

Draft Report Outline

I. Legislative Proposals

- A. Recommendations for coordinating diverse business inclusion changes in SHB 1295 (design-build and job order contracting) with the GCCM provisions of RCW 39.10
- B. Other Statutory Recommendations

II. Increasing Opportunities for Firms to Compete

- A. OMWBE model inclusion plans
 - 1. Small businesses are the backbone of the state economy – about 99 percent of state businesses are small. Washington small businesses also employ 1.3 million workers, or about 51 percent of Washington’s total workforce. Increasing economic opportunities for small women-, veteran- and minority-owned business in public spending with a collaborative and agile approach will achieve sustainable results with long lasting impact. Creating an inclusive environment that maximizes opportunities for diverse businesses also gives Washington state government access to a wider array of business solutions, helps drive innovation, and strengthens our economic growth while decreasing costs with more competition. In short, the way the state of Washington does business can support our economy, strengthen our communities, and improve the quality of life for our residents.
 - 2. Small minority-, women- and veteran-owned firms face institutional barriers that prevent equitable access to public contracts and procurements. These barriers were documented in the 2019 Washington State Disparity Study. Through the Governor’s Subcabinet on Business Diversity, interagency workgroups consisting of subject matter experts have developed best practices and model policies for inclusion of OMWBE certified business in public spending. These resources, tools, and model policies include the following: internal processes (extensive contract requirements, complex contract language, and bundled contracts), outreach, master contracts, planning and forecasting, public works, purchase cards, and inclusion plan model policies to name a few. The toolkit will launch November 2020 so state contract specialists can access and implement these best practices from OMWBE’s website.
 - 3. Best practices for increasing business equity and diverse business inclusion
 - a. Job order contracting, complete
 - b. Design-build, in development
 - c. GCCM, in development
 - d. See attached draft FAQ on inclusion plans, draft job order contracting model policy, and public works FAQ
- B. Scholarships for AGC Education Foundation Design-Build and GCCM Workshops

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

III. Government Agencies

A. OMWBE

1. Business Diversity Management System

- a. WA State conducted a Disparity Study (published in July 2019) to determine the level of disparity in the participation of minority, women and veteran owned businesses in state contracting. The study also provided recommendations to address the identified disparities, and the most critical recommendation is to implement an electronic data collection and monitoring system.

OMWBE currently does not have software to track the state spend down to the subcontractor and North American Industry Classification System (NAICS) codes. The work, if done at all, is done differently in every agency, and often by hand. OMWBE relies on data from different sources to determine diversity and build their reports:

- Spending for state agencies - Extractions of data from year-end AFRS reports.
- Spending for Educational Institutions - Data provided through a secure file transfer protocol every year.

Although AFRS can identify certified Minority / Women / Veteran Business Enterprise (MWVBE) participation, it cannot consistently monitor and track the level of compliance needed to meet the requirements of the established legal framework. Nor can OMWBE efficiently implement and monitor recommendations from the disparity study. These challenges serve as barriers to meaningful improvements to equity in public spending.

- b. This IT project will implement a system that will collect data from all Washington state agencies and Educational Institutions (i.e., University of Washington, Central Washington University) so OMWBE can monitor and report on this data to support activities and policy recommendations to promote the maximum practical participation of minority, women, and veteran owned small businesses in state contracting and procurement. OMWBE will collaborate with other agencies to gather requirements from them and help navigate implementing the system.

OMWBE currently receives data from 71 state agencies and educational institutions in different formats and the implementation of this system will create a one stop shop for all the data for the small businesses. This is in alignment with One WA efforts and increasing data capture while promoting efficiency, avoiding redundancy, and reducing overall impacts to workload.

