/> Charles Wilson	DES	CPARB /Committee Member
<input checked="" type="checkbox"/> Irene Reyes	Excel Supply Company	CPARB /Committee Member
<input checked="" type="checkbox"/> Janice Zahn	Port of Seattle	CPARB /Committee Member
<input type="checkbox"/> Jackie Bayne	WSDOT OEO	Committee Member
<input type="checkbox"/> Cheryl Stewart	Inland Northwest AGC	Committee Member
<input checked="" type="checkbox"/> Chip Tull	Hoffman Construction	Committee Member
<input checked="" type="checkbox"/> Aleanna Kondelis	Akana	Committee Member
<input type="checkbox"/> Brenda Nnambi	Sound Transit	Committee Member
<input type="checkbox"/> Linda Womack	MBDA	Committee Member
<input checked="" type="checkbox"/> Cathy Robinson	City of Lynnwood	Committee Member
<input checked="" type="checkbox"/> Shelly Henderson	Mukilteo School District	Committee Member
<input type="checkbox"/> Keith Michel	Forma	Committee Member
<input checked="" type="checkbox"/> Young Sang Song	Song Consulting	Committee Member
<input checked="" type="checkbox"/> Stephanie Caldwell	Absher Construction	Committee Member
<input checked="" type="checkbox"/> Bill Dobyms	Lydig	CPARB
<input type="checkbox"/> Bobby Forch	Forch Consulting	CPARB
<input type="checkbox"/> Lily Keefe	USDOT - Northwest SBTRC	
<input type="checkbox"/> Sarah Erdman	OMWBE	
<input checked="" type="checkbox"/> Van Collins	ACEC Washington	
<input type="checkbox"/> Cathy Ridley	Exeltech	
<input checked="" type="checkbox"/> Maja Huff	Washington State University	
<input type="checkbox"/> Jerry Vanderwood	AGC of Washington	
<input type="checkbox"/> Timolin Abrom	OMWBE	
<input checked="" type="checkbox"/> Melissa Van Gorkom	Senate Committee Services	
<input checked="" type="checkbox"/> Amy Stenvall	Mukilteo School District	
<input checked="" type="checkbox"/> Cindy Magruder	University of Washington	
<input checked="" type="checkbox"/> Carrie Whitton	Forma	
<input checked="" type="checkbox"/> Rachel Murata	OMWBE	
<input checked="" type="checkbox"/> John Rose	MRSC	
<input checked="" type="checkbox"/> Jolene Skinner	LnI	
<input checked="" type="checkbox"/> Curt Gimmestad	Absher Construction	
<input checked="" type="checkbox"/> Eric Alozie	NEW Construction	
<input checked="" type="checkbox"/> Jerry Vanderwood	AGC	

### AGENDA

Item	Purpose	Start
Welcome and committee member introductions	Information	10:00 am
Review & approve agenda	Action	10:05 am
Review & approve 9/24/21 meeting minutes	Action	10:10 am
Invitation to the public to participate	-	10:15 am
Dashboard	Discussion	10:20 am
Follow up from CPARB Meeting	Discussion	10:35 am
SWR	Discussion	10:50 am
Next Steps	Discussion	11:30 am

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"Final word" (from committee members)	Discussion	11:40 am
Adjourn	Action	12:00 pm

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**DIGITAL CONFERENCE ACCESS**

The committee meeting will be conducted entirely by Zoom digital conferencing.

Online <https://wsu.zoom.us/j/97615048848>

Meeting ID: 976 1504 8848

Join by telephone

Dial: US: +1 253 215 8782 or +1 669 900 9128 or +1 646 558 8656

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---

Olivia Yang - Washington State University

206 718 0787 [olivia.yang@wsu.edu](mailto:olivia.yang@wsu.edu)

Santosh Kuruvilla – Exeltech Consulting

206 713 1241 [santosh@xltech.com](mailto:santosh@xltech.com)

**MINUTES**

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Item: **Welcome and committee member introductions**

- Call to Order
- Quorum confirmed

Action by: BE/BDI Committee

Status: Approved and complete

---

Item: **Review & approve agenda**

- Agenda Approved.

Action by: BE/BDI Committee

Status: Approved and complete

---

Item: **Review & approve 8/27/21 meeting minutes**

- Minutes approved as written.

Action by: BE/DBI Committee

Status: Approved

---

Item: **Public Comment**

- Eric Alozie – Looking forward to expanding and increasing opportunities for diverse business.

Action by: N/A

Status: N/A

---

Item: **Dashboard**

- Shared the BE/DBI Outcome Dashboard and Ladder 2021-2025.
- Intent is to articulate the work that the committee is doing.
- Becomes a reporting document and mission for the next 5 years.
- Could there be a more executive level summary? Succinct/simplified document?
- Talk about what Blue looks like – maybe get the information on the report so that we have the aspiration to point at.
- WSU Goal - Diverse firms as first choice. (Thank you Irene for coining the phrase). Being successful, competitive and sought after business. A strong small business base is a good policy.
- Building business and work base for Eastern Washington contractors. It's one thing to have opportunity and another to be successful within the opportunity.

- Every small business challenge is unique, encompass and group to help each of the firm's scenarios. Understand and deeper dive into the why. Language of contracts need to be looked at for prompt pay – come up with solutions to address the barriers.
- Mentorship – relationships to develop generations of business relationship. How you chose to build the relationship over time should be handled the same way that sub tiers are looked at. Skin color or gender should not influence the commitment to relationship building. Hasn't seen a lot of owners who walk the talk.
- Define Owner as mentor: Is the Owner a diverse group? Is there influential voices of diversity at every level influencing who is being selected?
- Discussed a way to inform the classification of matrix items within the dashboard, by gathering solutions/practices in a collective manor and classifying by volume of effort/ by how many working solutions are out there then we can gauge the performance indicators. Compiling all of the data and looking for trends of effort. If we have categories with no workable solution – then we can judge that we are in the red.
- Simpler dashboard and add some data in the dashboard as a next step at the next meeting.
- Law, Owner contract, and General Contractor as tiers of line item. Where are the constraints in the process that can be improved? Legislative changes need to be highlighted?
- Would it help to start with a delivery model and the constraints of that delivery model and expand from there? Focus on those constraints and then find the commonality of the delivery models to make it an easier conversation.

Action by: Santosh to develop an executive level summary. Aleanna to test fit including data into Dashboard.

Status: Active

---

Item: **CPARB Update**

- Reporting back from presentation at CPARB.
- Andersen, Young Song and Hoffman presented.
- Hopefully a take away from the three speakers is that we are looking at these items as nuanced complex issues, payment and cash flow example.
- In the next couple of CPARB meetings we will include key speakers. We want CPARB to have a direct connection to the voices in this conversation.
- Where are the successes that have impacted the barriers?
- Further discussion regarding the changing manor of legislation, and an interest in viewing through a different lens.

Action by: N/A

Status: Active

---

Item: **Small Works Roster**

- Rep Pollet is intending to sponsor a bill for 2022, draft included.
- Owners and private stakeholders have been talking separately as well.
- November 19 Rep Pollet has a committee meeting regarding this.
- CPARB in interested in any comments the committee may have on the Pollet bill, so that CPARB could send a formal response on the bill.
- Looking for this groups members to identify issues to share at another meeting in the near future.
- Next Friday October 29<sup>th</sup>, morning set aside 9-12 to discuss the topic at hand. First hour reviewing written responses to the Pollet bill, remainder discuss the potential. Comments for CPRAB and also optimize the potential of the roster. Please email Olivia with availability and interest to attend and she will send out an invite.
- It was recommended engaging the local government committee.
- Connect to the minority community to get feedback to include at the meeting.

Action by: WSU – Zoom meeting.

Status: Active

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Item: **Next Steps**

- Move November 26<sup>th</sup> meeting to November 19<sup>th</sup>, 8-10 as first option, potentially move if there are conflicts.
- Move December Meeting 24<sup>th</sup> meeting to December 17<sup>th</sup> instead.

Action by: WSU – Update meeting invitations.  
Status: Active

---

Item: **Final Words**

- Lnl is analyzing data and should have some preliminary data for next Friday's meeting that will be what is being shared with Sen. Pollet.
- Janice appreciates the work of the committee and the progress towards reporting and analysis being with Lnl and OMWBE, allowing CPARB to be the Best Practices experts.

Action by: N/A  
Status: Active

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Adjourn 11:53

---

**Zoom Meeting Recorded and available in BE-DBI Teams.**

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Zoom meeting Chat Log:

From Janice Zahn to Everyone 10:02 AM

Have to take a call. Be back in 5 min.

From Jolene Skinner, L&I to Everyone 10:14 AM

brb

From Jolene Skinner to Everyone 10:19 AM

back

From Jolene Skinner to Everyone 10:30 AM

brb

From Jolene Skinner to Everyone 10:45 AM

back

From curt.gimmestad@absherco.com to Everyone 10:53 AM

Would it help to start with a delivery model and the constraints of that delivery model and expand from there. Focus on those constraints and then find the commonality of the delivery models to make it an easier conversation.

From curt.gimmestad@absherco.com to Everyone 11:08 AM

Eric; good points.

From Aleanna Kondelis to Everyone 11:10 AM

And labor in general

From Chip Tull to Everyone 11:20 AM

stepping away for a moment, will be right back

I'm back

From Keith Michel to Everyone 11:23 AM

The bill on the table attempts to reduce opportunity to abuse the system.

From Chip Tull to Everyone 11:30 AM

I cannot attend on Oct 29th unfortunately

From Stephanie Caldwell to Everyone 11:31 AM

The afternoon works for me on the 29th.

From Young Sang Song to Everyone 11:31 AM

I will make my self available for 29OCT2021 MTG.

From Rachel Murata (she/her) OMWBE to Everyone 11:31 AM

I'm available all day on the 29th

From Irene Reyes to Everyone 11:33 AM

I am available that Fri from 10-12 or 11-1

From Stephanie Caldwell to Everyone 11:35 AM

That works as well!

From Janice Zahn to Everyone 11:40 AM

I rejoined

From Cathy Robinson to Everyone 11:40 AM

Veteran businesses too.

From Keith Michel to Everyone 11:42 AM

Go with the 12th or 19th.

8-10 yes

From Stephanie Caldwell to Everyone 11:42 AM

Yes, agreed Irene! I'm scheduling a meeting with a few of our diverse trade partners to get their input and will forward their comments to Jacob and Olivia.

From Irene Reyes to Everyone 11:42 AM

1 to 3

From Rachel Murata (she/her) OMWBE to Everyone 11:43 AM

Last I heard, that was being scheduled later actually

More like the end of November, beginning of December

From Shelly Henderson to Everyone 11:44 AM

I'm open on the 19th

From Irene Reyes to Everyone 11:47 AM

yes

From Stephanie Caldwell to Everyone 11:48 AM

Yes the 19th works for me.

From Irene Reyes to Everyone 11:50 AM

Great Jolene, appreciate that!

From Rachel Murata (she/her) OMWBE to Everyone 11:50 AM

Thanks Jolene, we are looking forward to seeing it!

Draft Report 5-6-2022







<p><b>Bid Shopping and or bid switch (14)</b></p> <p><b>Scoring and details (4)</b></p>	<p>During bid/solicitation phases, firms are counted and asked to provide work and contribution then open award of contract prime seeks other firms, rebids, claims pricing issues, etc. This same favor or issue occur in professional services teaming agreements.</p> <p>Scoring not consistent with solicitations and appear as if the "winner" was picked because submissions do not meet scoring. Often details offered are not helpful or provide real guidance on how to improve.</p>	<p>Special Investigative Team to be Created with Attorney assistance, there is a compliance audit available and paid by owner. As activities like this happen - we must get to the bottom of it and start calling out individuals and not companies. Use a big hammer with this one. Again accountability measurements and consequences like penalties. (BP Responder: are there any examples that we know of that can be researched?)</p> <p>RFI has to have more stringent requirements and language - use words like requirement not goal. Give this department more points/value. More value must be assigned or the process will not take it seriously. (BP Responder: do you know of any examples RFPs that have been well written so we can make sure to include as examples/templates?)</p>	<p>Olivia/Van</p> <p>DES (7)</p>				
<b>Section 4: Monitoring, Reporting, Tracking</b>							
<p><b>Data Collection Systems (6)</b></p>	<p>No one is centrally collecting inclusion data, if collected it is not consistent and/or accessible to the public.</p>	<p>BP question to ES: is there an option or story to share on inclusion data collection?</p>	<p>Akanna/Brenda</p>	<p>X X X X X X X</p>		<p>Standardizing tools in the market place, efforts funded in COWIE for state agencies. Some owners do have contract enforcement and compliance team deployed.</p>	
<p><b>Enforcement (5)</b></p>	<p>Diverse firms are often invited to "assist" or named in an inclusion plan then as the project proceeds agreements are not honored or inclusion plans are not followed. (This is contract enforcement, owner training, legal requirements, etc.)</p>	<p>Special Investigative Team to be Created with Attorney assistance, there is a compliance audit available and paid by owner. As activities like this happen - we must get to the bottom of it and start calling out individuals and not companies. Use a big hammer with this one. Again accountability measurements and consequences like penalties.</p>	<p>Olivia/Van</p>	<p>X</p>	<p>Substitution requirements should extend to leasing agreements and A/E environments; evidence must be provided to remove or substitute bids and subcontractors; termination should be part of the enforcement escalation for violating contract terms or aspects of bid/proposal. This should be material breach. (e.g. Federal, WSDOT, City of Seattle)</p>		
<p><b>Contractor Performance/Evaluation Programs (3)</b></p>	<p>For Inclusion Plans to be material to award and contracting, there must be evaluation and enforcement programs with scoring and/or consequence to not making the grade (Bobby Farth: influencing the tipping point of culture)</p>	<p>we are looking forward to this</p>	<p>Olivia/Van</p>	<p>X</p>	<p>(e.g. Federal, City of Seattle, LW all have some sort of contractor performance program)</p>		
<p><b>Reporting Type</b></p>	<p>No one standard reporting format, if information is reported the public cannot compare or understand. We might get better at data collection if there were samples and example required forms, etc. Primes should follow standards.</p>	<p>we are looking forward to this</p>	<p>Keith/Carris</p>		<p>samples and examples</p>		
<p><b>Business Growth Monitoring (1)</b></p>	<p>No metrics or reporting to understand if inclusion practices are working and diverse businesses are growing. We need to know that the "best practices" are working.</p>	<p>What are we going to do with that information? Should we spend the money and time if we don't know how we are going to use the data? Use this form as a great marketing/promotional tool show support material.</p>	<p>BDEI Committee</p>				
<p><b>Data Collection Processes</b></p> <p><b>CPAB PRC Application</b></p>	<p>Owners and primes have no internal controls, consistency or practices for collecting inclusion data. Recommendation that owner's wanting to use alternative public works and/or be certified to use the tools should show internal controls and increasing volume of diverse business inclusion in their capital portfolio. Not just a simple statement.</p>	<p>See other similar topics, suggesting a central repository as a condition of funding. Application process and language should be revised to include data collection or other similar documentation process that can be publicly posted.</p>	<p>Akanna/Brenda</p> <p>Akanna (PRC)</p>	<p>X X X X X X X</p>			
<b>Section 1: Planning ("Start early")</b>							
<p><b>Women-owned firm inquiry (3)</b></p>	<p>Women/Minority-owned firms are less likely to receive awards over their white and male counterparts.</p>	<p>What is the committee's end goal? Share the information or are looking to boost WBE's revenue? Devices should be part of the RFP - put it in writing.</p>	<p>Examples: Port of Seattle, Sound Transit, City of Seattle</p>				
<p><b>Workplace Safety (anti-harassment, violence) (3)</b></p>	<p>Employees of color and women often are victims of violence, harassment, hazing, and other forms of inappropriate treatment</p>	<p>From Young: This is 100% true: I had to appear in King County Court as a Walsh Area Manager to protect African direct labor force from assaults in Seattle, long story short and 15K later - a resident near the project was put under a special bonded separation order enforced by SPD.</p>	<p>City of Seattle (7)</p>		<p>[this may overlap with project labor agreements and community workforce agreements, site safety, enforcement, etc.] Exemplar: City of Seattle</p>		
<p><b>Retaliation and Restriction (4)</b></p>	<p>When complaints are filed regarding bid processes, etc. businesses that complained feel like they are "black-balled" or regarded and labeled as a nuisance, left out of processes... or much worse.</p>	<p>No experience, no comment. (BP Responder (this topic was presented by a diverse business that shared a personal experience, can external stakeholders please try to find out more information and stories?)</p>	<p>Federal processes, federal laws</p>				

Kellen Wright 360-786-7134  
House Committee on Local Government  
September 17, 2021 (8:45 AM)

1 AN ACT Relating to public works contracting;

2  
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4  
5 **Sec. 1.** RCW 53.08.120 and 2018 c 149 s 2 are each amended to  
6 read as follows:

7 (1) All material and work required by a port district not  
8 meeting the definition of public work in RCW 39.04.010(4) may be  
9 procured in the open market or by contract and all work ordered may  
10 be done by contract or day labor.

11 (2) (a) All such contracts for work meeting the definition of  
12 "public work" in RCW 39.04.010(4), the estimated cost of which  
13 exceeds (~~three hundred thousand dollars~~) the cost thresholds  
14 established in RCW 39.04.155, shall be awarded using a competitive  
15 bid process. The contract must be awarded at public bidding upon  
16 notice published in a newspaper of general circulation in the  
17 district at least thirteen days before the last date upon which bids  
18 will be received, calling for bids upon the work, plans and  
19 specifications for which shall then be on file in the office of the

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p.1

**Commented [WK1]:** This is aligning port districts with the general small works roster statute.

Draft Report 5-6-2022

1 commission for public inspection. The same notice may call for bids  
2 on such work or material based upon plans and specifications  
3 submitted by the bidder. The competitive bidding requirements for  
4 purchases or public works may be waived pursuant to RCW 39.04.280 if  
5 an exemption contained within that section applies to the purchase  
6 or public work.

7 (b) For all contracts related to work meeting the definition of  
8 "public work" in RCW 39.04.010(4), ~~((that are estimated at three~~  
9 ~~hundred thousand dollars or less))~~ the estimated cost of which do  
10 not exceed the cost thresholds established in RCW 39.04.155, a port  
11 district may let contracts using the small works roster process  
12 under RCW 39.04.155 in lieu of advertising for bids. Whenever  
13 possible, the managing official shall invite at least one proposal  
14 from a minority contractor who shall otherwise qualify under this  
15 section.

16 When awarding such a contract for work, when utilizing proposals  
17 from the small works roster, the managing official shall give weight  
18 to the contractor submitting the lowest and best proposal, and  
19 whenever it would not violate the public interest, such contracts  
20 shall be distributed equally among contractors, including minority  
21 contractors, on the small works roster.

22 (c) Any port district may construct any public work, as defined  
23 in RCW 39.04.010, by contract without calling for bids whenever the  
24 estimated cost of the work or improvement, including cost of  
25 materials, supplies, and equipment, will not exceed the sum of forty  
26 thousand dollars. A "public works project" means a complete project.  
27 The restrictions in this subsection do not permit the division of  
28 the project into units of work or classes of work to avoid calling  
29 for bids. The port district managing official shall make his or her  
30 best effort to reach out to qualified contractors, including  
31 certified minority and woman-owned contractors.

32 (3) (a) A port district may procure public works with a unit  
33 priced contract under this section or RCW 39.04.010(2) for the  
34

1 purpose of completing anticipated types of work based on hourly  
2 rates or unit pricing for one or more categories of work or trades.

3 (b) For the purposes of this section, unit priced contract means  
4 a competitively bid contract in which public works are anticipated  
5 on a recurring basis to meet the business or operational needs of a  
6 port district, under which the contractor agrees to a fixed period  
7 indefinite quantity delivery of work, at a defined unit price, for  
8 each category of work.

9 (c) Unit priced contracts must be executed for an initial  
10 contract term not to exceed three years, with the port district  
11 having the option of extending or renewing the unit priced contract  
12 for one additional year.

13 (d) Invitations for unit priced bids shall include, for purposes  
14 of the bid evaluation, estimated quantities of the anticipated types  
15 of work or trades, and specify how the port district will issue or  
16 release work assignments, work orders, or task authorizations  
17 pursuant to a unit priced contract for projects, tasks, or other  
18 work based on the hourly rates or unit prices bid by the contractor.  
19 Contracts must be awarded to the lowest responsible bidder as per  
20 RCW 39.04.010. Whenever possible, the port district must invite at  
21 least one proposal from a minority or woman contractor who otherwise  
22 qualifies under this section.

23 (e) Unit priced contractors shall pay prevailing wages for all  
24 work that would otherwise be subject to the requirements of chapter  
25 39.12 RCW. Prevailing wages for all work performed pursuant to each  
26 work order must be the prevailing wage rates in effect at the  
27 beginning date for each contract year. Unit priced contracts shall  
28 have prevailing wage rates updated annually. Intents and affidavits  
29 for prevailing wages paid shall be submitted annually for all work  
30 completed within the previous twelve-month period of the unit priced  
31 contract.

32  
33 **Sec. 2.** RCW 87.03.436 and 2010 c 201 s 2 are each amended to  
34 read as follows:

**Commented [WK2]:** This section is aligning irrigation districts with the general small works roster statute.

1 All contract projects, the estimated cost of which is less than  
2 (~~three hundred thousand dollars~~) the cost thresholds established  
3 in RCW 39.04.155, may be awarded using the small works roster  
4 process under RCW 39.04.155.

5  
6 **Sec. 3.** RCW 39.04.010 and 2008 c 130 s 16 are each amended to  
7 read as follows:

8 The definitions in this section apply throughout this chapter  
9 unless the context clearly requires otherwise.

10 (1) "Award" means the formal decision by the state or  
11 municipality notifying a responsible bidder with the lowest  
12 responsive bid of the state's or municipality's acceptance of the  
13 bid and intent to enter into a contract with the bidder.

14 (2) "Contract" means a contract in writing for the execution of  
15 public work for a fixed or determinable amount duly awarded after  
16 advertisement and competitive bid, or a contract awarded under the  
17 small works roster process in RCW 39.04.155.

18 (3) "Municipality" means every city, county, town, port  
19 district, district, or other public agency authorized by law to  
20 require the execution of public work, except drainage districts,  
21 diking districts, diking and drainage improvement districts,  
22 drainage improvement districts, diking improvement districts,  
23 consolidated diking and drainage improvement districts, consolidated  
24 drainage improvement districts, consolidated diking improvement  
25 districts, irrigation districts, or other districts authorized by  
26 law for the reclamation or development of waste or undeveloped  
27 lands.

28 (4) "Public work" means all work, construction, alteration,  
29 repair, or improvement other than ordinary maintenance, executed at  
30 the cost of the state or of any municipality, or which is by law a  
31 lien or charge on any property therein. All public works, including  
32 maintenance when performed by contract shall comply with chapter  
33 39.12 RCW. "Public work" does not include work, construction,  
34 alteration, repair, or improvement performed under contracts entered

1 into under RCW 36.102.060(4) or under development agreements entered  
2 into under RCW 36.102.060(7) or leases entered into under RCW  
3 36.102.060(8).

4 (5) "Responsible bidder" means a contractor who meets the  
5 criteria in RCW 39.04.350.

6 (6) "Small business" means an in-state business, including a  
7 sole proprietorship, corporation, partnership, or other legal  
8 entity, that:

Commented [WK3]: This is the small business definition that CPARB recommended adding.

9 (a) Certifies, under penalty of perjury, that it is owned and  
10 operated independently from all other businesses and has either:

11 (i) Fifty or fewer employees; or

12 (ii) A gross revenue of less than seven million dollars annually  
13 as reported on its federal income tax return or its return filed  
14 with the department of revenue over the previous three consecutive  
15 years; or

16 (b) Is certified with the office of women and minority business  
17 enterprises under chapter 39.19 RCW.

18 (7) "State" means the state of Washington and all departments,  
19 supervisors, commissioners, and agencies of the state.

20  
21 **Sec. 4.** RCW 39.04.155 and 2019 c 434 s 5 are each amended to  
22 read as follows:

23 (1) This section provides uniform small works roster provisions  
24 to award contracts for construction, building, renovation,  
25 remodeling, alteration, repair, or improvement of real property that  
26 may be used by state agencies and by any local government that is  
27 expressly authorized to use these provisions. These provisions may  
28 be used in lieu of other procedures to award contracts for such work  
29 with an estimated cost of three hundred fifty thousand dollars or  
30 less or the estimated cost is less than the threshold determined by  
31 the office of financial management pursuant to subsection (7) of  
32 this section, whichever amount is greater. The small works roster  
33 process includes the limited public works process authorized under  
34 subsection (3) of this section and any local government



1 ((~~authorized~~)) to award contracts using the small works roster  
2 process under this section may award contracts using the limited  
3 public works process under subsection (3) of this section.

4 (2) (a) A state agency or authorized local government may create  
5 a single general small works roster, or may create a small works  
6 roster for different specialties or categories of anticipated work.  
7 Where applicable, small works rosters may make distinctions between  
8 contractors based upon different geographic areas served by the  
9 contractor. The small works roster or rosters shall consist of all  
10 responsible contractors who have requested to be on the list, and  
11 where required by law are properly licensed or registered to perform  
12 such work in this state. A state agency or local government  
13 establishing a small works roster or rosters may require eligible  
14 contractors desiring to be placed on a roster or rosters to keep  
15 current records of any applicable licenses, certifications,  
16 registrations, bonding, insurance, or other appropriate matters on  
17 file with the state agency or local government as a condition of  
18 being placed on a roster or rosters. At least once a year, the state  
19 agency or local government shall publish in a newspaper of general  
20 circulation within the jurisdiction a notice of the existence of the  
21 roster or rosters and solicit the names of contractors for such  
22 roster or rosters. In addition, responsible contractors shall be  
23 added to an appropriate roster or rosters at any time they submit a  
24 written request and necessary records. Master contracts may be  
25 required to be signed that become effective when a specific award is  
26 made using a small works roster.

27 (b) A state agency establishing a small works roster or rosters  
28 shall adopt rules implementing this subsection. A local government  
29 establishing a small works roster or rosters shall adopt an  
30 ordinance or resolution implementing this subsection. Procedures  
31 included in rules adopted by the department of enterprise services  
32 in implementing this subsection must be included in any rules  
33 providing for a small works roster or rosters that is adopted by  
34 another state agency, if the authority for that state agency to

1 engage in these activities has been delegated to it by the  
2 department of enterprise services under chapter 43.19 RCW. An  
3 interlocal contract or agreement between two or more state agencies  
4 or local governments establishing a small works roster or rosters to  
5 be used by the parties to the agreement or contract must clearly  
6 identify the lead entity that is responsible for implementing the  
7 provisions of this subsection.

8 (c) Procedures shall be established for securing telephone,  
9 written, or electronic quotations from contractors on the  
10 appropriate small works roster to assure that a competitive price is  
11 established and to award contracts to the lowest responsible bidder,  
12 as defined in RCW 39.04.010. Invitations for quotations shall  
13 include an estimate of the scope and nature of the work to be  
14 performed as well as materials and equipment to be furnished.  
15 However, detailed plans and specifications need not be included in  
16 the invitation. This subsection does not eliminate other  
17 requirements for architectural or engineering approvals as to  
18 quality and compliance with building codes. Quotations may be  
19 invited from all appropriate contractors on the appropriate small  
20 works roster. As an alternative, quotations may be invited from at  
21 least five contractors on the appropriate small works roster,  
22 including at least two small businesses as defined in RCW 39.26.010  
23 or women and minority owned businesses certified by the office of  
24 minority and women's business enterprises, who have indicated the  
25 capability of performing the kind of work being contracted, in a  
26 manner that will equitably distribute the opportunity among the  
27 contractors on the appropriate roster. However, if the estimated  
28 cost of the work is from two hundred fifty thousand dollars to three  
29 hundred fifty thousand dollars, or between the cost thresholds  
30 determined by the office of financial management pursuant to  
31 subsection (7) of this section, a state agency or local government  
32 that chooses to solicit bids from less than all the appropriate  
33 contractors on the appropriate small works roster must also notify  
34 the remaining contractors on the appropriate small works roster that

Commented [WK4]: Notification requirement for at least two small businesses/MWBE-certified firms.

1 quotations on the work are being sought. The government has the sole  
 2 option of determining whether this notice to the remaining  
 3 contractors is made by: (i) Publishing notice in a legal newspaper  
 4 in general circulation in the area where the work is to be done;  
 5 (ii) mailing a notice to these contractors; or (iii) sending a  
 6 notice to these contractors by facsimile or other electronic means.  
 7 For purposes of this subsection (2)(c), "equitably distribute" means  
 8 that a state agency or local government soliciting bids may not  
 9 favor certain contractors on the appropriate small works roster over  
 10 other contractors on the appropriate small works roster who perform  
 11 similar services. Additionally, the solicitation of bids provided  
 12 pursuant to this subsection 2(c) must rotate through the contractors  
 13 on the appropriate small works roster and must, when qualified  
 14 contractors are available from the roster who may perform the work  
 15 or deliver the services within the budget described in the notice or  
 16 request for proposals, utilize different contractors on different  
 17 projects and ensure that no contractor receives more than twenty  
 18 percent of the total contracts let by the agency or local government  
 19 that utilize the small works roster.

**Commented [WK5]:** This section would try to increase the rotation among contractors (when there are qualified contractors available).

20 (d) A contract awarded from a small works roster under this  
 21 section need not be advertised.

22 (e) Immediately after an award is made, the bid quotations  
 23 obtained shall be recorded, open to public inspection, and available  
 24 by at least one of the following: Telephone or electronic request.

25 (f) For projects awarded under the small works roster process  
 26 established under this subsection, a state agency or authorized  
 27 local government may waive the retainage requirements of RCW  
 28 60.28.011(1)(a), thereby assuming the liability for contractor's  
 29 nonpayment of: (i) Laborers, mechanics, subcontractors,  
 30 materialpersons, and suppliers; and (ii) taxes, increases, and  
 31 penalties under Titles 50, 51, and 82 RCW that may be due from the  
 32 contractor for the project. However, the state agency or local  
 33 government has the right of recovery against the contractor for any  
 34 payments made on the contractor's behalf. Recovery of unpaid wages

1 and benefits are the first priority for actions filed against the  
2 contract.

3 (3) (a) In lieu of awarding contracts under subsection (2) of  
4 this section, a state agency or authorized local government may  
5 award a contract for work, construction, alteration, repair, or  
6 improvement projects estimated to cost less than fifty thousand  
7 dollars or less than the threshold determined by the office of  
8 financial management pursuant to subsection (7) of this section,  
9 whichever amount is greater, using the limited public works process  
10 provided under this subsection. Public works projects awarded under  
11 this subsection are exempt from the other requirements of the small  
12 works roster process provided under subsection (2) of this section  
13 and are exempt from the requirement that contracts be awarded after  
14 advertisement as provided under RCW 39.04.010.

15 (b) For limited public works projects, a state agency or  
16 authorized local government shall solicit electronic or written  
17 quotations from a minimum of three contractors from the appropriate  
18 small works roster and shall award the contract to the lowest  
19 responsible bidder as defined under RCW 39.04.010. After an award is  
20 made, the quotations shall be open to public inspection and  
21 available by electronic request. A state agency or authorized local  
22 government must equitably distribute opportunities for limited  
23 public works projects among contractors willing to perform in the  
24 geographic area of the work. A state agency or authorized local  
25 government shall maintain a list of the contractors contacted and  
26 the contracts awarded during the previous twenty-four months under  
27 the limited public works process, including the name of the  
28 contractor, the contractor's registration number, the amount of the  
29 contract, a brief description of the type of work performed, and the  
30 date the contract was awarded. For limited public works projects, a  
31 state agency or authorized local government may waive the payment  
32 and performance bond requirements of chapter 39.08 RCW and may waive  
33 the retainage requirements of RCW 60.28.011(1) (a), thereby assuming  
34 the liability for the contractor's nonpayment of laborers,

1 mechanics, subcontractors, material persons, suppliers, and taxes,  
2 increases, and penalties imposed under Titles 50, 51, and 82 RCW  
3 that may be due from the contractor for the limited public works  
4 project, however the state agency or authorized local government  
5 shall have the right of recovery against the contractor for any  
6 payments made on the contractor's behalf.

7 (4) The breaking of any project into units or accomplishing any  
8 projects by phases is prohibited if it is done for the purpose of  
9 avoiding the maximum dollar amount of a contract that may be let  
10 using the small works roster process or limited public works  
11 process.

12 (5) A state agency or authorized local government may use the  
13 limited public works process in this section to solicit and award  
14 small works roster contracts to minibusinesses and microbusinesses  
15 as defined under RCW 39.26.010 that are registered contractors.

16 (6) The definitions in this subsection apply throughout this  
17 section unless the context clearly requires otherwise.

18 (a) "Equitably distribute opportunities" means that a state  
19 agency or authorized local government may not favor certain  
20 contractors on the appropriate small works roster over other  
21 contractors on the same roster who perform similar services, must  
22 rotate through the contractors on the appropriate small works  
23 roster, and must, when qualified contractors are available from the  
24 roster who may perform the work or deliver the services within the  
25 budget described in the notice or request for proposals, utilize  
26 different contractors on different projects and ensure that no  
27 contractor receives more than twenty percent of the total contracts  
28 let by the agency or local government that utilize the small works  
29 roster.

30 (b) "State agency" means the department of enterprise services,  
31 the state parks and recreation commission, the department of natural  
32 resources, the department of fish and wildlife, the department of  
33 transportation, any institution of higher education as defined under  
34 RCW 28B.10.016, and any other state agency delegated authority by

1 the department of enterprise services to engage in construction,  
2 building, renovation, remodeling, alteration, improvement, or repair  
3 activities.

4 (7) The dollar thresholds established in subsections (1),  
5 (2) (c), and (3) (a) this section must be adjusted for inflation by  
6 the office of financial management every five years based upon  
7 changes in the building cost index during that time period.  
8 "Building cost index" means the building cost index for Seattle,  
9 Washington, compiled by engineering news record, a nationally  
10 recognized professional construction trade periodical. The building  
11 cost index uses average skilled construction labor rates, structural  
12 steel, concrete, and lumber as the basis of measurement. The office  
13 of financial management must calculate the new dollar threshold and  
14 transmit it to the office of the code reviser for publication in the  
15 Washington State Register by December 1, 2023, and every five years  
16 thereafter, and any change shall not take effect before the end of  
17 the regular legislative session in the next year.

**Commented [WK6]:** This is an automatic increase in the thresholds based on inflation. OFM would have to provide the new threshold by December 1 every five years, and the new threshold would not go into effect until after the legislative session (in case the legislature wanted to make any changes).

18  
19  
20 **Sec. 5.** RCW 39.08.010 and 2017 c 75 s 1 are each amended to  
21 read as follows:

22 (1) (a) Whenever any board, council, commission, trustees, or  
23 body acting for the state or any county or municipality or any  
24 public body must contract with any person or corporation to do any  
25 work for the state, county, or municipality, or other public body,  
26 city, town, or district, such board, council, commission, trustees,  
27 or body must require the person or persons with whom such contract  
28 is made to make, execute, and deliver to such board, council,  
29 commission, trustees, or body a good and sufficient bond, with a  
30 surety company as surety, conditioned that such person or persons  
31 must:

- 32 (i) Faithfully perform all the provisions of such contract;
- 33 (ii) Pay all laborers, mechanics, and subcontractors and  
34 material suppliers, and all persons who supply such person or

1 persons, or subcontractors, with provisions and supplies for the  
2 carrying on of such work; and

3 (iii) Pay the taxes, increases, and penalties incurred on the  
4 project under Titles 50, 51, and 82 RCW on: (A) Projects referred to  
5 in RCW 60.28.011(1)(b); and/or (B) projects for which the bond is  
6 conditioned on the payment of such taxes, increases, and penalties.

7 (b) The bond, in cases of cities and towns, must be filed with  
8 the clerk or comptroller thereof, and any person or persons  
9 performing such services or furnishing material to any subcontractor  
10 has the same right under the provisions of such bond as if such  
11 work, services, or material was furnished to the original  
12 contractor.

13 (2) The provisions of RCW 39.08.010 through 39.08.030 do not  
14 apply to any money loaned or advanced to any such contractor,  
15 subcontractor, or other person in the performance of any such work.

16 (3) On contracts of one hundred fifty thousand dollars or less,  
17 at the option of the contractor or the general  
18 contractor/construction manager as defined in RCW 39.10.210, the  
19 respective public entity may, in lieu of the bond, retain ten  
20 percent of the contract amount for a period of thirty days after  
21 date of final acceptance, or until receipt of all necessary releases  
22 from the department of revenue, the employment security department,  
23 and the department of labor and industries and settlement of any  
24 liens filed under chapter 60.28 RCW, whichever is later. The  
25 recovery of unpaid wages and benefits must be the first priority for  
26 any actions filed against retainage held by a state agency or  
27 authorized local government.

28 (4) For contracts of one hundred fifty thousand dollars or less,  
29 the public entity may accept a full payment and performance bond  
30 from an individual surety or sureties.

31 (5) The surety must agree to be bound by the laws of the state  
32 of Washington and subjected to the jurisdiction of the state of  
33 Washington.

34

1 (6) (a) This requirements of this section do not apply to  
2 contracts of less than ten thousand dollars or the amount determined  
3 by the office of financial management as provided in (b) of this  
4 subsection, whichever amount is greater.

5 (b) From a baseline of ten thousand dollars on January 1, 2022,  
6 the office of financial management must adjust the threshold in this  
7 subsection every five years, beginning January 1, 2024, based on  
8 inflation. The inflation determination shall be based upon changes  
9 in the building cost index during that time period. "Building cost  
10 index" means the building cost index for Seattle, Washington,  
11 compiled by engineering news record, a nationally recognized  
12 professional construction trade periodical. The building cost index  
13 uses average skilled construction labor rates, structural steel,  
14 concrete, and lumber as the basis of measurement. The resulting  
15 amount shall be rounded to the nearest thousand dollars. The office  
16 of financial management must calculate the new dollar threshold and  
17 transmit it to the office of the code reviser for publication in the  
18 Washington State Register at least one month before the new dollar  
19 threshold is to take effect.

**Commented [WK7]:** Exemption from performance bond requirements of contracts of less than \$10,000 and an automatic increase to the nearest thousand dollars based on inflation. This can be changed to match the increase mechanism in Section 7 if desired.

20  
21  
22 **Sec. 6.** RCW 60.28.011 and 2017 c 302 s 1 are each amended to  
23 read as follows:

24 (1) (a) Except as provided in (b) of this subsection or in  
25 subsection (13) of this section, public improvement contracts must  
26 provide, and public bodies must reserve, a contract retainage not to  
27 exceed five percent of the moneys earned by the contractor as a  
28 trust fund for the protection and payment of: (i) The claims of any  
29 person arising under the contract; and (ii) the state with respect  
30 to taxes, increases, and penalties imposed pursuant to Titles 50,  
31 51, and 82 RCW which may be due from such contractor.

32 (b) Public improvement contracts funded in whole or in part by  
33 federal transportation funds must rely upon the contract bond as  
34 referred to in chapter 39.08 RCW for the protection and payment of:



1 (i) The claims of any person or persons arising under the contract  
2 to the extent such claims are provided for in RCW 39.08.010; and  
3 (ii) the state with respect to taxes, increases, and penalties  
4 incurred on the public improvement project under Titles 50, 51, and  
5 82 RCW which may be due. The contract bond must remain in full force  
6 and effect until, at a minimum, all claims filed in compliance with  
7 chapter 39.08 RCW are resolved.

8 (2) Every person performing labor or furnishing supplies toward  
9 the completion of a public improvement contract has a lien upon  
10 moneys reserved by a public body under the provisions of a public  
11 improvement contract. However, the notice of the lien of the  
12 claimant must be given within forty-five days of completion of the  
13 contract work, and in the manner provided in RCW 39.08.030.

14 (3) The contractor at any time may request the contract  
15 retainage be reduced to one hundred percent of the value of the work  
16 remaining on the project.

17 (a) After completion of all contract work other than  
18 landscaping, the contractor may request that the public body release  
19 and pay in full the amounts retained during the performance of the  
20 contract, and sixty days thereafter the public body must release and  
21 pay in full the amounts retained (other than continuing retention of  
22 five percent of the moneys earned for landscaping) subject to the  
23 provisions of chapter 39.12 RCW and this chapter.

24 (b) Sixty days after completion of all contract work the public  
25 body must release and pay in full the amounts retained during the  
26 performance of the contract subject to the provisions of chapter  
27 39.12 RCW and this chapter.

28 (4) The moneys reserved by a public body under the provisions of  
29 a public improvement contract, at the option of the contractor, must  
30 be:

31 (a) Retained in a fund by the public body;

32 (b) Deposited by the public body in an interest bearing account  
33 in a bank, mutual savings bank, or savings and loan association.

34

1 Interest on moneys reserved by a public body under the provision of  
2 a public improvement contract must be paid to the contractor;

3 (c) Placed in escrow with a bank or trust company by the public  
4 body. When the moneys reserved are placed in escrow, the public body  
5 must issue a check representing the sum of the moneys reserved  
6 payable to the bank or trust company and the contractor jointly.  
7 This check must be converted into bonds and securities chosen by the  
8 contractor and approved by the public body and the bonds and  
9 securities must be held in escrow. Interest on the bonds and  
10 securities must be paid to the contractor as the interest accrues.

11 (5) The contractor or subcontractor may withhold payment of not  
12 more than five percent from the moneys earned by any subcontractor  
13 or sub-subcontractor or supplier contracted with by the contractor  
14 to provide labor, materials, or equipment to the public project.  
15 Whenever the contractor or subcontractor reserves funds earned by a  
16 subcontractor or sub-subcontractor or supplier, the contractor or  
17 subcontractor must pay interest to the subcontractor or sub-  
18 subcontractor or supplier at a rate equal to that received by the  
19 contractor or subcontractor from reserved funds.

20 (6) A contractor may submit a bond for all or any portion of the  
21 contract retainage in a form acceptable to the public body and from  
22 an authorized surety insurer. The public body may require that the  
23 authorized surety have a minimum A.M. Best financial strength rating  
24 so long as that minimum rating does not exceed A-. The public body  
25 must comply with the provisions of RCW 48.28.010. At any time prior  
26 to final formal acceptance of the project, a subcontractor may  
27 request the contractor to submit a bond to the public owner for that  
28 portion of the contractor's retainage pertaining to the  
29 subcontractor in a form acceptable to the public body and from a  
30 bonding company meeting standards established by the public body.  
31 The contractor may withhold the subcontractor's portion of the bond  
32 premium. Within thirty days of receipt of the request, the  
33 contractor shall provide and the public body shall accept a bond  
34 meeting these requirements unless the public body can demonstrate

1 good cause for refusing to accept it, the bond is not commercially  
2 available, or the subcontractor refuses to pay the subcontractor's  
3 portion of the bond premium and to provide the contractor with a  
4 like bond. The contractor's bond and any proceeds therefrom are  
5 subject to all claims and liens and in the same manner and priority  
6 as set forth for retained percentages in this chapter. The public  
7 body must release the bonded portion of the retained funds to the  
8 contractor within thirty days of accepting the bond from the  
9 contractor. Whenever a public body accepts a bond in lieu of  
10 retained funds from a contractor, the contractor must accept like  
11 bonds from any subcontractors or suppliers from which the contractor  
12 has retained funds. The contractor must then release the funds  
13 retained from the subcontractor or supplier to the subcontractor or  
14 supplier within thirty days of accepting the bond from the  
15 subcontractor or supplier.

16 (7) If the public body administering a contract, after a  
17 substantial portion of the work has been completed, finds that an  
18 unreasonable delay will occur in the completion of the remaining  
19 portion of the contract for any reason not the result of a breach  
20 thereof, it may, if the contractor agrees, delete from the contract  
21 the remaining work and accept as final the improvement at the stage  
22 of completion then attained and make payment in proportion to the  
23 amount of the work accomplished and in this case any amounts  
24 retained and accumulated under this section must be held for a  
25 period of sixty days following the completion. In the event that the  
26 work is terminated before final completion as provided in this  
27 section, the public body may thereafter enter into a new contract  
28 with the same contractor to perform the remaining work or  
29 improvement for an amount equal to or less than the cost of the  
30 remaining work as was provided for in the original contract without  
31 advertisement or bid. The provisions of this chapter are exclusive  
32 and supersede all provisions and regulations in conflict herewith.

33 (8) Whenever the department of transportation has contracted for  
34 the construction of two or more ferry vessels, sixty days after

1 completion of all contract work on each ferry vessel, the department  
2 must release and pay in full the amounts retained in connection with  
3 the construction of the vessel subject to the provisions of RCW  
4 60.28.021 and chapter 39.12 RCW. However, the department of  
5 transportation may at its discretion condition the release of funds  
6 retained in connection with the completed ferry upon the contractor  
7 delivering a good and sufficient bond with two or more sureties, or  
8 with a surety company, in the amount of the retained funds to be  
9 released to the contractor, conditioned that no taxes may be  
10 certified or claims filed for work on the ferry after a period of  
11 sixty days following completion of the ferry; and if taxes are  
12 certified or claims filed, recovery may be had on the bond by the  
13 department of revenue, the employment security department, the  
14 department of labor and industries, and the material suppliers and  
15 laborers filing claims.

16 (9) Except as provided in subsection (1) of this section,  
17 reservation by a public body for any purpose from the moneys earned  
18 by a contractor by fulfilling its responsibilities under public  
19 improvement contracts is prohibited.

20 (10) Contracts on projects funded in whole or in part by farmers  
21 home administration and subject to farmers home administration  
22 regulations are not subject to subsections (1) through (9) of this  
23 section.

24 (11) This subsection applies only to a public body that has  
25 contracted for the construction of a facility using the general  
26 contractor/construction manager procedure, as defined under RCW  
27 39.10.210. If the work performed by a subcontractor on the project  
28 has been completed within the first half of the time provided in the  
29 general contractor/construction manager contract for completing the  
30 work, the public body may accept the completion of the subcontract.  
31 The public body must give public notice of this acceptance. After a  
32 forty-five day period for giving notice of liens, and compliance  
33 with the retainage release procedures in RCW 60.28.021, the public  
34 body may release that portion of the retained funds associated with

1 the subcontract. Claims against the retained funds after the forty-  
2 five day period are not valid.

3 (12) The definitions in this subsection apply throughout this  
4 section unless the context clearly requires otherwise.

5 (a) "Contract retainage" means an amount reserved by a public  
6 body from the moneys earned by a person under a public improvement  
7 contract.

8 (b) "Person" means a person or persons, mechanic, subcontractor,  
9 or materialperson who performs labor or provides materials for a  
10 public improvement contract, and any other person who supplies the  
11 person with provisions or supplies for the carrying on of a public  
12 improvement contract.

13 (c) "Public body" means the state, or a county, city, town,  
14 district, board, or other public body.

15 (d) "Public improvement contract" means a contract for public  
16 improvements or work, other than for professional services, or a  
17 work order as defined in RCW 39.10.210.

18 (13) (a) The requirements of this section do not apply to  
19 contracts of less than ten thousand dollars or the amount determined  
20 by the office of financial management as provided in (b) of this  
21 subsection, whichever amount is greater.

22 (b) From a baseline of ten thousand dollars on January 1, 2022,  
23 the office of financial management must adjust the threshold in this  
24 subsection every five years, beginning January 1, 2024, based on  
25 inflation. The inflation determination shall be based upon changes  
26 in the building cost index during that time period. "Building cost  
27 index" means the building cost index for Seattle, Washington,  
28 compiled by engineering news record, a nationally recognized  
29 professional construction trade periodical. The building cost index  
30 uses average skilled construction labor rates, structural steel,  
31 concrete, and lumber as the basis of measurement. The resulting  
32 amount shall be rounded to the nearest thousand dollars. The office  
33 of financial management must calculate the new dollar threshold and  
34 transmit it to the office of the code reviser for publication in the

1 Washington State Register at least one month before the new dollar  
2 threshold is to take effect.

Commented [WK8]: Exemption from retainage requirements of contracts of less than \$10,000 and an automatic increase to the nearest thousand dollars based on inflation.

3  
4 **Sec. 7.** RCW 39.19.120 and 1987 c 328 s 7 are each amended to  
5 read as follows:

6 The office shall be the sole authority to perform certification  
7 of minority business enterprises, socially and economically  
8 disadvantaged business enterprises, and women's business enterprises  
9 throughout the state of Washington. (~~Certification by the state~~  
10 ~~office will allow~~) Such certification shall be sufficient to  
11 qualify these firms to participate in programs for these enterprises  
12 administered by the state of Washington, any city, town, county,  
13 special purpose district, public corporation created by the state,  
14 municipal corporation, or quasi-municipal corporation within the  
15 state of Washington, and no program may require qualifications or  
16 credentials beyond certification by the office in order for an  
17 enterprise qualify as a minority business enterprise, a socially and  
18 economically disadvantaged business enterprise, or a women's  
19 business enterprise.

Commented [WK9]: This was an attempt to clarify/reinforce that the certification by OMWBE is sufficient for any programs administered by local governments (and others).

20 This statewide certification process will prevent duplication of  
21 effort, achieve efficiency, and permit local jurisdictions to  
22 further develop, implement, and/or enhance comprehensive systems of  
23 monitoring and compliance for contracts issued by their agencies.

24  
25 **Sec. 8.** RCW 39.19.250 and 2021 c 160 s 7 are each amended to  
26 read as follows:

27 (1) For the purpose of annual reporting on progress required by  
28 this chapter, each state agency, local government, and educational  
29 institution shall submit data to the office and the office of  
30 minority and women's business enterprises on the participation by  
31 qualified minority and women-owned and controlled businesses in the  
32 agency's, government's, or institution's contracts and other related  
33 information requested by the director. Submissions shall include the  
34 numbers and percent of certified minority and women owned businesses

1 and small businesses on the agency, government, or institution's  
2 small works rosters and the percent of contract awards and dollar  
3 amount of contracts awarded to such firms. The director of the  
4 office of minority and women's business enterprises shall determine  
5 the content and format of the data and the reporting schedule, which  
6 must be at least annually. Each agency, government, or institution  
7 shall place the data reported to the office on the reporting  
8 entities' website in a location related to procurement.

