

## **DRAFT Executive Order for Equity in Public Contracting**

WHEREAS, the Governor and state agencies determined that minority-, women-, and veteran-owned businesses and small businesses (“Historically Underutilized Businesses”) account for a disproportionately lower percentage of the billions of dollars that the state spends annually within the private sector for goods and services contracts and public works projects; and

WHEREAS, in response to this determination, Governor Inslee formed the Subcabinet on Business Diversity in August 2015 to focus on increasing access for and removing barriers to contracting opportunities with Washington state government agencies for Historically Underutilized Businesses; and

WHEREAS, in 2015, the Governor’s Subcabinet on Business Diversity conducted an analysis of the root causes for the low level of state expenditures under contracts with Historically Underutilized Businesses in order to provide recommendations for active measures that can be taken to promote equal opportunity in contracting for all persons, without discrimination; and

WHEREAS, the results of this root cause analysis led the Governor’s Subcabinet on Business Diversity to commission a statewide disparity study in 2016 to determine the level of disparity in participation of minority-, women-, and veteran-owned businesses in Washington State contracting activity from 2012 through 2016 (the “2019 Washington State Disparity Study”); and

WHEREAS, the results of the [2019 Washington State Disparity Study](#) establish a compelling interest and legal responsibility for the state of Washington to address disparities and discrimination in its programs and services as part of its commitment to equity and a strong, resilient economy; and

WHEREAS, the Governor’s Subcabinet on Business Diversity convened a group of subject matter experts (Community of Practice) from state agencies and institutions of higher education and from the Historically Underutilized Business community to seek statewide, sustainable, big-picture solutions to address equity in public contracting and procurement and to help implement the recommendations from the 2019 Washington State Disparity Study; and

WHEREAS, the Community of Practice created the [Washington State Tools for Equity in Public Spending](#) to provide state agencies and other public entities tools, guidance, and support for consistent improvements in equity and inclusion in public contracting and procurement; and

WHEREAS, ensuring Historically Underutilized Businesses have equitable contracting opportunities gives Washington state government access to a wider array of business solutions, helps drive innovation, and strengthens economic growth; and

WHEREAS, the success of minority-, women-, and veteran-owned businesses and small businesses helps to make Washington’s economy and families more resilient, strengthening our communities and improving the quality of life for all Washingtonians.

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NOW, THEREFORE, I, Jay Inslee, Governor of the state of Washington, by virtue of the power vested in me by the Constitution and the statutes of the state of Washington do, effective immediately, hereby order and direct as follows:

### I. Implementing Measures for Equity in Public Spending for Cabinet State Agencies

- A. To facilitate statewide, uniform progress in equity and inclusion in state contracting and procurement for Historically Underutilized Businesses, agencies shall take steps, including but not limited to these listed below, to implement recommendations from the [2019 Washington State Disparity Study](#):
1. Review, incorporate, and adopt, as appropriate, the [Washington State Tools for Equity in Public Spending](#).
  2. Prior to entering into new contracts, including master contracts, agencies will: (1) search available directories for Historically Underutilized Businesses able to provide the goods or services the agency seeks, (2) conduct outreach to ensure Historically Underutilized Businesses are notified of any opportunities to compete for award of such contracts, and (3) ensure that inclusion plans are discussed at pre-bid conferences or required when subcontracting opportunities may be part of the contract.
  3. The Office of Minority and Women's Business Enterprises (OMWBE) will lead efforts for enterprise level electronic data collection and monitoring to identify gaps in the OMWBE directory and to track participation in public contracting and procurement per its authority and direction in [chapter 39.19 RCW](#).
  4. Agencies shall fulfill their existing responsibility under [chapter 39.19 RCW](#) to track and measure the participation of Historically Underutilized Businesses in contracting and procurement, and shall implement and use a statewide electronic data collection and monitoring system, [the Business Diversity Management System \(BDMS\)](#). This system will be used to enter highly detailed information relating to prime vendors and subcontractors in public spending, improving both data and participation.
  5. The Department of Enterprise Services (DES) will increase the number of Historically Underutilized Businesses on Master Contracts by examining existing policies and practices and increasing access to information for Historically Underutilized Businesses.
  6. The Washington State Department of Transportation (WSDOT) and DES will review bonding, insurance, retainage, and experience requirements to make recommendations to eliminate barriers to Historically Underutilized Businesses in those areas.

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- B. Each agency must designate a staff person or persons to oversee the implementation of this Executive Order for the agency to be included in the OMWBE inclusion plan. This staff person or persons:
  1. Must have direct access to the agency's head or key executive sponsors responsible for operationalizing contracting and procurement change;
  2. Must ensure that, in consultation with OMWBE, the appropriate tools and recommended best practices are integrated in their agency's culture and business practices and used to meet their agency's procurement diversity goals; and
  3. Should be directly involved in the preparation of the OMWBE inclusion plan and/or the DES risk assessment.
- C. OMWBE will offer training, guidance, and technical assistance, in partnership with Subcabinet agency members, to state agencies to assist in implementing the items in this order. OMWBE will partner with the DES to:
  1. Consult with and provide technical assistance to agencies on the use of the [Washington State Tools for Equity in Public Spending](#) and
  2. Find and implement appropriate ways for each state agency to advance disparity study recommendations in a strategic, coordinated approach to improve contracting opportunities for Historically Underutilized Businesses statewide.
- D. Agencies shall adopt and incorporate the [Washington State Tools for Equity in Public Spending](#) within twelve (12) months of the adoption of this order. Agencies will periodically update their plans and actionable steps to achieve equity in public spending and review with OMWBE annually.
- E. OMWBE and Department of Veterans Affairs (DVA) shall report quarterly on each agency's progress over the baseline established in FY 2022 to begin no later than at the end of FY 2023.

I invite other statewide elected officials, institutions of higher education, agencies of the judiciary, agencies of the Legislature, and boards and commissions to follow the provisions of this Executive Order.