B2Gnow is the selected vendor for this implementation. The system is currently used by OMWBE staff for the certification process and it is also currently used by DES, WSDOT, the City of Seattle, the Port of Seattle, and Sound Transit for collecting participation/compliance data. The B2Gnow system offers many

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modules and is expandable. This project will implement three B2Gnow modules (Contract Compliance, Outreach & Event Management, and Utilization Planning) through a phased roll-out determined by focus on function and size of spend for the 61 state agencies and 10 educational institutions:

- Phase 1 – 6 Washington State Departments that encompass 2/3rd of state spend (funded)
- Phase 2 – 40 more Washington State Departments (requesting funding through decision package)
- Phase 3 – 25 more Washington State Departments (requesting funding through decision package)
- Future Phases will be planned as a separate project if there is a need for implementing additional modules and/or departments.

c. The implementation of this software solution will achieve the following objectives:

- Automated data collection and reporting - providing an online portal for electronic submission of state contract spend data by state agencies and contractors;
- Standardized data elements, increase of data capture, and reduction of errors and the amount of time spent on data cleaning efforts;
- The ability to effectively and fully assist small, minority-, women-, and veteran-owned businesses through targeted outreach of bidding opportunities; and
- Real-time access to diversity spending data for reports (currently compiled manually), permitting prompt responses to requests for data by agencies, legislators, stakeholders, and the public, as well as customizable reporting for increased overall impact on equity in public contracting and procurement.

d. For each state agency and educational institution the system modules are implemented, Success and Completion Criteria is met if:

- Agency Staff can enter Contract Information
- Agency Staff can enter Contractor Information
- Prime Contractors can access the system and Self Report
- Subcontractors can confirm payments (if implemented)
- OMWBE Staff can access data in real time

B. Labor & Industries

1. Data Collection

GCCM compared to DB re: Diverse Business Inclusion

Maja Huff

7/16/2019

GC/CM

Section	Requirement	Comment
39.10.360 GCCM Procedure – Contract Award Process	(b) An agency may also consider the firm's outreach plan to include small business entities and disadvantaged business enterprises, and the firm's past performance in the utilization of such firms as an evaluation factor.	During selection of the GC/CM outreach plan and past performance <u>may</u> be included as a factor.
39.10.370 General contractor/construction manager procedure— Maximum allowable construction cost.	(iv) The general contractor/construction manager's updated outreach plan to include small business entities, disadvantaged business entities, and any other disadvantaged or underutilized businesses as the public body may designate in the public solicitation of proposals, as subcontractors and suppliers for the project;	As part of the construction management and contracting plan there <u>may</u> be a component that requires and updated outreach plan.
39.10.380 General contractor/construction manager procedure— Subcontract bidding procedure.	(3) All subcontractors who bid work over three hundred thousand dollars shall post a bid bond. All subcontractors who are awarded a contract over three hundred thousand dollars shall provide a performance and payment bond for the contract amount. All other subcontractors shall provide a performance and payment bond if required by the general contractor/construction manager.	<u>May</u> be interpreted to allow GC/CM to waive bond requirements if scope for a small business is below this threshold.
39.10.385 General contractor/construction manager procedure— Alternative subcontractor selection process.	(2) Contracts for the services of a subcontractor under this section must be awarded through a competitive process requiring a public solicitation of proposals. Notice of the public solicitation of proposals must be provided to the office of minority and women's business enterprises. The public solicitation of proposals must include: (e) The firm's plan for outreach to minority and women-owned businesses	Mandates use of OMWBE to communicate bidding. Selection based subcontractor award requires an outreach plan at the subcontract level. Past performance though is not a requirement.
39.10.385 General contractor/construction manager procedure— Alternative subcontractor selection process.	(12) A mechanical or electrical contractor selected under this section may perform work with its own forces. In the event it elects to subcontract some of its work, it must select a subcontractor utilizing the procedure outlined in RCW 39.10.380.	Again, this carry down of RCW 39.10.380 could be interpreted to allow subcontractors to waive the bonding requirements for under 300K subcontractors.

Design-Build

39.10.330	(i) Evaluation factors for qualifications shall include technical qualifications, such as specialized experience and technical competence of the firms and the key design and construction personnel; capacity to perform; the proposer's past performance in utilization of the office of minority and women's business enterprises certified businesses, to the extent permitted by law; ability to provide a performance and payment bond for the project; and other appropriate factors. Evaluation factors may also include, but are not limited to, the proposer's past performance in utilization of small business entities. Cost or price-related factors are not permitted in the request for qualifications phase;	Use of Past Performance of Certified OMWBE and Small Business Entities <u>shall</u> be included as an evaluation factor in the RFQ.
39.10.330	(ii) Evaluation factors for finalists' proposals shall include the management plan to meet time and budget requirements and one or more price-related factors. Evaluation factors may also include, but not be limited to, the technical approach, design concept, and the outreach plan to include small business entities and disadvantaged business enterprises as subconsultants, subcontractors, and suppliers for the project.	RFP evaluation factors <u>may</u> include outreach plan.