Commented [WK10]: Language detailing the small works roster information that would be required to be submitted.

9 (2) The office must develop and maintain a list of contact  
10 people at each state agency and educational institution who are able  
11 to present to hearings of the appropriate committees of the  
12 legislature its progress in carrying out the purposes of chapter  
13 39.19 RCW.

Commented [WK11]: This would require the agency, etc. to post the information reported to OMWBE on its website.

14 (3) The office must submit a report aggregating the data  
15 received from each state agency, local government, and educational  
16 institution, and the information identified and actions taken under  
17 RCW 39.19.060(3) and 39.19.090(4), to the legislature and the  
18 governor.

19 (4) A city or county fully planning under RCW 36.70A.040 that  
20 fails to provide the information required under this section is  
21 ineligible for grants from the department of commerce under chapter  
22 36.70A. RCW.

Commented [WK12]: Here's the requirement for cities/counties fully planning under RCW 36.70A.040 to provide MWBE participation information in order to be eligible for grants. I added language to Section 9 that would allow Commerce to give a grant to MRSC to help local governments with this reporting.

23 (5) For the purposes of this section, "local government" means  
24 any city, town, county, special purpose district, public corporation  
25 created by the state, municipal corporation, or quasi-municipal  
26 corporation.

RCW 39.19.060 also contains data reporting requirements (along with planning requirements), but they currently only pertain to agencies and educational institutions.

28 NEW SECTION. Sec. 9. A new section is added to chapter 36.70A RCW  
29 to read as follows:

30 (1) Compliance with section 8 of this act shall be a requirement  
31 for any county or city fully planning under RCW 36.70A.040 to be eligible  
32 to receive a grant from the department under this chapter.

33 (2) The department may award grants to a public agency with  
34 appropriate expertise and funded by local governments to assist local

1 governments in (a) adopting regulations allowing for contractors to be  
2 selected on the basis of criteria ensuring they are qualified to perform  
3 the work solicited, and that a contract is not solely awarded on the  
4 basis of cost when special management, skills, experience, or other  
5 criteria are important to performance; and (b) providing the information  
6 required in section 8.

**Commented [WK13]:** This should allow Commerce to provide funds to a group like MRSC to assist local governments with this data collection.

7  
8 **Sec. 10.** RCW 39.19.030 and 1996 c 69 s 5 are each amended to  
9 read as follows:

10 There is hereby created the office of minority and women's  
11 business enterprises. The governor shall appoint a director for the  
12 office, subject to confirmation by the senate. The director may  
13 employ a deputy director and a confidential secretary, both of which  
14 shall be exempt under chapter 41.06 RCW, and such staff as are  
15 necessary to carry out the purposes of this chapter.

16 The office shall consult with the minority and women's business  
17 enterprises advisory committee to:

18 (1) Develop, plan, and implement programs to provide an  
19 opportunity for participation by qualified minority and women-owned  
20 and controlled businesses in public works and the process by which  
21 goods and services are procured by state agencies and educational  
22 institutions from the private sector;

23 (2) Develop a comprehensive plan insuring that qualified  
24 minority and women-owned and controlled businesses are provided an  
25 opportunity to participate in public contracts for public works and  
26 goods and services, and develop programs for assisting qualified  
27 businesses in applying for such contracts;

**Commented [WK14]:** Here's the requirement for OMWBE to assist businesses in applying for the contracts.

28 (3) Identify barriers to equal participation by qualified  
29 minority and women-owned and controlled businesses in all state  
30 agency and educational institution contracts;

31 (4) Establish annual overall goals for participation by  
32 qualified minority and women-owned and controlled businesses for  
33 each state agency and educational institution to be administered on  
34 a contract-by-contract basis or on a class-of-contracts basis;



1 (5) Develop and maintain a central minority and women's business  
2 enterprise certification list for all state agencies and educational  
3 institutions. No business is entitled to certification under this  
4 chapter unless it meets the definition of small business concern as  
5 established by the office. All applications for certification under  
6 this chapter shall be sworn under oath;

7 (6) Develop, implement, and operate a system of monitoring  
8 compliance with this chapter;

9 (7) Adopt rules under chapter 34.05 RCW, the Administrative  
10 Procedure Act, governing: (a) Establishment of agency goals; (b)  
11 development and maintenance of a central minority and women's  
12 business enterprise certification program, including a definition of  
13 "small business concern" which shall be consistent with the small  
14 business requirements defined under section 3 of the Small Business  
15 Act, 15 U.S.C. Sec. 632, and its implementing regulations as  
16 guidance; (c) procedures for monitoring and enforcing compliance  
17 with goals, regulations, contract provisions, and this chapter; (d)  
18 utilization of standard clauses by state agencies and educational  
19 institutions, as specified in RCW 39.19.050; and (e) determination  
20 of an agency's or educational institution's goal attainment  
21 consistent with the limitations of RCW 39.19.075;

22 (8) Submit an annual report to the governor and the legislature  
23 outlining the progress in implementing this chapter;

24 (9) Investigate complaints of violations of this chapter with  
25 the assistance of the involved agency or educational institution;  
26 and

27 (10) Cooperate and act jointly or by division of labor with the  
28 United States or other states, and with political subdivisions of  
29 the state of Washington and their respective minority, socially and  
30 economically disadvantaged and women business enterprise programs to  
31 carry out the purposes of this chapter. However, the power which may  
32 be exercised by the office under this subsection permits  
33 investigation and imposition of sanctions only if the investigation  
34 relates to a possible violation of chapter 39.19 RCW, and not to

1 violation of local ordinances, rules, regulations, however  
2 denominated, adopted by political subdivisions of the state.

3  
4 NEW SECTION. Sec. 11. A new section is added to chapter 39.10 RCW  
5 to read as follows:

6 The department of commerce may award grants to a public agency with  
7 appropriate expertise and funded by local governments to provide  
8 assistance to local governments in utilizing the procedures under this  
9 chapter and in utilizing minority and women's business enterprises  
10 certified under section 7 of this act, and may award grants to non-  
11 profit organizations to provide minority and women businesses certified  
12 under chapter 39.19 RCW for assistance and training in applying for and  
13 participating in public works small works rosters under chapter 39.04  
14 RCW, and in establishing qualifications for specialized work for public  
15 agencies.

**Commented [WK15]:** Language to allow Commerce to provide grants to a group like MRSC to work with local governments on alternative public works contracting procedures and in using MWBE, and allowing Commerce to provide a grant to a non-profit to work with MWBE in participating in small works rosters and in establishing specialized qualifications for public agencies.

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--- END ---

## Business Equity/Diverse Business Inclusion Committee Capital Projects Advisory Review Board

29 October 2021

Committee focus:

- Comprehensive review of RCW 39.10 with the lens of equity (include RCW 39.04 & 39.80).
- Create consistency in statutory language.
- Evaluate and bring forth effective strategies and opportunities for firms to compete.

<input checked="" type="checkbox"/> Olivia Yang	Washington State University	CPARB /Committee Member
<input checked="" type="checkbox"/> Santosh Kuruville	Exeltech	CPARB /Committee Member
<input type="checkbox"/> Lisa Van der Lugt	OMWBE	CPARB /Committee Member
<input type="checkbox"/> Charles Wilson	DES	CPARB /Committee Member
<input checked="" type="checkbox"/> Irene Reyes	Excel Supply Company	CPARB /Committee Member
<input type="checkbox"/> Janice Zahn	Port of Seattle	CPARB /Committee Member
<input type="checkbox"/> Jackie Bayne	WSDOT OEO	Committee Member
<input type="checkbox"/> Cheryl Stewart	Inland Northwest AGC	Committee Member
<input type="checkbox"/> Chip Tull	Hoffman Construction	Committee Member
<input checked="" type="checkbox"/> Aleanna Kondelis	Akana	Committee Member
<input type="checkbox"/> Brenda Nnambi	Sound Transit	Committee Member
<input type="checkbox"/> Linda Womack	MBDA	Committee Member
<input checked="" type="checkbox"/> Cathy Robinson	City of Lynnwood	Committee Member
<input type="checkbox"/> Shelly Henderson	Mukilteo School District	Committee Member
<input checked="" type="checkbox"/> Keith Michel	Forma	Committee Member
<input checked="" type="checkbox"/> Young Sang Song	Song Consulting	Committee Member
<input checked="" type="checkbox"/> Stephanie Caldwell	Absher Construction	Committee Member
<input type="checkbox"/> Bill Dobyns	Lydig	CPARB
<input checked="" type="checkbox"/> Bobby Forch	Forch Consulting	CPARB
<input type="checkbox"/> Lily Keefe	USDOT - Northwest SBTRC	
<input checked="" type="checkbox"/> Sarah Erdman	OMWBE	
<input checked="" type="checkbox"/> Van Collins	ACEC Washington	
<input type="checkbox"/> Cathy Ridley	Exeltech	
<input checked="" type="checkbox"/> Maja Huff	Washington State University	
<input checked="" type="checkbox"/> Jerry Vanderwood	AGC of Washington	
<input type="checkbox"/> Timolin Abrom	OMWBE	
<input type="checkbox"/> Melissa Van Gorkom	Senate Committee Services	
<input type="checkbox"/> Amy Stenvall	Mukilteo School District	
<input checked="" type="checkbox"/> Cindy Magruder	University of Washington	
<input type="checkbox"/> Carrie Whitton	Forma	
<input checked="" type="checkbox"/> Rachel Murata	OMWBE	
<input checked="" type="checkbox"/> John Rose	MRSC	
<input checked="" type="checkbox"/> Jolene Skinner	LnI	
<input checked="" type="checkbox"/> Curt Gimmestad	Absher Construction	
<input checked="" type="checkbox"/> Eric Alozie	NEW Construction	
<input type="checkbox"/> Jerry Vanderwood	AGC	
<input checked="" type="checkbox"/> Bill Frare	DES	
<input checked="" type="checkbox"/> Sarah Erdmann	OMWBE	

## SPECIAL MEETING AGENDA

Item	Purpose	Start
Pollet Bill	Discussion	9:00 am
Discussion on written comments received		
Other Comments?		
BE/DBI Committee Consensus to provide to CPRAB		
SWR as a Program to Support Diverse Business	Discussion	10:00 am
Mandatory and supplemental training		
Reporting		
Standard boiler plate		

**DIGITAL CONFERENCE ACCESS**

The committee meeting will be conducted entirely by Zoom digital conferencing.

Online <https://wsu.zoom.us/j/91303184464>

Meeting ID: 913 0318 4464

Join by telephone

Dial: US: +1 253 215 8782 or +1 669 900 9128 or +1 646 558 8656

Meeting ID: 913 0318 4464

Olivia Yang - Washington State University

206 718 0787 [olivia.yang@wsu.edu](mailto:olivia.yang@wsu.edu)

Santosh Kuruvilla – Exeltech Consulting

206 713 1241 [santosh@xltech.com](mailto:santosh@xltech.com)

**MINUTES****Item: Pollet Bill**

- Keith Michel – Presents his comments
  - More than one certification is problematic. – MRSC Recommendation was to create a list – page 16 of presentation to Pollets committee reference but not shown during meeting
  - Limit repeat awards.
  - Inflation challenges.
  - Potential conflict between certification definitions
- Stephanie Caldwell – comments and feedback from firms contracting community around SWR.
  - No to raising the threshold.
  - State-wide roster
  - Centralized certification/registration value in the environment of low bids.
  - Outreach Events value in low bid environment
  - Training
- Competing definitions of small, OMWBE, and RCW references within the statute – page 5 and 7 of Pollet bill.
- Gets everyone to 350K and then starts the inflation. Pollet did verbally indicate he has a goal to 500K.
- Cathy Robinson – stated comments no presentation
  - Standardize across entities
  - Needs to remain low bid
  - Rotating of contractors – should be eliminated – instead bid out to everyone.
  - Support raising threshold – two year old project could not be procured through the roster. Therefore support increase
  - Address certification, what type and who they are certified by, affects across the state. Thinks it should be handled outside of the SWR.
  - Outreach – better outreach. Affects all contracting not just SWR.
- Eric Alozie – stated comments no presentation
  - Clarification of certification – concerns around process of certification.
  - Broader issue of equity – needs a separate and deeper conversation.
  - Low Bid experience
- Anthony – stated comments no presentation
  - Full roster solicitation versus limited solicitation – feels that the limiting solicitation should have more restrictions but if sending out to the entire roster not have the same restrictions
- Aleanna – presentation
  - Concerned about separate authorizing statutes.
  - Softening of requirements around bonding and retainage of concern.
  - Addressing certifications and

- Michael Transue – stated comments no presentation
  - Policy changes – adjust port and irrigation statuses
  - Define small business
  - Remove retainage bond requirements – does not do
  - Inflation – does but does it in a different way than recommended from CPARB
  - Policy tried to get at the recommendation, but the maintenance recommendations from CPARB did not get included at all
  - Equitable distribution – not part of the CPARB Recommendations.
- John Rose – presentation
  - Slide of CPARB Recommendations accepted and included as well as others added to the bill not recommended by CPARB
- Jolene Skinner – presentation
  - Presented data from projects between 7/1/2019 and 10/26/2021
  - Section 4 – Cost index raises – concerns about waiving retainage and impacts/risks to contract release program.
  - Removal of the work “authorized” in line 1 page 6
  - How can public agency verify small business? There is no current method.
  - Raising threshold for limited public works – risks for contract release program.
  - Recommend providing a definitive date rather than legislative session for inflation increase taking effect.
  - Removing bonding requirements – concerns that 10K is too high.
  - Removing retainage for contracts less than 10K – concerned about it – does not provide additional remedies for unpaid wages.
  - Grants – MRSC is not a public agency.
- Basis of response to CPARB:
  - Respond based upon the CPARB approved study recommendations that are aligned with language within the bill.
  - Small Business Definition needs to be further comment.
  - Performance and retainage exemption needs further comment – show the difference between the bill and the recommendation.
  - Include some of the other recommendations comments.

Action by: BE/BDI Committee  
 Status: Recommendation to CPARB

Item: **SWR as a Program**

- Discussed what a potential reboot of the SWR could look like.
  - Complete rewrite/restructure of RCE 39.04.155.
- What does small business mean? - identified as an item that needs fully addressed and worked through
- Noted that OMWBE is the only state authorized M/WBE and DBE certification. DVA does their own verified certification. DES maintains WEBS which includes Small Business self-identification.
- If SWR was a program – that could address barriers, training, and incorporation of best practices.
- See if CPARB would support an effort in development of a full new SWR.

Action by:  
 Status:

Adjourn 11:11

Zoom Meeting Recorded and available in BE-DBI Teams.

From Bill Frare, DES to Everyone 09:09 AM  
 I support one standard as defined by OMWBE

From Aleanna Kondelis to Everyone 09:11 AM  
 Did you want us to show our support by item or wait until the end and then move through each section?

From Irene Reyes to Everyone 09:12 AM

I will email my comments for the whole document. Thank you

From Olivia Yang to Everyone 09:12 AM

suggest we let each finish and then say we agree. including "we agree this is not resolved" vs "we support the provision"

From Michael Transue to Everyone 09:16 AM

is the building cost index the same as the CCI the MRSC Committee recommended?

From MRSC Zoom to Everyone 09:16 AM

That's what I believe but worth a clarification with Pollets staff if they're looking at the same thing

From Irene Reyes to Everyone 09:17 AM

Or use the Chat for comments may I suggest?

From Rachel Murata (she/her) OMWBE to Everyone 09:19 AM

That was OMWBE's statute, the rest of the sentence makes it clear that the sentence relates specifically to certification as a minority or woman owned business. That is the full scope of the change.

From Irene Reyes to Everyone 09:21 AM

You are correct Rachel.

From Jolene Skinner to Me (Direct Message) 09:27 AM

hey maja - i just sent you L&I's feedback to share during this meeting. thank you!

From Michael Transue to Everyone 09:28 AM

it does not raise the threshold but aligns the ports and irrigation districts to 39.04.155

From Sarah Erdmann to Everyone 09:35 AM

Can the language focus on OMWBE directory first and if cannot find businesses, move to DES WEBS search?

From Aleanna Kondelis to Everyone 09:36 AM

Agree, Cathy

From Michael Transue to Everyone 10:03 AM

I would also note for the group that the limited PW process 39.04.155(6) currently defines "equitably distribute"...means to not "favor" one contractor over another.

does that include transportation contractors at DOT too?

thank you

From Washington MBDA Business Center to Everyone 10:04 AM

This data is very helpful.. thank you

From Michael Transue to Everyone 10:05 AM

Jolene...can we get a copy of you document?

From curt.gimmestad@absherco.com to Everyone 10:05 AM

Can the L&I report info that Jolene is reviewing be shared with the group via email?

From Aleanna Kondelis to Everyone 10:05 AM

Is there data on projects between \$350 and \$500 not JOC?

From Irene Reyes to Everyone 10:07 AM

I'm just curious if possible can you please let us know how many were certified wmbes businesses are part of the 91% small businesses?

From Olivia Yang to Everyone 10:07 AM

I just asked lorrie to forward Jolene info to everyone invited to this meeting

From curt.gimmestad@absherco.com to Everyone 10:09 AM

Agree, with Jerry. Eye opening for sure.

From Irene Reyes to Everyone 10:16 AM

not common. I think this definition needs to be revisited. you are correct I think this is like the federal govt. most of them have 5 and when projects come they all sub out.

From curt.gimmestad@absherco.com to Everyone 10:30 AM

Agree with Olivia

From Cindy Magruder to Everyone 10:32 AM

Based upon Jolene's data, suggest small business definition needs to be discussed.

From Stephanie Caldwell to Everyone 10:33 AM

Agreed with Cindy Magruder. The small business definition needs to be discussed.

From Aleanna Kondelis to Everyone 10:33 AM

Agree on the small business definition and what to ensure that the resultant bill would open to all agencies, authorities and districts, etc.

From Bill Frare, DES to Everyone 10:38 AM  
Agreed

From Cathy Robinson to Everyone 10:38 AM  
Small Business Definition needs more work.

From Cindy Magruder to Everyone 10:39 AM  
Agreed. Definition needs to be discussed and changed.

From Rachel Murata (she/her) OMWBE to Everyone 10:42 AM  
And those issues on which there isn't consensus, you aren't making a recommendation, correct?

From Stephanie Caldwell to Everyone 10:43 AM  
What about three categories: Study Recommendations, Study Recommendations needing more discussion, Other Recommendations needing more consensus.

From Aleanna Kondelis to Me (Direct Message) 10:43 AM  
Although I would have preferred a matrix with yes/no ☐

From Irene Reyes to Everyone 10:50 AM  
Can we all have copies of the presentations and comments today please? thank you

From Me to Everyone 10:51 AM  
Yes, I will include them with the minutes.

From Sarah Erdmann to Everyone 11:00 AM  
Just M/WBE and DBE. DVA does their own certification and it's not a requirement to be small.

From Bill Frare, DES to Everyone 11:04 AM  
DD – 220

From Sarah Erdmann to Everyone 11:05 AM  
Thanks so much Bill!  
To my knowledge it is verification of the DD-220. I am unaware of any other verification that is done.

From Rachel Murata (she/her) OMWBE to Everyone 11:06 AM  
<https://www.dva.wa.gov/veterans-their-families/veteran-owned-businesses> this page explains the documentation that is required.

Proof of Honorable Veteran Status (copy of 1 of the following items\*)

Please redact sensitive information.

DD214 member 4 copy, Retired VA ID Card, Retirement Certificate, Discharge Certificate - or if currently serving your military ID, badge, recent pay statement.

If you need to order a new copy of your DD214 you can do so at [www.archives.gov](http://www.archives.gov).

Proof of 51% ownership (copy of 1 of the following items\*)

Master Business application, business plan, operating agreement, meeting minutes, shares report, stock certificate breakdown, tax forms with ownership %, or if sole proprietorship your business license.

If a community property or 2 veteran 50/50 split you are eligible as long as the veteran maintains day to day operational control of the business.

Proof the business is a Washington State Enterprise which is defined as an enterprise which is incorporated in the state of Washington as a Washington domestic corporation, or an enterprise whose principal place of business is located within the state of Washington for enterprises which are not incorporated.

From Rachel Murata (she/her) OMWBE to Everyone 11:06 AM  
You're welcome!

From Stephanie Caldwell to Everyone 11:10 AM  
Agreed.

From Rachel Murata (she/her) OMWBE to Everyone 11:12 AM  
Thanks everyone, looking forward to continuing this!

## BE/DBI Report to CPARB

The BE/DBI Committee was asked to provide a response to the Pollet bill dated September 17, 2021. The BE/DBI Committee held a special meeting on October 29, 2021 at 9:00 and provide CPARB with the following thoughts.

The committee approached the bill through the CPARB Local Government Committee recommendations and found that the provisions of the bill fell into three categories:

1. Those provisions of the Pollet bill which align with CPARB Local Government Committee recommendations, approved by CPARB:
  - Bring Ports and Irrigation District statutes into alignment with the SWR Statute with the intent that they no longer have different thresholds.
  - The Pollet bill includes a method to implement an inflation threshold for the SWR.
  - Include a mechanism to fund training for businesses and public owners.
2. We appreciate the effort by Rep. Pollet to include additional provisions, but more time is needed to develop consensus around the following:
  - a. Those provisions which aligned in concept with the CPARB Local Government Committee recommendations but require further discussion:
    - CPARB recommended that a definition of small business be created. While the Pollet bill attempts to address the need for definition of small business, there may need to be further comment around the definitions as written and careful crafting of the potentially conflicting RCW references within the proposed language.
    - Another item that while in alignment with the CPARB recommendations, but as crafted in the bill does not meet consensus is the Performance and Retainage Exemptions provisions. The CPARB recommendation was 5K while the proposed bill includes 10K.
  - b. The following items were not discussed in the CPARB Local Government Committee recommendations:
    - Small Works Roster Threshold increase from 350K to 500K within the current legislation.
    - Notification of two small businesses.
    - Limiting individual contracts to a single contractor to 20%.
    - Certifications included and referenced within the legislation.
    - Agencies to post information at OMWBE to be eligible for grants.
3. CPARB also approved recommendations that were not included in the proposed legislation fell under the maintenance improvements category of recommendation.



Kellen Wright 360-786-7134  
House Committee on Local Government  
September 17, 2021 (8:45 AM)

1 AN ACT Relating to public works contracting;

2  
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4  
5 **Sec. 1.** RCW 53.08.120 and 2018 c 149 s 2 are each amended to  
6 read as follows:

7 (1) All material and work required by a port district not  
8 meeting the definition of public work in RCW 39.04.010(4) may be  
9 procured in the open market or by contract and all work ordered may  
10 be done by contract or day labor.

11 (2)(a) All such contracts for work meeting the definition of  
12 "public work" in RCW 39.04.010(4), the estimated cost of which  
13 exceeds (~~three hundred thousand dollars~~) the cost thresholds  
14 established in RCW 39.04.155, shall be awarded using a competitive  
15 bid process. The contract must be awarded at public bidding upon  
16 notice published in a newspaper of general circulation in the  
17 district at least thirteen days before the last date upon which bids  
18 will be received, calling for bids upon the work, plans and  
19 specifications for which shall then be on file in the office of the

Draft

p.1

**Commented [WK1]:** This is aligning port districts with the general small works roster statute.

Draft Report 5-6-2022

1 commission for public inspection. The same notice may call for bids  
2 on such work or material based upon plans and specifications  
3 submitted by the bidder. The competitive bidding requirements for  
4 purchases or public works may be waived pursuant to RCW 39.04.280 if  
5 an exemption contained within that section applies to the purchase  
6 or public work.

7 (b) For all contracts related to work meeting the definition of  
8 "public work" in RCW 39.04.010(4), ~~((that are estimated at three~~  
9 ~~hundred thousand dollars or less))~~ the estimated cost of which do  
10 not exceed the cost thresholds established in RCW 39.04.155, a port  
11 district may let contracts using the small works roster process  
12 under RCW 39.04.155 in lieu of advertising for bids. Whenever  
13 possible, the managing official shall invite at least one proposal  
14 from a minority contractor who shall otherwise qualify under this  
15 section.

16 When awarding such a contract for work, when utilizing proposals  
17 from the small works roster, the managing official shall give weight  
18 to the contractor submitting the lowest and best proposal, and  
19 whenever it would not violate the public interest, such contracts  
20 shall be distributed equally among contractors, including minority  
21 contractors, on the small works roster.

22 (c) Any port district may construct any public work, as defined  
23 in RCW 39.04.010, by contract without calling for bids whenever the  
24 estimated cost of the work or improvement, including cost of  
25 materials, supplies, and equipment, will not exceed the sum of forty  
26 thousand dollars. A "public works project" means a complete project.  
27 The restrictions in this subsection do not permit the division of  
28 the project into units of work or classes of work to avoid calling  
29 for bids. The port district managing official shall make his or her  
30 best effort to reach out to qualified contractors, including  
31 certified minority and woman-owned contractors.

32 (3) (a) A port district may procure public works with a unit  
33 priced contract under this section or RCW 39.04.010(2) for the  
34

1 purpose of completing anticipated types of work based on hourly  
2 rates or unit pricing for one or more categories of work or trades.

3 (b) For the purposes of this section, unit priced contract means  
4 a competitively bid contract in which public works are anticipated  
5 on a recurring basis to meet the business or operational needs of a  
6 port district, under which the contractor agrees to a fixed period  
7 indefinite quantity delivery of work, at a defined unit price, for  
8 each category of work.

9 (c) Unit priced contracts must be executed for an initial  
10 contract term not to exceed three years, with the port district  
11 having the option of extending or renewing the unit priced contract  
12 for one additional year.

13 (d) Invitations for unit priced bids shall include, for purposes  
14 of the bid evaluation, estimated quantities of the anticipated types  
15 of work or trades, and specify how the port district will issue or  
16 release work assignments, work orders, or task authorizations  
17 pursuant to a unit priced contract for projects, tasks, or other  
18 work based on the hourly rates or unit prices bid by the contractor.  
19 Contracts must be awarded to the lowest responsible bidder as per  
20 RCW 39.04.010. Whenever possible, the port district must invite at  
21 least one proposal from a minority or woman contractor who otherwise  
22 qualifies under this section.

23 (e) Unit priced contractors shall pay prevailing wages for all  
24 work that would otherwise be subject to the requirements of chapter  
25 39.12 RCW. Prevailing wages for all work performed pursuant to each  
26 work order must be the prevailing wage rates in effect at the  
27 beginning date for each contract year. Unit priced contracts shall  
28 have prevailing wage rates updated annually. Intents and affidavits  
29 for prevailing wages paid shall be submitted annually for all work  
30 completed within the previous twelve-month period of the unit priced  
31 contract.

32  
33 **Sec. 2.** RCW 87.03.436 and 2010 c 201 s 2 are each amended to  
34 read as follows:

**Commented [WK2]:** This section is aligning irrigation districts with the general small works roster statute.

1 All contract projects, the estimated cost of which is less than  
2 (~~three hundred thousand dollars~~) the cost thresholds established  
3 in RCW 39.04.155, may be awarded using the small works roster  
4 process under RCW 39.04.155.

5  
6 **Sec. 3.** RCW 39.04.010 and 2008 c 130 s 16 are each amended to  
7 read as follows:

8 The definitions in this section apply throughout this chapter  
9 unless the context clearly requires otherwise.

10 (1) "Award" means the formal decision by the state or  
11 municipality notifying a responsible bidder with the lowest  
12 responsive bid of the state's or municipality's acceptance of the  
13 bid and intent to enter into a contract with the bidder.

14 (2) "Contract" means a contract in writing for the execution of  
15 public work for a fixed or determinable amount duly awarded after  
16 advertisement and competitive bid, or a contract awarded under the  
17 small works roster process in RCW 39.04.155.

18 (3) "Municipality" means every city, county, town, port  
19 district, district, or other public agency authorized by law to  
20 require the execution of public work, except drainage districts,  
21 diking districts, diking and drainage improvement districts,  
22 drainage improvement districts, diking improvement districts,  
23 consolidated diking and drainage improvement districts, consolidated  
24 drainage improvement districts, consolidated diking improvement  
25 districts, irrigation districts, or other districts authorized by  
26 law for the reclamation or development of waste or undeveloped  
27 lands.

28 (4) "Public work" means all work, construction, alteration,  
29 repair, or improvement other than ordinary maintenance, executed at  
30 the cost of the state or of any municipality, or which is by law a  
31 lien or charge on any property therein. All public works, including  
32 maintenance when performed by contract shall comply with chapter  
33 39.12 RCW. "Public work" does not include work, construction,  
34 alteration, repair, or improvement performed under contracts entered

1 into under RCW 36.102.060(4) or under development agreements entered  
2 into under RCW 36.102.060(7) or leases entered into under RCW  
3 36.102.060(8).

4 (5) "Responsible bidder" means a contractor who meets the  
5 criteria in RCW 39.04.350.

6 (6) "Small business" means an in-state business, including a  
7 sole proprietorship, corporation, partnership, or other legal  
8 entity, that:

9 (a) Certifies, under penalty of perjury, that it is owned and  
10 operated independently from all other businesses and has either:

11 (i) Fifty or fewer employees; or

12 (ii) A gross revenue of less than seven million dollars annually  
13 as reported on its federal income tax return or its return filed  
14 with the department of revenue over the previous three consecutive  
15 years; or

16 (b) Is certified with the office of women and minority business  
17 enterprises under chapter 39.19 RCW.

18 (7) "State" means the state of Washington and all departments,  
19 supervisors, commissioners, and agencies of the state.

20  
21 **Sec. 4.** RCW 39.04.155 and 2019 c 434 s 5 are each amended to  
22 read as follows:

23 (1) This section provides uniform small works roster provisions  
24 to award contracts for construction, building, renovation,  
25 remodeling, alteration, repair, or improvement of real property that  
26 may be used by state agencies and by any local government that is  
27 expressly authorized to use these provisions. These provisions may  
28 be used in lieu of other procedures to award contracts for such work  
29 with an estimated cost of three hundred fifty thousand dollars or  
30 less or the estimated cost is less than the threshold determined by  
31 the office of financial management pursuant to subsection (7) of  
32 this section, whichever amount is greater. The small works roster  
33 process includes the limited public works process authorized under  
34 subsection (3) of this section and any local government

Commented [WK3]: This is the small business definition that CPARB recommended adding.

Does (a) align with  
be certified? There  
momentum on OM's  
certification that the  
to. Why include (a)  
on inclusion is already  
because of the vari  
certification process  
public agencies est



1 ((~~authorized~~)) to award contracts using the small works roster  
2 process under this section may award contracts using the limited  
3 public works process under subsection (3) of this section.

4 (2) (a) A state agency or authorized local government may create  
5 a single general small works roster, or may create a small works  
6 roster for different specialties or categories of anticipated work.  
7 Where applicable, small works rosters may make distinctions between  
8 contractors based upon different geographic areas served by the  
9 contractor. The small works roster or rosters shall consist of all  
10 responsible contractors who have requested to be on the list, and  
11 where required by law are properly licensed or registered to perform  
12 such work in this state. A state agency or local government  
13 establishing a small works roster or rosters may require eligible  
14 contractors desiring to be placed on a roster or rosters to keep  
15 current records of any applicable licenses, certifications,  
16 registrations, bonding, insurance, or other appropriate matters on  
17 file with the state agency or local government as a condition of  
18 being placed on a roster or rosters. At least once a year, the state  
19 agency or local government shall publish in a newspaper of general  
20 circulation within the jurisdiction a notice of the existence of the  
21 roster or rosters and solicit the names of contractors for such  
22 roster or rosters. In addition, responsible contractors shall be  
23 added to an appropriate roster or rosters at any time they submit a  
24 written request and necessary records. Master contracts may be  
25 required to be signed that become effective when a specific award is  
26 made using a small works roster.

27 (b) A state agency establishing a small works roster or rosters  
28 shall adopt rules implementing this subsection. A local government  
29 establishing a small works roster or rosters shall adopt an  
30 ordinance or resolution implementing this subsection. Procedures  
31 included in rules adopted by the department of enterprise services  
32 in implementing this subsection must be included in any rules  
33 providing for a small works roster or rosters that is adopted by  
34 another state agency, if the authority for that state agency to

1 engage in these activities has been delegated to it by the  
2 department of enterprise services under chapter 43.19 RCW. An  
3 interlocal contract or agreement between two or more state agencies  
4 or local governments establishing a small works roster or rosters to  
5 be used by the parties to the agreement or contract must clearly  
6 identify the lead entity that is responsible for implementing the  
7 provisions of this subsection.

8 (c) Procedures shall be established for securing telephone,  
9 written, or electronic quotations from contractors on the  
10 appropriate small works roster to assure that a competitive price is  
11 established and to award contracts to the lowest responsible bidder,  
12 as defined in RCW 39.04.010. Invitations for quotations shall  
13 include an estimate of the scope and nature of the work to be  
14 performed as well as materials and equipment to be furnished.  
15 However, detailed plans and specifications need not be included in  
16 the invitation. This subsection does not eliminate other  
17 requirements for architectural or engineering approvals as to  
18 quality and compliance with building codes. Quotations may be  
19 invited from all appropriate contractors on the appropriate small  
20 works roster. As an alternative, quotations may be invited from at  
21 least five contractors on the appropriate small works roster,  
22 including at least two small businesses as defined in RCW 39.26.010  
23 or women and minority owned businesses certified by the office of  
24 minority and women's business enterprises, who have indicated the  
25 capability of performing the kind of work being contracted, in a  
26 manner that will equitably distribute the opportunity among the  
27 contractors on the appropriate roster. However, if the estimated  
28 cost of the work is from two hundred fifty thousand dollars to three  
29 hundred fifty thousand dollars, or between the cost thresholds  
30 determined by the office of financial management pursuant to  
31 subsection (7) of this section, a state agency or local government  
32 that chooses to solicit bids from less than all the appropriate  
33 contractors on the appropriate small works roster must also notify  
34 the remaining contractors on the appropriate small works roster that

Commented [WK4]: Notification requirement for at least two small businesses/MWBE-certified firms.

1 quotations on the work are being sought. The government has the sole  
 2 option of determining whether this notice to the remaining  
 3 contractors is made by: (i) Publishing notice in a legal newspaper  
 4 in general circulation in the area where the work is to be done;  
 5 (ii) mailing a notice to these contractors; or (iii) sending a  
 6 notice to these contractors by facsimile or other electronic means.  
 7 For purposes of this subsection (2)(c), "equitably distribute" means  
 8 that a state agency or local government soliciting bids may not  
 9 favor certain contractors on the appropriate small works roster over  
 10 other contractors on the appropriate small works roster who perform  
 11 similar services. Additionally, the solicitation of bids provided  
 12 pursuant to this subsection 2(c) must rotate through the contractors  
 13 on the appropriate small works roster and must, when qualified  
 14 contractors are available from the roster who may perform the work  
 15 or deliver the services within the budget described in the notice or  
 16 request for proposals, utilize different contractors on different  
 17 projects and ensure that no contractor receives more than twenty  
 18 percent of the total contracts let by the agency or local government  
 19 that utilize the small works roster.

20 (d) A contract awarded from a small works roster under this  
 21 section need not be advertised.

22 (e) Immediately after an award is made, the bid quotations  
 23 obtained shall be recorded, open to public inspection, and available  
 24 by at least one of the following: Telephone or electronic request.

25 (f) For projects awarded under the small works roster process  
 26 established under this subsection, a state agency or authorized  
 27 local government may waive the retainage requirements of RCW  
 28 60.28.011(1)(a), thereby assuming the liability for contractor's  
 29 nonpayment of: (i) Laborers, mechanics, subcontractors,  
 30 materialpersons, and suppliers; and (ii) taxes, increases, and  
 31 penalties under Titles 50, 51, and 82 RCW that may be due from the  
 32 contractor for the project. However, the state agency or local  
 33 government has the right of recovery against the contractor for any  
 34 payments made on the contractor's behalf. Recovery of unpaid wages

This language is positive in that it attempts to add some of the contractors heard about agency awards not spreading out awards.

**Commented [WK5]:** This section would try to increase the rotation among contractors (when there are qualified contractors available).



1 and benefits are the first priority for actions filed against the  
2 contract.

3 (3) (a) In lieu of awarding contracts under subsection (2) of  
4 this section, a state agency or authorized local government may  
5 award a contract for work, construction, alteration, repair, or  
6 improvement projects estimated to cost less than fifty thousand  
7 dollars or less than the threshold determined by the office of  
8 financial management pursuant to subsection (7) of this section,  
9 whichever amount is greater, using the limited public works process  
10 provided under this subsection. Public works projects awarded under  
11 this subsection are exempt from the other requirements of the small  
12 works roster process provided under subsection (2) of this section  
13 and are exempt from the requirement that contracts be awarded after  
14 advertisement as provided under RCW 39.04.010.

15 (b) For limited public works projects, a state agency or  
16 authorized local government shall solicit electronic or written  
17 quotations from a minimum of three contractors from the appropriate  
18 small works roster and shall award the contract to the lowest  
19 responsible bidder as defined under RCW 39.04.010. After an award is  
20 made, the quotations shall be open to public inspection and  
21 available by electronic request. A state agency or authorized local  
22 government must equitably distribute opportunities for limited  
23 public works projects among contractors willing to perform in the  
24 geographic area of the work. A state agency or authorized local  
25 government shall maintain a list of the contractors contacted and  
26 the contracts awarded during the previous twenty-four months under  
27 the limited public works process, including the name of the  
28 contractor, the contractor's registration number, the amount of the  
29 contract, a brief description of the type of work performed, and the  
30 date the contract was awarded. For limited public works projects, a  
31 state agency or authorized local government may waive the payment  
32 and performance bond requirements of chapter 39.08 RCW and may waive  
33 the retainage requirements of RCW 60.28.011(1) (a), thereby assuming  
34 the liability for the contractor's nonpayment of laborers,

1 mechanics, subcontractors, material persons, suppliers, and taxes,  
2 increases, and penalties imposed under Titles 50, 51, and 82 RCW  
3 that may be due from the contractor for the limited public works  
4 project, however the state agency or authorized local government  
5 shall have the right of recovery against the contractor for any  
6 payments made on the contractor's behalf.

7 (4) The breaking of any project into units or accomplishing any  
8 projects by phases is prohibited if it is done for the purpose of  
9 avoiding the maximum dollar amount of a contract that may be let  
10 using the small works roster process or limited public works  
11 process.

12 (5) A state agency or authorized local government may use the  
13 limited public works process in this section to solicit and award  
14 small works roster contracts to minibusinesses and microbusinesses  
15 as defined under RCW 39.26.010 that are registered contractors.

16 (6) The definitions in this subsection apply throughout this  
17 section unless the context clearly requires otherwise.

18 (a) "Equitably distribute opportunities" means that a state  
19 agency or authorized local government may not favor certain  
20 contractors on the appropriate small works roster over other  
21 contractors on the same roster who perform similar services, must  
22 rotate through the contractors on the appropriate small works  
23 roster, and must, when qualified contractors are available from the  
24 roster who may perform the work or deliver the services within the  
25 budget described in the notice or request for proposals, utilize  
26 different contractors on different projects and ensure that no  
27 contractor receives more than twenty percent of the total contracts  
28 let by the agency or local government that utilize the small works  
29 roster.

30 (b) "State agency" means the department of enterprise services,  
31 the state parks and recreation commission, the department of natural  
32 resources, the department of fish and wildlife, the department of  
33 transportation, any institution of higher education as defined under  
34 RCW 28B.10.016, and any other state agency delegated authority by

1 the department of enterprise services to engage in construction,  
2 building, renovation, remodeling, alteration, improvement, or repair  
3 activities.

4 (7) The dollar thresholds established in subsections (1),  
5 (2) (c), and (3) (a) this section must be adjusted for inflation by  
6 the office of financial management every five years based upon  
7 changes in the building cost index during that time period.  
8 "Building cost index" means the building cost index for Seattle,  
9 Washington, compiled by engineering news record, a nationally  
10 recognized professional construction trade periodical. The building  
11 cost index uses average skilled construction labor rates, structural  
12 steel, concrete, and lumber as the basis of measurement. The office  
13 of financial management must calculate the new dollar threshold and  
14 transmit it to the office of the code reviser for publication in the  
15 Washington State Register by December 1, 2023, and every five years  
16 thereafter, and any change shall not take effect before the end of  
17 the regular legislative session in the next year.

Is Seattle the best option for Statewide inflation adjustments? Is there a different "state wide" index that might make sense to reference here?

**Commented [WK6]:** This is an automatic increase in the thresholds based on inflation. OFM would have to provide the new threshold by December 1 every five years, and the new threshold would not go into effect until after the legislative session (in case the legislature wanted to make any changes).

18  
19  
20 **Sec. 5.** RCW 39.08.010 and 2017 c 75 s 1 are each amended to  
21 read as follows:

22 (1) (a) Whenever any board, council, commission, trustees, or  
23 body acting for the state or any county or municipality or any  
24 public body must contract with any person or corporation to do any  
25 work for the state, county, or municipality, or other public body,  
26 city, town, or district, such board, council, commission, trustees,  
27 or body must require the person or persons with whom such contract  
28 is made to make, execute, and deliver to such board, council,  
29 commission, trustees, or body a good and sufficient bond, with a  
30 surety company as surety, conditioned that such person or persons  
31 must:

- 32 (i) Faithfully perform all the provisions of such contract;
- 33 (ii) Pay all laborers, mechanics, and subcontractors and
- 34 material suppliers, and all persons who supply such person or

1 persons, or subcontractors, with provisions and supplies for the  
2 carrying on of such work; and

3 (iii) Pay the taxes, increases, and penalties incurred on the  
4 project under Titles 50, 51, and 82 RCW on: (A) Projects referred to  
5 in RCW 60.28.011(1)(b); and/or (B) projects for which the bond is  
6 conditioned on the payment of such taxes, increases, and penalties.

7 (b) The bond, in cases of cities and towns, must be filed with  
8 the clerk or comptroller thereof, and any person or persons  
9 performing such services or furnishing material to any subcontractor  
10 has the same right under the provisions of such bond as if such  
11 work, services, or material was furnished to the original  
12 contractor.

13 (2) The provisions of RCW 39.08.010 through 39.08.030 do not  
14 apply to any money loaned or advanced to any such contractor,  
15 subcontractor, or other person in the performance of any such work.

16 (3) On contracts of one hundred fifty thousand dollars or less,  
17 at the option of the contractor or the general  
18 contractor/construction manager as defined in RCW 39.10.210, the  
19 respective public entity may, in lieu of the bond, retain ten  
20 percent of the contract amount for a period of thirty days after  
21 date of final acceptance, or until receipt of all necessary releases  
22 from the department of revenue, the employment security department,  
23 and the department of labor and industries and settlement of any  
24 liens filed under chapter 60.28 RCW, whichever is later. The  
25 recovery of unpaid wages and benefits must be the first priority for  
26 any actions filed against retainage held by a state agency or  
27 authorized local government.

28 (4) For contracts of one hundred fifty thousand dollars or less,  
29 the public entity may accept a full payment and performance bond  
30 from an individual surety or sureties.

31 (5) The surety must agree to be bound by the laws of the state  
32 of Washington and subjected to the jurisdiction of the state of  
33 Washington.

34

1 (6) (a) This requirements of this section do not apply to  
2 contracts of less than ten thousand dollars or the amount determined  
3 by the office of financial management as provided in (b) of this  
4 subsection, whichever amount is greater.

5 (b) From a baseline of ten thousand dollars on January 1, 2022,  
6 the office of financial management must adjust the threshold in this  
7 subsection every five years, beginning January 1, 2024, based on  
8 inflation. The inflation determination shall be based upon changes  
9 in the building cost index during that time period. "Building cost  
10 index" means the building cost index for Seattle, Washington,  
11 compiled by engineering news record, a nationally recognized  
12 professional construction trade periodical. The building cost index  
13 uses average skilled construction labor rates, structural steel,  
14 concrete, and lumber as the basis of measurement. The resulting  
15 amount shall be rounded to the nearest thousand dollars. The office  
16 of financial management must calculate the new dollar threshold and  
17 transmit it to the office of the code reviser for publication in the  
18 Washington State Register at least one month before the new dollar  
19 threshold is to take effect.

**Commented [WK7]:** Exemption from performance bond requirements of contracts of less than \$10,000 and an automatic increase to the nearest thousand dollars based on inflation. This can be changed to match the increase mechanism in Section 7 if desired.

22 **Sec. 6.** RCW 60.28.011 and 2017 c 302 s 1 are each amended to  
23 read as follows:

24 (1) (a) Except as provided in (b) of this subsection or in  
25 subsection (13) of this section, public improvement contracts must  
26 provide, and public bodies must reserve, a contract retainage not to  
27 exceed five percent of the moneys earned by the contractor as a  
28 trust fund for the protection and payment of: (i) The claims of any  
29 person arising under the contract; and (ii) the state with respect  
30 to taxes, increases, and penalties imposed pursuant to Titles 50,  
31 51, and 82 RCW which may be due from such contractor.

32 (b) Public improvement contracts funded in whole or in part by  
33 federal transportation funds must rely upon the contract bond as  
34 referred to in chapter 39.08 RCW for the protection and payment of:

1 (i) The claims of any person or persons arising under the contract  
2 to the extent such claims are provided for in RCW 39.08.010; and  
3 (ii) the state with respect to taxes, increases, and penalties  
4 incurred on the public improvement project under Titles 50, 51, and  
5 82 RCW which may be due. The contract bond must remain in full force  
6 and effect until, at a minimum, all claims filed in compliance with  
7 chapter 39.08 RCW are resolved.

8 (2) Every person performing labor or furnishing supplies toward  
9 the completion of a public improvement contract has a lien upon  
10 moneys reserved by a public body under the provisions of a public  
11 improvement contract. However, the notice of the lien of the  
12 claimant must be given within forty-five days of completion of the  
13 contract work, and in the manner provided in RCW 39.08.030.

14 (3) The contractor at any time may request the contract  
15 retainage be reduced to one hundred percent of the value of the work  
16 remaining on the project.

17 (a) After completion of all contract work other than  
18 landscaping, the contractor may request that the public body release  
19 and pay in full the amounts retained during the performance of the  
20 contract, and sixty days thereafter the public body must release and  
21 pay in full the amounts retained (other than continuing retention of  
22 five percent of the moneys earned for landscaping) subject to the  
23 provisions of chapter 39.12 RCW and this chapter.

24 (b) Sixty days after completion of all contract work the public  
25 body must release and pay in full the amounts retained during the  
26 performance of the contract subject to the provisions of chapter  
27 39.12 RCW and this chapter.

28 (4) The moneys reserved by a public body under the provisions of  
29 a public improvement contract, at the option of the contractor, must  
30 be:

31 (a) Retained in a fund by the public body;

32 (b) Deposited by the public body in an interest bearing account  
33 in a bank, mutual savings bank, or savings and loan association.

34

1 Interest on moneys reserved by a public body under the provision of  
2 a public improvement contract must be paid to the contractor;

3 (c) Placed in escrow with a bank or trust company by the public  
4 body. When the moneys reserved are placed in escrow, the public body  
5 must issue a check representing the sum of the moneys reserved  
6 payable to the bank or trust company and the contractor jointly.  
7 This check must be converted into bonds and securities chosen by the  
8 contractor and approved by the public body and the bonds and  
9 securities must be held in escrow. Interest on the bonds and  
10 securities must be paid to the contractor as the interest accrues.

11 (5) The contractor or subcontractor may withhold payment of not  
12 more than five percent from the moneys earned by any subcontractor  
13 or sub-subcontractor or supplier contracted with by the contractor  
14 to provide labor, materials, or equipment to the public project.  
15 Whenever the contractor or subcontractor reserves funds earned by a  
16 subcontractor or sub-subcontractor or supplier, the contractor or  
17 subcontractor must pay interest to the subcontractor or sub-  
18 subcontractor or supplier at a rate equal to that received by the  
19 contractor or subcontractor from reserved funds.

20 (6) A contractor may submit a bond for all or any portion of the  
21 contract retainage in a form acceptable to the public body and from  
22 an authorized surety insurer. The public body may require that the  
23 authorized surety have a minimum A.M. Best financial strength rating  
24 so long as that minimum rating does not exceed A-. The public body  
25 must comply with the provisions of RCW 48.28.010. At any time prior  
26 to final formal acceptance of the project, a subcontractor may  
27 request the contractor to submit a bond to the public owner for that  
28 portion of the contractor's retainage pertaining to the  
29 subcontractor in a form acceptable to the public body and from a  
30 bonding company meeting standards established by the public body.  
31 The contractor may withhold the subcontractor's portion of the bond  
32 premium. Within thirty days of receipt of the request, the  
33 contractor shall provide and the public body shall accept a bond  
34 meeting these requirements unless the public body can demonstrate

1 good cause for refusing to accept it, the bond is not commercially  
2 available, or the subcontractor refuses to pay the subcontractor's  
3 portion of the bond premium and to provide the contractor with a  
4 like bond. The contractor's bond and any proceeds therefrom are  
5 subject to all claims and liens and in the same manner and priority  
6 as set forth for retained percentages in this chapter. The public  
7 body must release the bonded portion of the retained funds to the  
8 contractor within thirty days of accepting the bond from the  
9 contractor. Whenever a public body accepts a bond in lieu of  
10 retained funds from a contractor, the contractor must accept like  
11 bonds from any subcontractors or suppliers from which the contractor  
12 has retained funds. The contractor must then release the funds  
13 retained from the subcontractor or supplier to the subcontractor or  
14 supplier within thirty days of accepting the bond from the  
15 subcontractor or supplier.

16 (7) If the public body administering a contract, after a  
17 substantial portion of the work has been completed, finds that an  
18 unreasonable delay will occur in the completion of the remaining  
19 portion of the contract for any reason not the result of a breach  
20 thereof, it may, if the contractor agrees, delete from the contract  
21 the remaining work and accept as final the improvement at the stage  
22 of completion then attained and make payment in proportion to the  
23 amount of the work accomplished and in this case any amounts  
24 retained and accumulated under this section must be held for a  
25 period of sixty days following the completion. In the event that the  
26 work is terminated before final completion as provided in this  
27 section, the public body may thereafter enter into a new contract  
28 with the same contractor to perform the remaining work or  
29 improvement for an amount equal to or less than the cost of the  
30 remaining work as was provided for in the original contract without  
31 advertisement or bid. The provisions of this chapter are exclusive  
32 and supersede all provisions and regulations in conflict herewith.

33 (8) Whenever the department of transportation has contracted for  
34 the construction of two or more ferry vessels, sixty days after



1 completion of all contract work on each ferry vessel, the department  
2 must release and pay in full the amounts retained in connection with  
3 the construction of the vessel subject to the provisions of RCW  
4 60.28.021 and chapter 39.12 RCW. However, the department of  
5 transportation may at its discretion condition the release of funds  
6 retained in connection with the completed ferry upon the contractor  
7 delivering a good and sufficient bond with two or more sureties, or  
8 with a surety company, in the amount of the retained funds to be  
9 released to the contractor, conditioned that no taxes may be  
10 certified or claims filed for work on the ferry after a period of  
11 sixty days following completion of the ferry; and if taxes are  
12 certified or claims filed, recovery may be had on the bond by the  
13 department of revenue, the employment security department, the  
14 department of labor and industries, and the material suppliers and  
15 laborers filing claims.

16 (9) Except as provided in subsection (1) of this section,  
17 reservation by a public body for any purpose from the moneys earned  
18 by a contractor by fulfilling its responsibilities under public  
19 improvement contracts is prohibited.

20 (10) Contracts on projects funded in whole or in part by farmers  
21 home administration and subject to farmers home administration  
22 regulations are not subject to subsections (1) through (9) of this  
23 section.

24 (11) This subsection applies only to a public body that has  
25 contracted for the construction of a facility using the general  
26 contractor/construction manager procedure, as defined under RCW  
27 39.10.210. If the work performed by a subcontractor on the project  
28 has been completed within the first half of the time provided in the  
29 general contractor/construction manager contract for completing the  
30 work, the public body may accept the completion of the subcontract.  
31 The public body must give public notice of this acceptance. After a  
32 forty-five day period for giving notice of liens, and compliance  
33 with the retainage release procedures in RCW 60.28.021, the public  
34 body may release that portion of the retained funds associated with

1 the subcontract. Claims against the retained funds after the forty-  
2 five day period are not valid.

3 (12) The definitions in this subsection apply throughout this  
4 section unless the context clearly requires otherwise.

5 (a) "Contract retainage" means an amount reserved by a public  
6 body from the moneys earned by a person under a public improvement  
7 contract.

8 (b) "Person" means a person or persons, mechanic, subcontractor,  
9 or materialperson who performs labor or provides materials for a  
10 public improvement contract, and any other person who supplies the  
11 person with provisions or supplies for the carrying on of a public  
12 improvement contract.

13 (c) "Public body" means the state, or a county, city, town,  
14 district, board, or other public body.

15 (d) "Public improvement contract" means a contract for public  
16 improvements or work, other than for professional services, or a  
17 work order as defined in RCW 39.10.210.

18 (13) (a) The requirements of this section do not apply to  
19 contracts of less than ten thousand dollars or the amount determined  
20 by the office of financial management as provided in (b) of this  
21 subsection, whichever amount is greater.

22 (b) From a baseline of ten thousand dollars on January 1, 2022,  
23 the office of financial management must adjust the threshold in this  
24 subsection every five years, beginning January 1, 2024, based on  
25 inflation. The inflation determination shall be based upon changes  
26 in the building cost index during that time period. "Building cost  
27 index" means the building cost index for Seattle, Washington,  
28 compiled by engineering news record, a nationally recognized  
29 professional construction trade periodical. The building cost index  
30 uses average skilled construction labor rates, structural steel,  
31 concrete, and lumber as the basis of measurement. The resulting  
32 amount shall be rounded to the nearest thousand dollars. The office  
33 of financial management must calculate the new dollar threshold and  
34 transmit it to the office of the code reviser for publication in the

1 Washington State Register at least one month before the new dollar  
2 threshold is to take effect.

Commented [WK8]: Exemption from retainage requirements of contracts of less than \$10,000 and an automatic increase to the nearest thousand dollars based on inflation.

3  
4 **Sec. 7.** RCW 39.19.120 and 1987 c 328 s 7 are each amended to  
5 read as follows:

6 The office shall be the sole authority to perform certification  
7 of minority business enterprises, socially and economically  
8 disadvantaged business enterprises, and women's business enterprises  
9 throughout the state of Washington. (~~Certification by the state~~  
10 ~~office will allow~~) Such certification shall be sufficient to  
11 qualify these firms to participate in programs for these enterprises  
12 administered by the state of Washington, any city, town, county,  
13 special purpose district, public corporation created by the state,  
14 municipal corporation, or quasi-municipal corporation within the  
15 state of Washington, and no program may require qualifications or  
16 credentials beyond certification by the office in order for an  
17 enterprise qualify as a minority business enterprise, a socially and  
18 economically disadvantaged business enterprise, or a women's  
19 business enterprise.

Commented [WK9]: This was an attempt to clarify/reinforce that the certification by OMWBE is sufficient for any programs administered by local governments (and others).

20 This statewide certification process will prevent duplication of  
21 effort, achieve efficiency, and permit local jurisdictions to  
22 further develop, implement, and/or enhance comprehensive systems of  
23 monitoring and compliance for contracts issued by their agencies.

Does this section align OK with section 3 (6) which has business size thresholds included in statute as an "or" to being officially certified by OMWBE?

24  
25 **Sec. 8.** RCW 39.19.250 and 2021 c 160 s 7 are each amended to  
26 read as follows:

27 (1) For the purpose of annual reporting on progress required by  
28 this chapter, each state agency, local government, and educational  
29 institution shall submit data to the office and the office of  
30 minority and women's business enterprises on the participation by  
31 qualified minority and women-owned and controlled businesses in the  
32 agency's, government's, or institution's contracts and other related  
33 information requested by the director. Submissions shall include the  
34 numbers and percent of certified minority and women owned businesses

1 and small businesses on the agency, government, or institution's  
2 small works rosters and the percent of contract awards and dollar  
3 amount of contracts awarded to such firms. The director of the  
4 office of minority and women's business enterprises shall determine  
5 the content and format of the data and the reporting schedule, which  
6 must be at least annually. Each agency, government, or institution  
7 shall place the data reported to the office on the reporting  
8 entities' website in a location related to procurement.

Commented [WK10]: Language detailing the small works roster information that would be required to be submitted.

9 (2) The office must develop and maintain a list of contact  
10 people at each state agency and educational institution who are able  
11 to present to hearings of the appropriate committees of the  
12 legislature its progress in carrying out the purposes of chapter  
13 39.19 RCW.

Commented [WK11]: This would require the agency, etc. to post the information reported to OMWBE on its website.

14 (3) The office must submit a report aggregating the data  
15 received from each state agency, local government, and educational  
16 institution, and the information identified and actions taken under  
17 RCW 39.19.060(3) and 39.19.090(4), to the legislature and the  
18 governor.

19 (4) A city or county fully planning under RCW 36.70A.040 that  
20 fails to provide the information required under this section is  
21 ineligible for grants from the department of commerce under chapter  
22 36.70A. RCW.

Commented [WK12]: Here's the requirement for cities/counties fully planning under RCW 36.70A.040 to provide MWBE participation information in order to be eligible for grants. I added language to Section 9 that would allow Commerce to give a grant to MRSC to help local governments with this reporting.

23 (5) For the purposes of this section, "local government" means  
24 any city, town, county, special purpose district, public corporation  
25 created by the state, municipal corporation, or quasi-municipal  
26 corporation.

RCW 39.19.060 also contains data reporting requirements (along with planning requirements), but they currently only pertain to agencies and educational institutions.

27  
28 NEW SECTION. Sec. 9. A new section is added to chapter 36.70A RCW  
29 to read as follows:

30 (1) Compliance with section 8 of this act shall be a requirement  
31 for any county or city fully planning under RCW 36.70A.040 to be eligible  
32 to receive a grant from the department under this chapter.

33 (2) The department may award grants to a public agency with  
34 appropriate expertise and funded by local governments to assist local

1 governments in (a) adopting regulations allowing for contractors to be  
2 selected on the basis of criteria ensuring they are qualified to perform  
3 the work solicited, and that a contract is not solely awarded on the  
4 basis of cost when special management, skills, experience, or other  
5 criteria are important to performance; and (b) providing the information  
6 required in section 8.

**Commented [WK13]:** This should allow Commerce to provide funds to a group like MRSC to assist local governments with this data collection.

7  
8 **Sec. 10.** RCW 39.19.030 and 1996 c 69 s 5 are each amended to  
9 read as follows:

10 There is hereby created the office of minority and women's  
11 business enterprises. The governor shall appoint a director for the  
12 office, subject to confirmation by the senate. The director may  
13 employ a deputy director and a confidential secretary, both of which  
14 shall be exempt under chapter 41.06 RCW, and such staff as are  
15 necessary to carry out the purposes of this chapter.

16 The office shall consult with the minority and women's business  
17 enterprises advisory committee to:

18 (1) Develop, plan, and implement programs to provide an  
19 opportunity for participation by qualified minority and women-owned  
20 and controlled businesses in public works and the process by which  
21 goods and services are procured by state agencies and educational  
22 institutions from the private sector;

23 (2) Develop a comprehensive plan insuring that qualified  
24 minority and women-owned and controlled businesses are provided an  
25 opportunity to participate in public contracts for public works and  
26 goods and services, and develop programs for assisting qualified  
27 businesses in applying for such contracts;

**Commented [WK14]:** Here's the requirement for OMWBE to assist businesses in applying for the contracts.

28 (3) Identify barriers to equal participation by qualified  
29 minority and women-owned and controlled businesses in all state  
30 agency and educational institution contracts;

31 (4) Establish annual overall goals for participation by  
32 qualified minority and women-owned and controlled businesses for  
33 each state agency and educational institution to be administered on  
34 a contract-by-contract basis or on a class-of-contracts basis;

1 (5) Develop and maintain a central minority and women's business  
2 enterprise certification list for all state agencies and educational  
3 institutions. No business is entitled to certification under this  
4 chapter unless it meets the definition of small business concern as  
5 established by the office. All applications for certification under  
6 this chapter shall be sworn under oath;

7 (6) Develop, implement, and operate a system of monitoring  
8 compliance with this chapter;

9 (7) Adopt rules under chapter 34.05 RCW, the Administrative  
10 Procedure Act, governing: (a) Establishment of agency goals; (b)  
11 development and maintenance of a central minority and women's  
12 business enterprise certification program, including a definition of  
13 "small business concern" which shall be consistent with the small  
14 business requirements defined under section 3 of the Small Business  
15 Act, 15 U.S.C. Sec. 632, and its implementing regulations as  
16 guidance; (c) procedures for monitoring and enforcing compliance  
17 with goals, regulations, contract provisions, and this chapter; (d)  
18 utilization of standard clauses by state agencies and educational  
19 institutions, as specified in RCW 39.19.050; and (e) determination  
20 of an agency's or educational institution's goal attainment  
21 consistent with the limitations of RCW 39.19.075;

22 (8) Submit an annual report to the governor and the legislature  
23 outlining the progress in implementing this chapter;

24 (9) Investigate complaints of violations of this chapter with  
25 the assistance of the involved agency or educational institution;  
26 and

27 (10) Cooperate and act jointly or by division of labor with the  
28 United States or other states, and with political subdivisions of  
29 the state of Washington and their respective minority, socially and  
30 economically disadvantaged and women business enterprise programs to  
31 carry out the purposes of this chapter. However, the power which may  
32 be exercised by the office under this subsection permits  
33 investigation and imposition of sanctions only if the investigation  
34 relates to a possible violation of chapter 39.19 RCW, and not to

1 violation of local ordinances, rules, regulations, however  
2 denominated, adopted by political subdivisions of the state.

3  
4 NEW SECTION. Sec. 11. A new section is added to chapter 39.10 RCW  
5 to read as follows:

6 The department of commerce may award grants to a public agency with  
7 appropriate expertise and funded by local governments to provide  
8 assistance to local governments in utilizing the procedures under this  
9 chapter and in utilizing minority and women's business enterprises  
10 certified under section 7 of this act, and may award grants to non-  
11 profit organizations to provide minority and women businesses certified  
12 under chapter 39.19 RCW for assistance and training in applying for and  
13 participating in public works small works rosters under chapter 39.04  
14 RCW, and in establishing qualifications for specialized work for public  
15 agencies.

**Commented [WK15]:** Language to allow Commerce to provide grants to a group like MRSC to work with local governments on alternative public works contracting procedures and in using MWBE, and allowing Commerce to provide a grant to a non-profit to work with MWBE in participating in small works rosters and in establishing specialized qualifications for public agencies.

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--- END ---

October 27, 2021

Rep Pollet's draft bill - Small Works Roster

SB Owners Comments:

1. Tie Small Works roster threshold increases to state-wide inflation factor.
  - Large businesses were opposed to applying an inflation factor
  - When more projects are under the small works roster threshold, the agency may choose to offer a specific opportunity to only five contractors on their list.
  - Some businesses would like to restrict that option and require open access for all projects to all listed contractors, especially if the threshold moves above the \$350,000 amount
    - o No to raising the threshold. The \$350,000 threshold is doable as a starting point for small businesses.
    - o Consider levels of thresholds for micro and macro businesses.
    - o Monitor those businesses that are approved to ensure they are truly a small business – financial statements etc...
    - o Consideration for ample lead time to review bid documents.
2. CPARB supported Recommendations:

Note: These recommendations require the legislature to identify the appropriate group or state agency to create and maintain this work

  - a. Create a state-wide centralized list of small work roster for all agencies
    - o Current system is flawed, not sure if centralized state-wide system would be any improvement?
    - o If centralized, Business owners could lose the 'personal touch' to build relationships with individual agencies.
    - o If centralized, it needs to be transparent and not a means for Agencies and Primes to hide behind.
    - o There are concerns it may cause more red tape for the small business to really reach the individual agencies.
    - o Concerned a centralized entity would be hard to govern. Meaning the same companies getting a majority of the work.
    - o Concerned that companies that form subsidiaries are not truly 'small businesses' because they are funding and supported by a Large business.
  - b. Create centralized list of certification /registration program for disadvantage businesses
    - o What is the value of certifications?
      - Especially in the environment of lowest bidder.
  - c. Coordinate schedule for significant outreach events between public agencies and other stakeholders
    - o What is the ROI for these events?
    - o Are small businesses getting access to bid projects?



- If even schedules are coordinated, would like to see some kind of tracking or monitoring put in place to measure success.
- d. Provide professional assistance to local government for contracting guidance and marketing and outreach to contractors
- e. Provide programing assistance to small businesses to build compacity
  - MRSC needs to be better marketed. Many companies don't know about MRSC like they are familiar with PTAC or OMWBE.
  - Consider a separate website dedicated to providing information and access to resources for small businesses.
    - Example: Understand access to capital and what is the commitment as a small business?
  - How will the centralize program measure the success of the program for the small business owner?
    - What is the ROI for the small businesses?
    - Is the small business being profitable?
  - Workshop on how best to use your certification.
  - Specific workshops for A/E firms specific to rate reviews etc...

Anthony Ammirati Comments

Hello Everyone,

Here is my email and notes on section 2(c).

I read through the proposed changes and I believe the intent of the “equitable distribution” is on the “invitation” side, not the award as see it in the new language added to the last sentence of 2(c). I completely agree, that if an agency wants to use the “alternative” method of not inviting all listed companies that have indicated they can perform the work, the 20% rule is appropriate, but if I’m going to solicit from all companies listed and I want to award to the lowest, responsible bidder... I don’t feel like agencies should be forced to only award a contractor 20% of all contracts, which should also have a timeframe added.

Also, under the SWR, agencies do not need to provide a “budget” in the notice or rfp, only an “estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation.” It is unfortunate that the word “estimate” is used because it implies cost.

Perhaps the last sentence can be revised as follows to clarify:

10 other contractors on the appropriate small works roster who perform  
11 similar services. Additionally, agencies utilizing the alternative  
12 method of the solicitation of soliciting bids provided pursuant to  
13 this subsection 2(c) must rotate through the contractors on the  
14 appropriate small works roster and must, when qualified contractors  
15 are available from the roster who may perform the work or deliver  
16 the services within the budget scope described in the notice or  
17 request for proposals, utilize different contractors on different  
18 projects and ensure that no contractor receives more than twenty  
19 percent of the total contracts let within a one (1) year period by  
20 the agency or local government that utilize the small works roster.

Aleanna Kondelis Comments

Kellen Wright 360-786-7134  
House Committee on Local Government  
September 17, 2021 (8:45 AM)

1 AN ACT Relating to public works contracting;

2  
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4  
5 **Sec. 1.** RCW 53.08.120 and 2018 c 149 s 2 are each amended to  
6 read as follows:

7 (1) All material and work required by a port district not  
8 meeting the definition of public work in RCW 39.04.010(4) may be  
9 procured in the open market or by contract and all work ordered may  
10 be done by contract or day labor.

11 (2) (a) All such contracts for work meeting the definition of  
12 "public work" in RCW 39.04.010(4), the estimated cost of which  
13 exceeds (~~three hundred thousand dollars~~) the cost thresholds  
14 established in RCW 39.04.155, shall be awarded using a competitive  
15 bid process. The contract must be awarded at public bidding upon  
16 notice published in a newspaper of general circulation in the  
17 district at least thirteen days before the last date upon which bids  
18 will be received, calling for bids upon the work, plans and  
19 specifications for which shall then be on file in the office of the

Draft

p.1

**Commented [WK1]:** This is aligning port districts with the general small works roster statute.

Draft Report 5-6-2022

1 commission for public inspection. The same notice may call for bids  
2 on such work or material based upon plans and specifications  
3 submitted by the bidder. The competitive bidding requirements for  
4 purchases or public works may be waived pursuant to RCW 39.04.280 if  
5 an exemption contained within that section applies to the purchase  
6 or public work.

7 (b) For all contracts related to work meeting the definition of  
8 "public work" in RCW 39.04.010(4), ~~((that are estimated at three~~  
9 ~~hundred thousand dollars or less))~~ the estimated cost of which do  
10 not exceed the cost thresholds established in RCW 39.04.155, a port  
11 district may let contracts using the small works roster process  
12 under RCW 39.04.155 in lieu of advertising for bids. Whenever  
13 possible, the managing official shall invite at least one proposal  
14 from a minority contractor who shall otherwise qualify under this  
15 section.

16 When awarding such a contract for work, when utilizing proposals  
17 from the small works roster, the managing official shall give weight  
18 to the contractor submitting the lowest and best proposal, and  
19 whenever it would not violate the public interest, such contracts  
20 shall be distributed equally among contractors, including minority  
21 contractors, on the small works roster.

22 (c) Any port district may construct any public work, as defined  
23 in RCW 39.04.010, by contract without calling for bids whenever the  
24 estimated cost of the work or improvement, including cost of  
25 materials, supplies, and equipment, will not exceed the sum of forty  
26 thousand dollars. A "public works project" means a complete project.  
27 The restrictions in this subsection do not permit the division of  
28 the project into units of work or classes of work to avoid calling  
29 for bids. The port district managing official shall make his or her  
30 best effort to reach out to qualified contractors, including  
31 certified minority and woman-owned contractors.

32 (3) (a) A port district may procure public works with a unit  
33 priced contract under this section or RCW 39.04.010(2) for the  
34

1 purpose of completing anticipated types of work based on hourly  
2 rates or unit pricing for one or more categories of work or trades.

3 (b) For the purposes of this section, unit priced contract means  
4 a competitively bid contract in which public works are anticipated  
5 on a recurring basis to meet the business or operational needs of a  
6 port district, under which the contractor agrees to a fixed period  
7 indefinite quantity delivery of work, at a defined unit price, for  
8 each category of work.

9 (c) Unit priced contracts must be executed for an initial  
10 contract term not to exceed three years, with the port district  
11 having the option of extending or renewing the unit priced contract  
12 for one additional year.

13 (d) Invitations for unit priced bids shall include, for purposes  
14 of the bid evaluation, estimated quantities of the anticipated types  
15 of work or trades, and specify how the port district will issue or  
16 release work assignments, work orders, or task authorizations  
17 pursuant to a unit priced contract for projects, tasks, or other  
18 work based on the hourly rates or unit prices bid by the contractor.  
19 Contracts must be awarded to the lowest responsible bidder as per  
20 RCW 39.04.010. Whenever possible, the port district must invite at  
21 least one proposal from a minority or woman contractor who otherwise  
22 qualifies under this section.

23 (e) Unit priced contractors shall pay prevailing wages for all  
24 work that would otherwise be subject to the requirements of chapter  
25 39.12 RCW. Prevailing wages for all work performed pursuant to each  
26 work order must be the prevailing wage rates in effect at the  
27 beginning date for each contract year. Unit priced contracts shall  
28 have prevailing wage rates updated annually. Intents and affidavits  
29 for prevailing wages paid shall be submitted annually for all work  
30 completed within the previous twelve-month period of the unit priced  
31 contract.

32  
33 **Sec. 2.** RCW 87.03.436 and 2010 c 201 s 2 are each amended to  
34 read as follows:



**Commented [WK2]:** This section is aligning irrigation districts with the general small works roster statute.

1 All contract projects, the estimated cost of which is less than  
2 (~~three hundred thousand dollars~~) the cost thresholds established  
3 in RCW 39.04.155, may be awarded using the small works roster  
4 process under RCW 39.04.155.

5  
6 **Sec. 3.** RCW 39.04.010 and 2008 c 130 s 16 are each amended to  
7 read as follows:

8 The definitions in this section apply throughout this chapter  
9 unless the context clearly requires otherwise.

10 (1) "Award" means the formal decision by the state or  
11 municipality notifying a responsible bidder with the lowest  
12 responsive bid of the state's or municipality's acceptance of the  
13 bid and intent to enter into a contract with the bidder.

14 (2) "Contract" means a contract in writing for the execution of  
15 public work for a fixed or determinable amount duly awarded after  
16 advertisement and competitive bid, or a contract awarded under the  
17 small works roster process in RCW 39.04.155.

18 (3) "Municipality" means every city, county, town, port  
19 district, district, or other public agency authorized by law to  
20 require the execution of public work, except drainage districts,  
21 diking districts, diking and drainage improvement districts,  
22 drainage improvement districts, diking improvement districts,  
23 consolidated diking and drainage improvement districts, consolidated  
24 drainage improvement districts, consolidated diking improvement  
25 districts, irrigation districts, or other districts authorized by  
26 law for the reclamation or development of waste or undeveloped  
27 lands.

28 (4) "Public work" means all work, construction, alteration,  
29 repair, or improvement other than ordinary maintenance, executed at  
30 the cost of the state or of any municipality, or which is by law a  
31 lien or charge on any property therein. All public works, including  
32 maintenance when performed by contract shall comply with chapter  
33 39.12 RCW. "Public work" does not include work, construction,  
34 alteration, repair, or improvement performed under contracts entered

1 into under RCW 36.102.060(4) or under development agreements entered  
2 into under RCW 36.102.060(7) or leases entered into under RCW  
3 36.102.060(8).

4 (5) "Responsible bidder" means a contractor who meets the  
5 criteria in RCW 39.04.350.

6 (6) "Small business" means an in-state business, including  
7 sole proprietorship, corporation, partnership, or other legal  
8 entity, that:

9 (a) Certifies, under penalty of perjury, that it is owned and  
10 operated independently from all other businesses and has either:

11 (i) Fifty or fewer employees; or

12 (ii) A gross revenue of less than seven million dollars annually  
13 as reported on its federal income tax return or its return filed  
14 with the department of revenue over the previous three consecutive  
15 years; or

16 (b) Is certified with the office of women and minority business  
17 enterprises under chapter 39.19 RCW.

18 (7) "State" means the state of Washington and all departments,  
19 supervisors, commissioners, and agencies of the state.

20  
21 **Sec. 4.** RCW 39.04.155 and 2019 c 434 s 5 are each amended to  
22 read as follows:

23 (1) This section provides uniform small works roster provisions  
24 to award contracts for construction, building, renovation,  
25 remodeling, alteration, repair, or improvement of real property that  
26 may be used by state agencies and by any local government that is  
27 expressly authorized to use these provisions. These provisions may  
28 be used in lieu of other procedures to award contracts for such work  
29 with an estimated cost of three hundred fifty thousand dollars or  
30 less or the estimated cost is less than the threshold determined by  
31 the office of financial management pursuant to subsection (7)  
32 this section, whichever amount is greater. The small works roster  
33 process includes the limited public works process authorized under  
34 subsection (3) of this section and any local government

Commented [WK3]: This is the small business definition that CPARB recommended adding.

1 ((~~authorized~~)) to award contracts using the small works roster  
2 process under this section may award contracts using the limited  
3 public works process under subsection (3) of this section.

4 (2) (a) A state agency or authorized local government may create  
5 a single general small works roster, or may create a small works  
6 roster for different specialties or categories of anticipated work.  
7 Where applicable, small works rosters may make distinctions between  
8 contractors based upon different geographic areas served by the  
9 contractor. The small works roster or rosters shall consist of all  
10 responsible contractors who have requested to be on the list, and  
11 where required by law are properly licensed or registered to perform  
12 such work in this state. A state agency or local government  
13 establishing a small works roster or rosters may require eligible  
14 contractors desiring to be placed on a roster or rosters to keep  
15 current records of any applicable licenses, certifications,  
16 registrations, bonding, insurance, or other appropriate matters on  
17 file with the state agency or local government as a condition of  
18 being placed on a roster or rosters. At least once a year, the state  
19 agency or local government shall publish in a newspaper of general  
20 circulation within the jurisdiction a notice of the existence of the  
21 roster or rosters and solicit the names of contractors for such  
22 roster or rosters. In addition, responsible contractors shall be  
23 added to an appropriate roster or rosters at any time they submit a  
24 written request and necessary records. Master contracts may be  
25 required to be signed that become effective when a specific award is  
26 made using a small works roster.


27 (b) A state agency establishing a small works roster or rosters  
28 shall adopt rules implementing this subsection. A local government  
29 establishing a small works roster or rosters shall adopt an  
30 ordinance or resolution implementing this subsection. Procedures  
31 included in rules adopted by the department of enterprise services  
32 in implementing this subsection must be included in any rules  
33 providing for a small works roster or rosters that is adopted by  
34 another state agency, if the authority for that state agency to



1 engage in these activities has been delegated to it by the  
2 department of enterprise services under chapter 43.19 RCW. An  
3 interlocal contract or agreement between two or more state agencies  
4 or local governments establishing a small works roster or rosters to  
5 be used by the parties to the agreement or contract must clearly  
6 identify the lead entity that is responsible for implementing the  
7 provisions of this subsection.

8 (c) Procedures shall be established for securing telephone,  
9 written, or electronic quotations from contractors on the  
10 appropriate small works roster to assure that a competitive price is  
11 established and to award contracts to the lowest responsible bidder,  
12 as defined in RCW 39.04.010. Invitations for quotations shall  
13 include an estimate of the scope and nature of the work to be  
14 performed as well as materials and equipment to be furnished.  
15 However, detailed plans and specifications need not be included in  
16 the invitation. This subsection does not eliminate other  
17 requirements for architectural or engineering approvals as to  
18 quality and compliance with building codes. Quotations may be  
19 invited from all appropriate contractors on the appropriate small  
20 works roster. As an alternative, quotations may be invited from at  
21 least five contractors on the appropriate small works roster,  
22 including at least two small businesses as defined in RCW 39.26.01  
23 or women and minority owned businesses certified by the office of  
24 minority and women's business enterprises, who have indicated the  
25 capability of performing the kind of work being contracted, in a  
26 manner that will equitably distribute the opportunity among the  
27 contractors on the appropriate roster. However, if the estimated  
28 cost of the work is from two hundred fifty thousand dollars to three  
29 hundred fifty thousand dollars, or between the most thresholds  
30 determined by the office of financial management pursuant to  
31 subsection (7) of this section, a state agency or local government  
32 that chooses to solicit bids from less than all the appropriate  
33 contractors on the appropriate small works roster must also notify  
34 the remaining contractors on the appropriate small works roster that

Commented [WK4]: Notification requirement for at least two small businesses/MWBE-certified firms.

1 quotations on the work are being sought. The government has the sole  
 2 option of determining whether this notice to the remaining  
 3 contractors is made by: (i) Publishing notice in a legal newspaper  
 4 in general circulation in the area where the work is to be done;  
 5 (ii) mailing a notice to these contractors; or (iii) sending a  
 6 notice to these contractors by facsimile or other electronic means.  
 7 For purposes of this subsection (2)(c), "equitably distribute" means  
 8 that a state agency or local government soliciting bids may not  
 9 favor certain contractors on the appropriate small works roster over  
 10 other contractors on the appropriate small works roster who perform  
 11 similar services. Additionally, the solicitation of bids provided  
 12 pursuant to this subsection 2(c) must rotate through the contractors  
 13 on the appropriate small works roster and must, when qualified   
 14 contractors are available from the roster who may perform the work  
 15 or deliver the services within the budget described in the notice or  
 16 request for proposals, utilize different contractors on different  
 17 projects and ensure that no contractor receives more than twenty  
 18 percent of the total contracts let by the agency or local government  
 19 that utilize the small works roster.

**Commented [WK5]:** This section would try to increase the rotation among contractors (when there are qualified contractors available).

20 (d) A contract awarded from a small works roster under this  
 21 section need not be advertised.

22 (e) Immediately after an award is made, the bid quotations  
 23 obtained shall be recorded, open to public inspection, and available  
 24 by at least one of the following: Telephone or electronic request.

25 (f) For projects awarded under the small works roster process  
 26 established under this subsection, a state agency or authorized  
 27 local government may waive the retainage requirements of RCW  
 28 60.28.011(1)(a), thereby assuming the liability for contractor's  
 29 nonpayment of: (i) Laborers, mechanics, subcontractors,  
 30 materialpersons, and suppliers; and (ii) taxes, increases, and  
 31 penalties under Titles 50, 51, and 82 RCW that may be due from the  
 32 contractor for the project. However, the state agency or local  
 33 government has the right of recovery against the contractor for any  
 34 payments made on the contractor's behalf. Recovery of unpaid wages

1 and benefits are the first priority for actions filed against the  
2 contract.

3 (3) (a) In lieu of awarding contracts under subsection (2) of  
4 this section, a state agency or authorized local government may  
5 award a contract for work, construction, alteration, repair, or  
6 improvement projects estimated to cost less than fifty thousand  
7 dollars or less than the threshold determined by the office of  
8 financial management pursuant to subsection (7) of this section  
9 whichever amount is greater, using the limited public works process  
10 provided under this subsection. Public works projects awarded under  
11 this subsection are exempt from the other requirements of the small  
12 works roster process provided under subsection (2) of this section  
13 and are exempt from the requirement that contracts be awarded after  
14 advertisement as provided under RCW 39.04.010.


15 (b) For limited public works projects, a state agency or  
16 authorized local government shall solicit electronic or written  
17 quotations from a minimum of three contractors from the appropriate  
18 small works roster and shall award the contract to the lowest  
19 responsible bidder as defined under RCW 39.04.010. After an award is  
20 made, the quotations shall be open to public inspection and  
21 available by electronic request. A state agency or authorized local  
22 government must equitably distribute opportunities for limited  
23 public works projects among contractors willing to perform in the  
24 geographic area of the work. A state agency or authorized local  
25 government shall maintain a list of the contractors contacted and  
26 the contracts awarded during the previous twenty-four months under  
27 the limited public works process, including the name of the  
28 contractor, the contractor's registration number, the amount of the  
29 contract, a brief description of the type of work performed, and the  
30 date the contract was awarded. For limited public works projects, a  
31 state agency or authorized local government may waive the payment  
32 and performance bond requirements of chapter 39.08 RCW and may waive  
33 the retainage requirements of RCW 60.28.011(1) (a), thereby assuming  
34 the liability for the contractor's nonpayment of laborers,

1 mechanics, subcontractors, material persons, suppliers, and taxes,  
2 increases, and penalties imposed under Titles 50, 51, and 82 RCW  
3 that may be due from the contractor for the limited public works  
4 project, however the state agency or authorized local government  
5 shall have the right of recovery against the contractor for any  
6 payments made on the contractor's behalf.

7 (4) The breaking of any project into units or accomplishing any  
8 projects by phases is prohibited if it is done for the purpose of  
9 avoiding the maximum dollar amount of a contract that may be let  
10 using the small works roster process or limited public works  
11 process.

12 (5) A state agency or authorized local government may use the  
13 limited public works process in this section to solicit and award  
14 small works roster contracts to minibusinesses and microbusinesses  
15 as defined under RCW 39.26.010 that are registered contractors.

16 (6) The definitions in this subsection apply throughout this  
17 section unless the context clearly requires otherwise.

18 (a) "Equitably distribute opportunities" means that a state  
19 agency or authorized local government may not favor certain  
20 contractors on the appropriate small  works roster over other  
21 contractors on the same roster who perform similar services, must  
22 rotate through the contractors on the appropriate small works  
23 roster, and must, when qualified contractors are available from the  
24 roster who may perform the work or deliver the services within the  
25 budget described in the notice or request for proposals, utilize  
26 different contractors on different projects and ensure that no  
27 contractor receives more than twenty percent of the total contracts  
28 let by the agency or local government that utilize the small works  
29 roster.

30 (b) "State agency" means the department of enterprise services,  
31 the state parks and recreation commission, the department of natural  
32 resources, the department of fish and wildlife, the department of  
33 transportation, any institution of higher education as defined under  
34 RCW 28B.10.016, and any other state agency delegated authority by

1 the department of enterprise services to engage in construction,  
2 building, renovation, remodeling, alteration, improvement, or repair  
3 activities.

4 (7) The dollar thresholds established in subsections (1),  
5 (2) (c), and (3) (a) this section must be adjusted for inflation by  
6 the office of financial management every five years based upon  
7 changes in the building cost index during that time period.  
8 "Building cost index" means the building cost index for Seattle,  
9 Washington, compiled by engineering news record, a nationally  
10 recognized professional construction trade periodical. The building  
11 cost index uses average skilled construction labor rates, structural  
12 steel, concrete, and lumber as the basis of measurement. The office  
13 of financial management must calculate the new dollar threshold and  
14 transmit it to the office of the code reviser for publication in  
15 Washington State Register by December 1, 2023, and every five years  
16 thereafter, and any change shall not take effect before the end of  
17 the regular legislative session in the next year.

**Commented [WK6]:** This is an automatic increase in the thresholds based on inflation. OFM would have to provide the new threshold by December 1 every five years, and the new threshold would not go into effect until after the legislative session (in case the legislature wanted to make any changes).

18  
19  
20 **Sec. 5.** RCW 39.08.010 and 2017 c 75 s 1 each amended to  
21 read as follows:

22 (1) (a) Whenever any board, council, commission, trustees, or  
23 body acting for the state or any county or municipality or any  
24 public body must contract with any person or corporation to do any  
25 work for the state, county, or municipality, or other public body,  
26 city, town, or district, such board, council, commission, trustees,  
27 or body must require the person or persons with whom such contract  
28 is made to make, execute, and deliver to such board, council,  
29 commission, trustees, or body a good and sufficient bond, with a  
30 surety company as surety, conditioned that such person or persons  
31 must:

- 32 (i) Faithfully perform all the provisions of such contract;
- 33 (ii) Pay all laborers, mechanics, and subcontractors and  
34 material suppliers, and all persons who supply such person or

1 persons, or subcontractors, with provisions and supplies for the  
2 carrying on of such work; and

3 (iii) Pay the taxes, increases, and penalties incurred on the  
4 project under Titles 50, 51, and 82 RCW on: (A) Projects referred to  
5 in RCW 60.28.011(1)(b); and/or (B) projects for which the bond is  
6 conditioned on the payment of such taxes, increases, and penalties.

7 (b) The bond, in cases of cities and towns, must be filed with  
8 the clerk or comptroller thereof, and any person or persons  
9 performing such services or furnishing material to any subcontractor  
10 has the same right under the provisions of such bond as if such  
11 work, services, or material was furnished to the original  
12 contractor.

13 (2) The provisions of RCW 39.08.010 through 39.08.030 do not  
14 apply to any money loaned or advanced to any such contractor,  
15 subcontractor, or other person in the performance of any such work.

16 (3) On contracts of one hundred fifty thousand dollars or less,  
17 at the option of the contractor or the general  
18 contractor/construction manager as defined in RCW 39.10.210, the  
19 respective public entity may, in lieu of the bond, retain ten  
20 percent of the contract amount for a period of thirty days after  
21 date of final acceptance, or until receipt of all necessary releases  
22 from the department of revenue, the employment security department,  
23 and the department of labor and industries and settlement of any  
24 liens filed under chapter 60.28 RCW, whichever is later. The  
25 recovery of unpaid wages and benefits must be the first priority for  
26 any actions filed against retainage held by a state agency or  
27 authorized local government.

28 (4) For contracts of one hundred fifty thousand dollars or less,  
29 the public entity may accept a full payment and performance bond  
30 from an individual surety or sureties.

31 (5) The surety must agree to be bound by the laws of the state  
32 of Washington and subjected to the jurisdiction of the state of  
33 Washington.

34

1 (6) (a) This requirements of this section do not apply to  
2 contracts of less than ten thousand dollars or the amount determined  
3 by the office of financial management as provided in (b) of this  
4 subsection, whichever amount is greater.

5 (b) From a baseline of ten thousand dollars on January 1, 2022,  
6 the office of financial management must adjust the threshold in this  
7 subsection every five years, beginning January 1, 2024, based on  
8 inflation. The inflation determination shall be based upon changes  
9 in the building cost index during that time period. "Building cost  
10 index" means the building cost index for Seattle, Washington,  
11 compiled by engineering news record, a nationally recognized  
12 professional construction trade periodical. The building cost index  
13 uses average skilled construction labor rates, structural steel,  
14 concrete, and lumber as the basis of measurement. The resulting  
15 amount shall be rounded to the nearest thousand dollars. The office  
16 of financial management must calculate the new dollar threshold and  
17 transmit it to the office of the code reviser for publication in the  
18 Washington State Register at least one month before the new dollar  
19 threshold is to take effect.

**Commented [WK7]:** Exemption from performance bond requirements of contracts of less than \$10,000 and an automatic increase to the nearest thousand dollars based on inflation. This can be changed to match the increase mechanism in Section 7 if desired.

22 **Sec. 6.** RCW 60.28.011 and 2017 c 302 s 1 are each amended to  
23 read as follows:

24 (1) (a) Except as provided in (b) of this subsection or in  
25 subsection (13) of this section, public improvement contracts must  
26 provide, and public bodies must reserve, a contract retainage not to  
27 exceed five percent of the moneys earned by the contractor as a  
28 trust fund for the protection and payment of: (i) The claims of any  
29 person arising under the contract; and (ii) the state with respect  
30 to taxes, increases, and penalties imposed pursuant to Titles 50,  
31 51, and 82 RCW which may be due from such contractor.

32 (b) Public improvement contracts funded in whole or in part by  
33 federal transportation funds must rely upon the contract bond as  
34 referred to in chapter 39.08 RCW for the protection and payment of:

1 (i) The claims of any person or persons arising under the contract  
2 to the extent such claims are provided for in RCW 39.08.010; and  
3 (ii) the state with respect to taxes, increases, and penalties  
4 incurred on the public improvement project under Titles 50, 51, and  
5 82 RCW which may be due. The contract bond must remain in full force  
6 and effect until, at a minimum, all claims filed in compliance with  
7 chapter 39.08 RCW are resolved.

8 (2) Every person performing labor or furnishing supplies toward  
9 the completion of a public improvement contract has a lien upon  
10 moneys reserved by a public body under the provisions of a public  
11 improvement contract. However, the notice of the lien of the  
12 claimant must be given within forty-five days of completion of the  
13 contract work, and in the manner provided in RCW 39.08.030.

14 (3) The contractor at any time may request the contract  
15 retainage be reduced to one hundred percent of the value of the work  
16 remaining on the project.

17 (a) After completion of all contract work other than  
18 landscaping, the contractor may request that the public body release  
19 and pay in full the amounts retained during the performance of the  
20 contract, and sixty days thereafter the public body must release and  
21 pay in full the amounts retained (other than continuing retention of  
22 five percent of the moneys earned for landscaping) subject to the  
23 provisions of chapter 39.12 RCW and this chapter.

24 (b) Sixty days after completion of all contract work the public  
25 body must release and pay in full the amounts retained during the  
26 performance of the contract subject to the provisions of chapter  
27 39.12 RCW and this chapter.

28 (4) The moneys reserved by a public body under the provisions of  
29 a public improvement contract, at the option of the contractor, must  
30 be:

31 (a) Retained in a fund by the public body;

32 (b) Deposited by the public body in an interest bearing account  
33 in a bank, mutual savings bank, or savings and loan association.

34



1 Interest on moneys reserved by a public body under the provision of  
2 a public improvement contract must be paid to the contractor;

3 (c) Placed in escrow with a bank or trust company by the public  
4 body. When the moneys reserved are placed in escrow, the public body  
5 must issue a check representing the sum of the moneys reserved  
6 payable to the bank or trust company and the contractor jointly.  
7 This check must be converted into bonds and securities chosen by the  
8 contractor and approved by the public body and the bonds and  
9 securities must be held in escrow. Interest on the bonds and  
10 securities must be paid to the contractor as the interest accrues.

11 (5) The contractor or subcontractor may withhold payment of not  
12 more than five percent from the moneys earned by any subcontractor  
13 or sub-subcontractor or supplier contracted with by the contractor  
14 to provide labor, materials, or equipment to the public project.  
15 Whenever the contractor or subcontractor reserves funds earned by a  
16 subcontractor or sub-subcontractor or supplier, the contractor or  
17 subcontractor must pay interest to the subcontractor or sub-  
18 subcontractor or supplier at a rate equal to that received by the  
19 contractor or subcontractor from reserved funds.

20 (6) A contractor may submit a bond for all or any portion of the  
21 contract retainage in a form acceptable to the public body and from  
22 an authorized surety insurer. The public body may require that the  
23 authorized surety have a minimum A.M. Best financial strength rating  
24 so long as that minimum rating does not exceed A-. The public body  
25 must comply with the provisions of RCW 48.28.010. At any time prior  
26 to final formal acceptance of the project, a subcontractor may  
27 request the contractor to submit a bond to the public owner for that  
28 portion of the contractor's retainage pertaining to the  
29 subcontractor in a form acceptable to the public body and from a  
30 bonding company meeting standards established by the public body.  
31 The contractor may withhold the subcontractor's portion of the bond  
32 premium. Within thirty days of receipt of the request, the  
33 contractor shall provide and the public body shall accept a bond  
34 meeting these requirements unless the public body can demonstrate

1 good cause for refusing to accept it, the bond is not commercially  
2 available, or the subcontractor refuses to pay the subcontractor's  
3 portion of the bond premium and to provide the contractor with a  
4 like bond. The contractor's bond and any proceeds therefrom are  
5 subject to all claims and liens and in the same manner and priority  
6 as set forth for retained percentages in this chapter. The public  
7 body must release the bonded portion of the retained funds to the  
8 contractor within thirty days of accepting the bond from the  
9 contractor. Whenever a public body accepts a bond in lieu of  
10 retained funds from a contractor, the contractor must accept like  
11 bonds from any subcontractors or suppliers from which the contractor  
12 has retained funds. The contractor must then release the funds  
13 retained from the subcontractor or supplier to the subcontractor or  
14 supplier within thirty days of accepting the bond from the  
15 subcontractor or supplier.

16 (7) If the public body administering a contract, after a  
17 substantial portion of the work has been completed, finds that an  
18 unreasonable delay will occur in the completion of the remaining  
19 portion of the contract for any reason not the result of a breach  
20 thereof, it may, if the contractor agrees, delete from the contract  
21 the remaining work and accept as final the improvement at the stage  
22 of completion then attained and make payment in proportion to the  
23 amount of the work accomplished and in this case any amounts  
24 retained and accumulated under this section must be held for a  
25 period of sixty days following the completion. In the event that the  
26 work is terminated before final completion as provided in this  
27 section, the public body may thereafter enter into a new contract  
28 with the same contractor to perform the remaining work or  
29 improvement for an amount equal to or less than the cost of the  
30 remaining work as was provided for in the original contract without  
31 advertisement or bid. The provisions of this chapter are exclusive  
32 and supersede all provisions and regulations in conflict herewith.

33 (8) Whenever the department of transportation has contracted for  
34 the construction of two or more ferry vessels, sixty days after

1 completion of all contract work on each ferry vessel, the department  
2 must release and pay in full the amounts retained in connection with  
3 the construction of the vessel subject to the provisions of RCW  
4 60.28.021 and chapter 39.12 RCW. However, the department of  
5 transportation may at its discretion condition the release of funds  
6 retained in connection with the completed ferry upon the contractor  
7 delivering a good and sufficient bond with two or more sureties, or  
8 with a surety company, in the amount of the retained funds to be  
9 released to the contractor, conditioned that no taxes may be  
10 certified or claims filed for work on the ferry after a period of  
11 sixty days following completion of the ferry; and if taxes are  
12 certified or claims filed, recovery may be had on the bond by the  
13 department of revenue, the employment security department, the  
14 department of labor and industries, and the material suppliers and  
15 laborers filing claims.

16 (9) Except as provided in subsection (1) of this section,  
17 reservation by a public body for any purpose from the moneys earned  
18 by a contractor by fulfilling its responsibilities under public  
19 improvement contracts is prohibited.

20 (10) Contracts on projects funded in whole or in part by farmers  
21 home administration and subject to farmers home administration  
22 regulations are not subject to subsections (1) through (9) of this  
23 section.

24 (11) This subsection applies only to a public body that has  
25 contracted for the construction of a facility using the general  
26 contractor/construction manager procedure, as defined under RCW  
27 39.10.210. If the work performed by a subcontractor on the project  
28 has been completed within the first half of the time provided in the  
29 general contractor/construction manager contract for completing the  
30 work, the public body may accept the completion of the subcontract.  
31 The public body must give public notice of this acceptance. After a  
32 forty-five day period for giving notice of liens, and compliance  
33 with the retainage release procedures in RCW 60.28.021, the public  
34 body may release that portion of the retained funds associated with

1 the subcontract. Claims against the retained funds after the forty-  
2 five day period are not valid.

3 (12) The definitions in this subsection apply throughout this  
4 section unless the context clearly requires otherwise.

5 (a) "Contract retainage" means an amount reserved by a public  
6 body from the moneys earned by a person under a public improvement  
7 contract.

8 (b) "Person" means a person or persons, mechanic, subcontractor,  
9 or materialperson who performs labor or provides materials for a  
10 public improvement contract, and any other person who supplies the  
11 person with provisions or supplies for the carrying on of a public  
12 improvement contract.

13 (c) "Public body" means the state, or a county, city, town,  
14 district, board, or other public body.

15 (d) "Public improvement contract" means a contract for public  
16 improvements or work, other than for professional services, or a  
17 work order as defined in RCW 39.10.210.


18 (13) (a) The requirements of this section do not apply to  
19 contracts of less than ten thousand dollars or the amount determined  
20 by the office of financial management as provided in (b) of this  
21 subsection, whichever amount is greater.

22 (b) From a baseline of ten thousand dollars on January 1, 2022,  
23 the office of financial management must adjust the threshold in this  
24 subsection every five years, beginning January 1, 2024, based on  
25 inflation. The inflation determination shall be based upon changes  
26 in the building cost index during that time period. "Building cost  
27 index" means the building cost index for Seattle, Washington,  
28 compiled by engineering news record, a nationally recognized  
29 professional construction trade periodical. The building cost index  
30 uses average skilled construction labor rates, structural steel,  
31 concrete, and lumber as the basis of measurement. The resulting  
32 amount shall be rounded to the nearest thousand dollars. The office  
33 of financial management must calculate the new dollar threshold and  
34 transmit it to the office of the code reviser for publication in the

1 Washington State Register at least one month before the new dollar  
2 threshold is to take effect.

**Commented [WK8]:** Exemption from retainage requirements of contracts of less than \$10,000 and an automatic increase to the nearest thousand dollars based on inflation.


3  
4 **Sec. 7.** RCW 39.19.120 and 1987 c 328 s 7 are each amended to  
5 read as follows:

6 The office shall be the sole authority to perform certification  
7 of minority business enterprises, socially and economically  
8 disadvantaged business enterprises, and women's business enterprises  
9 throughout the state of Washington. ((~~Certification by the state~~  
10 ~~office will allow~~)) Such certification shall be sufficient to  
11 qualify these firms to participate in programs for these enterprises  
12 administered by the state of Washington, any city, town, county,  
13 special purpose district, public corporation created by the state,  
14 municipal corporation, or quasi-municipal corporation within the  
15 state of Washington, and no program may require qualifications or  
16 credentials beyond certification by the off  in order for an  
17 enterprise qualify as a minority business enterprise, a socially and  
18 economically disadvantaged business enterprise, or a women's  
19 business enterprise.

**Commented [WK9]:** This was an attempt to clarify/reinforce that the certification by OMWBE is sufficient for any programs administered by local governments (and others).

20 This statewide certification process will prevent duplication of  
21 effort, achieve efficiency, and permit local jurisdictions to  
22 further develop, implement, and/or enhance comprehensive systems of  
23 monitoring and compliance for contracts issued by their agencies.

24  
25 **Sec. 8.** RCW 39.19.250 and 2021 c 160 s 7 are each amended to  
26 read as follows:

27 (1) For the purpose of annual reporting on progress required by  
28 this chapter, each state agency, local  government, and educational  
29 institution shall submit data to the office and the office of  
30 minority and women's business enterprises on the participation by  
31 qualified minority and women-owned and controlled businesses in the  
32 agency's, government's, or institution's contracts and other related  
33 information requested by the director. Submissions shall include the  
34 numbers and percent of certified minority and women owned businesses

1 and small businesses on the agency, government, or institution  
2 small works rosters and the percent of contract awards and dollar  
3 amount of contracts awarded to such firms. The director of the  
4 office of minority and women's business enterprises shall determine  
5 the content and format of the data and the reporting schedule, which  
6 must be at least annually. Each agency, government, or institution  
7 shall place the data reported to the office on the reporting  
8 entities' website in a location related to procurement.

Commented [WK10]: Language detailing the small works roster information that would be required to be submitted.

9 (2) The office must develop and maintain a list of contact  
10 people at each state agency and educational institution who are able  
11 to present to hearings of the appropriate committees of the  
12 legislature its progress in carrying out the purposes of chapter  
13 39.19 RCW.

Commented [WK11]: This would require the agency, etc. to post the information reported to OMWBE on its website.

14 (3) The office must submit a report aggregating the data  
15 received from each state agency, local government, and educational  
16 institution, and the information identified and actions taken under  
17 RCW 39.19.060(3) and 39.19.090(4), to the legislature and the  
18 governor.

19 (4) A city or county fully planning under RCW 36.70A.040 that  
20 fails to provide the information required under this section  
21 ineligible for grants from the department of commerce under chapter  
22 36.70A. RCW.

Commented [WK12]: Here's the requirement for cities/counties fully planning under RCW 36.70A.040 to provide MWBE participation information in order to be eligible for grants. I added language to Section 9 that would allow Commerce to give a grant to MRSC to help local governments with this reporting.

RCW 39.19.060 also contains data reporting requirements (along with planning requirements), but they currently only pertain to agencies and educational institutions.

23 (5) For the purposes of this section, "local government" means  
24 any city, town, county, special purpose district, public corporation  
25 created by the state, municipal corporation, or quasi-municipal  
26 corporation.

27  
28 NEW SECTION. Sec. 9. A new section is added to chapter 36.70A RCW  
29 to read as follows:

30 (1) Compliance with section 8 of this act shall be a requirement  
31 for any county or city fully planning under RCW 36.70A.040 to be eligible  
32 to receive a grant from the department under this chapter.

33 (2) The department may award grants to a public agency with  
34 appropriate expertise and funded by local governments to assist local

1 governments in (a) adopting regulations allowing for contractors to be  
2 selected on the basis of criteria ensuring they are qualified to perform  
3 the work solicited, and that a contract is not solely awarded on the  
4 basis of cost when special management, skills, experience, or other  
5 criteria are important to performance; and (b) providing the information  
6 required in section 8.

7  
8 **Sec. 10.** RCW 39.19.030 and 1996 c 69 s 5 are each amended to  
9 read as follows:

10 There is hereby created the office of minority and women's  
11 business enterprises. The governor shall appoint a director for the  
12 office, subject to confirmation by the senate. The director may  
13 employ a deputy director and a confidential secretary, both of which  
14 shall be exempt under chapter 41.06 RCW, and such staff as are  
15 necessary to carry out the purposes of this chapter.

16 The office shall consult with the minority and women's business  
17 enterprises advisory committee to:

18 (1) Develop, plan, and implement programs to provide an  
19 opportunity for participation by qualified minority and women-owned  
20 and controlled businesses in public works and the process by which  
21 goods and services are procured by state agencies and educational  
22 institutions from the private sector;

23 (2) Develop a comprehensive plan insuring that qualified  
24 minority and women-owned and controlled businesses are provided an  
25 opportunity to participate in public contracts for public works and  
26 goods and services, and develop programs for assisting qualified  
27 businesses in applying for such contracts;

28 (3) Identify barriers to equal participation by qualified  
29 minority and women-owned and controlled businesses in all state  
30 agency and educational institution contracts;

31 (4) Establish annual overall goals for participation by  
32 qualified minority and women-owned and controlled businesses for  
33 each state agency and educational institution to be administered on  
34 a contract-by-contract basis or on a class-of-contracts basis;

**Commented [WK13]:** This should allow Commerce to provide funds to a group like MRSC to assist local governments with this data collection.

**Commented [WK14]:** Here's the requirement for OMWBE to assist businesses in applying for the contracts.

1 (5) Develop and maintain a central minority and women's business  
2 enterprise certification list for all state agencies and educational  
3 institutions. No business is entitled to certification under this  
4 chapter unless it meets the definition of small business concern as  
5 established by the office. All applications for certification under  
6 this chapter shall be sworn under oath;

7 (6) Develop, implement, and operate a system of monitoring  
8 compliance with this chapter;

9 (7) Adopt rules under chapter 34.05 RCW, the Administrative  
10 Procedure Act, governing: (a) Establishment of agency goals; (b)  
11 development and maintenance of a central minority and women's  
12 business enterprise certification program, including a definition of  
13 "small business concern" which shall be consistent with the small  
14 business requirements defined under section 3 of the Small Business  
15 Act, 15 U.S.C. Sec. 632, and its implementing regulations as  
16 guidance; (c) procedures for monitoring and enforcing compliance  
17 with goals, regulations, contract provisions, and this chapter; (d)  
18 utilization of standard clauses by state agencies and educational  
19 institutions, as specified in RCW 39.19.050; and (e) determination  
20 of an agency's or educational institution's goal attainment  
21 consistent with the limitations of RCW 39.19.075;

22 (8) Submit an annual report to the governor and the legislature  
23 outlining the progress in implementing this chapter;


24 (9) Investigate complaints of violations of this chapter with  
25 the assistance of the involved agency or educational institution;  
26 and

27 (10) Cooperate and act jointly or by division of labor with the  
28 United States or other states, and with political subdivisions of  
29 the state of Washington and their respective minority, socially and  
30 economically disadvantaged and women business enterprise programs to  
31 carry out the purposes of this chapter. However, the power which may  
32 be exercised by the office under this subsection permits  
33 investigation and imposition of sanctions only if the investigation  
34 relates to a possible violation of chapter 39.19 RCW, and not to



1 violation of local ordinances, rules, regulations, however  
2 denominated, adopted by political subdivisions of the state.

3  
4 NEW SECTION. Sec. 11. A new section is added to chapter 39.10 RCW  
5 to read as follows:

6 The department of commerce may award grants to a public agency with  
7 appropriate expertise and funded by local governments to provide  
8 assistance to local governments in utilizing the procedures under this  
9 chapter and in utilizing minority and women's business enterprises  
10 certified under section 7 of this act, and may award grants to non-  
11 profit organizations to provide minority and women business  certified  
12 under chapter 39.19 RCW for assistance and training in applying for and  
13 participating in public works small works rosters under chapter 39.04  
14 RCW, and in establishing qualifications for specialized work for public  
15 agencies.

**Commented [WK15]:** Language to allow Commerce to provide grants to a group like MRSC to work with local governments on alternative public works contracting procedures and in using MWBE, and allowing Commerce to provide a grant to a non-profit to work with MWBE in participating in small works rosters and in establishing specialized qualifications for public agencies.

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--- END ---

**RCW 39.04.155**

**Small works roster contract procedures—Limited public works process—Definitions.**

(1) This section provides ~~uniform~~ small works roster provisions to award contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of real property that may be used by ~~state~~ agencies and by any local government that is expressly authorized to use these provisions. ~~These provisions may be used in lieu of other procedures to award contracts for such work with an estimated cost of three hundred fifty thousand dollars or less.~~

**Commented [AK1]:** Could go bigger and establish one roster (many categories and specialties) for the state run by XXX.

~~The small works roster process includes the limited public works process authorized under subsection (3) of this section and any local government agency authorized to award contracts using the small works roster process under this section may award contracts using the limited public works process under subsection (3) of this section.~~

**Commented [AK2]:** \$500,000

(2)(a) ~~Any local government, public agency or quasi-public agency, transit authority, port district, hospital district or utility district, state agency or authorized local government~~ may create a single general small works roster, or may create a small works roster for different specialties or categories of anticipated work, including maintenance. Where applicable, small works rosters may make distinctions between contractors based upon ~~such distinguishing factors such as~~ different geographic areas, specialty, size served by of the contractor or similar. ~~If categorical/specialty rosters are established, categories should work to create proportional competition among the categories.~~ The small works roster or rosters shall consist of ~~all-responsive and~~ responsible contractors ~~who have requested to be on the list,~~ and ~~where when~~ required by law are properly licensed or registered to perform such work in this state.

**Commented [AK3]:** Already stated

**Commented [AK4]:** Need to open to all, so we don't need to have separate authorizing statutes. What is the right term?

**Commented [AK5]:** Cross reference to the services contracts section performing maintenance by public works. Can provide the statute reference if needed.

~~An agency, state agency or local government~~ establishing a small works roster or rosters may require eligible contractors desiring to be placed on a roster or rosters to keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate ~~matters information~~ on file with the state agency or local government as a condition of being placed on a roster or rosters.

At least once a year, the state agency or local government shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for such roster or rosters. ~~In addition, responsible contractors shall be added to an appropriate roster or rosters at any time they submit a written request and necessary records.~~

Master contracts ~~may be required~~ are encouraged to be signed that become effective when a specific award is made using a small works roster. ~~Small Works master contracts should be limited in provisions and process, proportional to the work being completed; similarly, an agency may also use a task order based contract system. Master contracts awarded under this Section shall expire three years.~~

**Commented [AK6]:** Need to cap for those that are worried about indefinite incumbents.

(b) ~~An state~~ agency establishing a small works roster or rosters shall ~~adopt rules~~ establish a program implementing this subsection. A local government establishing a

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small works roster or rosters shall adopt an ordinance or resolution implementing this subsection. Procedures included in ~~rules-the program~~ adopted by the department of enterprise services in implementing this subsection must be included in any ~~rules programs~~ providing for a small works roster or rosters that is adopted by another ~~state~~ agency, if the authority for that ~~state~~ agency to engage in these activities has been delegated to it by the department of enterprise services under chapter **43.19** RCW. An interlocal contract or agreement between two or more ~~state~~ agencies or local governments establishing a small works roster or rosters to be used by the parties to the agreement or contract must clearly identify the lead entity that is responsible for implementing the provisions of this subsection.

(c) Procedures shall be established for securing ~~telephone, written, or~~ electronic ~~quotations-quotations/bids~~ from contractors on the appropriate small works roster to assure that a competitive price is established and to award contracts to the lowest responsible bidder, as defined in RCW **39.04.010**.

(i) Invitations for quotations/~~bids~~ shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation. This subsection does not eliminate other requirements for architectural or engineering approvals as to quality and compliance with building codes. ~~Quotations-Bids~~ may be invited from all appropriate contractors on the appropriate small works roster. As an alternative, quotations/~~bids~~ may be ~~invited-solicited~~ from ~~at least three to five~~ contractors ~~on the accepted to~~ appropriate small works roster ~~who have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute that rotate~~ the opportunity among the contractors on the appropriate roster. However, if the estimated cost of the work is from ~~two hundred fifty thousand dollars to three hundred fifty thousand dollars~~, a state agency or local government that chooses to solicit bids from less than all the appropriate contractors on the appropriate small works roster must also notify the remaining contractors on the appropriate small works roster that quotations on the work are being sought. The ~~government-agency~~ has the sole option of determining whether this notice to the remaining contractors is made by: (i) Publishing notice in a legal newspaper in general circulation in the area where the work is to be done; (ii) mailing a notice to these contractors; or (iii) sending a notice to these contractors by ~~facsimile or other~~ electronic means. ~~For purposes of this subsection (2)(c), "equitably distribute" means that a state agency or local government soliciting bids may not favor certain contractors on the appropriate small works roster over other contractors on the appropriate small works roster who perform similar services.~~

(d) A contract awarded from a small works roster under this section need not be advertised.

(e) Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by at least one of the following: ~~Telephone or~~ electronic request.

(f) For projects awarded under the small works roster process established under this subsection, a ~~state~~ agency or authorized local government may waive the retainage requirements of RCW **60.28.011**(1)(a), thereby assuming the liability for contractor's nonpayment of: (i) Laborers, mechanics, subcontractors, material persons, and suppliers; and (ii) taxes, increases, and penalties under Titles **50**, **51**, and **82** RCW that

**Commented [AK7]:** Go back and forth on this. Quotes if task order program bids if not. Defer to what others think should be part of the program.

**Commented [AK8]:** rotation

**Commented [AK9]:** Applications establishing responsibility and experience is criteria for being on the roster.

**Commented [AK10]:** \$350,000 – 500,000

**Commented [AK11]:** Rotation in the category. Stated in the definitions below. Still a bidding scenario and should still be required to take the lowest responsive bid...key is that the competition is based on your equitable peers in similar scope categories.

**Commented [AK12]:** Use consistent term

may be due from the contractor for the project. However, the state agency or local government has the right of recovery against the contractor for any payments made on the contractor's behalf. Recovery of unpaid wages and benefits are the ~~first~~ ~~priority~~ ~~priority~~ for actions filed against the contract.

(3)(a) In lieu of awarding contracts under subsection (2) of this section, a state agency or authorized local government may award a contract for work, construction, alteration, repair, or improvement projects estimated to cost less than fifty thousand dollars using the limited public works process provided under this subsection. Public works projects awarded under this subsection are exempt from the other requirements of the small works roster process provided under subsection (2) of this section and are exempt from the requirement that contracts be awarded after advertisement as provided under RCW 39.04.010.

Commented [AK13]: \$150,000

Commented [AK14R13]: I have additional information on thresholds but should align with MRSC study

(b) For limited public works projects, a ~~state agency or authorized local government~~ shall solicit electronic ~~or written quotations bids~~ from a minimum of three contractors from the appropriate small works roster and shall award the contract to the lowest responsible bidder as defined under RCW 39.04.010. After an award is made, the ~~quotations bid~~ shall be open to public inspection and available by ~~electronic~~ request. A state agency or authorized local government must ~~equitably distribute rotate~~ opportunities for limited public works projects among contractors ~~willing to perform in the geographic area of the work on the appropriate roster~~. ~~An agency that has established a small works roster or rosters state agency or authorized local government~~ shall maintain a list of the contractors contacted and the contracts awarded during the previous twenty-four months under the limited public works process, including the name of the contractor, the contractor's registration number, the amount of the contract, a brief description of the type of work performed, and the date the contract was awarded. For limited public works projects, a state agency or authorized local government may waive the payment and performance bond requirements of chapter 39.08 RCW and may waive the retainage requirements of RCW 60.28.011(1)(a), thereby assuming the liability for the contractor's nonpayment of laborers, mechanics, subcontractors, material persons, suppliers, and taxes, increases, and penalties imposed under Titles 50, 51, and 82 RCW that may be due from the contractor for the limited public works project, however the ~~state agency or authorized local government agency~~ shall have the right of recovery against the contractor for any payments made on the contractor's behalf.

Commented [AK15]: Consistent throughout with the chosen term

Commented [AK16]: Consistent throughout with the chosen term

(4) The breaking of any project into units or accomplishing any projects by phases is prohibited if it is done for the purpose of avoiding the maximum dollar amount of a contract that may be let using the small works roster process or limited public works process.

(5) A ~~state agency or authorized local government~~ may use the limited public works process in this section to solicit and award small works roster contracts to ~~mini-businesses and microbusinesses diverse businesses~~ as defined under RCW 39.26.010 that are registered contractors.

Commented [AK17]: Use consistent titling

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Equitably distribute opportunities" means that an state agency or authorized local government agency may not favor certain contractors on the appropriate small works roster over other contractors on the same roster who perform similar services.

(b) "State agency" means the department of enterprise services, the state parks and recreation commission, the department of natural resources, the department of fish and wildlife, the department of transportation, any institution of higher education as defined under RCW **28B.10.016**, and any other state agency delegated authority by the department of enterprise services to engage in construction, building, renovation, remodeling, alteration, improvement, or repair activities.

(7) Equity in Small Works. It is the intent of this Section to establish a public procurement option for public works that removes barriers for diverse, small businesses to be given opportunity to compete in a pool of similar businesses for similar work. To that end:

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(a) agencies are encouraged to create small works rosters that include diverse business categories and allow for competition by peer groups.

**Commented [AK18]:** Large against large, small against small,

(b) agencies must establish responsibility criteria that are proportional to the work anticipated in the roster category established.

(c) agencies must assign risk, including insurance and bonding, proportional to the work anticipated and reduce or eliminate requirements when risk is minimal.

**Commented [AK19]:** If you have a remediation project it must be fully bonded and ensured.

(d) agencies must rotate solicitations to contractors within rosters not soliciting to the same contractors twice in a row, unless a specialty or category roster has less than three contractors.

(e) in order to maximize opportunities, agencies are encouraged to establish maximum number of available spots on the small works roster or rosters and reestablish rosters every two years.

(8) Apprenticeship: Any small works project over three hundred fifty thousand dollars, excluding Washington state sales and use tax, and including over six hundred single trade hours shall utilize a state registered apprenticeship program for that single trade in accordance with RCW **39.04.320**. Awarding agencies may adjust this requirement for a specific project for the following reasons:

**Commented [AK20]:** This is what is needed to ensure support from labor to expand the limits.

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(a) The demonstrated lack of availability of apprentices in specific geographic areas;

(b) A disproportionately high ratio of material costs to labor hours, which does not make feasible the required minimum levels of apprentice participation;

(c) Participating contractors have demonstrated a good faith effort to comply with the requirements of RCW **39.04.300** and **39.04.310**; or

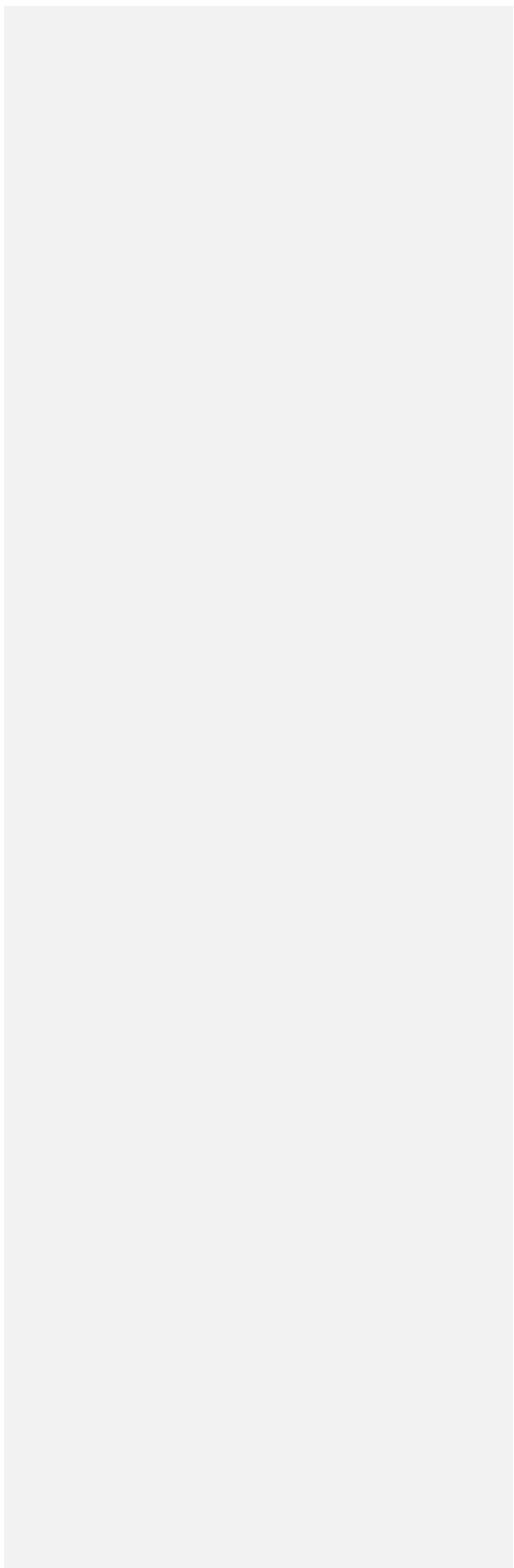
(d) Other criteria the awarding agency deems appropriate.

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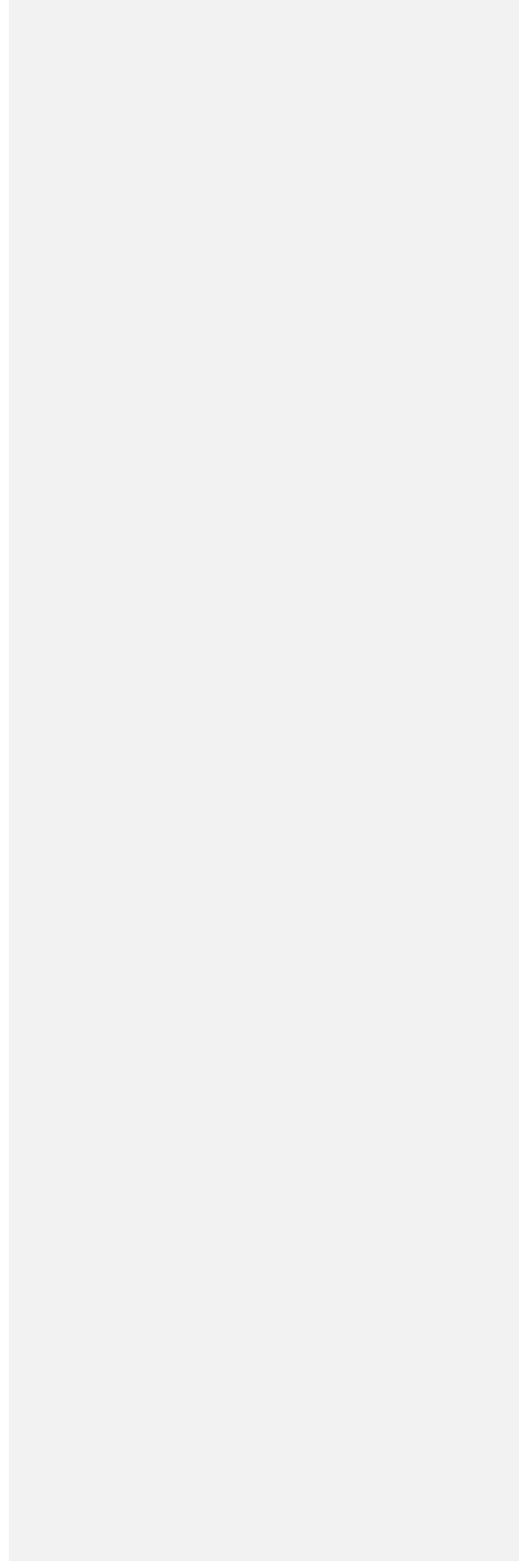
**RCW 39.04.156**

**Small works roster manual—Notification to local governments.**

The \*department of community, trade, and economic development, in cooperation with the municipal research and services center, shall prepare a small works roster manual and periodically notify the different types of local government authorized to use a small works roster process about this authority.



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# L&I'S PUBLIC WORKS DATA

**\*\*\*THIS IS PRELIMINARY DATA – THE OFFICIAL REPORT WILL BE AVIALABLE BY THE END OF NOVEMBER\*\*\***

This report represents all **new** public works projects filed with Labor & Industries (L&I) from July 1, 2019 through October 26, 2021. It does not include any projects that were in progress as of July 1, 2019.

## SMALL BUSINESSES ON PUBLIC WORKS PROJECTS

From July 1, 2019 through October 26, 2021, 12,340 contractors performed work on public works projects. **Approximately 91% (working on obtaining actual %)** of these contractors have 0-50 employees\* and meet the definition of a small business (per RCW 39.26.010 and Rep. Pollet's draft bill).

*\*Based on workers' compensation reportings.*

## SMALL WORKS & LIMITED PUBLIC WORKS PROJECTS

*As allowed under RCW 39.04.155*

TABLE 1 – CURRENT DATA

	<b>July 1, 2019 - October 26, 2021</b>	<b>% of Total Projects</b>	<b>% of &lt;\$350K</b>
Total Limited Public Works	19,468	20.40%	21.62%
Total Small Works	20,108	21.07%	22.33%
Total Projects < \$350K	90,030	94.33%	
<b>Total Projects</b>	<b>95,442</b>		

TABLE 2 – 5-YEAR INFLATION PROJECTION\*

		<b>Additional Projects</b>
<i>Total Projects &lt; \$410K</i>	<i>90,550</i>	<i>520</i>
Potential Limited Public Works	19,580	112
Potential Small Works	20,224	116
<b>Total Potential Projects</b>	<b>39,805</b>	<b>229</b>

*\*Based on the Local Government Public Works Contracting Report by MRSC*

TABLE 3 – 10-YEAR INFLATION PROJECTION\*

		<b>Additional Projects</b>
<i>Total Projects &lt; \$500K</i>	<i>91,387</i>	<i>51,582</i>
Potential Limited Public Works	19,761	181
Potential Small Works	20,411	187
<b>Total Potential Projects</b>	<b>40,173</b>	<b>368</b>

*\*Based on the Local Government Public Works Contracting Report by MRSC*

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## OMWBE UTILIZATION ON PUBLIC WORKS PROJECTS

Of the 95,442 projects, 5,464 (5.72%) projects utilized at least one OMWBE certified contractor on the project.

TABLE 4 – UTILIZATION BY CONTRACT TYPE

Contract Type	Average OMWBE Utilization	# of Projects	% of Projects
*Design-Build	2.36%	1,061	1.11%
*Emergency Work	3.79%	58	0.06%
*General Contractor/Construction Manager (GC/CM)	1.79%	1,093	1.15%
*Job Order Contract (JOC)	6.72%	3,540	3.71%
*Limited Public Works (Less than \$50,000)	1.77%	19,501	20.43%
*On-Call	6.29%	4,906	5.14%
*Purchased Services	2.34%	5,508	5.77%
*Small Works (Less than \$350,000)	1.95%	20,122	21.08%
*Unit-Priced Contract	3.11%	4,322	4.53%
Bid-Build (Traditional)	3.65%	35,331	37.02%
<b>Total Projects</b>	<b>3.02%</b>	<b>95,442</b>	<b>100.00%</b>

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## Chris Herman Comments

### An Act Relating to Public Work Contracting – Ports overview

Section 1: removes established small works roster (SWR) threshold for port districts redirecting back to RCW 39 for threshold guidance.

Support – results in an immediate increase in ports SWR threshold from \$300,000 to \$350,000. Enables port districts to have parity and adjust thresholds with all other state and local governments.

### Section 3: defines small business

General support – ports in border communities may be concerned that businesses based in adjacent states do not qualify.

Question: This section appears to only limit the small business definition to minority or women-owned businesses. Small businesses more broadly would benefit from greater access to public works projects.

Section 4: allows for increase in threshold for SWR. Requires rotation of solicited contractors and prohibits any one contractor from receiving greater than twenty percent of the total let contracts. This section further requires that at least two small, minority or women-owned businesses be included in each SWR solicitation.

Mixed bag – ports support increased threshold for SWR and support the underlying intent of this section. Ports would be more inclined to include an up front increase in SWR threshold (say \$500k) and then adopt a 5-year escalation strategy into the future. Small, rural or ports that have specialized business lines could be operationally challenged to restrict specific contractors to twenty percent of the total let contracts. Availability of small, women and minority owned businesses in small or rural communities has also been a challenge which has been well documented. More permissive language could help resolve clear challenges in this section.

### Section 5: exempt performance bond requirements from contracts below \$10,000.

Support performance bond exemption for contracts with much larger thresholds. Ports currently are allow performance bond exemptions in contracts below \$35,000.

### Section 6: exempts retainage requirements for contracts below \$10,000

Support retainage exemptions for contracts with much larger thresholds. Ports currently are allowed to forego retainage on contracts below \$35,000.

Section 8: requires ports to report the total number of and percentage of SWR contracts let to small, women and minority-owned businesses. Requires ports to report this data directly on their website

Similar concerns to Section 4 of the bill. Challenges to complying with the intent are major concerns. Concerns with what may appear to be poor performance create risk for port districts that try but are incapable of finding sufficient contractors in their community or region. Approximately 5 port districts in the state do not have websites.

Section 9: creates a pathway for the state to provide organizations like mrsc funding to support local governments and contractors

Support the intent of this section. Language appears insufficient to achieve the desired outcome, however.

Section 10: includes in OMWBE statute the requirement to assist contractors in competing for SWR contracts.

Support the intent of this section. This additional language could be an unfunded mandate or be challenged by the contracting community if it is interpreted broadly.

Section 11: creates a pathway to provide funding by the state to organizations who could aid small, women and minority-owned businesses resources to compete for SWR contracts.

Support the intent of this section.

## Business Equity/Diverse Business Inclusion Committee Capital Projects Advisory Review Board

19 November 2021

Committee focus:

- Comprehensive review of RCW 39.10 with the lens of equity (include RCW 39.04 & 39.80).
- Create consistency in statutory language.
- Evaluate and bring forth effective strategies and opportunities for firms to compete.

<input checked="" type="checkbox"/> Olivia Yang	Washington State University	CPARB /Committee Member
<input checked="" type="checkbox"/> Santosh Kuruville	Exeltech	CPARB /Committee Member
<input checked="" type="checkbox"/> Lisa Van der Lugt	OMWBE	CPARB /Committee Member
<input type="checkbox"/> Charles Wilson	DES	CPARB /Committee Member
<input checked="" type="checkbox"/> Irene Reyes	Excel Supply Company	CPARB /Committee Member
<input checked="" type="checkbox"/> Janice Zahn	Port of Seattle	CPARB /Committee Member
<input type="checkbox"/> Jackie Bayne	WSDOT OEO	Committee Member
<input type="checkbox"/> Cheryl Stewart	Inland Northwest AGC	Committee Member
<input checked="" type="checkbox"/> Chip Tull	Hoffman Construction	Committee Member
<input checked="" type="checkbox"/> Aleanna Kondelis	Akana	Committee Member
<input checked="" type="checkbox"/> Brenda Nnambi	Sound Transit	Committee Member
<input type="checkbox"/> Linda Womack	MBDA	Committee Member
<input checked="" type="checkbox"/> Cathy Robinson	City of Lynnwood	Committee Member
<input type="checkbox"/> Shelly Henderson	Mukilteo School District	Committee Member
<input checked="" type="checkbox"/> Keith Michel	Forma	Committee Member
<input checked="" type="checkbox"/> Young Sang Song	Song Consulting	Committee Member
<input checked="" type="checkbox"/> Stephanie Caldwell	Absher Construction	Committee Member
<input type="checkbox"/> Bill Dobyns	Lydig	CPARB
<input type="checkbox"/> Bobby Forch	Forch Consulting	CPARB
<input type="checkbox"/> Lily Keefe	USDOT - Northwest SBTRC	
<input checked="" type="checkbox"/> Sarah Erdman	OMWBE	
<input checked="" type="checkbox"/> Van Collins	ACEC Washington	
<input type="checkbox"/> Cathy Ridley	Exeltech	
<input checked="" type="checkbox"/> Maja Huff	Washington State University	
<input type="checkbox"/> Jerry Vanderwood	AGC of Washington	
<input type="checkbox"/> Timolin Abrom	OMWBE	
<input type="checkbox"/> Melissa Van Gorkom	Senate Committee Services	
<input checked="" type="checkbox"/> Amy Stenvall	Mukilteo School District	Present representing Shelly Henderson
<input checked="" type="checkbox"/> Cindy Magruder	University of Washington	
<input type="checkbox"/> Carrie Whitton	Forma	
<input checked="" type="checkbox"/> Rachel Murata	OMWBE	
<input type="checkbox"/> John Rose	MRSC	
<input checked="" type="checkbox"/> Jolene Skinner	LnI	
<input type="checkbox"/> Curt Gimmestad	Absher Construction	
<input type="checkbox"/> Eric Alozie	NEW Construction	
<input type="checkbox"/> Jerry Vanderwood	AGC	
Hans Hansen	Bailey Construction	
Bill Frare	DES	Present representing Charles Wilsonj

## DRAFT AGENDA

Item	Purpose	Start
Welcome and committee member introductions	Information	8:00 am
Review & approve agenda	Action	8:05 am
Review & approve previous meeting minutes	Action	8:10 am
Invitation to the public to participate	-	8:15 am
Survey	Discussion	8:25 am
CPARB Speakers	Discussion	8:45 am
Next Steps	Discussion	9:00 am
"Final word" (from committee members)	Discussion	9:15 am

**DIGITAL CONFERENCE ACCESS**

The committee meeting will be conducted entirely by Zoom digital conferencing.

Online <https://wsu.zoom.us/j/97615048848>

Meeting ID: 976 1504 8848

Join by telephone

Dial: US: +1 253 215 8782 or +1 669 900 9128 or +1 646 558 8656

Meeting ID: 976 1504 8848

---

Olivia Yang - Washington State University

206 718 0787 [olivia.yang@wsu.edu](mailto:olivia.yang@wsu.edu)

Santosh Kuruvilla – Exeltech Consulting

206 713 1241 [santosh@xltech.com](mailto:santosh@xltech.com)

---

Item: **Welcome and committee member introductions**

- Call to Order
- Quorum confirmed

Action by: BE/BDI Committee

Status: Approved and complete

---

Item: **Review & approve agenda**

- Agenda Approved.

Action by: BE/BDI Committee

Status: Approved and complete

---

Item: **Review & approve 10/22/21 and 10/29/21 meeting minutes**

- 102221 minutes – approved as revised minutes with correction to indicate that Keith was not in attendance. Correct Pollet’s name.
- 102921 minutes – approved – Janice, Lisa, and Brenda abstain due to not being in attendance. Stephanie in attendance.

Action by: BE/DBI Committee

Status: Approved with revisions

---

Item: **Public Comment**

- None.

Action by: N/A

Status: N/A

---

Item: **Survey**

- Introduction by Olivia.
- Diverse business as first choice – help support diverse business to be so competitive that people want to use diverse business. No longer a have to, but a want to.

- Discussion around survey concept and methodology. Is there a way for people to request a discussion/interview?
- Presented the draft survey:
- Discussion/Recommendations around the survey:
- Reverse the order of ranking – 1 most important and 5 least important.
- Reverse the order of the type of firms or put them in alphabetical order. Annual revenue information? Who is the target market?
- Define the ranking naming convention in Section 3. Maybe put numbers to it as well? Update the wording? Unsatisfactory, Marginal, Satisfactory? 3 or 5 categories? Is there standard survey terminology that could be explored?
- Recommendation to add comments box.
- Share with people the purpose, what we are going to do with it, and its value in a cover letter. The What, Why and How.
- Re-present to group with cover letter included, and survey updates made. Time is of the essence, get another draft out to the group via email and try to get it to the December 9 CPARB meeting..

Action by: Olivia and Stantosh

Status: In progress

Item: **CPARB Speakers**

- December 9 CPARB Meeting speakers will be WSDOT and Sound Transit. We have asked them to come and talk about their journey. 10 minutes or so each speaker, and then 20-30 minutes for the survey and the remainder for Q&A.

Action by: N/A

Status: N/A

Item: **Next Steps**

- Skipped.

Action by: N/A

Status: N/A

Item: **Final Words**

- Recommendation to put certified business definition as part of the first question in the survey.
- Adjust survey via email.
- What is the overall end result of the survey – catch Hans Hansen up to speed. Recommendation to review the CPARB Website and pre-reads posted there.
- Is there a way to ask in a positive light for the questions in the survey?
- Link in the chat with standard survey recommendations.
- Don't let the perfect be the enemy of the good.
- Comment box after each ranking or ratings?
- Should the certification aspect be addressed or managed in the survey?
- Stick to a well-defined purpose, and keep it simple and avoid complicated.
- Many appreciations voiced for work of the committee put in by this committee!

Action by: N/A

Status: N/A

## Chat Record from Meeting:

From Rachel Murata (she/her) OMWBE to Everyone 08:09 AM

Pollet

Me to Rachel Murata (she/her) OMWBE (Direct Message) 08:14 AM

Thank you!

From Me to Everyone 08:29 AM

[https://forms.office.com/Pages/ResponsePage.aspx?id=zjWEnt8fek2Qs1biqYvLmGr1yYOec6hPu3RyHI\\_WDX1URFk4SzIQQ0Y2MkjYVE42NEVFRUtKwK9JTi4u](https://forms.office.com/Pages/ResponsePage.aspx?id=zjWEnt8fek2Qs1biqYvLmGr1yYOec6hPu3RyHI_WDX1URFk4SzIQQ0Y2MkjYVE42NEVFRUtKwK9JTi4u)

From Lisa van der Lugt to Everyone 08:30 AM

or put them in alpha

From Brenda Nnambi to Everyone 08:30 AM

I agree with Lisa.

From Chip Tull to Everyone 08:32 AM

How do we define "Plan" in the last survey question? How will respondents know what applies to 'Better Than Plan'?

From Brenda Nnambi to Everyone 08:34 AM

To Chip's point, I think we should define what each category means in section 3.

From Hans Hansen, DBIA / Bayley Construction to Everyone 08:37 AM

A comments section at the end is a good idea, so you can get some real feedback. What is the end result of the survey?

Sorry Lisa hit on it!

From Cindy Magruder to Everyone 08:39 AM

I think you also need to define what "goal" was accomplished.

From Brenda Nnambi to Everyone 08:46 AM

Some additional points: Getting info from websites as mentioned earlier is not as easy as it should be.

From Jolene Skinner to Everyone 08:47 AM

Take a look at this link for standard Likert Scale examples to use - <https://www.simplypsychology.org/likert-scale.html>

From Bill Frare, DES to Everyone 08:47 AM

how about - exceed expectations, meets expectations, meets some expectations, does not meet expectations

Me to Santosh Jacob Kuruvilla (Direct Message) 08:56 AM

I believe that Linda Womak has had her hand up for a while.

From Stephanie Caldwell to Everyone 08:56 AM

Like: 1. Comment section at the end 2. draft survey to review via email prior to December's CPARB meeting in order to not delay all the great work that has been done to this point

From Janice Zahn to Everyone 08:59 AM

Thank you for all your hard work.

From Hans Hansen, DBIA / Bayley Construction to Everyone 09:15 AM

Great job Everyone! Santosh fantastic job leading the group today.

# BE/DBI Survey Form - Draft 3

There are three sections. Please fill out all three.

...

## Section 1 - Type of Firm

Select the answer that best reflects your business or agency.

### 1. Type of Firm

- Public Agency
- Contractor
- Subcontractor
- Designer
- Other Consultant
- Diverse Business (Prime or Sub)

Next

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## Section 2 - Rank the Issues

We would like input on the areas you think would be most leveraging to you in your role in the industry. Please rank each issue in order from 1 to 5, 1 being the least important to you and 5 being the most important to you.

Note: Click the up/down arrows on the side to move the issue to the desired spot.

### 2. Ranking Importance

1 Access to opportunities in public contracting

2 Access to networks/ relationship opportunities

3 Access to capital including firm financing, eligibility for financing, and bonding

4 Access to training and business services support

5 Access to project cash flow and prompt pay issues



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### Section 3 - Rank the Severity of Each Issue

Rank severity of each issue based upon your perception of impacts to small business.

#### 3. Ranking Severity

	Better Than Plan	Accomplished Goal	Marginal	Unsatisfactory
Access to opportunities in public contracting	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Access to networks/ relationship opportunities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Access to capital including firm financing, eligibility for financing, and bonding	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Access to project cash flow and prompt pay issues	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Access to training and business services support	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Back

Submit

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Draft Report 5-6-2022

## Business Equity/Diverse Business Inclusion Committee Capital Projects Advisory Review Board

17 December 2021

Committee focus:

- Comprehensive review of RCW 39.10 with the lens of equity (include RCW 39.04 & 39.80).
- Create consistency in statutory language.
- Evaluate and bring forth effective strategies and opportunities for firms to compete.

<input checked="" type="checkbox"/> Olivia Yang	Washington State University	CPARB /Committee Member
<input checked="" type="checkbox"/> Santosh Kuruville	Exeltech	CPARB /Committee Member
<input type="checkbox"/> Lisa Van der Lugt	OMWBE	CPARB /Committee Member
<input type="checkbox"/> Charles Wilson	DES	CPARB /Committee Member
<input checked="" type="checkbox"/> Irene Reyes	Excel Supply Company	CPARB /Committee Member
<input checked="" type="checkbox"/> Janice Zahn	Port of Seattle	CPARB /Committee Member
<input checked="" type="checkbox"/> Jackie Bayne	WSDOT OEO	Committee Member
<input type="checkbox"/> Cheryl Stewart	Inland Northwest AGC	Committee Member
<input checked="" type="checkbox"/> Chip Tull	Hoffman Construction	Committee Member
<input checked="" type="checkbox"/> Aleanna Kondelis	Akana	Committee Member
<input checked="" type="checkbox"/> Brenda Nnambi	Sound Transit	Committee Member
<input checked="" type="checkbox"/> Linda Womack	MBDA	Committee Member
<input checked="" type="checkbox"/> Cathy Robinson	City of Lynnwood	Committee Member
<input checked="" type="checkbox"/> Shelly Henderson	Mukilteo School District	Committee Member
<input checked="" type="checkbox"/> Keith Michel	Forma	Committee Member
<input checked="" type="checkbox"/> Young Sang Song	Song Consulting	Committee Member
<input checked="" type="checkbox"/> Stephanie Caldwell	Absher Construction	Committee Member
<input type="checkbox"/> Bill Dobyms	Lydig	CPARB
<input type="checkbox"/> Bobby Forch	Forch Consulting	CPARB
<input type="checkbox"/> Lily Keefe	USDOT - Northwest SBTRC	
<input type="checkbox"/> Sarah Erdman	OMWBE	
<input type="checkbox"/> Van Collins	ACEC Washington	
<input type="checkbox"/> Cathy Ridley	Exeltech	
<input checked="" type="checkbox"/> Maja Huff	Washington State University	
<input type="checkbox"/> Jerry Vanderwood	AGC of Washington	
<input type="checkbox"/> Timolin Abrom	OMWBE	
<input checked="" type="checkbox"/> Melissa Van Gorkom	Senate Committee Services	
<input type="checkbox"/> Amy Stenvall	Mukilteo School District	
<input checked="" type="checkbox"/> Cindy Magruder	University of Washington	
<input checked="" type="checkbox"/> Carrie Whitton	Forma	
<input checked="" type="checkbox"/> Rachel Murata	OMWBE	Representing Lisa Van der Lugt
<input type="checkbox"/> John Rose	MRSC	
<input checked="" type="checkbox"/> Jolene Skinner	LnI	
<input type="checkbox"/> Curt Gimmestad	Absher Construction	
<input type="checkbox"/> Eric Alozie	NEW Construction	
<input type="checkbox"/> Jerry Vanderwood	AGC	
<input type="checkbox"/> Hans Hansen	Bailey Construction	
<input type="checkbox"/> Bill Frare	DES	

## AGENDA

Item	Purpose	Start
Welcome and committee member introductions	Information	10:00 am
Review & approve agenda	Action	10:05 am
Review & approve 11/19/21 meeting minutes	Action	10:10 am
Invitation to the public to participate	-	10:15 am
Survey	Discussion	10:25 am
Report Outline	Discussion	10:45 am
New Business	Discussion	11:00 am
"Final word" (from committee members)	Discussion	11:15 am

---

Adjourn

Action

11:30 am

---

**DIGITAL CONFERENCE ACCESS**

The committee meeting will be conducted entirely by Zoom digital conferencing.

Online <https://wsu.zoom.us/j/97615048848>

Meeting ID: 976 1504 8848

Join by telephone

Dial: US: +1 253 215 8782 or +1 669 900 9128 or +1 646 558 8656

Meeting ID: 976 1504 8848

---

Olivia Yang - Washington State University

206 718 0787 [olivia.yang@wsu.edu](mailto:olivia.yang@wsu.edu)

Santosh Kuruvilla – Exeltech Consulting

206 713 1241 [santosh@xltech.com](mailto:santosh@xltech.com)

---

Item: **Welcome and committee member introductions**

- Call to Order
- Quorum confirmed

Action by: BE/BDI Committee

Status: Approved and complete

---

Item: **Review & approve agenda**

- Agenda Approved.

Action by: BE/BDI Committee

Status: Approved and complete

---

Item: **Review & approve 11/19/21 meeting minutes**

- 11/19/21 minutes – wsdot abbreviation correction.

Action by: BE/DBI Committee

Status: Approved

---

Item: **Public Comment**

- None.

Action by: N/A

Status: N/A

---

Item: **Survey**

- Draft Survey presented and reviewed
- Due date for survey completion? Add to Survey cover letter.
- Discussed “other comments” section. Is one enough, or is
- What is the time frame from date sent out to when responses are needed?
  - Send out beginning of January
  - Comment by End of January (25<sup>th</sup>?). CPARB Meeting is February 10. Goal to receive feedback to be able to provide to the board at the February meeting.
- Avenues of outreach discussed.
- Format Feedback:

- Separate leading question from the paragraph in Question 7.
- Should “DBE” in Question 7 actually read “Diver Business” instead?
- Should Question 8 be expanded to be more of an invitation rather than simply “other comments?”
- Concerns around duplicate responses discussed. If in Survey Monkey – there is a way to weed out duplicates.
- Do we focus this on 39.10 or are we interested in all experiences in Public Works?
  - Update question 1 instead of “RCW 39.10” say “Public Works”? Clarify delivery methods?
  - Should be we more deliberate about referencing the legislation?

Action by: Olivia and Stantosh

Status: In progress

Item: **Report Outline**

- Discussion about report due to legislature due in June.
- Draft should be done during May so that CPARB can review.
- Draft Outline for the report shared on screen.
- Looking at this from the lens of how we make diverse business as first choice. And the fact that CPARB is an advisory committee.
- Thoughts, comments, reactions:
  - Multiple people appreciate the outline, from owner’s perspective and contractor’s perspective.
  - Like the idea of not duplicating work. A good way to highlight policies that do and do not apply in legislation.
  - Narrowing the focus for biggest bang for the buck.
  - Push back on section 20 calling this effort “best practices”?
  - Bonding and prompt payment have been one of the biggest topics. Offer that inclusion plans resources needs to be included?
  - Include practices and ideas about how to track and report inclusion?
  - Look back at Section 20 verbiage to be sure we are addressing everything named in the legislation.
  - When and who will be involved in the process of pulling together the report and manual.
  - If there is general consensus then potentially the following:
    - Think about report to CPARB in Feb. – Talk about outline and any modifications
    - Hoping to count on everyone’s engagement. Ask if we have thoughts about particular topics, or how the RCW could be interpreted or amended, share/socialize to come up with the report.
    - Goal should be to bring up the fact that more work needs to be done in other arenas, instead of focusing on one or two. Identify under examined categories.
  - Put the Report outline in the Teams folder for people to be able to provide comments on.
  - Come up with a good narrative, include those things that are discriminatory behaviors and practices.
  - Do we already have a solid list of who the survey will go to? Make sure that the list is as compressive as possible.
  - Be sure we are on the same page that around Best Practices/Common Practices, be sure that we are identifying the discriminatory and non- discriminatory behaviors and practices.
  - Create a movement towards actionable strategies.
  - Is the intent of the outline a formulaic manual or philosophical direction?
    - Actionable recommendation – keep it high level and simple to keep it actionable and simple.
  - Who is organizing and the report/appendix items? Keep it unfiltered but keep it consistent, succinct and concise.
  - There is no finish line. We need to be looking at ways to move the needle.
  - Be sure we have a product that will satisfy the bill – both the guideline and the recommended state lay changes. We have the latitude to create the manual that makes the most sense to this group, because the previously publish CPARB best practices manuals each look different.
  - Be cognizant of the charge of Section 20.

Action by: All committee members

Status: N/A

---

Item: **New Business**

- Skipped.

Action by: N/A

Status: N/A

---

Item: **Final Words**

- Public contracting has largely been developed around contracts awarded as lowest responsible contractors, and that perspective should be considered as we are doing the work of this committee.
- Appreciate continuing to focus and refine.
- Happy Holidays!
- We respect every opinion, and we shouldn't feel negated or discouraged when they differ.
- Appreciate the hard work of this committee and we are going to have a very helpful product at the end of this.
- Transparency is critically important in the process to have the best work product. Interested in hearing about next steps.
- Words matter and as we look at it as a group having intentionality around what we are doing, and giving grace. Maybe we can talk about where the recommendations get tested. How do we make sure our thoughts on the barriers is actually representative of the larger group. It will be fundamental to the output of the committee.
- Thank you for the open discussion and diverse perspectives.

Action by: N/A

Status: N/A

---

Adjourn 11:32

Chat Record from Meeting:

00:17:16 Cindy Magruder: The survey appears to be targeted at 39.1 ORCW. Will there be a definition provided so firms understand this?

00:17:46 Stephanie Caldwell: Sorry for logging on late. Stephanie Caldwell

00:26:22 Rachel Murata (she/her) OMWBE: This is in Survey Monkey, right? It has an option to disable the ability to respond more than once from the same device.

00:31:12 Brenda Nnambi: Recommend using the term "diverse" businesses rather than "DBE" since that term is tied to federal funded transportation.

00:31:48 Shelly Henderson: Have to step away for a minute

00:34:29 Aleanna Kondelis: Just to capture for the record: Can the "question" be pulled out to stand out on question 7? Did we intentionally use DBE in question 7? Can we use diverse business? On question 8 can we add more such as "additional comments on barriers, practices to combat or other issues that impact diverse business inclusion in public contracting."

00:36:13 Shelly Henderson: back

00:46:25 Jackie Bayne: Be right there!

00:46:55 Rachel Murata (she/her) OMWBE: I will be back in a few minutes.

00:51:34 Keith Michel: I have a tangible idea to help prompt payment with a slight adjustment to typical payment procedures that contracts require.

00:51:39 Stephanie Caldwell: Agreed. Prompt payment has been an issue for some time now. It would be nice to see the needle moved on that topic for our small business partners.

00:51:52 Rachel Murata (she/her) OMWBE: Back now, sorry

01:01:00 Jackie Bayne: Sorry for the absence.

01:04:45 Janice Zahn: I am back.

01:20:37 Washington MBDA Business Center: Agree w/ olivia

The survey can be viewed and explored online: <https://forms.office.com/r/xfRW2UfAhg>

Or you may review the images of each step of the survey below:

Section 1:

---

# BE/DBI Survey Form - Draft 7

**Please review all five sections.**

...

To: Stakeholders in Public Construction

Fr: Janice Zahn, CPARB Chair

Subject: Seeking Feedback on CPARB BE/DBI Priorities

We are reaching out to you as a stakeholder in public construction in the state of Washington. RCW 39.10 which was authorized by SB 5032 during the 2021 State Legislature asks CPARB to report back on best practices around diversity, equity and inclusion in public contracting in State of Washington.

Informed by the 2019 Washington State Disparity Study and by other disparity studies performed by public agencies in the State we have developed a few key areas for additional work.

The purpose of this letter is to ask you to complete a simple survey indicating:

- How you view your role as a stakeholder
- How you would prioritize efforts to mitigate the barriers to diverse businesses in public construction.

The actionable objective of the BE/DBI Committee is to create an environment where the use of diverse businesses is the first choice, instead of a goal to be met. Actions through that lens should then pivot around those measures needed to make the businesses successful and competitive. Components of this actionable approach would include best practices and programs that provide well rounded solutions to the barriers.

These areas are:

- Access to opportunities in public contracting
- Access to capital including firm financing, eligibility for financing, bonding
- Access to project cash flow and prompt pay issues
- Access to training and business services support
- Access to networks/ relationship opportunities



Your feedback will guide our committee in focusing on which barriers need work.

Cc:

BE/DBI Co-chairs:

Santosh Kuruvilla

Olivia Yang

BE/DBI Subcommittee Co-chairs:

Irene Reyes

Linda Womack

Aleanna Kondelis

Brenda Nnambi

Lisa Van der Lugt, Office of Minority & Women's Business Enterprises

Legislative Sponsors:

Sen. Bob Hasegawa

Sen. Judy Warnick

Sen. Patty Kuderer

Sen. Claire Wilson

Relevant Links:

SB 5032: <https://app.leg.wa.gov/bills/summary?BillNumber=5032&Year=2021&Initiative=false>

Washington State Disparity Study: <https://omwbe.wa.gov/governors-subcabinet-business-diversity/disparity-study>

CPARB Website: <https://des.wa.gov/about/boards-committees/capital-projects-advisory-review-board>

BE/DBI Committee Minutes/Info/Documents: <https://des.wa.gov/about/boards-committees/capital-projects-advisory-review-board/current-cparb-committees>

Next

\* Required

**We would like to understand the barriers as they relate to the professional roles of people involved in the work of RCW 39.10. Select the answer that best reflects how you see the business or organization you represent.**

**1. Type of Firm \***

- Diverse Business
- Designer (A/E)
- Contractor
- Subcontractor
- Other Consultant
- Public Agency

**2. Diverse Business (Prime or Sub) \***

- Prime
- Sub

**3. Diverse Business (Certified or not certified) \***

- Certified
- Not certified

**4. Optionally add your name**

Enter your answer

5. Optionally add your organization

Enter your answer

Back

Next

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Section 3:

BE/DBI Survey Form - Draft 7

...

\* Required

**We would like input regarding the barriers you think would be most impactful to you in your role in the industry. Please rank each barrier by importance, 1 being most important, 5 being least.**

**6. Rank the Barriers \***

	1	2	3	4	5
Access to opportunities in public contracting	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Access to capital including firm financing, eligibility for financing, and bonding	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Access to project cash flow and prompt pay issues	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Access to training and business services support	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Access to networks/ relationship opportunities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Back

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Section 4:

\* Required

**Through the diligent work of the BE/DBI Committee, many barriers have been identified and documented. In an effort to create meaningful DBE outcomes and be comprehensive in our approach we have identified the five barriers below as opportunities to support the success of DBE businesses. Your response to this survey will help inform which barrier needs the greatest emphasis and work. In your role, do you agree that there are already satisfactory access to solutions/best practices for each of the barrier statements below?**

**7. Do you agree or disagree with the following statements? \***

	Strongly agree	Agree	Disagree	Strongly Disagree
Access to opportunities in public contracting is satisfactory	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Access to capital including firm financing, eligibility for financing, and bonding is satisfactory	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Access to project cash flow and prompt pay issues is satisfactory	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Access to training and business services support is satisfactory	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Access to networks/relationship opportunities is satisfactory	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**8. Other Comments**

Enter your answer

[Back](#)

[Next](#)

Section 5:

**If you would like to share your thoughts/best practices/successful solutions with the BE/DBI Committee please fill in the following information to be contacted.**

9. Name

10. Phone

11. Email

[Back](#)

[Submit](#)

End of Survey

## Report Outline

1. Background
  - SB 5032 Section 20
  - Previous disparity report recommendations
2. Recommendations
  - “Diverse Business as First Choice”
  - Access to networks
  - Access to capital:
    - Business start up capital and cash flow
      - Financing available
      - OMWBE Linked deposit
      - “land bank” proposal
      - Are there gaps in existing programs?
    - Project cash flow
      - Bonding
      - Subcontract prepayment financing
      - Payment upon completion
      - Prompt payment
  - Diverse Business Readiness and Competitive Edge
    - Readiness
      - Mentor/protégé
      - Individual general contractor training programs
    - Entering public works
3. Dashboard (ongoing monitoring)
4. Legislative proposals for 2023

## Appendix

- SB 5032 Section 20 text
- Disparity Recommendation matrix
- Link to DES Disparity Study
- Links to other disparity reports
- Results from 2022 CPARB BEDBI Survey

## Business Equity/Diverse Business Inclusion Committee Capital Projects Advisory Review Board

28 January 2022

Committee focus:

- Comprehensive review of RCW 39.10 with the lens of equity (include RCW 39.04 & 39.80).
- Create consistency in statutory language.
- Evaluate and bring forth effective strategies and opportunities for firms to compete.

<input checked="" type="checkbox"/> Olivia Yang	Washington State University	CPARB /Committee Member
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<input type="checkbox"/> Hans Hansen	Bailey Construction	
<input type="checkbox"/> Bill Frare	DES	
<input checked="" type="checkbox"/> Andrea Ornelas	Union	

## AGENDA

Item	Purpose	Start
Welcome and committee member introductions	Information	10:35 am
Review & approve agenda	Action	10:36 am
Review & approve 12/17/21 meeting minutes	Action	10:38 am
Invitation to the public to participate	-	10:39 am
Report Outline and Kanban	Discussion	10:40 am
New Business	Discussion	11:40 am
"Final word" (from committee members)	Discussion	11:50 am

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Adjourn	Action	12:00 am
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**DIGITAL CONFERENCE ACCESS**

The committee meeting will be conducted entirely by Zoom digital conferencing.

Online <https://wsu.zoom.us/j/97615048848>

Meeting ID: 976 1504 8848

Join by telephone

Dial: US: +1 253 215 8782 or +1 669 900 9128 or +1 646 558 8656

Meeting ID: 976 1504 8848

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Olivia Yang - Washington State University

206 718 0787 [olivia.yang@wsu.edu](mailto:olivia.yang@wsu.edu)

Santosh Kuruvilla – Exeltech Consulting

206 713 1241 [santosh@xltech.com](mailto:santosh@xltech.com)

---

Item: **Welcome and committee member introductions**

- Call to Order
- Quorum confirmed after delaying the meeting to 10:35 am to allow for members to attend.

Action by: BE/BDI Committee

Status: Approved and complete

---

Item: **Review & approve agenda**

- Confirming that we are trying to end by 11:30, even though we began at 10:35 AM.
- Agenda Approved.

Action by: BE/BDI Committee

Status: Approved and complete

---

Item: **Review & approve 12/17/21 meeting minutes**

- Minutes approved.

Action by: BE/DBI Committee

Status: Approved

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Item: **Public Comment**

- None.

Action by: N/A

Status: N/A

---

Item: **Report Outline and Kanban**

- Olivia – speaking to the report outline:
  - Access to Network, Capital and continuing education.
  - See a review of this issue that encourages all 39 counties in the State of Washington, that what we come up with is response to all demographics.
  - What happens after award needs attention and there are opportunities there.
  - Competitive edge.
  - Thought is still – making diverse business first choice.
  - Inserted the problem statements into the outline based upon access (across the top axis) and owner, prime and small business (down the side access).



- May draft, June report due.
  - Hoping for feedback on the outline, consensus on where we are going? Hoping to use to organize ourselves.
- Feedback about the term SB in the outline: Change vernacular from small business to diverse business, and what is the definition. And tying it back to the statute
  - Feasible, defensible?
  - OMWBE – Governor’s Subcabinets on ended up going with a listing methodology.
- Invite Banking and Surety to present to help with our learning journey to help in the Access to Capital. Cash flow is a big deal.
- What is the process to building it out?
  - The report points out opportunities.
  - In the current legislative environment – what can be done? For example Payment....
  - If the report can be viewed as a first step towards working within the current legislation.
  - Narrowing our focus to the biggest bang for the buck.
- Based on how the outline to is laid out, how will outline work?
  - Santosh explained how the hyper links will work from the
- What is the road map for the problem statements?
  - Maybe we are not at best practices – so we are launching into current practices.
  - Fixed deadline – the report. That the report spurs us at looking into the opportunities and what can be done.
- Report Summary needs to be ready in May to be able to go to the appropriate committees and legislators to present the report. Janice would like a better understanding of when CPARB will see the document -
- KanBan – Presented by Santosh.
  - Should the full draft be ready by the end of April at the latest?
  - CPARB will have special meetings in March and April for this topic – need to have report ready for their.
  - February - Content Work.
  - March – First Draft of the Report due?
- Problem Statement completion work discussed.
- Proposed Topics for next three committee meetings:
  - Definition and term for use in the document.
  - Surety and Banking presentations.
- Extend meeting to 11:45.
- Janice – Do we believe that from an industry standpoint that there are statutory change that we would want to see changed?
- Informal share of the results of the survey (not yet for public consumption).
  - More targeted effort to get responses?
  - Discussion around the number of responses, and potentially trying to get more participants.
  - Leave the survey open and make another pass at obtaining more feedback!
  - Have Talia change the end date of the survey to the End of February, but keep it open a bit longer.
  - Committee to get more responses.
- Show in the results the outreach effort in trying to get responses to the survey.
- Send the Committee the Survey again.

Action by: OMWBE bring the definitions of small businesses, diverse business and Subcabinet definition to the February meeting. Olivia/Santosh – review the timeline based upon Janice CPARB request.

Status: In progress

---

Item: **New Business**

- Skipped.

Action by: N/A

Status: N/A

---

Item: **Final Words**

- Aleanna – practices subcommittee watch for meeting invites.
- Bill - Working with Talia to update the survey dates
- Young – Lawsuit against the State of Washington for being discriminatory. Will get link out to 20+ personal links, 45-50 NAMAC.
- Brenda – WSDOT, Jackie Bain to include link. COMPTO, AGC’s Diversity Committee.
- Cathy – MRSC
- Charles – is geographic information available to be harvested from the survey?
- Chip – Agrees with the proposed framework for the report, will connect with personal contractor connections.
- Shelly – will focus on small contractors and subcontractors. Puget Sound Schools Coalition.
- Stephanie – Diverse trade partners.
- Santosh – APW, and other groups.

Action by: N/A

Status: N/A

---

Adjourn 12:00

### Meeting Chat Record

Maja Huff to Santosh Jacob Kuruvilla (Direct Message) 09:59 AM

Do you know who Andrea Ornelas is with?

From Santosh Jacob Kuruvilla to Me (Direct Message) 10:03 AM

Union

From Me to Everyone 10:07 AM

Reconvening at 10:35

From Bobby Forch to Everyone 10:36 AM

I have to leave at 11

From Janice Zahn to Everyone 10:43 AM

Hello BE/DBI committee

From Lisa van der Lugt to Everyone 10:56 AM

it provides for more clarity

From Andrea Ornelas to Everyone 10:57 AM

Thank you for having me. I have a meeting at 11. Happy Friday!

From Bobby Forch to Everyone 11:07 AM

Have. A great weekend everyone

From Shelly Henderson to Everyone 11:20 AM

I like that Aleanna

From Lisa van der Lugt to Everyone 11:38 AM

BRB

From Stephanie Caldwell to Everyone 11:44 AM

Yes, will do.

From Aleanna Kondelis to Everyone 11:45 AM

Ok. Can you send around the survey link to this committee once it is up and live again? Happy to keep circulating!

From Stephanie Caldwell to Everyone 11:48 AM

Yes, please provide the link.

From Shelly Henderson to Everyone 11:51 AM

Yes, please send link

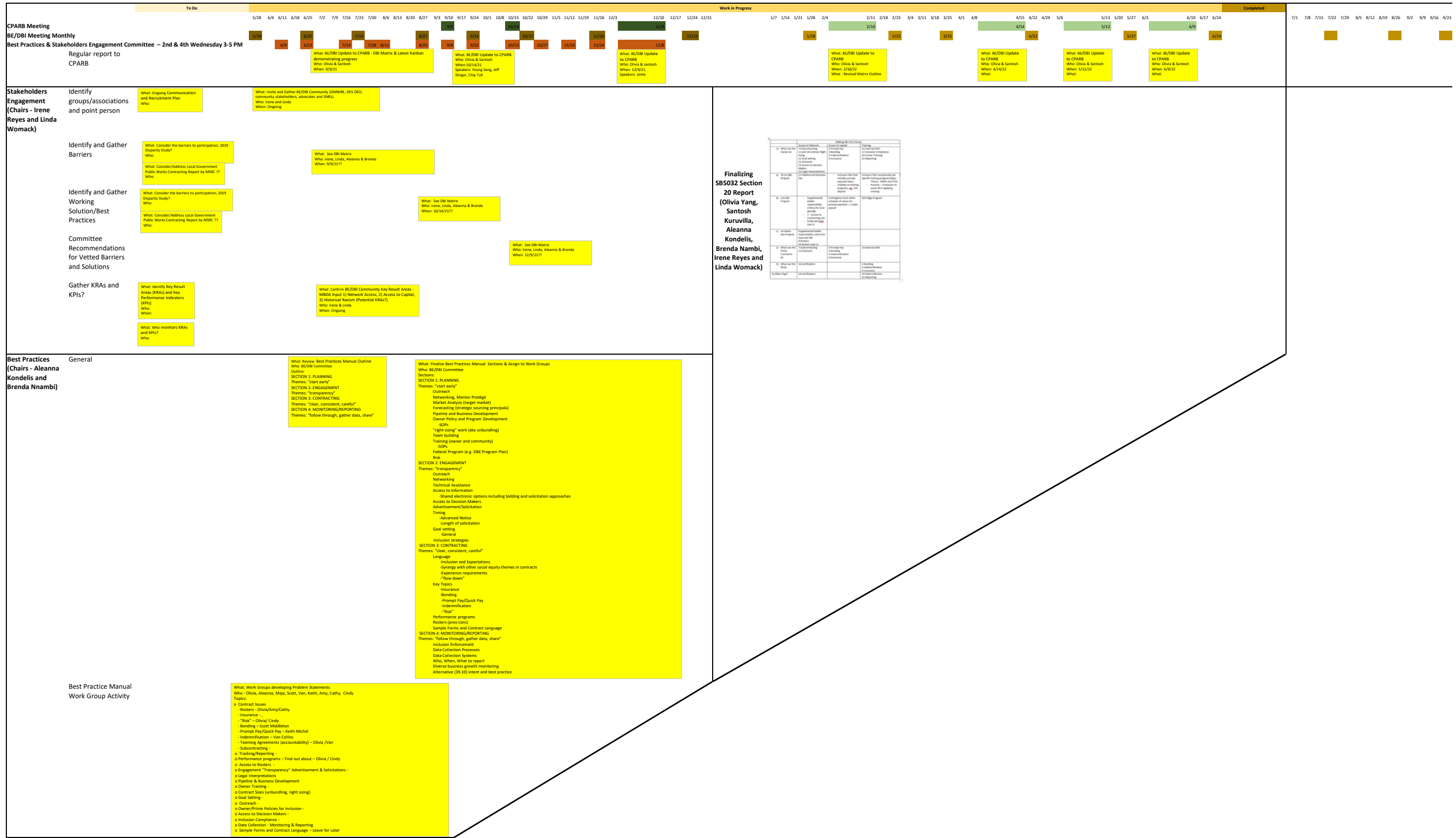
From Janice Zahn to Everyone 11:51 AM

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fforms.office.com%2F%2FxfRW2UfAhg&data=04%7C01%7Ctaia.baker%40des.wa.gov%7C944009e5885c47edd3be08d9d16915f2%7C11d0e217264e400a8ba057dcc127d72d%7C0%7C0%7C637771071527320466%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C3000&sdata=t1EzZTVUAHwSYHDquOcAToPJTSn8wZIKMurrdySjqmo%3D&reserved=0>

From Young Sang Song to Everyone 11:58 AM

Janice the link works! I just went through the motions of the website.

	Making SBs First Choice		
	Access to Network	Access to Capital	Training
1) What can the Owner do	7-Subcontracting 11 and 18-Contract Right Sizing 12-Goal Setting 13-Outreach 15-Access to Decision Makers 22-Legal Interpretations	5-Prompt Pay 2-Bonding 3-Indemnification 4-Insurance	14-Internal SOPs 17-Inclusion Compliance 20-Owner Training 23-Reporting
a) 39.10 QBS Projects	21-Pipeline and Business Dev	<ul style="list-style-type: none"> <li>- Inclusion Plan that includes prompt payment ideas</li> <li>- Visibility to existing programs, eg., link deposit</li> </ul>	Inclusion Plan incorporates job specific training program/ideas: <ul style="list-style-type: none"> <li>- Theory - MSRC and PTAC</li> <li>- Practice – Contractor to assist SB in applying training</li> </ul>
b) Low Bid Projects	<ul style="list-style-type: none"> <li>- Supplemental bidder responsibility criteria for local and SBs</li> <li>- 1 – Access to Contracting Info</li> <li>- 9-Ads and Solic (see 1)</li> </ul>	Contingency fund within schedule of values for prompt payment – 2 week payout	DES Edge Program
c) Incubator Size Projects	Supplemental bidder responsibility criteria for local and SBs 6-Rosters 10-Rosters (see 1)		
2) What can the Prime Contractor do	7-Subcontracting 13-Outreach	5-Prompt Pay 2-Bonding 3-Indemnification 4-Insurance	14-Internal SOPs
3) What can the SB do	16-certification		2-Bonding 3-Indemnification 4-Insurance
4) Other Orgs?	16-Certification		19-Data Collection 23-Reporting



## Business Equity/Diverse Business Inclusion Committee Capital Projects Advisory Review Board

25 February 2022

Committee focus:

- Comprehensive review of RCW 39.10 with the lens of equity (include RCW 39.04 & 39.80).
- Create consistency in statutory language.
- Evaluate and bring forth effective strategies and opportunities for firms to compete.

<input checked="" type="checkbox"/> Olivia Yang	Washington State University	CPARB /Committee Member
<input checked="" type="checkbox"/> Santosh Kuruville	Exeltech	CPARB /Committee Member
<input checked="" type="checkbox"/> Lisa Van der Lugt	OMWBE	CPARB /Committee Member
<input type="checkbox"/> Charles Wilson	DES	CPARB /Committee Member
<input checked="" type="checkbox"/> Irene Reyes	Excel Supply Company	CPARB /Committee Member
<input checked="" type="checkbox"/> Janice Zahn	Port of Seattle	CPARB /Committee Member
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<input checked="" type="checkbox"/> Keith Michel	Forma	Committee Member
<input type="checkbox"/> Young Sang Song	Song Consulting	Committee Member
<input checked="" type="checkbox"/> Stephanie Caldwell	Absher Construction	Committee Member
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<input type="checkbox"/> Bobby Forch	Forch Consulting	CPARB
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<input type="checkbox"/> Hans Hansen	Bailey Construction	
<input type="checkbox"/> Bill Frare	DES	
<input type="checkbox"/> Andrea Ornelas	Union	
<input checked="" type="checkbox"/> Greg Bell	Peirce County	
<input checked="" type="checkbox"/> Nina Jones	WSDOT Representing Jackie Bayne	
<input checked="" type="checkbox"/> Mallorie Davies	Laborers Union	PRC Committee Member
<input checked="" type="checkbox"/> Kara Skinner	Integrity Surety	

## AGENDA

Item	Purpose	Start
Welcome and committee member introductions	Information	10:00 am
Review & approve agenda	Action	10:05 am
Review & approve 1/28/2022 meeting minutes	Action	10:10 am
Invitation to the public to participate	-	10:15 am
Report Outline	Discussion	10:20 am

Draft Report 5-6-2022

New Business	Discussion	11:00 am
"Final word" (from committee members)	Discussion	11:30 am
Adjourn	Action	12:00 am

**DIGITAL CONFERENCE ACCESS**

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Olivia Yang - Washington State University

206 718 0787 [olivia.yang@wsu.edu](mailto:olivia.yang@wsu.edu)

Santosh Kuruvilla - Exeltech Consulting

206 713 1241 [santosh@xltech.com](mailto:santosh@xltech.com)

Item: **Welcome and committee member introductions**

- Call to Order
- Quorum confirmed.

Action by: BE/BDI Committee

Status: Approved and complete

Item: **Review & approve agenda**

- Revise Agenda to reach "Report Outline" instead of "Report Outline and Kanban and Survey".
- Agenda Approved.

Action by: BE/BDI Committee

Status: Approved and complete

Item: **Review & approve 1/28/2022 meeting minutes**

- Minutes approved.

Action by: BE/DBI Committee

Status: Approved

Item: **Public Comment**

- None.

Action by: N/A

Status: N/A

Item: **Report Outline and Kanban and Survey**

- Shared DRAFT report outline
- Propose that for the remaining time: March, April, May – focus on legislative changes under each of the Access to Opportunities, Capital and Training topic headers – the need, intent, concept. Report can lay the groundwork for specific legislative changes in the future.
  - Are there policy changes that can get us started in the right direction? Yes, example of

Draft Report 5-6-2022

changes Owner's can make right now discussed. Conversation around Owners by size and challenges in policy change and impact when legislative changes are anticipated/upcoming. Call for policy change increased efforts by large owners.

- Policy between entities - consistency is desired.
- Public Owners and collaborative approach discussed.
- Small Owner flexibility?
  - Legislation is more restrictive than policy. SWR example given. Try to leave policy as the more open/flexible option than legislation. So that the agency is not artificially restrictive.
- Access to Capital – to a business owner in terms of loans, cash flow during the course of a project, prime-to-sub, sub-to-sub, and bonding impacts to cash flow.
- Some of the smaller owners do have policies where the thresholds are more restrictive than what legislation allows.
- Businesses need to learn how to navigate the various delivery models available and determine which is the best for their business model/plan.
- 39.10 focus and be mindful of our respective lane.
  - Within 39.10 there are components of low bid and therefore by extension the discussion still lives here.
- Eastern Washington – training for both Owners, primes and subcontractors – geographic circumstances should be part of how aspirational goals are developed. Local market resources should be reviewed to tailor to effectively move the needle. Instead of cross pollination across the cascade. If a small business is talked into taking on a contract far out of their geographic radius, they need to be aware of the risk being asked of the small business.
- OMWBE is/could be a good central access to help provide training.
- Not all agencies have all tools. Think it is very important that contractors know the environment that the public owner is working in. Feels like that information is not out there to educate businesses about funding and delivery methods. Recommendation for Owners to look at the existing tools and can you leverage those tools to get the outcomes you want.
- Concerns around low bid discussed. Prevent gaming the system and associated barriers.
- Identify and seek out positive change. Remind all members that Differences between delivery methods does present choice. Choice is valuable for a growing and emerging business. Filtering opportunities to pursue is a big part of business model.
- A way for businesses to be cued to which model is best for them – incorporate into the thinking and discussion around access to training.
- The essence of the why and the vision for the future is part of the document. How we pack that up and describe it in the document is important.
- Choices for Owners to be making and what delivery methods being made right now. What are some actionable steps my agency could be making around specific delivery models to make “for now” changes? Expect to be able to look to this document for actual ideas.
- From Lisa: It's ok to ask for things that are hard and aspirational. Be sure that we provide something meaningful. OMWBE feels the impact of being accountable for funding received.
- Current legislation dovetails into our conversations.

Action by:

Status: In progress

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Item: **New Business**

- Propose Next steps:
  - Review the next draft of the report and speak to content, not wordsmithing.
    - March – Access to Capital – Legislative changes conversations (all things money)
      - Invite lender, bankers, sub-lenders, etc. to provide input.
    - April – Access to Training – Legislative changes conversations
    - May – Access to Networking – Legislative changes conversations
- OFCI future discussion.

Action by: Olivia/Santosh



Status: In progress

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Item: **Final Words**

- Appreciate the tough conversations and efforts of this committee.
- Thank you for the committee and hard work
- Expectation it to cover content around access to capital.
- 

Action by: N/A

Status: N/A

---

Adjourn 11:25

From Aleanna Kondelis to Everyone 10:01 AM

Brenda is having IT issues

From Stephanie Caldwell to Everyone 10:11 AM

Sorry, I having audio issues this morning. Aye

From Lisa van der Lugt to Everyone 10:18 AM

agree with this approach.

From Shelly Henderson to Everyone 10:21 AM

I think legislation is usually more restrictive than policies already

From Shelly Henderson to Everyone 10:27 AM

Sorry, lost audio for a while & had to sign in again

From Cathy Robinson, City Lynnwood to Everyone 10:35 AM

Some of the smaller owners do have policies where the thresholds are more restrictive than what legislation allows.

From Lisa van der Lugt to Everyone 10:40 AM

brb

From Linda Womack @ MBDA-WA to Everyone 11:13 AM

sounds like a plan

I can invite a lender and work with kara on Access to Capital

From Rachel Murata (she/her) OMWBE to Everyone 11:14 AM

We've been having some conversations with folks at Commerce about their programs for access to capital, that work is much broader but they might have something to offer.

From Rachel Murata (she/her) OMWBE to Everyone 11:22 AM

The phone user is Lisa

From Brenda Nnambi to Everyone 11:26 AM

Have a great weekend!

## Business Equity/Diverse Business Inclusion Committee Capital Projects Advisory Review Board

4 March 2022

Committee focus:

- Comprehensive review of RCW 39.10 with the lens of equity (include RCW 39.04 & 39.80).
- Create consistency in statutory language.
- Evaluate and bring forth effective strategies and opportunities for firms to compete.

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<input type="checkbox"/> Andrea Ornelas	Union	
<input checked="" type="checkbox"/> Rebecca Keith	Seattle City	
<input checked="" type="checkbox"/> Greg Bell	Pierce County	
<input checked="" type="checkbox"/> Kara Skinner	Integrity Surety	
<input checked="" type="checkbox"/> Julie Campos	OMWBE	

## AGENDA

Item	Purpose	Start
Welcome and committee member introductions	Information	10:00 am
Review & approve agenda	Action	10:05 am
Review & approve 2/25/2022 meeting minutes	Action	10:10 am
CPARB Chair Comments		10:20 am

Invitation to the public to participate	-	10:25 am
Survey	Discussion	10:30 am
Discussion: Access to Capital	Discussion	10:40 am
New Business	Discussion	11:30 am
"Final word" (from committee members)	Discussion	11:40 am
Adjourn	Action	12:00 am

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Olivia Yang - Washington State University

206 718 0787 [olivia.yang@wsu.edu](mailto:olivia.yang@wsu.edu)

Santosh Kuruvilla – Exeltech Consulting

206 713 1241 [santosh@xltech.com](mailto:santosh@xltech.com)

Item: **Welcome and committee member introductions**

- Call to Order
- Quorum confirmed.

Action by: BE/BDI Committee

Status: Approved and complete

Item: **Review & approve agenda**

- Revise Agenda to include “CPARB Chair Comments” before “invitation to public to participate”.
- Agenda Approved.

Action by: BE/BDI Committee

Status: Approved and complete

Item: **Review & approve 2/25/2022 meeting minutes**

- Minutes approved with correction to “gaming systems” to “gaming the system”.

Action by: BE/DBI Committee

Status: Approved

Item: **CPARB Chair Comments**

- Three more meetings of CPARB between now and when the report is to be complete, April 14, May 12 and June 9.
- Strongly suggest following schedule for report submission
  - Preliminary draft by April 14 CPARB Meeting, pre-reads to Talia by April 7
  - Final Draft on May 12 CPARB Meeting
  - Final adoption and vote at the June 9 CPARB Meeting
  - Gives the time to meet the June 30 date.
- DBIA Committee has developed a Best Practices guide that can be shared with the committee.

- Add in additional meetings?
  - Move to twice a month?
  - Motion to add March 25 – 9:30 – 11:30 – to discuss Access to Training.
    - Motion Passed
  - Confirming April 1 meeting remains in effect.

Action by: WSU to schedule the additional meeting.

Status: N/A

---

Item: **Public Comment**

- None.

Action by: N/A

Status: N/A

---

Item: **Survey**

- Shared the survey results received through 3/3/2022.
- Intend to include as an appendix to the report.
- Seems to be lining up with MBDA National Survey.
- Reviewed the Comments Received in response to the survey.
- Include discussion topic in the next meeting to discuss further after people have had time to review.

Action by: N/A

Status: In progress

---

Item: **Access to Capital**

- Cash Flow -
  - There is opportunity that fall within the timing, policy and legislative current allowance.
  - Labels on scopes of work to effectively encourage allowing for billing for work that is scheduled to be performed the following month. Could impact 30+ days of waiting in the pay cycle.
  - 120 day delay in payment impacts line of payment scrutiny by lenders and borrowers. Banks don't understand the processes in public works.
  - Schedule of values and the
  - Diverse businesses complain about not being paid even though the prime has already been paid. Owner's point to the prime when asked.
  - Internal prime processes can take 30 days to process once the payment is received from the Owner.
  - Surety companies don't like to see Advance Payment clauses in the contract. Will make obtaining a bond for the project more difficult.
  - Educating banks. Get with a banker for their construction line of credit, not a
  - Payment terms within the Public Contract – may be conflicting with the subcontractor payment terms. Checklists of administrative items also have an impact to the timing of payment – training on this item is important.
  - Compliance with prompt payment laws – challenge with being adhered to. B2Gnow referenced as a system to track payments. Public agencies should be following up with the subcontractors.
  - Questions to Owners:
    - Are there to many layers of processes in processes for payment required of the Primes?
    - How do you hold accountable the GC's who don't pay the subs on-time or at all?
    - Bottom line – accountability.
  - Frame the problem; assume a good owner, good contractor, good subcontractor – what are the mechanisms that could allow for a quicker payment?
  - For the sub to be paid, is it work in scope or work in a change, or work in dispute? Hard Bid,

- GCCM, DB?
  - If there is a way for Owners to know the track record – might be something in 39.10 as a criteria of RFQ/P selection?
  - Why if there are bad owners/contractor, why keep doing their work?
  - Partially Public/Partially Private project example – working on a net 15 payment process. Internal process, checklist – educational advance work. Is there a way to recommend creative solutions – ie. Net 15 and how it will work?
- How much are best practices and how much may need to be changes to law, specific to prompt pay. Same questions around accountability.
- Public Owners are subject to State Auditor – who specifically look for documentation that the work has been performed before paid.
- If it's not in the contract it's not going to happen. – Prime's perspective.
- What's the risk to Owner's to putting language prompt payment for subs in the contract language, down the layers?
  - Is in – but monitoring and enforcement that becomes an issue.
  - How hold accountable?
- 39.04.250 – 10 days after receipt of money it's supposed to go downstream.
- GC's challenged by paying for work twice, when downstream payment processes impact them.
- Know the pay cycle and allowable billing within the contract. Sometimes a lack of understanding between residential and commercial markets is huge in this category.
- Would like to understand more about the Advance Payment risks? As it may be the piece, we know the least about and understand.
  - Owners don't want to pay early – don't want to pay for something they don't have and don't know they are going to get.
  - A small advance or a little early is more acceptable. But large advances make surety companies nervous due to lack of knowing where the money is going to go.
  - Drawing a little early is not necessarily considered advance payment in sureties' eyes.
  - Architect signed document confirming that the work has been completed.
  - Are you using the SOV effectively to impact the push/pull of when and justifying payment?
  - Month v. bi-weekly payments – nuances and opposing reasoning for example administrative burden.
  - Draft payment processes to in advance anticipate the work performed and be able to bill before
  - Prime contract versus subcontract terms out of alignment.
  - Cash Flow – who controls and when do they have control over it.
  - For Owners – Advance payment is considered a gift of public funds. There this is an audit issue.
  - Challenge from both the surety, contractors, and owners creates accountability challenges and tracking.
  - Pay more frequently – two-edged sword in the burden of generating the paperwork to be able to do so.
  - Working Capital seems to be lynch pin of this – cash flow is the space that we can lean into more about what would reduce the barrier of firms to have access to working capital at rates that would not be as painful.
- Surety likes joint checks – Public Works hearing that owners are not willing to do the extra paperwork to do the joint check options.
- Bring in a banker or lender to the conversation. There are opportunities for low interest and low interest working capital for small contractors. Not having working capital can literally put that new company out of business.
- There are also some credit barriers to the target businesses. How do you get a line of credit, improve your credit? Training topic.
- Dual checks – looking at it as a proactive tool. Owners agree it is something to be looked into as there is a lot of push back by public owners business offices.
- OMWBE Link Deposit Program – has capacity. Making efforts and strides in gaining momentum on the program. Affordable capital for state certified firms. Currently 13 banks and credit unions are part of the program.
  - Goal of the program to understand the barriers faced from the banking industry – banks want to see a business in business at least 3 years before they are willing to offer the loan.
  - OMWBE called for feedback of struggles, what is working well and what isn't.

Action by: Olivia/Santosh

Status: In progress

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Item: **New Business**

- Come prepared to talk about Access to Training at the next meeting.
  - Types of training available/needed.
  - Contracts – access to advice on reviewing contracts?
  - Available training programs? How best coordinate? Central Directory?

Action by: Olivia/Santosh

Status: In progress

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Item: **Final Words**

- Joint checks warrant further internal conversations.
- Some funders have restrictions on joint checks. Looks at available disparity studies and their recommendations.
- Send feedback as soon as possible due to the aggressive timeline.
- Can we have a timeline of when to submit comments?
  - Send comments by Tuesday March 8, 5PM to Santosh/Olivia.

Action by: N/A

Status: N/A

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Adjourn 11:54

From Washington MBDA Business Center to Everyone 09:57 AM

Good morning

From Rachel Murata (she/her) OMWBE to Everyone 10:03 AM

Rachel Murata - OMWBE

From Cathy Robinson, City of Lynnwood to Everyone 10:03 AM

Cathy Robinson, City of Lynnwood

From Greg Bell to Everyone 10:03 AM

Greg Bell, Pierce County

From Stephanie Caldwell to Everyone 10:03 AM

Stephanie Caldwell, Absher Construction

From Janice Zahn to Everyone 10:03 AM

Janice Zahn, CPARB Chair

From Brenda Nnambi to Everyone 10:03 AM

Good morning: Brenda Nnambi, Sound Transit

From Carrie Whitton - Outreach + Inclusion Manager to Everyone 10:03 AM

Carrie Whitton - FORMA

From Washington MBDA Business Center to Everyone 10:03 AM

Linda Womack, WA-MBDA

From Young Sang Song to Everyone 10:03 AM

Young-Sang Song - Song Consulting, LLC

From Olivia Yang to Everyone 10:03 AM

Olivia yang higher ed

From Aleanna Kondelis to Everyone 10:03 AM

Aleanna Kondelis, Akana, rep diverse business, committee member

From Keith Michel to Everyone 10:03 AM

Keith Michel - FORMA

From Chip Tull to Everyone 10:03 AM

Chip Tull; Hoffman Construction Company

From Ken Gaer to Everyone 10:03 AM

Ken Gaer - Exeltech

Me to Janice Zahn (Direct Message) 10:11 AM

Do they have the "best practices" published someplace that you could send me a link to?

From Chip Tull to Everyone 10:14 AM

I (Chip) am available on Friday, March 25th

From Stephanie Caldwell to Everyone 10:15 AM

I'm available 9:00 to 11:00 on the 25th.

From Rachel Murata (she/her) OMWBE to Everyone 10:15 AM

I am available, and from my perspective the more meetings this group can fit in, the better. There appear to be a lot of decisions left to be made on content.

From Keith Michel to Everyone 10:15 AM

Not available on the 25th. I am on 3/11.

From Irene Reyes to Everyone 10:15 AM

I'm available 10 to 11 for 25th

From Aleanna Kondelis to Everyone 10:15 AM

I can be available, Fridays work well.

From Washington MBDA Business Center to Everyone 10:15 AM

Ok

From Brenda Nnambi to Everyone 10:15 AM

I'm not available for 3/25 but can attend 4/1 meeting

From Shelly Henderson to Everyone 10:16 AM

I can make the 25th work.

From Cathy Robinson, City of Lynnwood to Everyone 10:16 AM

I'm available starting at 10 am on March 25

From Janice Zahn to Everyone 10:16 AM

I am available on 3/25

From Young Sang Song to Everyone 10:17 AM

25th lam wide open

From Brenda Nnambi to Everyone 10:17 AM

I can provide comments in my absence prior to the meeting.

From Cathy Robinson, City of Lynnwood to Everyone 10:19 AM

I'm not available until 10 am on the 25th

From Shelly Henderson to Everyone 10:19 AM

I can do 9-11

From Washington MBDA Business Center to Everyone 10:20 AM

I will make both work

Yes

From Stephanie Caldwell to Everyone 10:20 AM

yes

From Young Sang Song to Everyone 10:21 AM

Yes - I can make that work.

From Shelly Henderson to Everyone 10:21 AM

4/1 is on my calendar 10-12

From Janice Zahn to Everyone 10:21 AM

FYI we need to send the draft document to Talia as a pre-read to CPARB by 4/7.

From Shelly Henderson to Everyone 10:24 AM

Shelly Henderson - I was about 5 minutes late

From Cindy Magruder to Everyone 10:24 AM

Cindy Magruder is attending. UW.

From Charles Wilson to Everyone 10:24 AM

This is Charles Wilson - DES

From Stephanie Caldwell to Everyone 10:27 AM

Can Maja please send a copy out?

Me to Janice Zahn (Direct Message) 10:29 AM

yes - I will include these with the minutes.

From Cindy Magruder to Everyone 10:29 AM

Yes, would love a copy of this.

From Stephanie Caldwell to Everyone 10:29 AM



Thank you

From Brenda Nnambi to Everyone 10:29 AM

I think the comments help tell the story. Maybe we could summarize the comments into themes.

From Stephanie Caldwell to Everyone 10:30 AM

Liked: "I think the comments help tell the story. Maybe we could summarize the comments into themes."

From Rebecca Keith to Everyone 10:37 AM

Some really great comments. I will look forward to receiving them and being able to further digest.

From Brenda Nnambi to Everyone 11:02 AM

Primes not paying promptly when they have been paid should be reflected in their performance evaluation and used in the evaluation of future procurements.

The public agencies also have to make sure they are not creating unintentional barriers by their internal delays in getting payments to primes. The prime may be able to sustain the delay but not the small business.

From Rebecca Keith to Everyone 11:02 AM

Unfortunately, I am not able to stay for the full meeting but I am so thankful that the committee is having these substantive conversations. I hope to come to future meetings.

From Aleanna Kondelis to Everyone 11:06 AM

@Brenda...agree

@Stephanie...totally agree

From Stephanie Caldwell to Everyone 11:07 AM

Yes.

From Shelly Henderson to Everyone 11:08 AM

Brenda - my district only runs checks twice a month which can be an unintentional barrier, I always do a payment schedule for primes that give the dates I need a pay application to review & date of payment. I don't think that funnels down to subcontractors so that schedule should probably go in bid documents so subcontractors are aware

From Brenda Nnambi to Everyone 11:11 AM

Shelly - Thanks for that info and I agree that the subs need to know. This is why flow down language is also so important to pay attention to as an owner.

From Aleanna Kondelis to Everyone 11:11 AM

Agree @Keith

From Brenda Nnambi to Everyone 11:13 AM

All good points Keith! All a part of what good project management looks like.

From Shelly Henderson to Everyone 11:20 AM

have to step out for a minute

back

From Aleanna Kondelis to Everyone 11:20 AM

Agree Keith.

From Stephanie Caldwell to Everyone 11:25 AM

To Keith's point regarding material suppliers not being paid as a concern if paid early Agency and Primes can encourage Joint Check Agreements.

From Irene Reyes to Everyone 11:31 AM

I agree with joint checks is another process

From Stephanie Caldwell to Everyone 11:31 AM

It protect our small businesses as well.

From Cathy Robinson, City of Lynnwood to Everyone 11:33 AM

I have to step away for a few minues

From Stephanie Caldwell to Everyone 11:34 AM

Agreed Irene. It should be part of the on-going training regarding building a line of credit.

Yes. Janice. Use it as a positive tool

From Irene Reyes to Everyone 11:35 AM

Janice that is good providing payment options

From Cathy Robinson, City of Lynnwood to Everyone 11:39 AM

I'm back

From Irene Reyes to Everyone 11:41 AM

Julie please let us schedule a meeting in identifying construction banks.

From Julie Campos to Everyone 11:44 AM

Irene & everyone here is my email: [juliec@omwbe.wa.gov](mailto:juliec@omwbe.wa.gov) to connect

From Cathy Robinson, City of Lynnwood to Everyone 11:45 AM

I have to leave. Thanks everyone for the discussion.

From Santosh Jacob Kuruvilla to Everyone 11:48 AM

Minority Business Success: Refocusing on the American Dream, by Leonard Greenhalgh (Author),  
James H. Lowry (Author)

Capital Projects Advisory Review Board  
Business Equity/Diverse Business Inclusion Committee  
Survey Results  
March 3, 2022

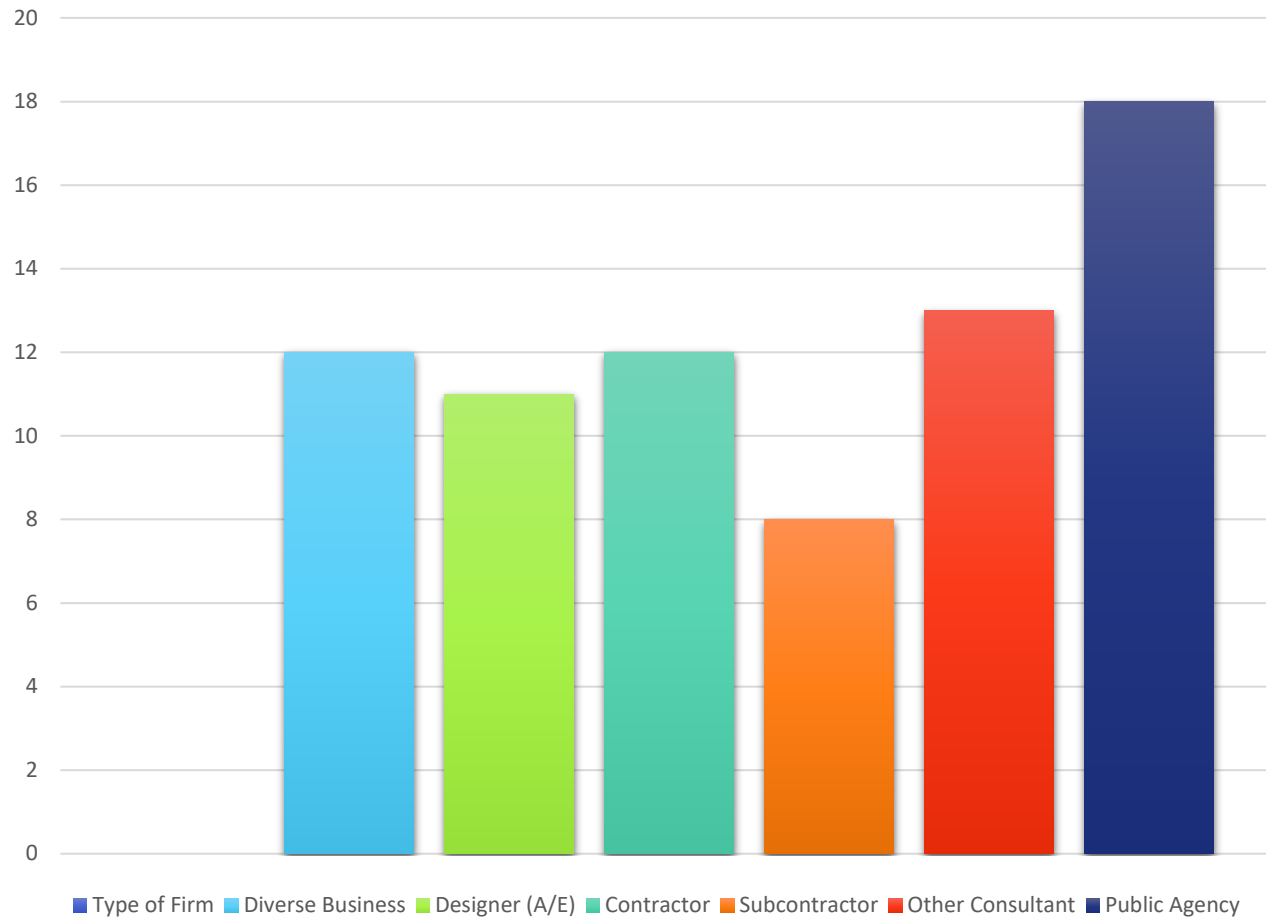
During the first two months of 2022 CPARB asked members of the Alternative Public Works community to respond to a survey around access to equity as it relates to 39.10 RCW.

The following represents the results of the survey.

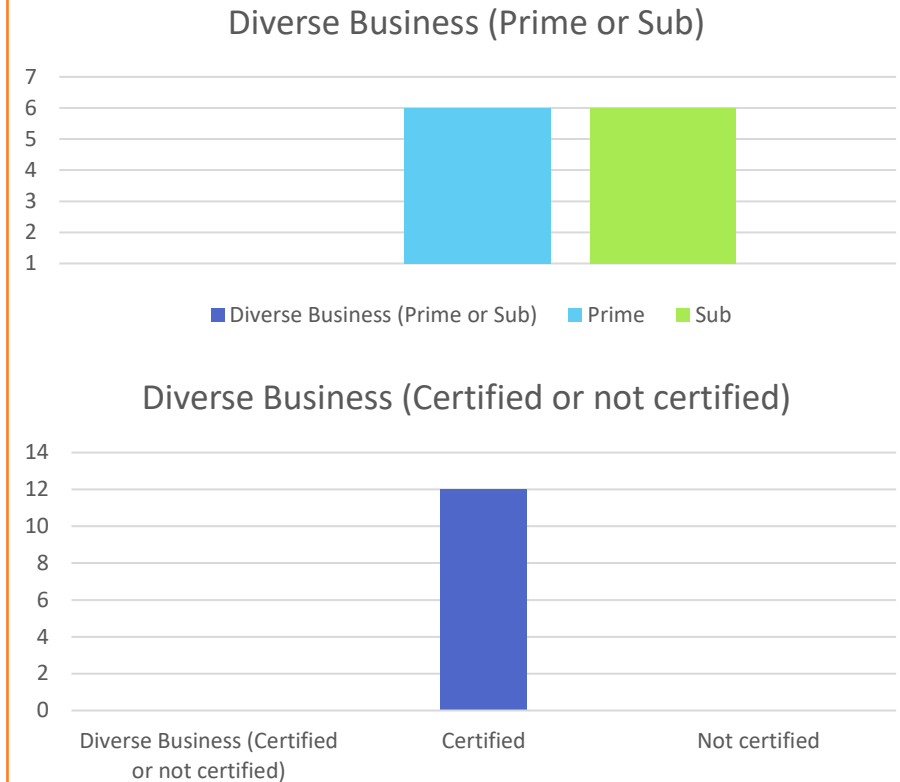
# The Respondents

74 total people responded

Type of Firms



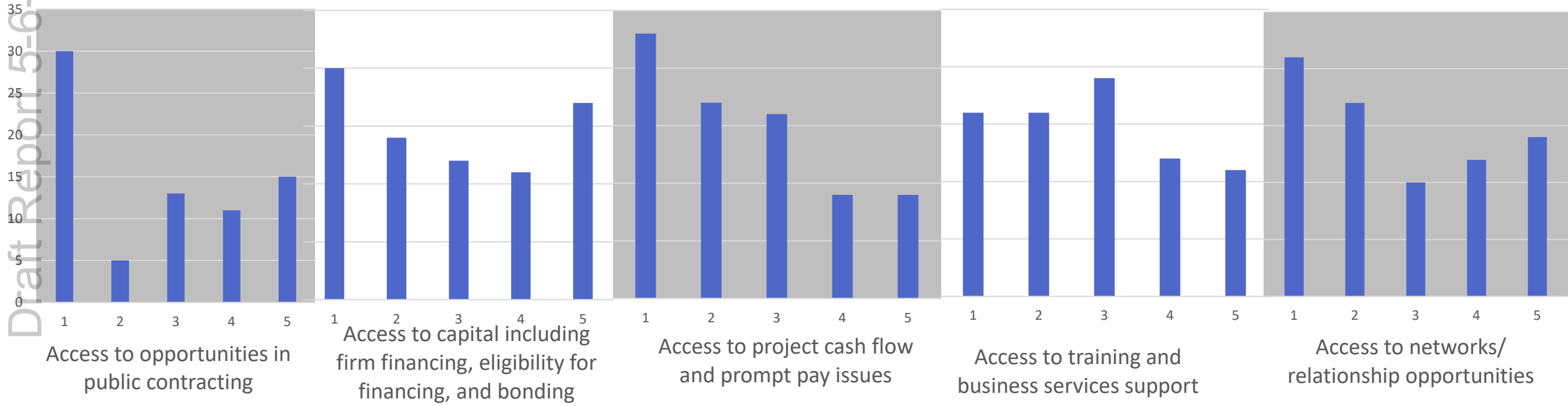
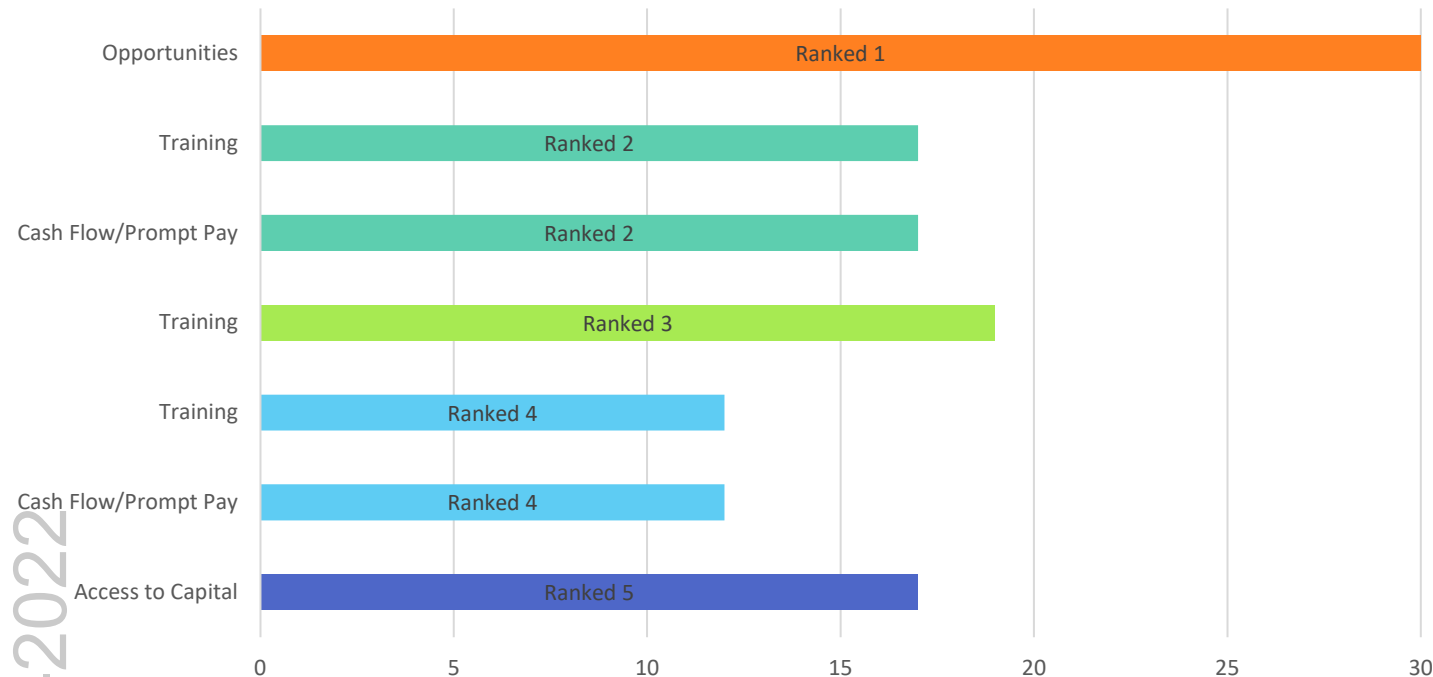
Of the Diverse Businesses who responded:



# Rank the Barriers

We asked the survey respondents to rank the barriers that they think are most impactful to their role in the industry.

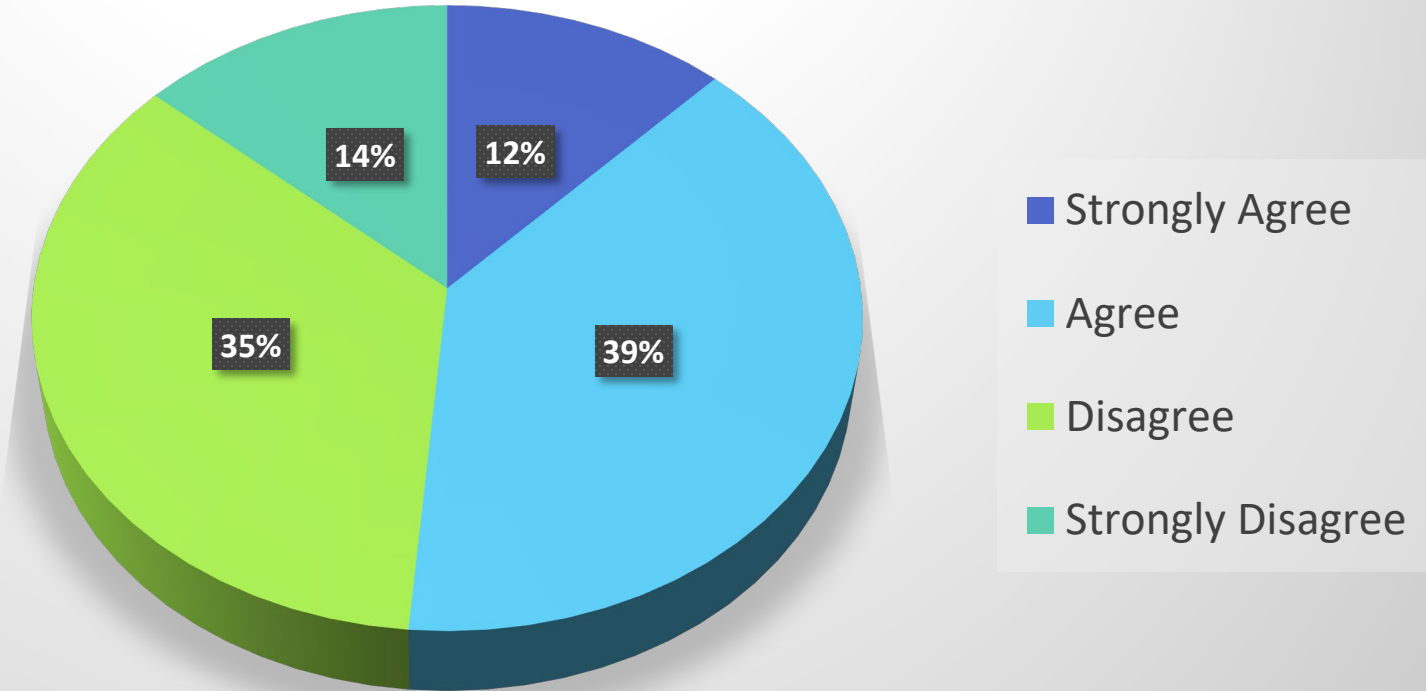
Ranking from 1 most important to 5 least important.



Draft Report 5-6-2022

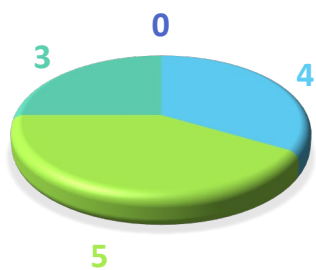
Access to opportunities in public contracting is satisfactory

### All Responses

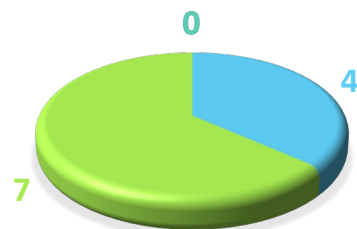


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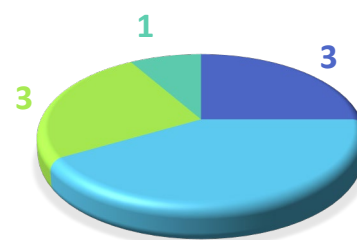
#### DIVERSE BUSINESS



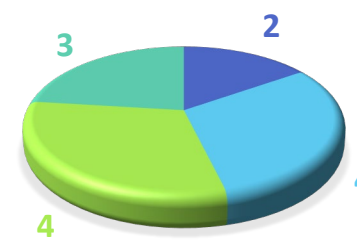
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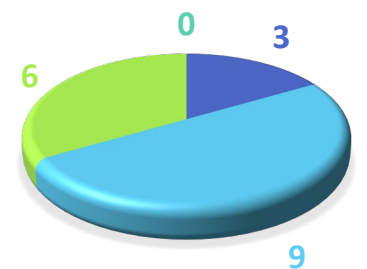
#### CONTRACTOR



#### OTHER CONSULTANT

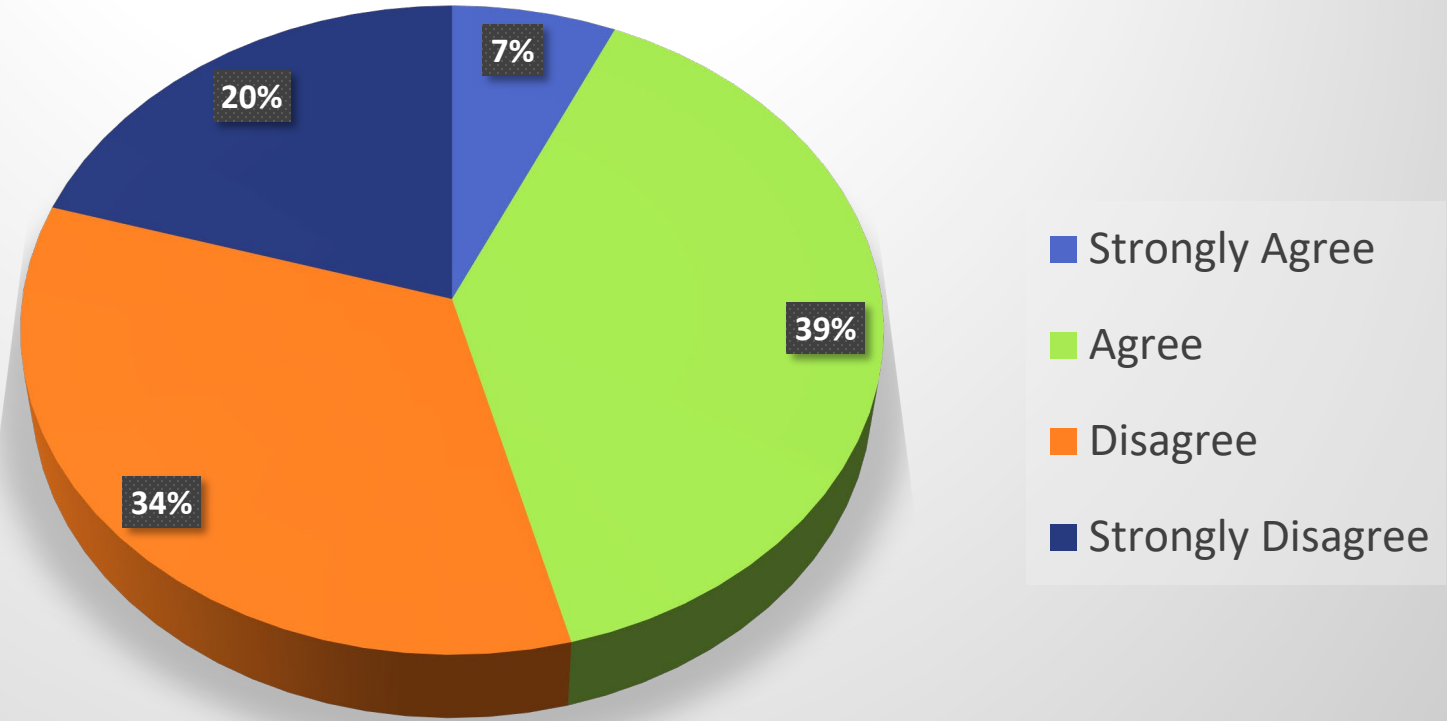


#### PUBLIC AGENCY



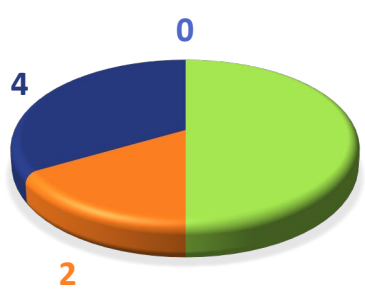
Access to capital including firm financing, eligibility for financing, and bonding is satisfactory

All Responses

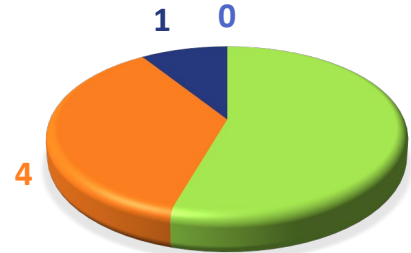


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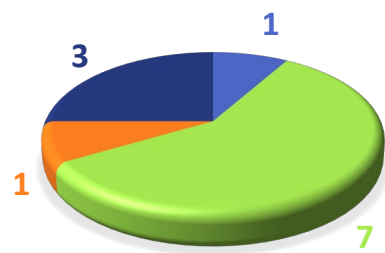
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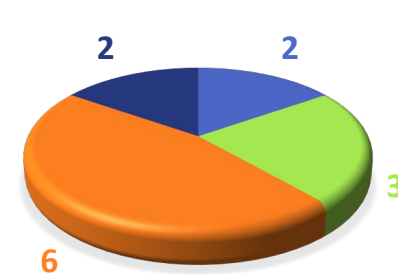
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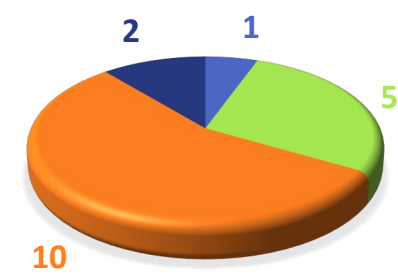
CONTRACTOR



OTHER CONSULTANT

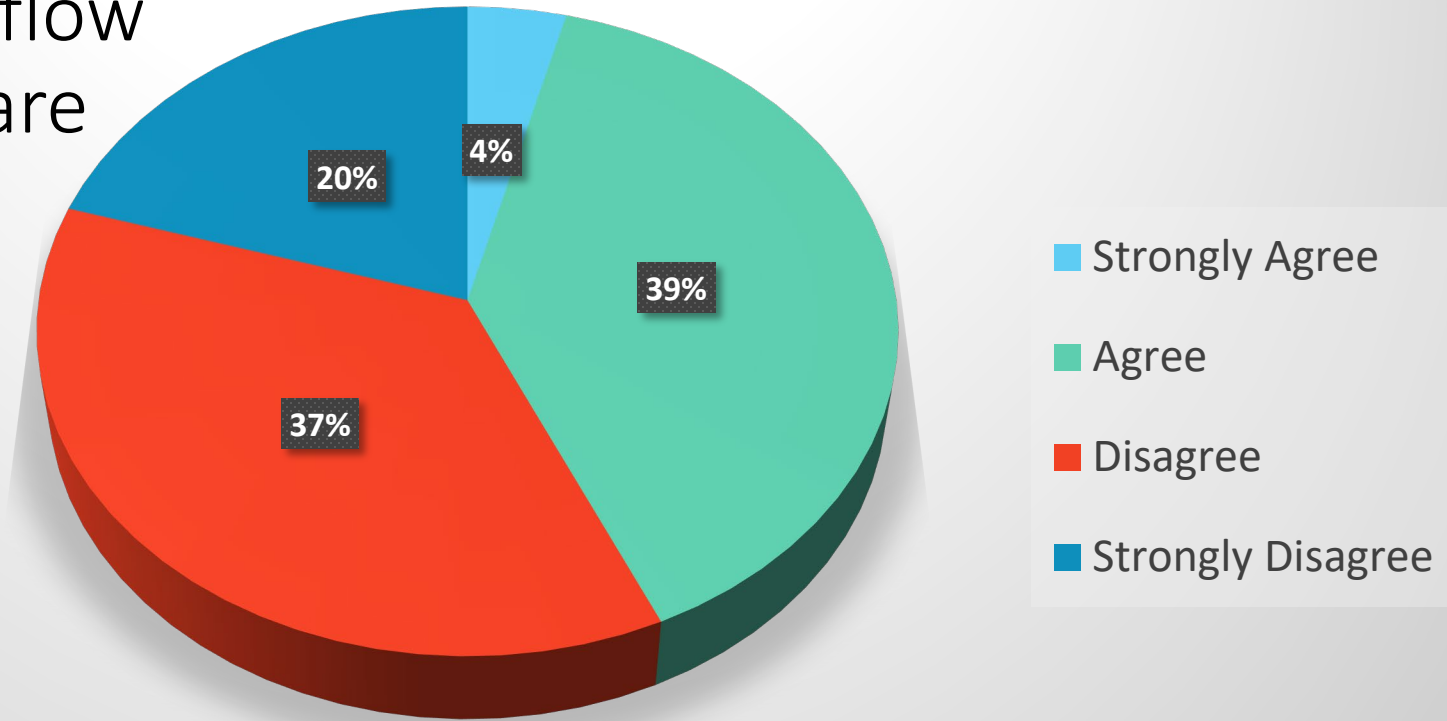


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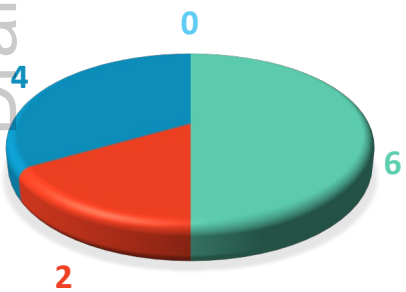


Access to project cash flow and prompt pay issue are satisfactory

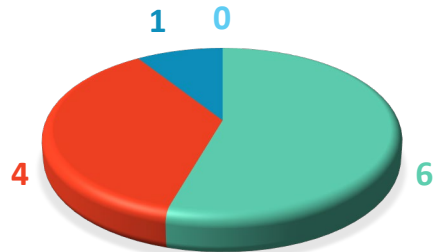
### All Responses



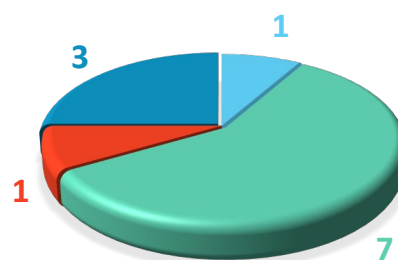
### DIVERSE BUSINESS



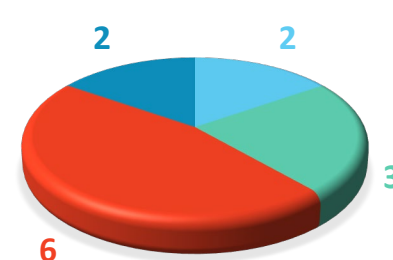
### DESIGNER (A/E)



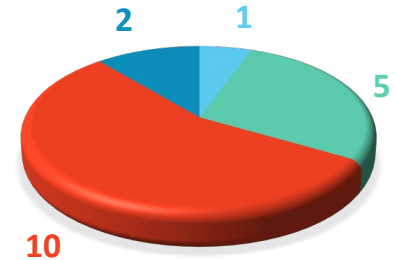
### CONTRACTOR



### OTHER CONSULTANT



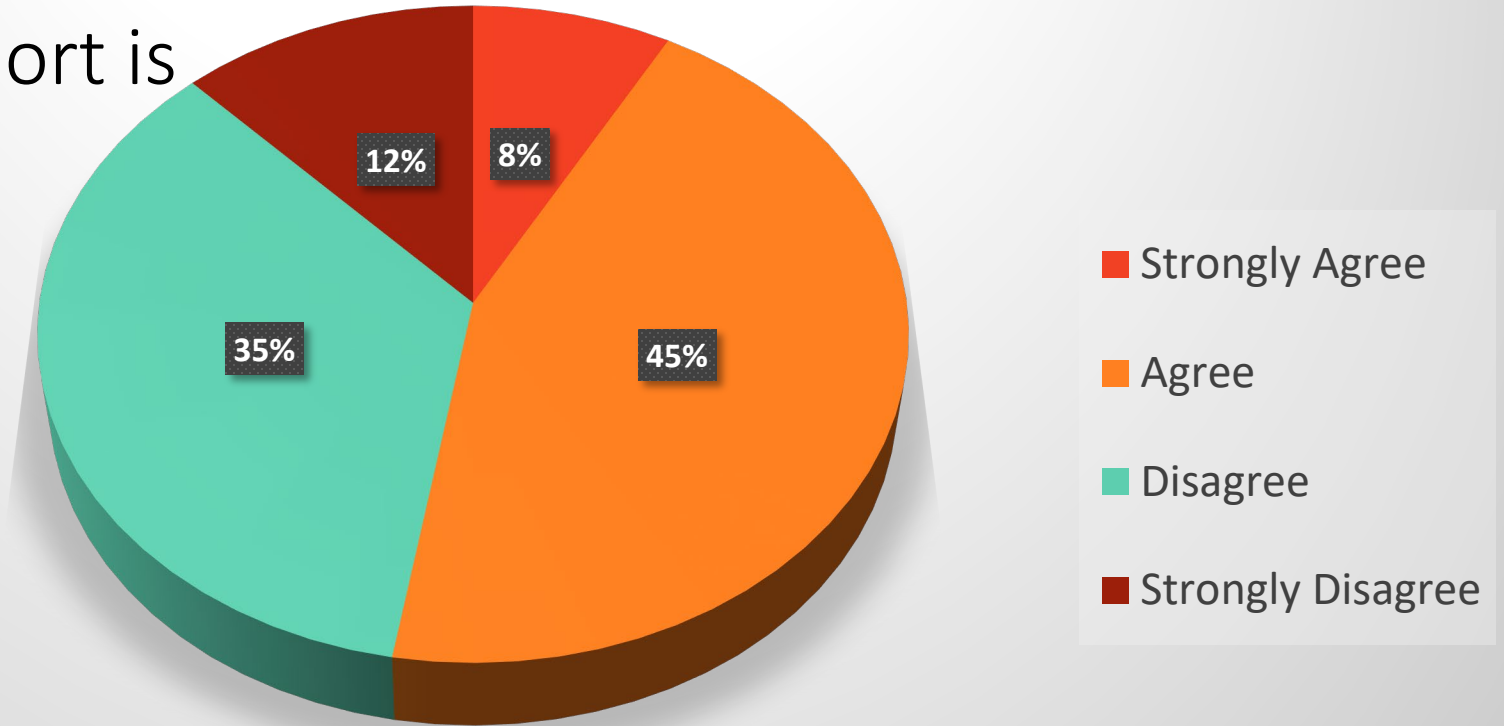
### PUBLIC AGENCY





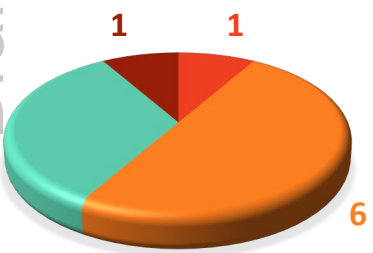
Access to training and business services support is satisfactory

All Responses

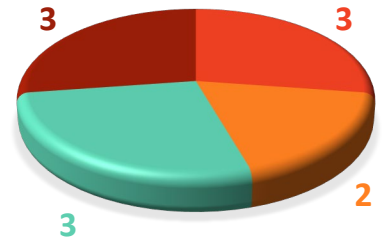


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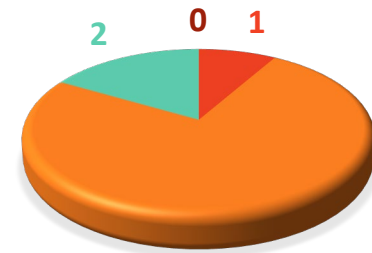
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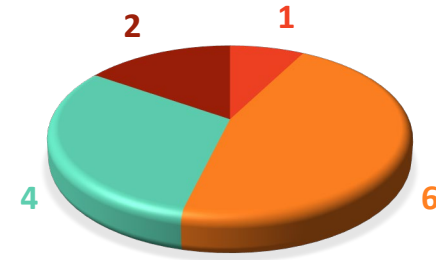
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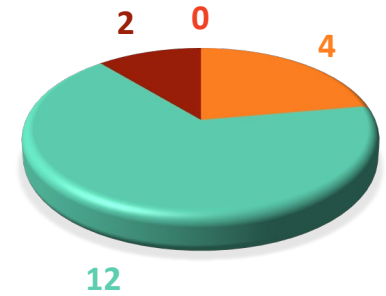
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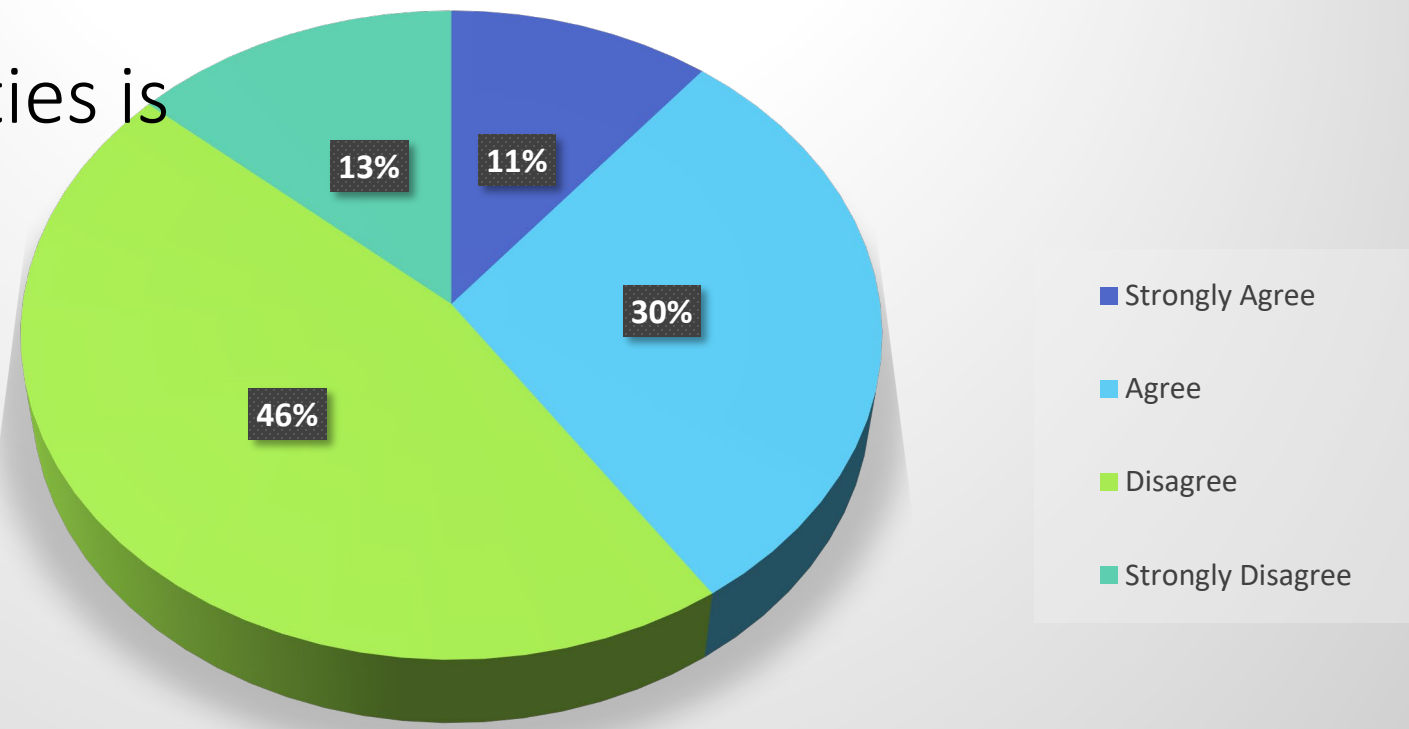


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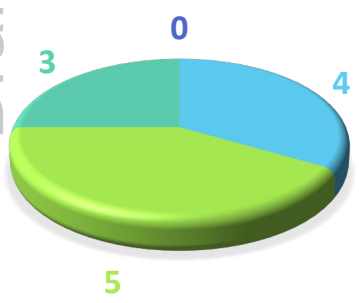
Access to networks/  
relationship opportunities is  
satisfactory

All Responses

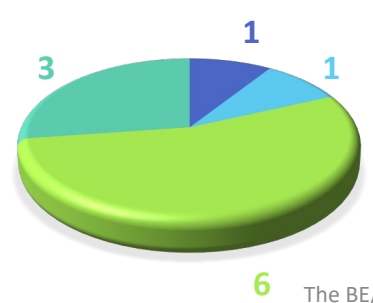


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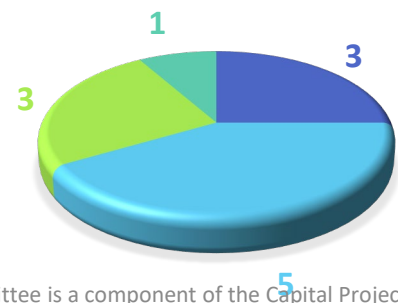
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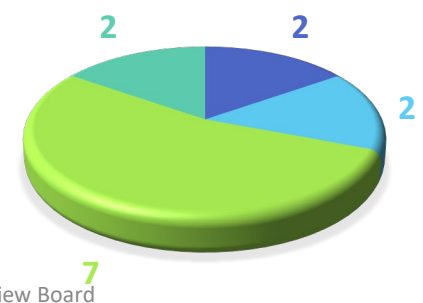
DESIGNER (A/E)



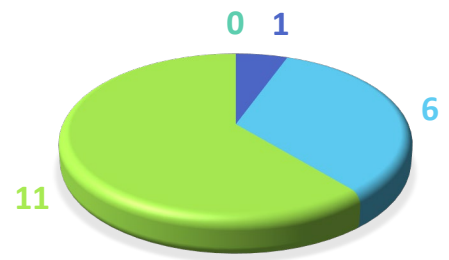
CONTRACTOR



OTHER CONSULTANT



PUBLIC AGENCY



# Additional Comments Received

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- I believe if you want it you can make it happen. If you don't want it you will make excuses as to why you cannot achieve something.
- UW both makes a lot of effort to improve inclusion within the constraints we have as a public agency, and also welcomes new ideas we should consider to do even better.
- As a School District access to funding for new schools is the largest issue. Our voters have difficulty supporting bond measures based on property valuation. As property values increase, even maintenance levies and bonds increase their taxes. Super Majorities, make passage of bonds onerous to school districts. A constitutional modification to this law is in order. Training for ways to work with contractors to increase their equity, diversity, and outreach to minority, and women-owned, veterans and small business enterprises would be beneficial.
- I recommend looking at the Tacoma Public Schools' Diversity best practice program for positive insights. The City of Seattle is also exploring ideas to break down barriers; again, I recommend gleaming insights from their WMBE committee.
- Lack of certified businesses in WA State A/E industry to hire in the primary problem, especially in E WA. Certification process looks at larger and smaller firms in the same manner, seems like criteria should shift to recognize inherent differences in business at these two scales.
- There are other barriers not discussed here that should be considered. Training for owner staff, inclusion plan use and most of all reporting and accountability.
- Access to work for engineering companies in the DB delivery model is problematic. There is less work for smaller engineering firms in this project model and its harder to get. Even large engineering firms are optioning out of the DB projects and pursuing other work. This needs to be dealt with legislatively. While DB is the delivery model of choice for owners it has had adverse effects on the engineering community as whole. Since its working for owners, the DB model needs to be altered to make it more fair for engineering companies.
- These issues are posed as if my organization is a small DBE firm. I have answered them as a government employee in public works and what my perception that that the barriers would be to those firms being in a position to obtain contracts with my agency. But my perception could be off.

# Additional Comments Received Continued

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- As a public agency we find contractors submitting bids on our projects are often deterred by the DBE requirements established on federal projects. Smaller firms have a hard time meeting the commitments. DBE's are often not locally available or they do not have the resources to properly bid or provide documentation on large scale projects even as a subcontractor. This drives contract prices up disproportionately and makes contract administration increasingly difficult. Any implementation of additional resources and requirements should take in to consideration of local demographics and the contractor base in the areas.
- Those affected by certain capital projects such as those working in a building that is slated to undergo building renovation or new building construction are often not consulted or labeled as stakeholders but they should be.
- One barrier is access to capital, and bid bonds are hard to get qualified.
- Accessing opportunities is great, but if the people evaluating submissions are biased and the criteria is not inclusive allowing new businesses to compete with existing businesses.
- A barrier to contracting for small business is the frequent requirement that the SB/DB has to perform greater than 50% of the labor. Frequently in construction or environmental consulting jobs the small business needs to subcontract those opportunities, and does not immediately have the labor to do 50 % or greater. This should be changed to facilitate future opportunities.
- WSDOT does not recognize the most common form of small business, which is a pass-through single-member LLC. As an independent consultant providing professional services, I have a single member LLC pass-through entity with zero employees. It is impossible to determine a salary-derived rate. WSDOT therefore excludes my firm from all of their professional services contracts. Other DOTs interpret the Federal DBE law differently and provide a threshold contract value under which my firm can, as a subconsultant, establish a "reasonable" hourly rate. In Utah, this is \$25,000. The Federal government excludes small businesses from the FAR, but WSDOT imposes FAR-based accounting rules on my tiny little one-person firm making less than \$100,000 per year. I can hold Federal contracts as a prime for up to \$250,000 using a "reasonable" hourly rate that is not salary-derived. In Washington, I can't even hold a \$5,000 subcontract. Consequently, my firm is unable to work in my home state at all.

# Additional Comments Received Continued

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- As a sole proprietor consulting engineer in a very narrow technical field (solid waste management), my responses should not be considered typical. Since I'm semi-retired and don't have to pay employees, my need for capital is minimal. After 40+years in this technical field, I have a pretty wide network, but if I were starting out or had just 10 years of experience, it would be quite difficult.
- Cronyism drives selection.
- DBE certification is not an advantage in an RFP system that does not include DBE requirements, percentage minimums, or points in the evaluation process. Oregon RFPs always say they want DBE applicants but never systematically reward us for the burden of the DBE certification process. This needs to change.
- Net payment terms hurt small business subcontractors - large primes hold onto cash as long as possible. Perhaps large contracting primes can pay their subs PRIOR to being paid by the government.
- Community banks' hands are tied when it comes to lending to small business. SBA avenues force small businesses to work with a huge government bureaucracy, required dedicated FTEs simply to comply with all of the red tape. Instead, unleash local community banks to lend to those small businesses in their community.
- Methods of developing Indirect Cost Rates don't apply to all small businesses (especially Owner-Employees) and the costs of hiring accountants, etc to figure it out are prohibitive for many of us. There should be an easier way of determining fair pay, not some arbitrary multiplier. My fees are based on my expertise, including the years of education and experience it took me to earn it. I should be able to charge what I am worth for my professional services, what it is worth my time to do -not what some actuary who doesn't understand what I do thinks I should be paid.
- Dumb, you think you can ask me a set of questions and then on the next page claim fame and your on it ? Dumb

# Additional Comments Received Continued

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- A one stop cost effective or free service provided to small contractors offering resources from the inception of their business to completion of the first project. To include: access to plan room, bonding, OCIP, help with bid doc's, specifications, special agreements PLA/CWA's progress payments, working with the communities, outreach etc.
- The barriers for small firms (at least in the professional services side) are still strong. These are very relationship-based businesses where project teams are built far ahead of public notices. Primes holding half-day long meet and greets that don't result in any work are just a waste of time for us. One-on-one mentoring programs or other ways that relationships can actually be built might be more useful.
- Navigating any government process or system is cumbersome at best, confusing and overwhelming most of the time. Historically disenfranchised and justice involved people are usually not adept at these processes, have barriers to access/certification, don't have the time/funding to invest in lengthy bid/RFP's. Make it easier to do business with.
- In WA state there is a lack of caring, commitment and opportunity. In WA state public agencies and prime contractors have demonstrated that they will hire, recruit and contract with out of state individuals and companies before they will hire and contract with minorities that are state residents. CPARB is a prime example of discriminatory practices in WA state. CPARB functions solely for the benefit of its members and not the benefit of the state and especially the minority citizens of the state of Washington. Until there are explicit directions from the governor and state legislature and enforced reporting requirements CPARB will continue to operate in a manner that is not in the best interest of the state . Thanks for the opportunity to respond to this survey and hopefully someone will read and investigate the truthfulness and accuracy of these statements.
- I only manufacture airfield equipment and I have a hard time finding current FAA AIP funded projects. It seems that when there is a DBE goal it is eaten by labor so, manufacturers don't receive any benefit from DBE goals. I wish they would separate the labor from the materials purchased in DBE goals.
- PLA's, State registered Apprenticeship requirements limit access.

# Additional Comments Received Continued

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- I'm in somewhat a different situation as a consulting firm that is less capitally intensive than a construction firm. At this stage, some of the "disagree" selections are more of an "I don't know." In my case, there are many public agencies interested in what I do, but the system is slow with poor, outdated perceptions, or culturally insensitive behaviors from large firms. There needs to be better understanding on the role of a small firm to fulfill agency needs, how healthy prime/sub relationships work where appropriate, what business diversity (not conformity or obedience) means in achieving value for everyone involved.

## Business Equity/Diverse Business Inclusion Committee Capital Projects Advisory Review Board

25 March 2022

Committee focus:

- Comprehensive review of RCW 39.10 with the lens of equity (include RCW 39.04 & 39.80).
- Create consistency in statutory language.
- Evaluate and bring forth effective strategies and opportunities for firms to compete.

<input checked="" type="checkbox"/> Olivia Yang	Washington State University	CPARB /Committee Member
<input checked="" type="checkbox"/> Santosh Kuruvilla	Exeltech	CPARB /Committee Member
<input checked="" type="checkbox"/> Lisa Van der Lugt	OMWBE	CPARB /Committee Member
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<input type="checkbox"/> Andrea Ornelas	Union	
<input type="checkbox"/> Rebecca Keith	Seattle City	
<input type="checkbox"/> Greg Bell	Pierce County	
<input type="checkbox"/> Kara Skinner	Integrity Surety	
<input checked="" type="checkbox"/> Julie Campos	OMWBE	
Bob Armstead	Armstead Consulting	

## AGENDA

Item	Purpose	Start
Welcome and committee member introductions	Information	9:30 am
Review & approve agenda	Action	9:35 am
Review & approve 3/4/2022 meeting minutes	Action	9:40 am



Report from cochairs on distribution of draft report for comments		9:50 am
Last thoughts on Access to Capital	Discussion	10:00 am
Access to Training	Discussion	10:10 am
New Business	Discussion	10:40 am
"Final word" (from committee members)	Discussion	10:50 am
Adjourn	Action	11:00 am

**DIGITAL CONFERENCE ACCESS**

The committee meeting will be conducted entirely by Zoom digital conferencing.

Online <https://wsu.zoom.us/j/97615048848>

Meeting ID: 976 1504 8848

Join by telephone

Dial: US: +1 253 215 8782 or +1 669 900 9128 or +1 646 558 8656

Meeting ID: 976 1504 8848

Olivia Yang - Washington State University

206 718 0787 [olivia.yang@wsu.edu](mailto:olivia.yang@wsu.edu)

Santosh Kuruvilla – Exeltech Consulting

206 713 1241 [santosh@xltech.com](mailto:santosh@xltech.com)

Item: **Welcome and committee member introductions**

- Call to Order
- Quorum confirmed.

Action by: BE/BDI Committee

Status: Approved and complete

Item: **Review & approve agenda**

- Agenda Approved.

Action by: BE/BDI Committee

Status: Approved and complete

Item: **Review & approve 3/4/2022 meeting minutes**

- Minutes approved.

Action by: BE/DBI Committee

Status: Approved

Item: **Cochairs Report**

- Request from CPARB Chair
  - See something for April 14 CPARB Meeting instead of original schedule.
- Propose – sending draft executive summary to Committee next Monday or Tuesday, discuss at April 1<sup>st</sup> meeting. Request that the committee read and send substantive comments before the April 1 meeting.
- Recommendation that committee members respond in the affirmative even if they have no comments on the executive summary.
- Mindful of rushing the product and good work from the committee.

Draft Report 5-6-2022

Action by: Cochairs and Committee.

Status: Draft Executive Summary to Committee in process

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Item: **Last thoughts Access to Capital**

- Any last closing thoughts?
  - Continued follow up with Kara Skinner regarding bonding barriers.
  - Ask for committee members to share links to resources that apply to the topic.

Action by: Cochairs

Status: in process

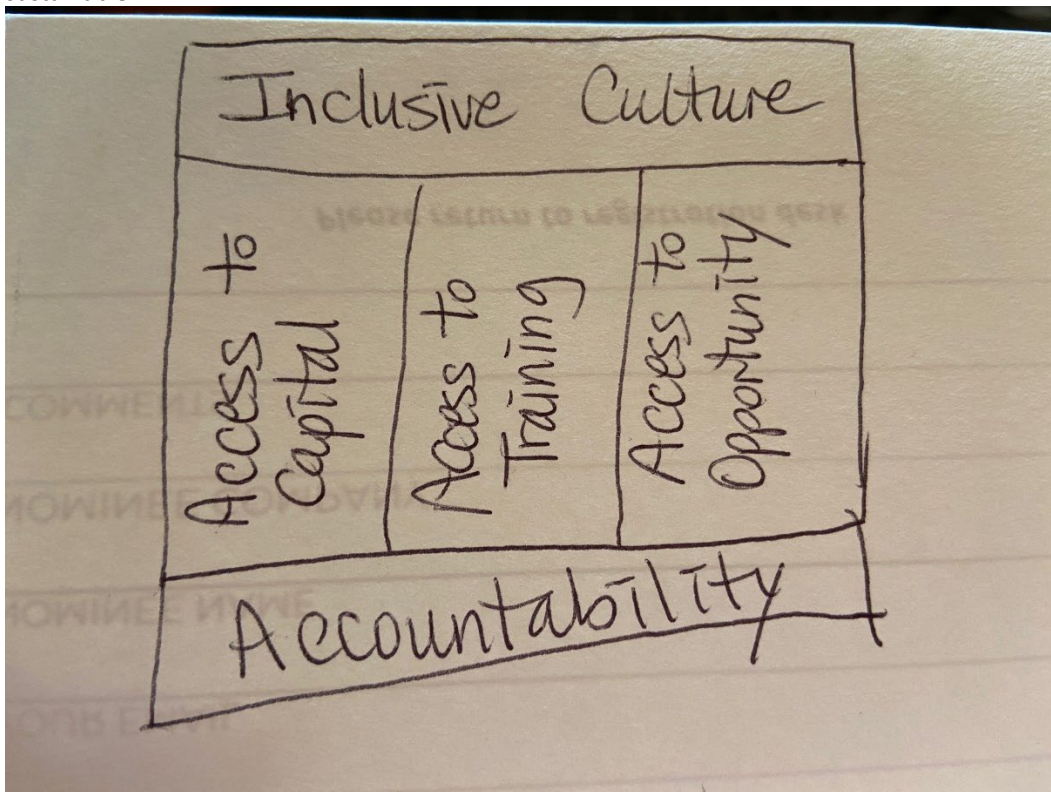
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Item: **Access to Training**

- To Kick off the conversation:
  - Could there be a directory of available training. It would provide a gap analysis, coordination of exiting efforts.
  - A lot of existing training is lecture format, not as much on the job style training. Are there opportunities that could be explored to augment the technical training?
- State recently awarded a large contract to Taber 100 to provide support services. Supposed to provide technical support to businesses.
- State's mentor protégé program. Discussion around the growth of the program.
- Sidebar – Making opportunities available. Availability challenges. 23 years of reduced level of participation. Firms doing work for Federal Government and private industry grow and are capable qualified. Find a way to contact, demonstrate that it would not be a hinderance or detrimental to do business with the state.
- Access to training – On the job training, maybe mentoring youtube videos, access to businesses within their time availability.
- Federally funded training provided by MBDA another avenue for training.
- Training must have substance and measuring results and accountability. Avoid duplicate training – those provide training should coalesce and correct the duplication of training. Testimonials for your training are not enough. Need actual numbers as the results for the training.
- NAMC is still around.
- Are we trying to house in a central location?
- Training needs to be individualized. And just a directory might not meet the need.
- Linda will forward the survey results of co-hart 3 mentor protégé program to committee and the report can be included in the BEDBI Report.
- One on One training example discussed – understanding the timing of training in order to be successful. Import to know who and when they need help.
- Oregon link shared in chat. Incubator like group.
- DBIA Training example referenced.
- It takes a blend, combination of resources already funded. Business Development groups can help make the plan to help with: Proposal review, Financial review with compilations, Contracts with primes, How long can you wait until you get paid.
- After using free and available services, firms need to be aware that they likely need \$5,000.00 to get the rest of the training needed.
- Clark College example discussed
- Profit First Book
- Minority Business Success book
- Duplicative training challenge – how to connect the programs already out there. A challenge that needs to be recognized and may not be able to be corrected by this committee but needs attention.
- Federal organization of resources example given. Might be something to consider to do in our state.
- Tuck class for Dartmouth. Do small businesses know how to find the right training?
- Scared to tap into government contracting because too much work, paperwork, administration. Small business still in survival mode, how do we get them two more steps to be there.
- Training not about what they thought it would be – define what coordinating means. OMWBE could offer – check on capacity, maybe they can get the ball rolling on what coordinating means. Put in the report that something needs to be done. Open up the subject and start the work, will need help

and input. Potentially bigger than even one organization.

- Chat comments reviewed.
- B2G Now referenced.
- SBA Training – week long training. Also an SBA training for primes working with DBE Contractors. Two day event.
- Small business development versus small business procurement. Overarching concept.
- Opportunity - City of Seattle, Yale – studies show primary employer and user of minority business,
- Culture of Diverse Business as first choice. There is foundational bridge that there is a culture of each of us truly and sincerely believing in this.
- There are firms who are performing and capable, and do not need the support. But culturally and perception wise,
- Without individuals understanding the need and the basis for change, why, what brought about the condition that created the need. Understanding that we were all born with the ability and capacity – opportunity differentiates. Given opportunity – people can and will perform. Examples – black not able to be quarterbacks, women not able to understand engineering. Limitations are what we have put on them. When the State of Washington develops a culture that inclusive, then changes will happen. But if you just say do this. But there is not an explanation of why, and the benefit to the state and them individually. One prospers and all prosper. It's not just about the numbers. When you go inside the numbers of agencies bragged about by agencies, you find that the 15% is from one firm. Doing it because it is part of your value system.
- If you want to change you have to do it, one person at a time. Accept difference but understanding the common objective. But if we are all trying to head in the same general direction, it is messy, but sustainable.



- 
- Giver perspective vs. receiver perspective. Interview and invite receivers to provide opinions. To get feedback to do better.

Action by: WSU to schedule the additional meeting.

Status: N/A

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Item: **New Business**

- Preparing for next week's meeting – network, access, and opportunity next topic of discussion.
  - Plan to use the whole two hours.

Action by: Committee.

Status: N/A

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Item: **Final Word**

- Please send your links to Maja and Rachel.
- We need to help each other in going through the culture shift needed.
- Coordination of training resources.
- Demonstrates the good work being done and already done. If there is something at OWMBE that can be more helpful, reach out to Lisa and team with ideas.
- Remember and look at how these apply across the state.
- If resources have advertising abilities – please provide that along with the resource.
- Culture shift conversation appreciated.
- 

Action by: N/A

Status: N/A

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Adjourn at 11:05

From Linda Womack@MBDA to Everyone 09:57 AM

That's great news Bobby!

From Aleanna Kondelis to Everyone 10:01 AM

Not much. We just talked through the agenda and Olivia gave an update that we need to get a draft circulating sooner because of CPARB timing so we are rushing again to get something drafted.

From Janice Zahn to Everyone 10:04 AM

Janice Zahn, CPARB Chair joined at 10:04.

From Cathy Robinson, City of Lynnwood to Everyone 10:06 AM

Cathy Robinson, City of Lynnwood joined at 10:00 am.

From Santosh Jacob Kuruvilla to Everyone 10:13 AM

<https://pbdgweb.com/>

From Young Sang Song to Everyone 10:15 AM

Young-Sang Song, Song Consulting, LLC joined at 10:00 am.

From Stephanie Caldwell to Everyone 10:21 AM

- 1) Paragraph 2: To Ensure effective inclusion in public contracting, contract language...
  - Create a universal inclusion template for agencies to follow including recommended scoring
  - Similar to what DOD offers for their branches. There are specific items in their template that is consistent for all government entities.
  - Adding links to the appendix for on boarding contractors and the completion of DEI training including anti-harassment, bullying etc.
- 2) Paragraph 8: Inclusion Compliance, Data Collection and Reporting
  - Universal reporting method across all agencies. For example, most have are using B2GNow to monitor compliance. Absher is now using B2GNow on all their projects both private and public

From Stephanie Caldwell to Me (Direct Message) 10:25 AM

Hi Maja, I sent you an email with my thoughts regarding training.

From Julie Campos to Everyone 10:28 AM

OMWBE has a calendar of events on our website

From Bobby Forch to Everyone 10:29 AM

All, good conversation. I have to jump off. Have a great weekend!

From Irene Reyes, The Glove Lady, Excel Supply to Everyone 10:37 AM

Olivia, all of us whether we admit or not, have our own personal biases that we need to work on as part of the culture.

From hans.hansen@bayley.net to Everyone 10:39 AM

I have to break away for another meeting - apologize for having to leave early. Good conversation and

appreciate everyone's efforts.

From Stephanie Caldwell to Everyone 10:42 AM

Yes, agreed with Mr. Armstead. It is about a culture shift. That's where DEI training will make a difference for Agencies and Primes. Currently, Absher is meeting with all their staff top/down dismantling any thing in our culture that demonstrates less than inclusion. Thank you for your comments.

From Chip Tull - Hoffman Construction Company to Everyone 10:51 AM

Isn

Isn't our meeting scheduled until 11:30am?

From Cathy Robinson, City of Lynnwood to Everyone 10:55 AM

Next week I have 10 am to noon blocked out for the meeting.

From Stephanie Caldwell to Everyone 11:05 AM

Yes, thank you Rachel and Maja!

## Business Equity/Diverse Business Inclusion Committee Capital Projects Advisory Review Board

1 April 2022

Committee focus:

- Comprehensive review of RCW 39.10 with the lens of equity (include RCW 39.04 & 39.80).
- Create consistency in statutory language.
- Evaluate and bring forth effective strategies and opportunities for firms to compete.

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<input checked="" type="checkbox"/> Rachel Murata	OMWBE	Initially representing Lisa
<input type="checkbox"/> John Rose	MRSC	
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<input type="checkbox"/> Julie Campos	OMWBE	
<input checked="" type="checkbox"/> Scott Middleton	MCAWW	
<input checked="" type="checkbox"/> Nina Jones	WSDOT	

## AGENDA

Item	Purpose	Start
Welcome and committee member introductions	Information	10:00 am
Review & approve agenda	Action	10:05 am
Review & approve 3/25/2022 meeting minutes	Action	10:10 am
Executive Summary		10:15 am

Last thoughts on Access to Training	Discussion	10:25 am
Access to Opportunities	Discussion	10:35 am
New Business	Discussion	11:30 am
"Final word" (from committee members)	Discussion	11:45 am
Adjourn	Action	12:00 pm

**DIGITAL CONFERENCE ACCESS**

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Online <https://wsu.zoom.us/j/97615048848>

Meeting ID: 976 1504 8848

Join by telephone

Dial: US: +1 253 215 8782 or +1 669 900 9128 or +1 646 558 8656

Meeting ID: 976 1504 8848

Olivia Yang - Washington State University

206 718 0787 [olivia.yang@wsu.edu](mailto:olivia.yang@wsu.edu)

Santosh Kuruvilla – Exeltech Consulting

206 713 1241 [santosh@xltech.com](mailto:santosh@xltech.com)

Item: **Welcome and committee member introductions**

- Call to Order
- Quorum confirmed.

Action by: BE/BDI Committee

Status: Approved and complete

Item: **Review & approve agenda**

- Agenda Approved.

Action by: BE/BDI Committee

Status: Approved and complete

Item: **Review & approve 3/25/2022 meeting minutes**

- Minutes approved.

Action by: BE/DBI Committee

Status: Approved

Item: **Executive Summary**

- Draft Executive Summary shared.
- Accountability – data collection: CPARB role in data collection. Be clear that accountability being talked about in the report has to do with accountability of owners, supporting the firms for success. Be clear that CPARB is not the police.
- CPARB is largely volunteer\* (unpaid) and therefore has limited resources to do data collection and reporting. It seems that other agencies are already doing that and CPARB is not well equipped to manage that need.
- Accountability is multifaceted: measurement and verification. Project level – Prime during project, Owner end of project, Individual owner utilization on an annual basis (in partnership with OMWBE), other more comprehensive groups. CPARB is project, contract and procurement people who can

use data to inform recommendations and collaboration.

- Recognizing that some of those that are not being complied with are being responsible. Maybe we need to hone into responsibility and accountability or distinguish one from the other. Can we elaborate more on what accountability means, and the repercussions and ramifications of it.
- We've been hearing from many folks about accountability – need metrics around communication and expectations in order to enforce accountability. Not going to m over the need on the industry credibility if diverse business is not part of the conversation who does to have a voice in the scoring. Needs to involve firms in the process of achieving the inclusion plan. Next level that has not been achieved yet, but should be part of this.
- Disappointments happen when expectations are not made clear.
- Preverbal put yourself in the other persons shoes, to make sure that expectations are aligned.
- Have heard that actual tools be useful. Will the resources/reference pages. Will there be nuts and bolts resources be there?
- 39.10 – MCCM more of an emphasis on what you are doing with your inclusion plan. How are they evaluated and scored? But are seeing that plans are impacting the landscape of how firms are being scored/ differentiating firms due to strong inclusion plans.
- Training – set up the firms to be successful project after project. MCA – Add Subcontractors to the groups that would be willing to invest resources on the training side to lend expertise.

Action by: Cochairs and Committee.

Status: In Progress

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Item: **Last thoughts Access to Training**

- No comments.

Action by: N/A

Status: N/A

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Item: **Access to Opportunities**

- Survey – The survey results demonstrate that this item needs attention – Owner versus Diverse perspective, owners low priority, diverse high priority. Primes perspective in the middle – challenging to find them with respect to your business objectives. How to navigate the opportunities and choose should be focused on how to help grow small businesses.
- Are there actually opportunities for the small new contractors – or are they all for larger contractors because it is easier to hire a handful of contractors versus 50 small.
- Shifting the focus from small business procurement to small business development.
- Why do you think the gap is there between Owners perceptive and Diverse business perspective: physical visibility of this type of work. Incubator program. How am I consolidating my risk – do I want to work for a general contractor or an Public owner? Lump sum opportunities may be a good way to start.
- JOC as a good method of introduction. Use as a tool to fundamentally develop and grow business in how to do public work. Good feeder system.... Closer to residential from a subcontractor point of view. But it comes with all the same administration nuances from public works. When you work with a JOC – you probably have support form the JOC contractor on how to do the process.
- More than looking at the DJC - How to choose within those to delivery models? Or how to identify the generals with mentoring.
- Unless you find the general who is willing to provide comprehensive training – firms who try to venture out may not have all of the information (ie. Differences between the different agencies, requirements, etc) that could have been provided from the prime contractor.
- How to find someone who will advocate for you – this person needs to understand the scope of the project. Where does it fall apart? Or where does the small business need help? Is there something that could pre-qualify me so that they know my capacity and capability? Do we intentionally overwhelm the small business owner?
- Example of students who are about to graduate getting advising as you head out of University. Maybe there is an opportunity to have advising tailored to small business.
- Over promise and under deliver?



- Pre-qualification – how do you expect the small business owner to continue updating their profile to show their growth... ie. If they are pre-qualified at 2.5M but now have the capacity for 5M.
- Reference ideas listed in the chat.
- Rosters- due diligence needs to get more firms on the rosters- as they are limited currently.
- Mentoring programs- capacity building programs. Addressing and reporting on the disparity study recommendations.
- Sound transit example work plan.
- Do the small businesses know how to do business with your firm, or agency.
- Building up the muscle of the firms to be successful. – SWR, JOC, Etc.
- One size doesn't fit all
- Aligning opportunities and contract obligations. Matching making and making sure the right matches. Not every opportunity is a good opportunity for a firm.
- Candor and conversations that align the right opportunities that are right for the firms. We have a lot of optimists – how do we don't end up in spaces where our projects are the worst thing to happen to the firms.
- Perspective from a diverse business – ownership of the role to want to grow – seeking out the opportunities. Not just the expectation that it should all be handed to you.
- Brutal self-evaluation.
- Getting the contract is not the end of the journey, it is the beginning of the journey. And it is not easy to do.
- Opportunities, Capital and Training cannot be one without the other.
- Advocates who checked back with you, the personal touch – where has that spirit gone? It was there in the past. But seems to be missing now. Sign up responses – sharing information. Giving the information when they sign up to OMWBE, or a Roster, or other agency information.
- A lot of talking – now follow up. Caring about the success and following up.
- Pathways to success – example from Feds.
- OMWBE – is working on developing the Small Business Advocate branch, newly set up.
- Contract package/sizing. As owners do we manage that? How is it going for instances where the owners have been involved in the process?
  - The unbundling and right sizing – in larger projects is one of the opportunities that is out in our industry. That can move the needle. But is also contradicts what owners and generals traditionally do, to manage risk. When you get into detaching and having two subs... having to go into the sales pitch and justification of it.
  - The how and maintain harmony with not small business community does have rough point.
  - Owners and GC's have to be able to communicate the need and not just complicate subcontract management.
  - Check the box mentality versus meaningful changes. Weighing risks, rewards and mitigate them in a business-like way.
  - WSDOT SBA small business roster? Wonder what the thought is there?
  - Small business don't like DB – because they perceive that you can't unbundle. DB can be used wisely or poorly, by owner or DB.
  - Larger and larger projects impact the ability of firms to work on individual projects. Because of all the additional hoops to work on massive projects even as subcontractors.
  - DB does give an opportunity to design the work around the businesses in ways not available in other models.
  - GCCM statutory change around unbundling – GCCM committee is looking at ways to unbundle in a more fair and equitable ways. Challenges that we hear – how do we do that? What is normal? It's expensive to put something out to bid. Sometimes there are bid packages that there are no bids... end up having to include into another package. Best practices struggle for the committee. Set forth a handful of considerations to unbundle fairly to get more participation.
- Does pilot projects resonate with unbundling?
- Are we finding successes in the very thoughtful way that we have to think about unbundling? Do we have some success stories to share around unbundling?
- In eastern Washington – you have to start with who is even available to do the work. Starts with the inclusion plan, and what makes sense for the area. What is the intention (in lieu of goals) to be achieved? May be different for each client. There are not a lot of scopes available - has to be a strategic effort. What are we trying to achieve first then build the program around them.
- Perplexed about the concerns around alternative public works – because Hard bid does not have a mechanism?

- Vertical versus horizontal, possibly differences between the two. It's not the tool it's the people using the tool and how they use it.
- Complexity that the GC has in balancing the risk against the commercial terms. There is finesse to it, and it is very complicated in the horizontal space.
- DB is the only delivery method that doesn't have the low bid requirement... that give the opportunity to selected upon best value. While it is an opportunity to be flexible – there is opportunity for abuse. Subcontracting opportunities is the greatest challenge in this model.
- Flexibility that owners have look at on a sliding scale...DBB lowest responsive, GCCM qualifications, DB all the flexibility. Owners have to look at past utilization records for DB. What is the owner doing to ensure that the DB contractor follows through with the design build proposal?
- Share knowledge – more understanding that these methods can actually be improvements. Hope we can find ways to capture some of these successes in the report.
- Subcontracting opportunities. Access to small business events – sent to small businesses promptly. Timeliness of delivering contracting or subcontracting businesses is very important.
- Do we know who has the highest value reporting by delivery methods? Do we have the measurements by DB, GCCM, etc? Has this been captured through the various disparity studies?
- Design-Build – interviewed MBE's perspective is different. Viewed through a negative lens.
- More education up front about the different delivery methods – may help small businesses.
- May want to put some of this discussion into the access to training section as well.
- Talk about the whole effort needed for success, not just a check the box.
- Data – people want a summary or analysis that aggregates all available data.
- Use the tools meaningfully and with oversight.
- Data on reported numbers – high concerns with how accurate that data. Which certifications? Lens makes a different. Aligning clearing through communications which apply.
  - Perspective of numbers from a GC – highest – JOC, then DB, then GCCM, then DDB.
- Knowing how to navigate the different delivery methods out there.
- New data collection effort by OMWBE driven by statute... for DB Contracts that Primes report to OMWBE on utilization rates. B2G Now and reporting formats coming. In the future will have more information specific to DB contracts.
- Analyzing the data – How agencies calculate it can be very different.

Action by: Committee

Status: in process

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Item: **New Business**

- Agenda setting for next meeting:
  - Heard a lot of good points – might want to pick through discussion a little more.
  - May and June – largely two parts – comments on the draft and follow up on the three access meetings we have had.
  - If we have to squeeze in another meeting in May, may be valuable.
  - Add in the extra meetings as a hold – in case we need them?
    - WSU will add the additional meeting so that we are scheduled for the first Friday and last Friday.

Action by: CoChairs – Schedule additional time.

Status: in process

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Item: **Final Word**

- Invite people to look at 22.01 and 22.02. NAMC has invited Directors from public agencies to present their take on April 7 at NAMC at 5:00 pm.
- CPARB has a plan to get to the end of June to share this document and the work of the committee.
- Perspectives and lens make us stronger and more strategic around these issues.

Action by: Committee

Status: N/A

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Adjourn 12:01 pm

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From Brenda Nnambi to Everyone 10:03 AM

Happy Friday all! Great to see you all! I have to leave at 11:30 for another meeting.

From Kara Skinner to Everyone 10:04 AM

Hi All, I have an 11 am conflict and will also need to leave early. I am in my car and will remove my video for portions of this meeting

From Kara Skinner to Everyone 10:27 AM

I would like to second Chip's comments. Thank you!

From Kara Skinner to Everyone 10:46 AM

I really hate to do this, but I have to head to my next appointment. I am happy to make myself available for questions later. Thank you ALL

From Brenda Nnambi to Everyone 10:53 AM

Just a few Access to Opportunities ideas: 1) encourage SBE/DBEs to sign up for SWR and to get on MRSC rosters; 2) involvement in mentoring programs; 3) addressing and reporting on actions taken to address disparity study recommendations ; 4) don't assume what SBE/DBEs need re: access to opportunities....ask them when developing outreach efforts, training, etc. 5) look for ways to make sure SBE/DBEs know how to do business with your firm/agency

From Brenda Nnambi to Everyone 11:03 AM

Forgot to also include: 6) agencies looking at contract packaging to address access to opportunities. Being more intentional about considering the unintentional barriers created for SBE/DBES on projects that are so large. Look for ways to unbundle when possible.

From Rachel Murata (she/her) OMWBE to Everyone 11:21 AM

Switching to my phone for a few, I'll still be here listening.

From Stephanie Caldwell to Everyone 11:22 AM

Correct. Design Build seems to allow for more flexibility to unbundle scopes of work.

From Cindy Magruder to Everyone 11:29 AM

The UW has been quite successful in increasing our DBE participation using the Design-build delivery method.

From Brenda Nnambi to Everyone 11:30 AM

All good points. Unbundling is not easy but at least the effort to have a discussion about it should be examined. It's been recommended in most disparity studies. At a minimum, look at the possibility.

From Shelly Henderson to Everyone 11:54 AM

I have to log off. I have really appreciated the conversation today and hearing the contractor's and other's perspectives. A lot around unbundling and opportunity to think about.

From Irene Reyes to Everyone 11:55 AM

I'm inviting everyone to attend NAMC gen meeting we have 3 WAsate agency Directors speaking about Executive Orders 22-01 and 22-02. DES, DOT and OMWBE

From Keith Michel to Everyone 11:56 AM

I support just adding the first Friday to our calendars. Let's be honest, plenty to continue discussing every step of the way.

From Irene Reyes to Everyone 11:56 AM

Namcwa.com via zoom April 7th 5 PM

From Cathy Robinson, City of Lynnwood to Everyone 11:57 AM

Great discussions and information sharing. I have to jump off. Have a good weekend everyone.

Draft Report 5-6-2022

## Business Equity/Diverse Business Inclusion Committee Capital Projects Advisory Review Board

22 April 2022

Committee focus:

- Comprehensive review of RCW 39.10 with the lens of equity (include RCW 39.04 & 39.80).
- Create consistency in statutory language.
- Evaluate and bring forth effective strategies and opportunities for firms to compete.

<input checked="" type="checkbox"/> Olivia Yang	Washington State University	CPARB /Committee Member
<input checked="" type="checkbox"/> Santosh Kuruvilla	Exeltech	CPARB /Committee Member
<input checked="" type="checkbox"/> Lisa Van der Lugt	OMWBE	CPARB /Committee Member
<input checked="" type="checkbox"/> Charles Wilson	DES	CPARB /Committee Member
<input checked="" type="checkbox"/> Irene Reyes	Excel Supply Company	CPARB /Committee Member
<input checked="" type="checkbox"/> Janice Zahn	Port of Seattle	CPARB /Committee Member
<input type="checkbox"/> Jackie Bayne	WSDOT OEO	Committee Member
<input type="checkbox"/> Cheryl Stewart	Inland Northwest AGC	Committee Member
<input checked="" type="checkbox"/> Chip Tull	Hoffman Construction	Committee Member
<input checked="" type="checkbox"/> Aleanna Kondelis	Akana	Committee Member
<input checked="" type="checkbox"/> Brenda Nnambi	Sound Transit	Committee Member
<input checked="" type="checkbox"/> Linda Womack	MBDA	Committee Member
<input checked="" type="checkbox"/> Cathy Robinson	City of Lynnwood	Committee Member
<input type="checkbox"/> Shelly Henderson	Mukilteo School District	Committee Member
<input checked="" type="checkbox"/> Keith Michel	Forma	Committee Member
<input checked="" type="checkbox"/> Young Sang Song	Song Consulting	Committee Member
<input checked="" type="checkbox"/> Stephanie Caldwell	Absher Construction	Committee Member
<input type="checkbox"/> Bill Dobyns	Lydig	CPARB
<input checked="" type="checkbox"/> Bobby Forch	Forch Consulting	CPARB
<input type="checkbox"/> Lily Keefe	USDOT - Northwest SBTRC	
<input type="checkbox"/> Sarah Erdman	OMWBE	
<input type="checkbox"/> Van Collins	ACEC Washington	
<input type="checkbox"/> Cathy Ridley	Exeltech	
<input checked="" type="checkbox"/> Maja Huff	Washington State University	
<input type="checkbox"/> Jerry Vanderwood	AGC of Washington	
<input type="checkbox"/> Timolin Abrom	OMWBE	
<input checked="" type="checkbox"/> Melissa Van Gorkom	Senate Committee Services	
<input checked="" type="checkbox"/> Amy Stenvall	Mukilteo School District	Representing Shelly Henderson today
<input type="checkbox"/> Cindy Magruder	University of Washington	
<input checked="" type="checkbox"/> Carrie Whitton	Forma	
<input checked="" type="checkbox"/> Rachel Murata	OMWBE	
<input type="checkbox"/> John Rose	MRSC	
<input type="checkbox"/> Jolene Skinner	LnI	
<input type="checkbox"/> Curt Gimmestad	Absher Construction	
<input type="checkbox"/> Eric Alozie	NEW Construction	
<input type="checkbox"/> Jerry Vanderwood	AGC	
<input type="checkbox"/> Hans Hansen	Bailey Construction	
<input type="checkbox"/> Bill Frare	DES	
<input type="checkbox"/> Andrea Ornelas	Union	
<input type="checkbox"/> Rebecca Keith	Seattle City	
<input checked="" type="checkbox"/> Greg Bell	Pierce County	
<input checked="" type="checkbox"/> Kara Skinner	Integrity Surety	
<input type="checkbox"/> Julie Campos	OMWBE	

## AGENDA

Item	Purpose	Start
Welcome and committee member introductions	Information	10:00 am
Review & approve agenda	Action	10:05 am
Review & approve 4/1/2022 meeting minutes	Action	10:10 am
Report from CPARB		10:15 am
Last thoughts on Access to Opportunities	Discussion	10:25 am

Culture (KPI)	Discussion	10:35 pm
Accountability	Discussion	11:00 am
New Business	Discussion	11:40 am
"Final word" (from committee members)	Discussion	11:45 am
Adjourn	Action	12:00 pm

**DIGITAL CONFERENCE ACCESS**

The committee meeting will be conducted entirely by Zoom digital conferencing.

Online <https://wsu.zoom.us/j/97615048848>

Meeting ID: 976 1504 8848

Join by telephone

Dial: US: +1 253 215 8782 or +1 669 900 9128 or +1 646 558 8656

Meeting ID: 976 1504 8848

Olivia Yang - Washington State University

206 718 0787 [olivia.yang@wsu.edu](mailto:olivia.yang@wsu.edu)

Santosh Kuruvilla – Exeltech Consulting

206 713 1241 [santosh@xltech.com](mailto:santosh@xltech.com)

Item: **Welcome and committee member introductions**

- Call to Order
- Quorum confirmed.
- Could not record due to permission issues today.

Action by: BE/BDI Committee

Status: Approved and complete

Item: **Review & approve agenda**

- Agenda Approved.

Action by: BE/BDI Committee

Status: Approved and complete

Item: Review & approve 4/1/2022 meeting minutes

- Minutes approved.

Action by: BE/DBI Committee

Status: Approved

Item: Report from CPARB

- Neutral to no feedback on the executive summary.
- Importance of the schedule was discussed, emphasis on the June deadline.
- Discussed thoughts and reflections on the last CPARB meeting from those CPARB members present.
- Some of this committee have had an opportunity to sit with Dr. J. Culture piece is important to their office and the PEAR plan. Charged by the governor with the work around the Office of Equity. Expect to see a lot of work being charged to CPARB based upon Office of Equity recommendations.
- Feedback heard from Senator Hasegawa – looking for this work to be done right and not rushed. Data and how to collect it is a topic of conversation. Recognized that data collection was not inside of CPARB, but that the absence of data is a concern, it can be persuasive and helps to understand. Comments were in alignment with where we are going.

Action by: Who

Status: N/A

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Item: **Last thoughts Access to Opportunities**

- How will people know that they have done the right things towards effort of practices to access to opportunities?
- Reference materials included in report – comes back to culture and accountability.
- Aiming for engagement not insincere compliance. We are trying to change hearts and minds.

Action by: Committee

Status: None

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Item: **Culture (KPI)**

- Set the table for the discussion. Thank you for being able to bring opposing opinions and being willing to disagree without being disagreeable.
- What is the good version look like and what is the bad version? (Opportunities, Capital, Training) Utopian view versus dystopian view. Example: banks allowing loans to a broad spectrum, versus redlining districts.
- Opportunity: unbundle understand businesses and capacity, bad even odd pages of the spec being the package.
- Mentor Protégé – 5 years for WSDOT. Seen success in small businesses who saw 75M through the program. Hope to enhance the program by (builders want financial incentives), technical credits, overhead reimbursement, or mentors who actually contract with their protégé's. Move from training/counseling into hiring and using protégé's
- Agencies – strides towards better environment based on RFP/Q language. Roadmap to diversity. Voluntary program versus mandatory – spring of next year – race and gender conscious goals. Most agencies have their “usual” bidders, in some cases the agencies can only perform as well as the contractors are willing to perform. Trying to create environments for access and growth – long term goal. Better contract language, better relationships so bidders understand goals, managing them to success. Challenge of the number game, number of firms versus percentage completed by one firm to achieve the goal.
- Culture is a verb. Are we talking about culture that it is proactive and a leaning in? Is it creating space for more firms. Where the things you are doing is to a culture of inclusion – see firms as integral to our collective success.
- Actions being taken by gov agencies and business, that shows examples and stories to create the culture.
- Values, norms, traditions that affect the way a member of a group what they perceive, think, interact, behave, make judgement or decisions.
- Values are the fuel for your mission.
- What do you believe? You should be able to demonstrate and articulate something you believe in manifest in actions. You become more collaborative on a shared value towards a mission and journey.
- People can be directed to do the steps, but they become check the box efforts that do not the same impact.
- Dancing movement video mentioned.
- Starts internally – why have a culture and what does it look like? What does that resonate for you as an employee – ask your employees. Where do you start from? What do you value and bring to the table? A-Z what you believe in – so that we can get to the bottom line of the business so that value and culture of the firm, can be helped within the firm. Attitude you come with may need to be corrected, hard conversations that are needed to bring you to the level of culture needed to bring people into the industry. Has to be baked into the culture, hard conversations all the way to the employee level. There are going to be folks not on the same page, who cannot get there. How do you deal with them?
- How is it measured – values can get very fuzzy. Using it as a verb and doing the culture is really fuzzy.
- Engagement – every agency is embracing equity differently. Ask and educate on behaviors. Non-

- threatening communication. Do they know what equity is? Are they afraid to ask?
- How to engage with good models and how to talk to those that aren't.
  - The drive to increase from where we are moving forward. One size does not fit all. Project specific inclusion plans in best value procurement. Accountability and follow through. Metrix standpoint – one sub high dollar. Meaningful inclusion metrics – number of businesses involved. Is it your first time working with the firm, finding and creating new relationships? Debrief at the end of the project.
  - Monetary Incentives for inclusion – can open the door to undesirable outcomes or behaviors and can be seen as a negative thing.
  - Knowledge when put into practice is wisdom. Values when put into practice is culture. Do you agree?
  - Equity – does not mean equal, it means fair. Meme short and tall fence. Equity is creating ways to be equal, equality is being fair.
  - Culture change – beginning, middle and end. Why do culture projects fail? How to make more sustainable
  - One thought on why lose traction/momentum. Teams and firms are made of individuals within i.e. team, subs, pms, etc. As people come into power – new regime – new culture.
  - Culture Shift – might be helpful to view that way. You need every single person to own it. If it is top down within an org, it may not be successful. It takes a longer time. No easy answers because it can not be directed top down. Ownership and empowerment. Checklist analogy – without someone who says a new checklist is needed it never gets changed.
  - Culture Shifts – as many people join us as possible. Don't want to say inclusion is the monopoly of a group of people just because of the way they look. To find the things we agree on and work together to make it happen. Some of us have been discriminated against because of the way we look. We don't want to do unto others what was done to us.
  - Effort as change management kind of effort. Three things make a great program. 1. Engaged and knowledgeable leader – starts with the leader. 2. Leader has empowered advocates who they empower to make the change based on shared values. 3. Means and methods, contractual agreement changes to hold accountable.
    - Inventory
    - Analysis
    - Plan
    - Execute plan with values
    - Tipping point when the majority of the group thinks a certain way and they then drive the outcomes
  - Are we there? Different for different organizations. Driven by who is in charge. Who is willing to step over dollars to make a more competitive environment. Most level field with the widest lane and brightest light.
  - Why culture shift fails? It has to start from the top, the process does not create a deep personal commitment to change. Too many disconnected initiatives about culture shift. Culture is not clearly managed as a strategy. It's process that has to be aligned as a value. It must make it to the bottom of the business, org, or agency to become a culture shift.
  - Wondering if similar to safety culture, patterning culture. Safety culture over history – alternative delivery culture and the shift from DBB. Creating that type of psychological inclusive culture. Lifting it to being just as important as physical safety. So that it fits into the space at the individual level. How do we create the social norms that people see when they show up at work every day.
  - Parallels to safety protocols – whatever that was if we can figure out how to do that with culture – might be an answer.
  - Privately help versus publicly held company. It is also up to the project owner. Challenging to break it down based upon industry. How much control do we really have in changing culture?
  - Safety has the metric of osha and LNI – compliance that is law. Accountability. Not one guideline that encompasses all.
  - Culture like antibodies – they grow and live in you.

Action by: Committee

Status: in process

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Item: **Accountability**

- Focus on accountability in opportunities, capital and training.



- Capital – accountability – there are companies from out of state coming in that understand different nuanced about how that works. Wedge into the market because they partnering to go after jobs in Washington. Establishing joint ventures to provide access to capital for DBEs. Outside of state versus out inside state.
- Reporting side of efforts and results – timeline of a project – plan – actionable things during project – reflection in reporting. Continuous improvement cycle for everyone involved.
- Is there anything that accountability can do to help create the outcome of business development versus just numbers?
- Start accountability with metrics. We need to have metrics. How to hold someone accountable if you don't know what you are accountable for?
- Important to have metrics – employee late example. The metric needs to be nuances set. If focus is just the procurement, you will find an agency – 30% next year 0%. One year big project, major subcontractor, next year no project, subcontractor went back home. Is that the goal or is it the development of small business in the place where the project is happening. Utilization needs to be balanced by other factors.
- Sustainability as part of accountability. Development of the pool. Measured the number of firms. X 1 firm. B – 30%, X 5, B 0%. Importing versus building the pool of local and small businesses.
- Metrics need to be tied to what we are trying to do.
- Inclusion plans – engaged response. How to measure?
- I hope we are measuring effort – specifically increase effort with respect to we can't keep doing the same thing expecting a different result. What are they doing to drive increased inclusion? Plan implemented effectively and created a positive impact? Examples – 2 versus 4 weeks. Additional targeted outreach events. Extra effort on the first one will feel like the baseline on the next and ultimately help build community.
- Senator Rosa Franklin “lets not just measure efforts, lets measure results”.
- Results or efforts – a bit of debate on how to measure.
- 80<sup>th</sup> year of the executive order of the internment of the Japanese people in the US. purple heart battalion – irony is that family members of the soldiers were interment survivors. Most of time all we want is an opportunity to show how good we are. Accountability for those soldiers was counted in the most final way.
- Yes, we want to measure the inputs, understanding whether we are getting the results. AND inputs are to learn about when we are getting or not getting the results and why? Input measurements cannot be in lieu of results.
- It's not that one is irrelevant but used to inform the progress of the other.

Action by: Committee

Status: in process

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Item: **New Business**

- Draft ready Wednesday of next week, will send out to the committee for review for the May 6 meeting.
- In preparation for May 12 CPARB meeting, send report you have all seen out for pre-read to CPARB.
- Then make it a wide broadcast to get comments.
- Pre-read is due on the 5<sup>th</sup> for CPARB.
- Comments due a week after CPARB meeting.
- Report will come with a comment form.
- Potentially first and second pre-read to CPARB?
- Committee and CPARB see first draft at the same time.

Action by: CoChairs – Schedule additional time.

Status: in process

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Item: **Final Word**

- Thank you for the important and impactful last three meetings.
- Great discussion of a large undertaking.
- At the end of the day – can I put food on the table. If we are not looking at how much is being sent to the diverse firms. This is not new. How do we put more money in the pockets of these contractors, architects, engineers and doing work for us.

- Storming, forming, norming, and performing. Working on all cylinders right now advancing the industry.
- Senate state government and elections committee is interested in having a report from this committee effort. Potential item for meeting at the end of September. Will be reaching out to CPARB to schedule for that session.

Action by: Committee

Status: N/A

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Adjourn 12:03 pm

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From Janice Zahn to Everyone 10:10 AM

Hello everyone. Janice Zahn, CPARB Chair.

From Carrie Whitton - Outreach + Inclusion Manager to Everyone 10:11 AM

Carrie Whitton - FORMA Construction

From Young Sang Song to Everyone 10:21 AM

Young-Sang Song - Song Consulting, LLC

From Cathy Robinson, City of Lynnwood to Everyone 10:30 AM

I had to step away for a few minutes. I'm back now.

From Stephanie Caldwell to Everyone 10:35 AM

I need to step away for a quick minute.

From Linda Womack@MBDA to Everyone 10:38 AM

No problem...I will get it to Santosh for massive distribution

From Brenda Nnambi to Everyone 10:59 AM

Sorry that I have to leave at 11 but did want to mention that I agree with the comments made about culture and valuing the importance of inclusion by agencies and businesses. Sound Transit has 6 core values of collaboration, customer focus, inclusion and respect, safety, integrity, and quality. We have an anti-racist initiative which includes an economic development component. Agencies play a critical role in communicating our values to those we do work with.

From Stephanie Caldwell to Everyone 11:08 AM

1. I think we loss traction from any movement because we get comfortable.

From Stephanie Caldwell to Everyone 11:14 AM

Agreed with Bobby's comment. It has to start with the head of that company. They set the DNA that is baked into the culture.

From Bobby Forch to Everyone 11:15 AM

I have to drop off

From Linda Womack@MBDA to Everyone 11:21 AM

Linda Womack @ MBDA-WA

From Kara Skinner to Everyone 11:21 AM

Kara Skinner - Surety

From Cathy Robinson, City of Lynnwood to Everyone 11:21 AM

Cathy Robinson, City of Lynnwood

From Stephanie Caldwell to Everyone 11:21 AM

Stephanie Caldwell, Absher Construction Company

From Van Gorkom, Melissa to Everyone 11:21 AM

Melissa Van Gorkom, Senate Committee Services

From Greg Bell to Everyone 11:21 AM

Greg Bell, Pierce County

From Amy Stenvall to Everyone 11:21 AM

Amy Stenvall, Mukilteo School District

From Charles Wilson to Everyone 11:21 AM

Charles Wilson - DES

From Aleanna Kondelis to Everyone 11:21 AM

Aleanna Kondelis, Akana, DBE - private business

From Rachel Murata (she/her) OMWBE to Everyone 11:21 AM

Rachel Murata, OMWBE

From Keith Michel to Everyone 11:21 AM

Keith Michel - FORMA

From Carrie Whitton - Outreach + Inclusion Manager to Everyone 11:21 AM

Carrie Whitton - FORMA

From Lisa van der Lugt to Everyone 11:25 AM

thank you!

From Young Sang Song to Everyone 11:33 AM

I need to step away - I'll do my best to jump back on.

From Irene Reyes to Me (Direct Message) 11:54 AM

I can email you what I talked about today if it is easier for you.

From Linda Womack@MBDA to Everyone 11:55 AM

Sorry, I have to jumped off....have a great weekend!

From Amy Stenvall to Everyone 11:56 AM

I have to leave. Great meeting!!

From Lisa van der Lugt to Everyone 11:58 AM

I have to sign off. Thank you for a great meeting!

From Aleanna Kondelis to Everyone 11:59 AM

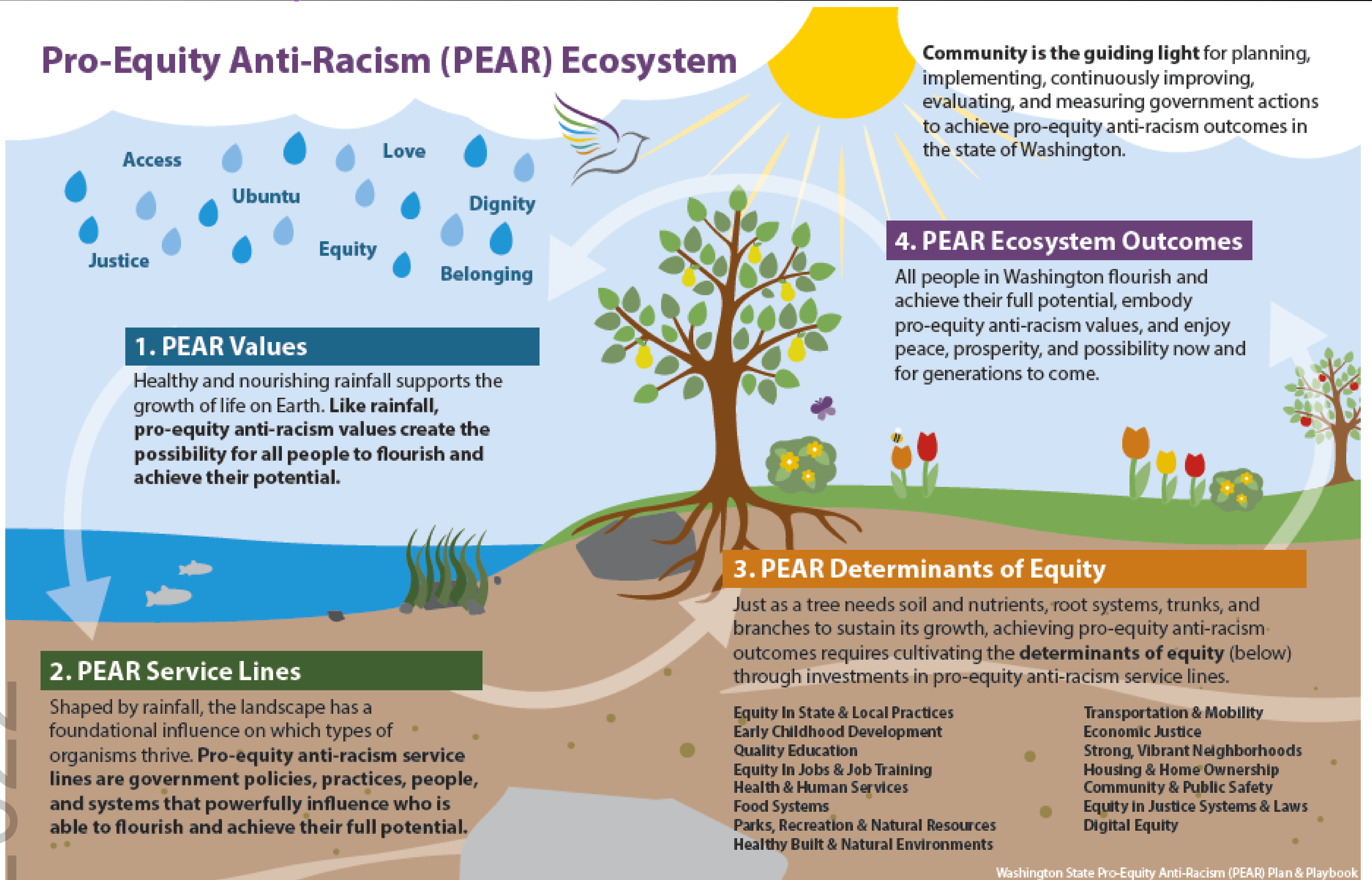
Great!



# Washington State Pro-Equity Anti-Racism (PEAR) Plan & Playbook



## Pro-Equity Anti-Racism (PEAR) Ecosystem



### Our Vision

Everyone in Washington has full access to the opportunities, power, and resources they need to flourish and achieve their full potential.

### Our Mission

To promote equitable access to opportunities, power, and resources across government that reduce disparities and improve outcomes statewide.

### Our Values

Access + Belonging + Dignity + Equity + Justice + Love + Ubuntu

### Our Goals

1. **DRIVE** pro-equity and social justice for all.
2. **CENTER** racial justice.
3. **ENSURE** equitable access.
4. **BUILD** a culture of belonging.
5. **END** disparities, including racial and ethnic disparities, to achieve equitable outcomes. We will convene teams of employees and communities to prioritize hiring and promotions; state spend for public works, goods and services (including client services), and procurement; and access to services.

### Our Methodology

As a government system, we are **investing** in our **Pro-Equity Anti-Racism Service Line priorities** to achieve Pro-Equity Anti-Racism **outcomes** that we will **measure** using values-driven, community-centered data and reinforce through our Pro-Equity Anti-Racism **habits**.



Draft Report 5-6-2022



## Our PEAR Commitments Now & Future Generations

We are committed to reframing state government to work in a way that reduces disparities and improves equitable and just outcomes for everyone in Washington now and for future generations by creating a state culture that centers equity and belonging to sustain workplace diversity.

We are committed to manifesting a pro-equity anti-racism ecosystem in a multicultural Washington state where everyone flourishes and achieves their full potential now and for future generations.

### Equity Impact Reviews

A five-step equity impact review (EIR) process that blends numerical (quantitative) data and descriptive community language (qualitative) to inform agency planning, decision-making, and implementation of actions that achieve equitable access to opportunities and resources that reduce disparities and improve equitable outcomes statewide.

### Equitable Lean Continuous Improvement

We are committed to using Lean principles and tools to create and continuously improve equitable processes and practices that embed Pro-Equity, Racial Justice, Access, and Belonging into the culture of our state's public service delivery system.

### PEAR Competencies

1. Knowledge, Understanding & Commitment
2. Self-Awareness & Commitment to Growth
3. Cultivating Mutually Beneficial & Trusting Strategic Partnerships
4. Equitable & Accessible Excellence & Allyship
5. Measuring for Success & Improvement

#### 1. SCOPE

Scope the reach, intensity, and duration of the proposed action.

#### 2. ANALYZE & PARTNER

Analyze equity conditions and partner with community.



#### 5. COMMIT

Commit to equitable lean continuous improvement.

#### 4. IMPLEMENT

Are we staying connected (e.g., communicating, engaging, assessing efficacy) in the advancement of pro-equity anti-racism with the employees and/or communities impacted by the proposed action?

#### 3. CO-CREATE

Co-create and partner in decision-making (design, planning, and implementation) with employees and/or communities impacted by the proposed action (e.g., plans, policies, and practices).

## Impact of Service Line Investments on Determinants of Equity

### What will your agency investments impact?

Everyone in Washington has full access to:

- Opportunity, power, and resources to flourish and achieve their full potential
- Health, wealth, and well-being
- Peace, prosperity, and possibility for generations to come

### Trunk

Main systems for supporting the growth of individuals, families and communities.

#### Equity in Community Support Systems

- Healthy Built & Natural Environments
- Early Childhood Development
- Quality Education
- Food Systems

### Soil & Nutrients

Strong investments in government policies, practices, people, and systems (PEAR service lines) nourish a pro-equity antiracism system.

#### Equity in Government Policies, Practices, People & Systems

- Equity in state and local practices (including regional, county, city & municipal practices)

Community is the guiding light for planning, implementing, continuously improving, evaluating, and measuring government actions to achieve pro-equity anti-racism outcomes in the state of Washington.

### Branches

Strong individual and family systems and community investments that help people grow and flourish.

#### Equity in Family Support Systems

- Community & Public Safety
- Health & Human Services
- Housing & Home Ownership
- Strong, Vibrant Neighborhoods
- Parks, Recreation & Natural Resources

### Root System

Fortifies and distributes opportunity throughout support systems, families, and communities.

#### Equity in Community Infrastructure

- Economic Justice
- Digital Equity
- Equity in Justice Systems & Laws
- Transportation & Mobility
- Equity In Jobs & Job Training



# *Best Practices Successful Mentor-Protégé Programs*



Presented by:  
Linda Lee Womack  
October 4<sup>th</sup> 2019

***MBDA Tacoma Business Center***  
Operated by the City of Tacoma

# Industry-wide MPP Program Overview

- Nationally managed under the umbrella of small business development department, procurement and contracting division; under the contracting in equity mandates.
- 3 year business development program
  - Expandable up to 5 years
- 2 Mentors – One industry specific and one financial
- Developed to overcome barriers facing small business trying to do business with large, transit related organizations
  - Ineffective working relationships between D/M/WBEs and prime contractors
  - Poor access to procurement notifications
  - Inability to accommodate size of work
  - Inability to secure adequate financing
  - Inability to secure adequate bonding

# As a Business Development Program?

- **What role do mentor-protégé programs have as a part of a Business Development Program?**
  - ✓ Assist firms in gaining the ability to compete successfully in the marketplace outside the DBE program.
  - ✓ Assist DBEs with further development to move into non-traditional areas of work.
  - ✓ In conjunction with your BDP or may be administered independently.



# Program Funding Source

- PPP( Public Private Partnerships)
- DBE, Business Development Programs and Mentor-Protégé Programs
  - \* 49 CFR Part 26 Appendix C&D

As part of a BDP or separately you may establish a “mentor-protégé” program in which another DBE or NON-DBE firm is the principal source of business development assistance to a DBE firm.

\*49 CFR 26.35

***Mentor-Protégé program must be approved by the concerned operating administration( FAA, FTA, FHWA,) once approved, they become part of your DBE program.***

# Key component of 49 CFR Part 26 Appendix C

Each firm that participates in a BDP is subject to a program term determined by the recipient. The term should consist of the two stages, a Developmental stage and a Transitional stage.

- Developmental stage is designed to assist in participants to overcome social and economic disadvantage by providing such assistance as may be necessary and appropriate to enable them to access relevant markets and strengthen their financial and managerial skills.
- Transitional stage of the program follows the developmental stage and assist participants in overcoming social and economic disadvantage and to prepare the participant for leaving the program.
- The length of service in program should not be pre-set time frame for either the developmental or transitional stages but should be based on number of years considered necessary in the normal progression of meeting the goal and objectives of the firms business plan.

# Types of Teams

## Mentor –Protégé Team

Protégé – Small Business

Mentor 1 – Industry Specific Knowledge

Mentor 2 – Financial Knowledge

Facilitator ( large transportation entity)

## Program Support Team

Advisory Boards ( 30%)

Program Consultants

Large Transit related organizations

Facilitator

# Types of Supportive Services

- Assessments should be used to identify supportive services and assist in the development of the Protégés three year development plan.
- **Typical services provided:**
  - ✓ Estimating support
  - ✓ Bookkeeping Support
  - ✓ Understand financial ratios
  - ✓ Jobsite Safety
  - ✓ Project Management and Scheduling
  - ✓ Software (estimating, QuickBooks, inventory)
  - ✓ Training – (material installation training, plan reading etc.)
  - ✓ Marketing/Branding

# Technical Assistance - specified

- **Typical services provided:**

- ✓ Estimating
- ✓ Accounting- Bookkeeping, QuickBooks education, banking, payroll
- ✓ Marketing – Branding, logo, website, marketing materials
- ✓ Estimating – take offs, pricing
- ✓ Project management
- ✓ Human Resources
- ✓ Safety
- ✓ Bonding
- ✓ Memberships - AGC, NAMC, and or other professional associations, plan centers, conference registration etc...

# Protégé requirements

- Must be a certified small business by a State
  - DBE, SBE, MBE, WBE, SDVBE
- Established business for at least 3 years
- Current on all taxes
- Must be current on all licenses( if applicable)
- Must not be ineligible or barred from public works
- Must not be under current litigation
- Must be willing to attend all classes recommended and meetings
- Must perform types of work/services that a road related entity typically contract for
  - - Construction, supplier, architectural, engineering, marketing, concessions, etc.....

# How success is measured

- Have Protégé's increased their revenue
- Successful transition out of the program ( 3 year)
- Able to increase capacity or bid as a Prime
- Increase utilization of program graduates on road related projects
- Consistent success in meeting the objectives included in the development plan
- Continuous improvement in financial strength and bonding capacity
- Higher than average industry survival rate for graduates of the program



# Show me the \$!

Cost to administer

\$ 15,000 per year per firm ( average)

Regional funding partners used to help offset costs

DOT, State, local government, transit authority, grants

FHWA

## Administration Breakdown

Program area	cost
Accounting	\$5,000.00
Marketing	\$2,500.00
Back office support	\$3,500.00
Classes/Workshops	\$200.00
Membership Subscriptions	\$1,000.00
Misc. needs	\$800.00
Overhead administration	\$2,000.00
Total cost per Protégé firm	\$15,000.00





# Tips/Best Practices

- **Vetting Process**

- Is small business committed?
- Is the mentor in for the long run and the right reason?
- Can the program in place help the business?
- Thorough research of the business

- **Good Facilitator**

- Keeps everyone accountable
- Keeps program manager informed
- Deep knowledge of the local small business community
- Has business acumen
- Organized- good reports

- **Meetings**

- At least once a month
- Let protégé create agenda

- **Schedule**

- Create milestones and check quarterly

- **Technical Assistance**

- Hands on works best
- Systematically leverage other supportive services



# Industry-wide Lessons Learned

- ✓ Protégé firms often hide their firms weakness at the start of the program.
- ✓ Ensure 3 year strategic plan is realistic.
- ✓ Software purchase require extensive education on how to use it.
- ✓ Successful mentor-protégé matching happens when the mentor can provide guidance to the protégé on area they need help with.
- ✓ Mentor should be a customer for the protégé – are they buying what they are selling?
- ✓ The first year most protégé firms will focus on financial
  - ❖ Accounting systems are critical
  - ❖ Estimating assistance is critical

***We look forward to working  
together!***



Please visit our website for more information

**[MBDA-Tacoma.com](http://MBDA-Tacoma.com)**

Draft Report 5-6-2022

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# CAPACITY BUILDING MENTORSHIP PROGRAM

## WSDOT & SOUND TRANSIT PRESENT THE CBMP SURVEY REPORT REPORT DATE: 3/8/2022

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### 2021-2022 PROGRAM YEAR

PREPARED BY



At the time of this year-end Survey report, our region appears to be recovering from the devastating economic effects of the Covid-19 pandemic and projected to make a strong economic recovery.

Large Construction and Design firm Primes who are participating in our program –specifically cohort three and four–reported a strong showing of attainment of contracting opportunities with WSDOT and Sound Transit. Protégés also report contracting opportunities attained between \$25,000-\$65,000 and collectively reporting \$74M in projected revenues for 2022. 80.95% of protégés reported to have met consistently with their respective mentors; 100% reported making progress on their individualized development plan. The overall satisfaction rate respective of both mentors and proteges in the CBMP program for cohorts 3&4 were above 86%.

In spite of the overall satisfaction, it is important to highlight the suggestions for improvements in order to continuously improve the program. Only sixty-eight percent (68%) of responding protégés affirmed that their mentors helped them or are in the process of helping them participate in new contracts, with WSDOT, Sound Transit or private sector contracts. For the remaining thirty two percent (32%), they are still hoping for a chance to be awarded meaningful sub-contracts in size and value with their paired Primes.

Today, more than 50 Protégés have completed the program and, in spite of the many transitions, trials and difficulties we have encountered, the Capacity Building mentorship Program (CBMP) sponsors, administrator, mentors and Protégés are committed to grow, improve, and learn as we aim for continuous improvement and tangible results. The report demonstrates how the CBMP is critically important in providing economic inclusion to underrepresented and small firms in Washington State and the region.

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The Minority Business Development Agency (MBDA) - Washington Business Center, as the program administrator, conducted the surveys for Cohorts 3-4 through an online survey platform for efficient and consolidated recordkeeping. This quarterly survey result captures responses from Cohorts 3&4 from December through January of 2022. We were able to capture results from the graduates of Cohort three; graduation occurred on January 12th 2022.

The Program remains a partnership involving Prime Construction and A&E firms to work together to address matters necessary to help enhance the success of the Protégés' business by helping them build technical capacity. Mentor focuses on assisting the Protégé in developing their technical capacity needed to develop the Protégé firm's capacity to bid and work on road-related projects.

This report summarizes the survey and covers a wide range of stakeholder options regarding the Program, and begins with a summary of the key findings drawn from the survey analysis and strategic recommendations for future endeavors. The recommendations are based on analysis of the survey data, face-to-face conversations, and phone interviews.

**Specifically examined:**

- The overall performance of the Program as it relates to increasing partnerships between established and developing firms.
- Progress being made on the Protégé's development plan
- Glean whether Mentors and Protégés are jointly pursuing projects
- Glean whether contracts are being awarded to Protégés
- Overall level of satisfaction of pairings and program

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- V. CBMP Communication & Development (P. 9-10)**
- VI. Contracts (P. 11-12)**
- VII. Bonding Capacity & Indirect Cost Rates (P. 13)**
- VIII. Additional Comments (P. 14)**
- IX. Participants Suggestions for Improvements (P. 15)**
- X. Summary & Recommendations (P. 16)**

# COHORT 3 & 4 PARTICIPANTS

## COHORT 3 Participants

	Protégé Business Name	Paired Mentor Business Name
1	Adept Mechanical Services, Inc	McKinstry
2	Ahora Construction	Hensel Phelps
3	Ato Apiafi Architects LLC	BCRA Design
4	Avalon Contracting Inc.	Granite Construction, Inc.
5	Diverse Contractors & Associates (DCA)	Seaburg
6	Ergosynch LLC	HDR Engineering
7	Jimale Technical Services	Hoffman Construction
8	LDC (Land Development Consultants, Inc.)	HNTB Corporation
9	Northsound Utility and Construction, Inc.	Mass Electric Construction Co.
10	Pacific CM	Pacific Pile and Marine
11	Reyes Engineering, Inc.	McMillen Jacobs Associates
12	RHC Engineering, Inc.	KBA
13	RHD Enterprises, Inc.	The Walsh Group
14	Subsurface Construction	Graham Contracting, Ltd
15	Tunista Construction, LLC.	Kiewit Infrastructure West Co.
16	UrbanTech Systems	Parametrix

## COHORT 4 Participants

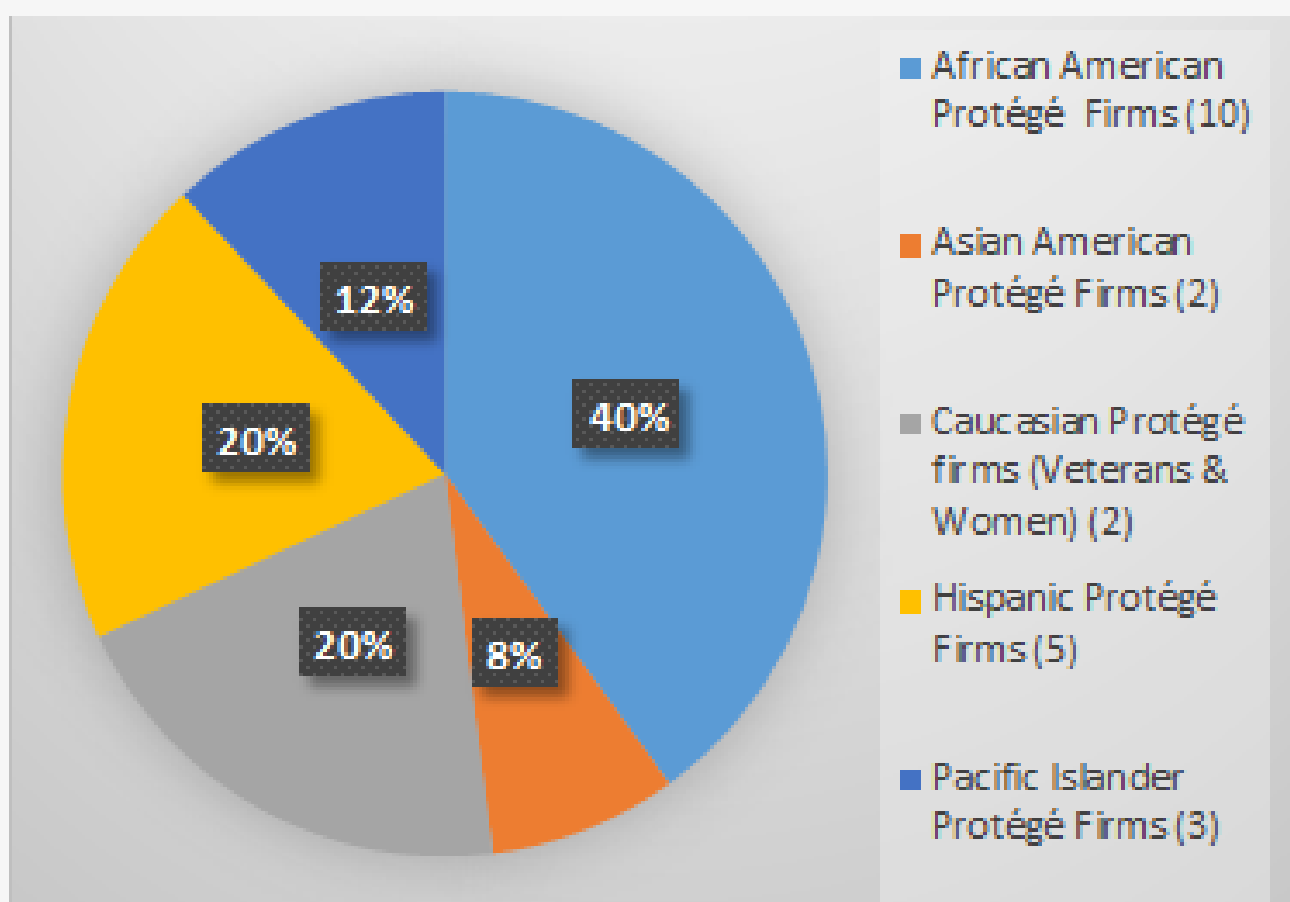
	Protégé Business Name	Paired Mentor Business Name
1	Advanced Government Services	Guy F. Atkinson
2	American Abatement and Demo	Hensel Phelps
3	Blue Trident, LLC	WSP USA, Inc.
4	CETS LLC	Vigor Fab
5	CR Construction, LLC	Granite Construction Company
6	Marwood General Construction	Tucci & Sons
7	Quality Development, LLC	Absher
8	Revere Marine, LLC	Vigor Fab
9	Robert Carrillo Enterprises	AA Asphaltting LLC
10	Taylor made Concrete LLC	Absher
11	Utility Mapping Services	HNTB



## Program Ethnic Breakdown Cohort 3 & Cohort 4

The Program Ethnic Breakdown includes the following:

- 10 African American Firms
- 2 Asian American Firms
- 5 Caucasian American Firms (Veterans & Women)
- 5 Hispanic American Firms
- 3 Pacific Islander Firms



"I COULDN'T BE MORE HAPPY WITH THE MENTORSHIP PROGRAM AND THE GROWTH AND DEVELOPMENT IT HAS PRODUCED IN OUR COMPANY!"  
SHELTON BURR  
ADEPT MECHANICAL SERVICES, INC.

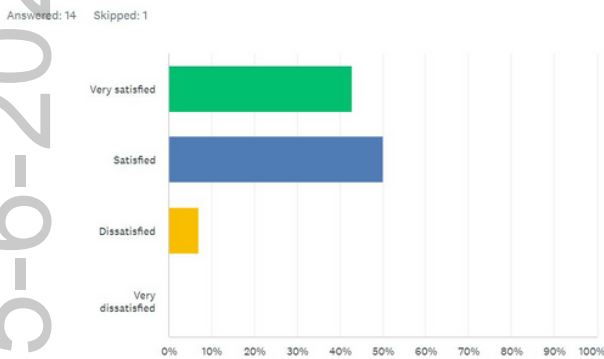


# CBMP Program & Pairing Satisfaction Rating

• A total of 25 Protégés participated as cohorts of 3 & 4. 22 responded to the survey, Only one was dissatisfied with their mentor. 19 were satisfied or very satisfied with the program, 3 were dissatisfied.

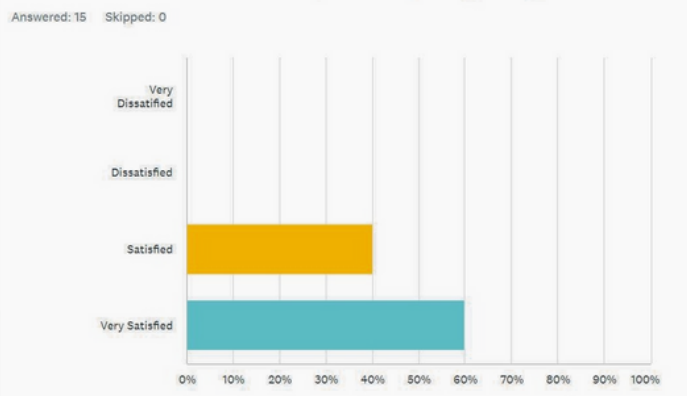
• A total of 22 Mentors participated as cohorts of 3 & 4. 15 responded to the survey and all were satisfied or very satisfied with their Protégés, 13 were satisfied or very satisfied with the CBMP. 1 was dissatisfied.

Overall, how satisfied are you with the Capacity Building Mentorship Program?



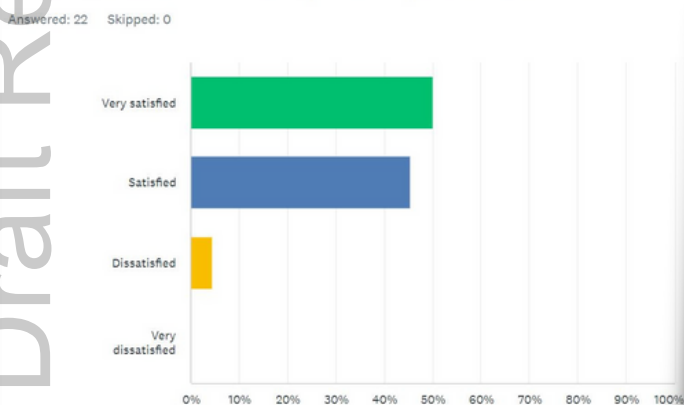
## Mentors Satisfaction

Overall, how satisfied were you with your protégé?

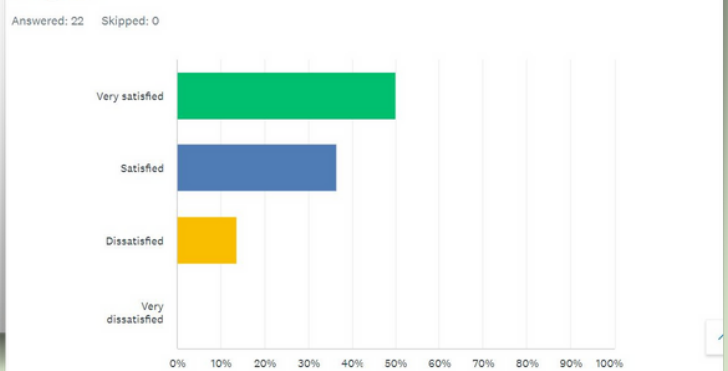


## Protégés Satisfaction

Overall, how satisfied are you with your mentor?



Overall, how satisfied are you with the Capacity Building Mentorship Program?



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# CBMP Program & Pairing Satisfaction Rating

## Mentors Satisfaction

	STRONGLY DISAGREE	DISAGREE	AGREE	STRONGLY AGREE	TOTAL
The experience of helping a protege on their projects was worthwhile	0.00% 0	0.00% 0	33.33% 5	66.67% 10	15
My Mentor experience has been a valuable addition to my business	0.00% 0	0.00% 0	26.67% 4	73.33% 11	15

## Protégés Satisfaction

	STRONGLY DISAGREE	DISAGREE	AGREE	STRONGLY AGREE	TOTAL
Capacity Building Mentorship Program is a worthwhile use of my time.	4.55% 1	4.55% 1	31.82% 7	59.09% 13	22
Mentor was available for consultations, observations, and demonstrations	4.55% 1	0.00% 0	40.91% 9	54.55% 12	22
I was available for consultations, observations, and demonstrations	4.55% 1	0.00% 0	45.45% 10	50.00% 11	22
Mentor was engaged and encouraged professional growth	4.55% 1	4.55% 1	40.91% 9	50.00% 11	22
My Mentor-Protégé relationship has been a valuable addition to my business	4.55% 1	4.55% 1	36.36% 8	54.55% 12	22

"HENSEL PHELPS HAS PARTNERED WITH ME IN EVERY ASPECT OF THE MENTOR PROTEGE PROGRAM. WE GREW OUR BUSINESS BY A MILLION IN REVENUE; WE GREW OUR BONDING CAPACITY; HELPED ME WALK THROUGH ADDING SEVERAL ADDITIONAL SERVICES THUS EXPANDING MY NAICS CODE; HELP SUPPORT ME WHEN I OBTAINED MY SBA 8A STATUS. HENSEL PHELPS HAS COMMITTED TO THIS DBE WMBE AND HELPED TO MAKE ME THINK, STRATEGIZE AND CONTINUE TO EXPAND SERVICES THAT I CAN HELP MY COMMUNITY WITH."

MARI BORRERO, AMERICAN ABATEMENT AND DEMO

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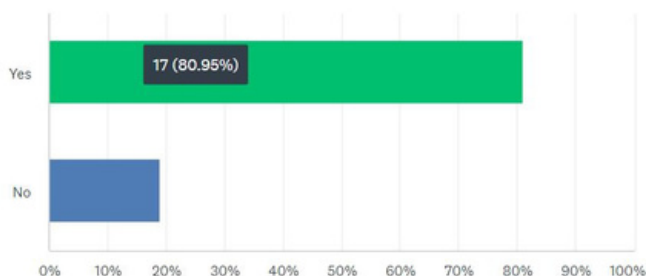
"GREAT PROGRAM, HATS OFF TO GRANITE CONSTRUCTION, ANDY THOMPSON. DID A GREAT JOB OF PROVIDING INFORMATIVE TALKS WITH THEIR KEY PERSON AS REQUESTED. GREAT TALKS, VERY INFORMATIVE AND WAS ABLE TO MAKE CHANGES INTERNALLY. STILL A WORK IN PROGRESS BUT ON THE RIGHT PATH.  
SARA SLATTEN, CR CONSTRUCTION LLC



## COMMUNICATION & DEVELOPMENT - Proteges

Have you met with your mentor on a monthly basis?

Answered: 21 Skipped: 1



If No, please explain:

- "Due to COVID-19" (3 responses)
- "Meetings occurred monthly initially but time constraints and demands on company personnel limited the time available for monthly meetings."
- "We met regularly the first year but during COVID we only had two meetings before our POC moved."

ANSWER CHOICES

- Formally
- Informally
- Face to Face
- By phone or conference call
- Email
- Mail
- Text
- Webinars

RESPONSES

Formally	42.11%	8
Informally	42.11%	8
Face to Face	47.37%	9
By phone or conference call	100.00%	19
Email	84.21%	16
Mail	5.26%	1
Text	36.84%	7
Webinars	21.05%	4

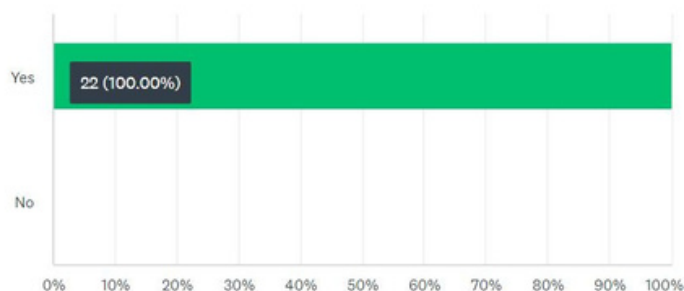
Total Respondents: 19

**80%**

**OUR PARTICIPANTS WHO MET ON A MONTHLY BASIS**

Have you made progress on the training/development needs based on your development plan?

Answered: 22 Skipped: 0



**100%**

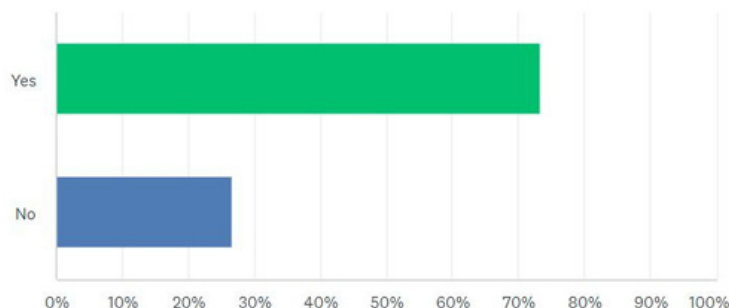
**ALL OUR PROTEGES MADE PROGRESS IN THEIR DEVELOPMENT PLAN**



## COMMUNICATION & DEVELOPMENT - Mentors

Have you been meeting monthly with your protégé to discuss a development plan?

Answered: 15 Skipped: 0

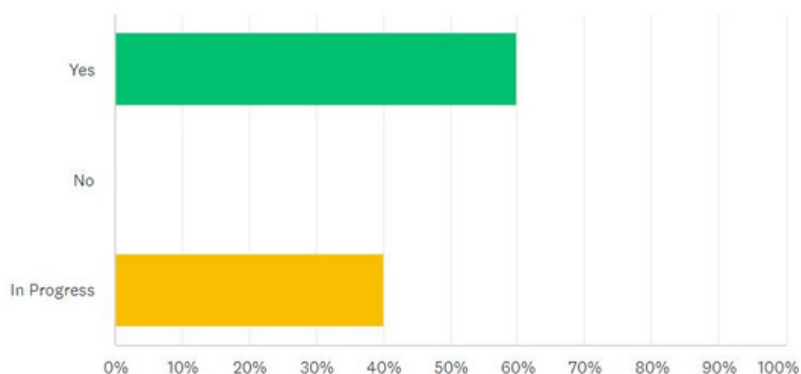


If No, please explain:

- "It was just too crazy last summer for both companies. We did talk, but not monthly. We plan to re establish a structured program going forward."
- "Meetings have not been frequent. Our protégé decided to not extend their contract formally with the program given their frustration with agency contracting issues/concerns."
- "The past year we met monthly, but the past 3 months, we have not. CR Construction has been prioritizing their building of work. Sara Slatten and I (Andrew Thompson) are continuing to plan and work within the development plan."
- "It has been much more about active pursuit/work together opportunities at this point and to discuss how they are growing."
- "We thought the program cohort 3 had ended at the end of 2020. We have not been meeting regularly since then, though we were meeting monthly prior to Feb 2021."

Are you providing your protege with the training/development needs based on their development plan?

Answered: 15 Skipped: 0

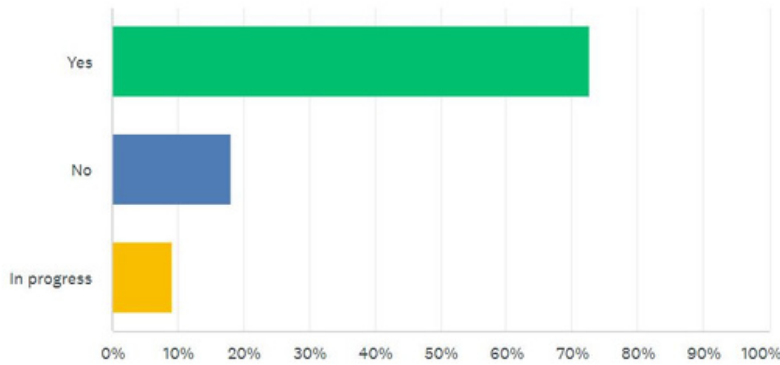


## The Proteges' perspectives

**Over \$74 Million**  
OUR PROTEGES TOTAL REVENUE  
FOR 2021

Have you been awarded a new contract in 2021?

Answered: 22 Skipped: 0



### IF YES, WHAT WAS THE CONTRACT VALUE?

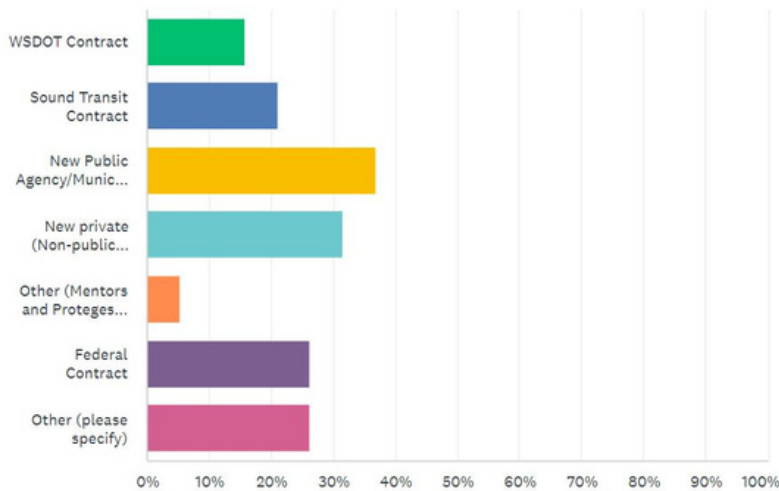
16 Responses ranging from \$65,000 to \$25,000,000

### DESCRIBE THE PROJECT OPPORTUNITY

- WSDOT - WSF Vessel Maintenance & Preservation Support
- Federal - Unmanned Barge R&D
- Traffic Control
- Multi-family and Mixed use affordable Housing
- New High School project
- Port of Seattle On-Call Project Management
- Land Development
- Driven piling and drilling projects
- Construction Management Services
- Multi-year IDIQ for A/E services
- Intercity Transit & Sound Transit work
- Facilities Maintenance
- Architecture Project
- Subsurface Utility Engineering investigation
- Delivery of 3D Utility Model for Port of Seattle for the Arrivals Widening Project and the Drive Lanes Project
- 5 Year contract for Homeless Encampment Cleanup
- Local Transits Improvement
- Stations and Ferry Terminal

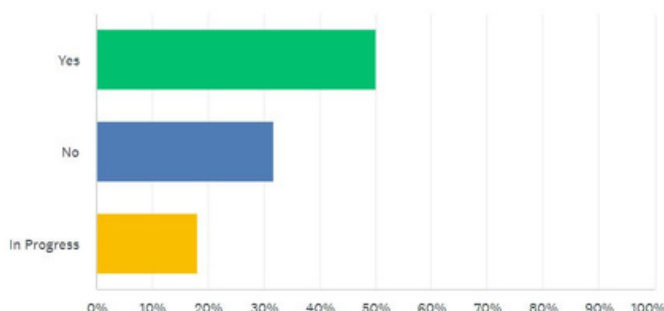
If awarded a contract, who was it with? (Mark all that apply)

Answered: 19 Skipped: 3



Has your mentor assisted you in pursuing any contracting opportunities to include WSDOT, Sound Transit, Federal, Municipality, and/or another Private Entity?

Answered: 22 Skipped: 0



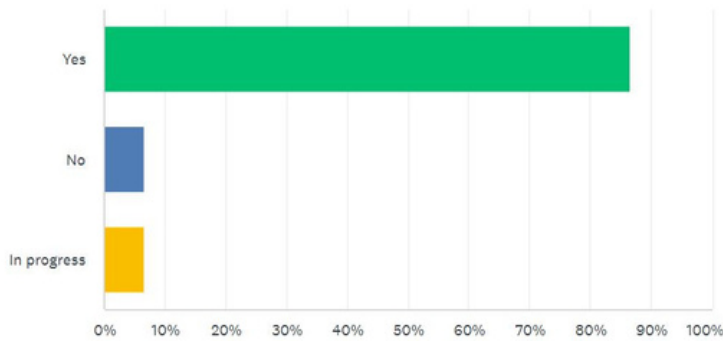
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# Contracts

## The Mentors' perspectives

Has your company been awarded a new contract/subcontract as a prime in 2021?

Answered: 15 Skipped: 0



### IF YES, WHAT WAS THE CONTRACT VALUE?

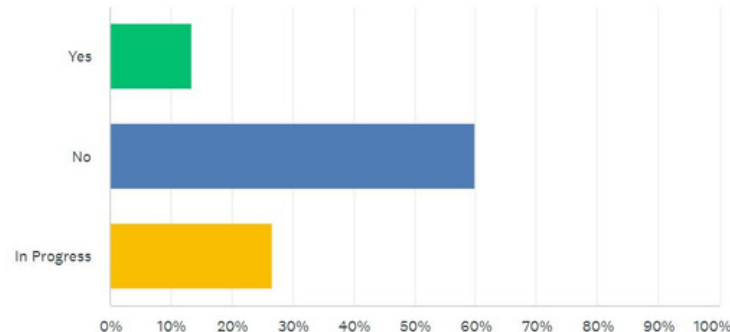
3 Responses ranging from \$500 to \$5,000,000

### WHO WAS IT WITH?

- WSDOT: 50%
- SOUND TRANSIT: 28.57%
- NEW PUBLIC AGENCY/MUNICIPALITY: 50%
- PRIVATE SECTOR: 14.29%
- FEDERAL CONTRACT: 7.14%

Have you partnered with your protégé to pursue contracts with WSDOT, Sound Transit, Federal, Municipality or another Private Entity?

Answered: 15 Skipped: 0

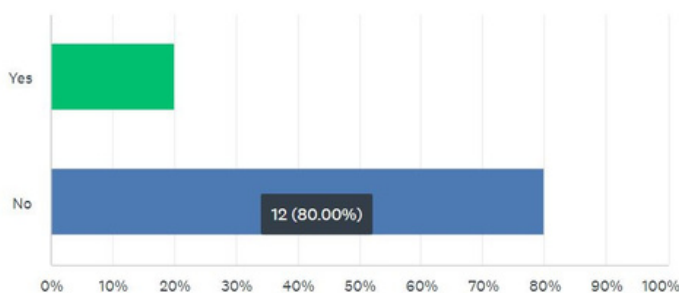


### DESCRIBE THE PROJECT OPPORTUNITY

- WSDOT GEC Fish Passage program. WSDOT SR 520/148th design services during construction. Protege would be providing surveying support.
- Test Piles in Portage Bay Lake Washington shoreline restoration
- Design build projects
- WSDOT Olympic Region GEC
- Healthcare Projects
- GSA Federal Project
- Seal coating, striping, asphalt repair

In 2021, were you able to award any subcontracting opportunity to your protégé?

Answered: 15 Skipped: 0



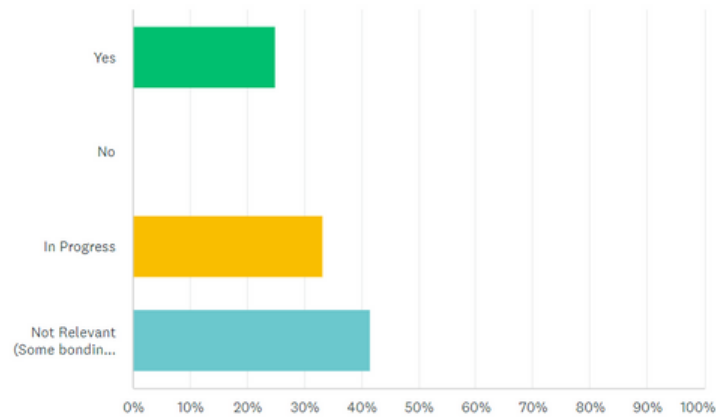
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# Bonding Capacity & Indirect Cost Rates

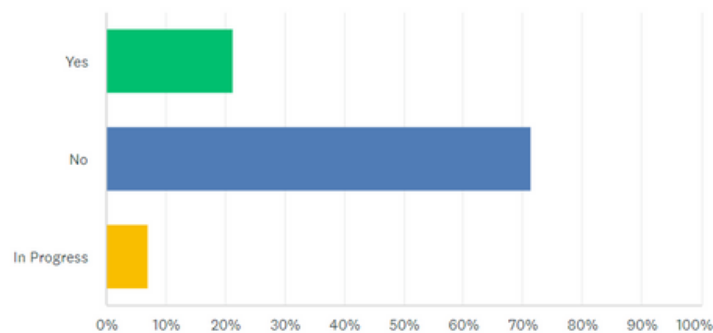
(Construction Firms Only) Has your protege worked on expanding their bonding capacity?

Answered: 12 Skipped: 3



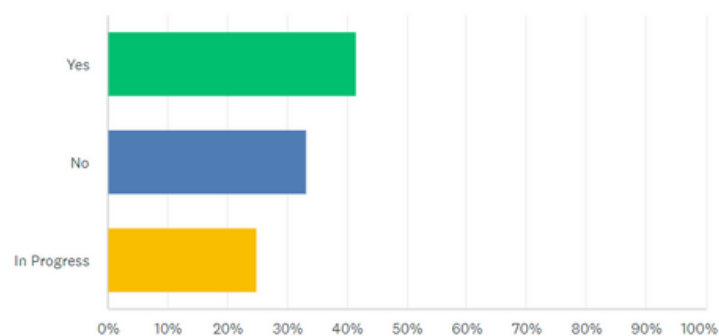
(Construction firms only) Has your mentor worked with you on expanding your bonding capacity?

Answered: 14 Skipped: 8



(Consulting/A&E Firms Only) Have you worked to establish an indirect/direct cost rate?(Attending workshops, self directed training, one-on-one technical assistance, or reached out to CBMP Project Team.)

Answered: 12 Skipped: 10





# Additional Comments from participants



## Protégés:

*"The program has been very helpful to introduce us to our Mentor and have them utilize us on their projects."*

*"I enjoyed the experience but I would have preferred a construction experienced mentor."*

*"I sincerely appreciate your support. Thanks Darrell."*

*"I am really happy with the work we accomplished prior to COVID and my POC leaving Walsh. They were heavily invested in expanding RHD's steel division and the knowledge we gained working with them has been invaluable."*

*"Have defined guidelines and a scorecard for the Mentors. Incentivize the Mentor to award, at least a portion of a project, to their protégé. Actual hands-on experience is worth far more than a weekly or monthly conversation, etc."*

*"I do want to stress that our current POC is much more engaged and actively working to find an opportunity for both firms to partner. This we discussed restarting the training program, so all signs are positive now."*

*"We appreciated your continued support and advocating for DBEs!"*

## Mentors:

*The survey form is an excellent way to measure and manage the effectiveness of the Capacity Building program. Thank you."*

*"Sometimes the needs of our Protégé were outside of our limits to provide. It would be helpful to have a list of additional resources in the community that support and advocate for smaller firms like classes and workshops."*

*"This year I took over the program, and my mentee and I were left to navigate on our own with no contact from the program itself until this message. Maybe that is the phase we are in, in which case, that is ok, or maybe the messages went to the wrong person in my company."*

# Suggestions for Improvement

## Mentors:

*"CBMP representatives should be facilitating meetings between large GC's and the M/P teams."*

*"We have tried to get a meaningful meeting with a few big contractors on WSDOT and Sound Transit projects but with no luck. Could use some help from CBMP."*

## Protégés:

*"Actual opportunities to build capacity of small business like hiring employees, working capital to float payroll."*

*"Bid Design and Design Build projects should be separated and handled differently within the DBE Program. Design Build projects have different bidding approaches and barriers to entry for subcontractors to be awarded a contract versus the traditional Bid Design projects. With Bid Design projects, there should be some way that when a mentor accepts a protégé, there should be a requirement for the mentor to provide an opportunity for the protégé to gain some real work experience working for the mentor on a project. Exceptions to low bid situations or some other financial incentives need to be provided to the Mentor to incentivize them to want to award, at least a portion of a project, to their protégé. Actual hands-on experience is worth far more than a weekly or monthly conversation, etc. Unlike Bid Design WSDOT projects, there is no transparency in the selection and bid selection information regarding subcontractors that submitted bids to Primes in the Design Build process."*

*"We are very satisfied with the program. The big issue we have been encountering is change orders with Prime's on design build projects. However, it sounded like WSDOT will have a 3rd party panel to review CO's which would be extremely helpful in getting changes process and paid in a timelier manner."*

*"How WSDOT has addressed Indirect Cost Rates is having a chilling effect on DBE firms. It Seems like just one more road block to keep us from even wanting to compete. I suspect DBE participation will be down over the next two years and there is zero reason for this. There are so many talented DBE firms in our community."*

# Conclusion & Recommendations

The survey results revealed for the most part that CBMP Participants are mostly satisfied with the program.

Overall, an average of eighty-six percent (86%) of responding protégés reported Satisfied or Very Satisfied with the Capacity Building Mentorship Program and ninety percent (90%) think the program is a worthwhile use of their time. Ninety-six percent (96%) are Satisfied or Very Satisfied with their mentors.

On the Mentors side, an average of ninety-three (93%) mentors reported Satisfied or Very Satisfied with the program, one hundred percent (100%) think the experience is a valuable addition to their business and are Satisfied or Very Satisfied with their protégés.

In spite of the overall satisfaction, it is important to highlight the suggestions for improvements in order to continuously improve the program. Only sixty-eight percent (68%) of responding protégés affirmed that their mentors helped them, or are in the process of helping them participate in new contracts, with WSDOT, Sound Transit or private sector contracts. For the remaining thirty two percent (32%), they are still hoping for a chance to be awarded meaningful sub-contracts in size and value with their paired Primes.

## **Recommendations:**

- A. Targeted workshops and more direct support on Indirect/Direct Cost Rate
- B. more involvement from the program management team when communicating with mentors: intervene as meeting facilitators
- C. For those firms who qualified for the DBESS Program, cross utilize resources for high touch technical assistance to build capacity
- D. Address issues in the comments sections

**Capacity building programs (construction and A&E, consulting) sub-contracting community:**

Sounds Transit & WSDOT (Washington State Department of Transportation)funded program

Capacity Building Mentorship Program (CBMP)

<https://www.capacitymentorship.com/>

The CBMP pairs small, minority, veteran and women businesses with successful prime contractors and consultants. These mentors provide technical assistance and business advice to strengthen the protégés' capacity to work with Washington State Department of Transportation and Sound Transit projects. This is a two-year commitment between the mentors and protégés to help protégés build capacity.

**Disadvantaged Business Enterprise (DBE) program: Small business resource guide**

<https://wsdot.wa.gov/business-wsdot/equal-opportunity-contracting>

WSDOT (Washington State Department of Transportation)

- DBE Supportive Services Program (DBESS)

DBE is a program meant to prevent discrimination in federally-assisted highway, transit and airport contracts. DBE Support Services is a (FHWA) federally-funded program designed to help those DBEs wishing to work on WSDOT highway projects. Support services are available only to DBEs who are certified in the highway construction industry including construction companies, consultants, and regular dealers

**Sound Transit's Office of Civil Rights, Equity and Inclusion** is committed to supporting small and disadvantaged business enterprises (DBEs) in the Puget Sound region. These resources are intended to provide general information and support services to help small businesses succeed. This is not intended to be a comprehensive list of resources; however we hope it serves as a helpful starting point for small businesses. For general information on how to do business with Sound Transit, please visit our Procurement & Contracts Division.

Sound Transit resources and information

For general information on the Office of Civil Rights, Equity and Inclusion, please email: [civilrights@soundtransit.org](mailto:civilrights@soundtransit.org)

1. Disadvantaged Business Enterprise Fraud: Fraud is a deliberate deception to secure an unfair gain. DBE fraud can include bid rigging, bribery, kickbacks, misrepresentation of who is doing the work or who owns the company. For more information on fraud and how to report it, please visit their website: <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise> You can also call our DBE Fraud Hotline and leave a message about suspected fraud: 1-877-480-6617 or 1-202-366-4648.

Certification resources for Sound Transit

Office of Minority and Women's Business Enterprises: Certifies at both the state and federal levels. The DBE certification is a federal certification. Details and applications are located on their website:

<https://omwbe.wa.gov/about-omwbe> Phone: 1-866-208-1064 or 1-360-664-9750

1. Small Business Administration: Has information on small business size standards. Their website: <https://www.sba.gov/> Phone: 206-553-7310 or 1-800-827-5722

#### Additional certification resources

1. OMWBE: Provides certification for a number of state certifications. These include Women's Business Enterprises, Minority Business Enterprises, Minority Women Business Enterprise, Combination Business Enterprise and Socially and Economically Disadvantaged Business Enterprise. Details and applications are on their website: <https://omwbe.wa.gov/about-omwbe> Phone: 1-866-208-1064
2. Small Contractor and Supplier (SCS): A King County certification program that increases the competitiveness of certified firms for good and services, consulting and construction contracts. The program also includes a training component contact their website: [SCSCertification@kingcounty.gov](mailto:SCSCertification@kingcounty.gov) or call (206) 477-9734

#### Bonding assistance

Bonding assistance is available for small businesses to access higher levels of bonds and begin working on larger projects.

1. Northwest Small Business Transportation Resource Center (SBTRC): Works to increase the ability of small businesses to compete and enter into transportation-related local, state and federal contracts. Provides business counseling, market research, certification, procurement and technical assistance. They also offer bonding and loan assistance. Their website: <https://www.transportation.gov/partners/small-business/northwest-sbtrc-making-impact#:~:text=On%20September%2025th%2C%202019%2C%20the%20Northwest%20Small%20Business,emerging%20businesses%20benefitted%20from%20this%20very%20informative%20program.> Phone: 425-248-4222 or 800-532-1169

2. Small Business Administration: Provides small businesses with a wide variety of services primarily through four programmatic functions: access to capital, entrepreneurial development, government contracting and advocacy. They also offer surety bonds to small businesses. Website: <https://www.sba.gov/offices/regional/x> Phone: 206-553-5231

#### Financial assistance/loans

Loans and financial assistance is targeted to small businesses to grow or use as seed money.

1. Community Capital Development- Seattle: Offers training, coaching and loans to new and growing small businesses. Programs are available specifically for women, veterans and minorities, their website: <https://www.chamberofcommerce.com/united-states/washington/seattle/administration-of-general-economic-programs/5332109-community-capital-development> Phone: 206-324-4330

2. Craft3: A nonprofit community development financial institution. Loans are available to entrepreneurs, nonprofits, individuals and others who don't normally have access to financing. Also offered is expertise, networks and advocacy to clients. The focus is on minority, women and veteran-owned businesses in high poverty areas. Website: <https://www.craft3.org/our-places/Puget-Sound> Phone: 888-231-2170

3. Small Business Administration: Provides small business with a wide variety of services primarily through four programmatic functions: access to capital, entrepreneurial development, government contracting and advocacy. Website: <https://www.sba.gov/offices/regional/x> Phone: 206-553-5231

4. Evergreen Business Capital: Provides loans to small businesses to assist in purchasing commercial real estate and equipment. They partner with lenders in Washington, Oregon, Alaska and Northern Idaho. Website: <https://www.evergreen504.com/> Phone: 206-622-3731

#### Training resources

A wide range of training resources are available for small businesses to increase their technical expertise and capacity.

Washington Small Business Development Center: Has various centers located throughout the state including Everett, Seattle and Tacoma. Client services include starting a new business, helping grow your business, starting or expanding exporting, cutting costs and updating processes. The center offers trainings and one-on-one counseling to small businesses including developing business plans. Website: [washington@wsbdc.org](mailto:washington@wsbdc.org) or Phone: (833) 492-7232

1.

o Edmonds Community College: 425-640-1435

o Seattle: 206-428-3022

o South Seattle: 206-246-4445

o Seattle Export Center (specializes in International Trade): 206-439-3785

2. Washington Procurement Technical Assistance Center (PTAC): Provides no cost, one-on-one technical assistance in all aspects of selling to federal, state and local governments. The center advises businesses on bid reviews, marketing assistance, contract performance and small business designations. They also host trainings and seminars. Website: [www.washingtonptac.org](http://www.washingtonptac.org)

o Snohomish: 425-248-4223

o King: 253-520-6267

o Pierce: 253-680-7054

3. Native PTAC: Provides PTAC services (above) to Native owned businesses, Tribal governments, Alaska Native Corporations, Native Hawaiian Organizations, Tribal owned businesses and ANC and NHO owned enterprises. Phone: 206-816-6596; Website: [www.nativePTAC.org](http://www.nativePTAC.org)



4. Northwest Small Business Transportation Resource Center: Works to increase the ability of small businesses to compete and enter into transportation-related contracts at local, state and federal levels. Provides business counseling, market research, certification, procurement and technical assistance. Bonding and loan assistance is also offered. Phone: 425-248-4222; Website: [www.dot.gov/osdbu/nw-sbtrc](http://www.dot.gov/osdbu/nw-sbtrc)
5. Greater Seattle SCORE: Offers free mentoring, templates and tools as well as low cost trainings and workshops. Programs for new and established businesses is also offered. Phone: 206-553-7320; Website: [seattle.score.org](http://seattle.score.org)
6. Seattle Community Capital Development: Offers training, coaching and loans to new and growing small businesses. Programs are offered specifically for women, veterans and minorities. Phone: 206-324-4330; Website: [seattleccd.com](http://seattleccd.com)
7. Small Business Administration: Provides small business with a wide variety of services primarily through four programmatic functions: access to capital, entrepreneurial development, government contracting and advocacy. Phone: 206-553-7310; Website: [www.sba.gov](http://www.sba.gov)
8. Foster School of Business, Consulting and Business Development Center at the University of Washington: The center offers the Minority Business Executive Program and Business Certification Program. They also place student interns with businesses on projects to help grow their capacity. Phone: 206-543-9327; Website: <https://foster.uw.edu/centers/consulting-and-business-development-center/business-programs/>

#### Counseling services

Individualized counseling and mentoring services are available locally to help small businesses with everything from developing business plans to understanding procurement guidelines.

1. MBDA( Minority Business Development Agency-WA business Center, located in Tacoma
  - [www.MBDA-Washington.com](http://www.MBDA-Washington.com)
  - Tel: 253-591-5240

The U.S Department of Commerce Minority Business Development Agency (MBDA) is the only Federal Government agency solely dedicated to the support of minority businesses enterprise. MBDA was originally established as the Office of Minority Business Enterprise by President Richard M. Nixon on March 5, 1969. Operating as a full service business center under a cooperative agreement with the City of Tacoma since September of 2016, MBDA Washington Business Center is one of 40 centers providing technical assistance and strategic business consulting to established ethnic minority-owned businesses in the Puget Sound region.

#### **What they support MBEs:**

- Increase access to contracting opportunities: jointly pursue solicitations, advocacy, education, early access, and match-making with project owners
- Build contracting capabilities through one-on-one business advisory/consulting, education, training workshops, and direct external spending on technical assistance to increase W/MBE competitiveness.

2. Washington Small Business Development Center: Centers located throughout the state include Everett, Seattle and Tacoma. Client services include starting a new business, helping grow your business, starting or expanding exporting, cutting cost and updating processes. Also offered is training and one-on-one counseling to small businesses including developing business plans. Website: [www.wsbdc.org](http://www.wsbdc.org)

- o Edmonds Community College: 425-640-1435
- o Seattle: 206-428-3022
- o South Seattle: 206-246-4445
- o Seattle Export Center (specializes in International Trade): 206-439-3785

3. Washington Procurement Technical Assistance Center (PTAC): Provides no cost, one-on-one technical assistance in all aspects of selling to federal, state and local governments. The center also advises businesses on bid reviews, marketing assistance, contract performance and small business designations as well as hosting trainings and seminars. Website: [www.washingtonptac.org](http://www.washingtonptac.org)

- o Snohomish: 425-248-4223
- o King: 253-520-6267
- o Pierce: 253-680-7054

4. Native PTAC: Provides PTAC services (above) to Native-owned businesses, Tribal governments, Alaska Native Corporations, Native Hawaiian Organizations, Tribal owned businesses and ANC and NHO owned enterprises. Phone: 206-816-6596; Website: [www.nativePTAC.org](http://www.nativePTAC.org)

5. Northwest Small Business Transportation Resource Center: Works to increase the ability of small businesses to compete and enter into transportation-related contracts at local, state and federal levels. Also available is business counseling, market research, certification, procurement and technical assistance as well as bonding and loan assistance. Phone: 425-248-4222; Website: [www.dot.gov/osdbu/nw-sbtrc](http://www.dot.gov/osdbu/nw-sbtrc)

6. Seattle Community Capital Development: Offers training, coaching and loans to new and growing small businesses. They have programs specifically for women, veterans and minorities. Phone: 206-324-4330; Website: [seattleccd.com](http://seattleccd.com)

7. Small Business Administration: Provides small businesses with a wide variety of services primarily through four programmatic functions: access to capital, entrepreneurial development, government contracting and advocacy. Phone: 206-553-7310; Website: [www.sba.gov](http://www.sba.gov)

#### Veteran specific resources

1. Seattle Community Capital Development: Offers training, coaching and loans to new and growing small businesses. Programs are specifically for women, veterans and minorities. There is also a Veterans Business Outreach Center Client Portal. Phone: 206-324-4330; Website: [seattleccd.com](http://seattleccd.com)

2. Greater Seattle SCORE: Offers Veteran Fast Launch Initiative that includes free software and services combined with SCORE's mentoring program with the goal of accelerating the success of



veterans and their families to succeed in small businesses. Phone: 206-553-7320; Website: [seattle.score.org](http://seattle.score.org)

3. U.S. Department of Veterans Affairs: Office of Small & Disadvantaged Business Utilization has numerous resources for veterans including how to start a business, financing, how to grow a business and finding opportunities. Phone: 866-584-2344; Website: [www.va.gov/osdbu/entrepreneur](http://www.va.gov/osdbu/entrepreneur)

4. Small Business Administration: Office of Veterans Business Development offers resources, training and potential partners to veteran entrepreneurs, their dependents and their survivors. Includes Boots to Business, Entrepreneurship Boot Camp for Veterans with Disabilities and Women Veterans Igniting the Spirit of Entrepreneurship. Phone: 202-205-6773; Website: [www.sba.gov/offices/headquarters/ovbd](http://www.sba.gov/offices/headquarters/ovbd)

5. Veteranscorp.org: Works to structure and make connections between nonprofit and for-profit small businesses and veteran/service-disabled veteran-owned small businesses. Resources include training links and act a 'clearinghouse of ideas.' No phone number listed; Website: [www.veteranscorp.org](http://www.veteranscorp.org)

#### Permitting and licensing resources

1. Washington State Department of Labor & Industries: Has a Help for Small Business website that includes information on business requirements and registration requirements as well as training and counseling resources. Phone: 800-987-0145; Website: [www.lni.wa.gov/main/smallbusiness](http://www.lni.wa.gov/main/smallbusiness)

2. Access Washington: A Washington State website that has information on Doing Business in Washington State. This includes licenses, permits, tax information and additional resources. No phone number listed; Website: [www.business.wa.gov](http://www.business.wa.gov)

#### Networking/membership organizations

Organizations where membership is required to access many of the services offered.

1. American Council of Engineering Companies Washington (ACEC): Professional association for the design industry. Advocates for improved business conditions for its members, provides business education and a variety of events and trainings. Phone: 425-453-6655; Website: [www.acec-wa.org](http://www.acec-wa.org)

2. Associated General Contractors of Washington (AGC): Professional association of contractors that provides services, benefits and advocacy for its members. Benefits include education, labor relations, networking, product discounts, legal assistance, health insurance and retirement programs. Phone: 206-284-0061; Website: [www.agcwa.com](http://www.agcwa.com)

3. ASTRA Women's Alliance: Membership organization to advance women-owned businesses. Offers support, trainings, advocacy and networking opportunities for its members. Phone: 503-941-9724; Website: [www.astrawba.org](http://www.astrawba.org)

4. BNI Northwest: A networking organization built around the idea of referrals within their networks. Could be helpful to newer businesses looking to build a customer base. Phone: 425-391-6830; Website: [bninw.com](http://bninw.com)

5. Entrepreneurial Institute of Washington (EIW): Offers its members professional and leadership development, business support services and technical assistance. Hopes to have an incubator space in the future. Phone: 800-270-0724; Website: [www.eiwashingtong.org](http://www.eiwashingtong.org)
6. National Association of Minority Contractors (NAMC): Provides education, training, advocacy and networking to address needs and concerns of minority contractors. Membership meetings are monthly. Phone: 425-444-2706; Website: [namcwa.com](http://namcwa.com)
7. National Association of Women in Construction: Puget Sound Chapter #60 is a professional association of women working in construction and related industries. No phone number listed.
8. Northwest Mountain Minority Supplier Development Council (NWMSDC): This membership-based organization links minority-owned businesses to public and private agencies. Formal and information networking opportunities as well as advocacy and support is offered. Phone: 253-243-6959; Website: [www.nwmtnmsdc.org](http://www.nwmtnmsdc.org)
9. Tabor 100: A membership-based group for business owners and entrepreneurs. They are committed to economic power, educational excellence and social equity for African-Americans and the community at large. Phone: 206-368-4042; Website: [www.tabor100.org](http://www.tabor100.org)
10. Women's Transportation Seminar (WTS): An organization that works to build the future of transportation through the advancement of women. Offers professional activities, networking, mentoring and access to industry and government leaders. Phone: 206-931-0875; Website: [www.wtsinternational.org/pugetsound](http://www.wtsinternational.org/pugetsound)

#### Online resources

1. Seattle Chamber of Commerce: Has a small business tools page offering a number of resources and guides to small business owners. Website: <https://www.seattlechamber.com/home/resources/small-biz-resources>
2. Governor's Office for Regulatory Innovation and Assistance: Provides a small business guide online that can help plan, run, grow or close small businesses in Washington State. General, website: [www.oria.wa.gov](http://www.oria.wa.gov). Link directly to the PDF version of the guide: Website: [www.oria.wa.gov/Portals/\\_oria/VersionedDocuments/Business\\_Publications/small\\_business\\_guide.pdf](http://www.oria.wa.gov/Portals/_oria/VersionedDocuments/Business_Publications/small_business_guide.pdf)
3. Federal Transit Administration: Has a website with online presentations and videos to assist in training on civil rights related topics. Include DBE, Title IV, and EEO. Website: [www.fta.dot.gov/civilrights/12885.html](http://www.fta.dot.gov/civilrights/12885.html)
4. Association of Procurement Technical Assistance Centers: Free to clients that work with PTAC and is designed to help small business owners and decision makers understand the government procurement and private sector procurement spaces. Website: <https://www.aptac-us.org/find-a-ptac/?state=WA>
5. Small Business Administration: Provides small businesses with a wide variety of services primarily through four programmatic functions: access to capital, entrepreneurial development, government contracting, and advocacy. Website: [www.sba.gov](http://www.sba.gov)

6. NAICS Association: Resource to help firms identify their self-assigned NAICS (North American Industry Classification System) codes. Identifying these codes is a necessary step in the certification process. Website: [www.naics.com](http://www.naics.com)

#### Chambers of Commerce

1. African Chamber of Commerce of the Pacific Northwest
2. Filipino Chamber of Commerce of the Pacific Northwest
3. The Greater Seattle Chinese Chamber of Commerce
4. Japan-American Society
5. Korean American Chamber of Commerce WA State
6. Seattle Chamber of Commerce
7. Taiwanese Chamber of Seattle

#### Accelerators and incubators

Support for new and emerging businesses including co-locating with other entrepreneurs.

Accelerators are short-term programs that invest in externally generated programs in return for capital and mentorship. They include:

1. 9Mile Labs- a high-tech accelerator that focuses on B2B software and cloud technologies.
2. Accelerator - a biotechnology investment and management company that identifies, finances and manages the development of emerging biotechnology opportunities.
3. Entrepreneurs' Organization- A Global business network of 11,000 individuals, in 150 chapters in 48 countries that focus on business growth, personal development and community engagement.
4. Fledge- Operates three programs for entrepreneurs with a focus on making a measurable impact in the world. They are interested in investing in programs that improve lives, the environment, health, communities and making the world more sustainable.
5. Founder Institute- Offers a four-month, part-time program to help entrepreneurs launch technology companies through structured training courses, practical business building assignments and feedback.
6. Madrona Venture Labs- Develops new companies from the ground up focusing on transformational products and staffed by hackers and designers.
7. McKinstry Innovation Center- Brings together new and emerging companies in the same space where they work together. Mentorship, shared expertise and professional amenities are offered in four cluster areas: clean tech, education, high tech and life sciences.
8. Microsoft 12- Works with startups globally at all stages to help them scale their business, bring innovative services to market and reach new customers using mentors and accelerator programs.

9. Reactor- An initiative that is a part of the Washington Interactive Network that works to develop the next generation of talent for interactive media, including games and technology.

10. Startup Next- A program geared to help businesses get ready for accelerators or investors. Offers a five-week mentoring and training program to prepare new start-ups for the next step.

11. Techstars- Provides seed money, support and mentorship for technology oriented companies that can have national or worldwide reach.

12. Tabor 100 Economic Development Hub- Facility offers private offices, cubicles and occasional-use hot-desk for rent.

13. Village88 Tech Lab- A stealth accelerator that works with companies at all levels of development providing them with various resources and support including engineering resources.

Incubators develop ideas internally and manages those ideas with a management team. They are longer term than accelerators.

1. CoMotion- (UW)- Provides dedicated space and facilities to support UW-affiliated start-up companies through their early stages of company and product development.

2. Seattle Fashion Incubator- Offers independent fashion brands an environment to develop and grow their business including design space, goods and equipment, professional coaching and presentation space.

3. SURF Incubator- Supports all stages of startup entrepreneurs as well as large companies needing a satellite location including mentors, interns, co-working space, collaborative learning and networking.

4. William Factory- (Tacoma)- Created to help business in East Tacoma improve living and working conditions. They house more than 40 companies in specialty trade construction, applied technologies and business services.