Community of Practice Internal Processes Action Team

Inclusion Plans Frequently Asked Questions

What is an inclusion plan?

What is it?

An inclusion plan outlines the commitment the contractor, vendor or consultant will make toward the Governor's Results Washington Inclusion Goals for Minority, Small, Veteran and Women Business Enterprises. As defined in [RCW 39.26.010](#), Minority and Women Business Enterprises (M/WBEs) as defined in [RCW 39.19](#) and [WAC 326-20](#), and Veteran-owned businesses as defined in [RCW 43.60A.010](#).

An inclusion plan is a vendor, contractor or consultant's commitment to demonstrate a good faith effort to include diverse businesses by working with the agency to develop a comprehensive "Outreach Strategy" that will engage and identify the eligibility and availability of (e.g. ready, willing and able) Minority, Small, Veteran, and Women's Business Enterprises.

What types of plans currently exist?

Inclusion plans currently exist in three areas: construction, goods and services, and professional services.¹

Inclusion plans may be required where the contractor has ancillary services that are not directly related to the proposal that could be diverse (e.g. trucking, shipping, janitorial, manufacturing, operational, telecommunications, IT supports, administrative, etc.).

When is it enforceable?

When the inclusion plan is part of the contract, it will be enforceable per the terms of the contract.

What can we require?

We can require inclusion plans outlining outreach efforts as part of the proposal or bid. It is not recommended to score inclusion plans as part of the award process at this point in time. The Washington State Attorney General's Office recently provided [a Formal Opinion on Initiative 200](#) and its interaction with disparate impacts.

You can require an inclusion plan as part of your bid proposal or acceptance criteria (e.g. formatting, years of experience, qualifications, pricing, inclusion plan, etc.). DES

¹ As of May 2018 the Departments of Enterprise Services, Commerce and Washington State Department of Transportation



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currently considers bidders non-responsive if they fail to submit a plan. DES currently considers bidders non-responsive if the inclusion plan has a zero diverse participation amount. Refer to your AAG for additional guidance on contract changes and inclusion plan implementation.

What does an inclusion plan look like?

Following are potential components you would ask of a contractor, vendor, or consultant to put into their inclusion plan:

Component	Definition / Instructions
Anticipated Certified Diverse Business Participation (Voluntary Goals)	Of the total contract work, list the anticipated percentage of diverse participation proposed for subcontracting/joint venturing on this project.
The firm's Diverse Business Subcontracting list	Provide a list of Small and Diverse Businesses vendors and sub-contractors ² (or potential), which can include contracted services that support company operations and administration.
Planned efforts by the firm to meet or exceed the voluntary inclusion goals. To include a general description, not limited to the following: <ul style="list-style-type: none"> • Policies and procedures • Mentoring, training and capacity building programs • Prompt payment, retainage and dispute resolution 	Provide a general description of firm's plan to support Small and Diverse Businesses (approaches and methodology). Examples may include: <ul style="list-style-type: none"> • Policy and procedures to promote Small and Diverse Business goals and explanation of how these support diversity and inclusion. • Examples (e.g. dispute resolution, training, prompt payment, change management, evaluating new vendors, quality, LEED). • Plan for unbundling jobs (smaller work packages) to allow for greater participation. • Current or planned Small and Diverse Business programs (e.g. apprenticeship, mentor, workshops, special events, bonding and surety, financing program, early payment). • Efforts to assist interested Small and Diverse Businesses in obtaining related assistance or services.
A description of firm's planned efforts at outreach to the small and diverse business community	Participation plans to provide community education about government projects and the opportunities to participate in those project (e.g. tradeshow, workshop, seminars, OMWBE webinars, sponsorship, teaming with public or non-profits event organizers). May include: <ul style="list-style-type: none"> • Communication plan

² The Small and Diverse Business definition – includes Washington small business, micro-business, and mini-business as defined in RCW 39.26.010, Minority and Women Business Enterprises (M/WBEs) as defined in RCW 39.39.19 and WAC 326-20, and Veteran-owned businesses as defined in RCW 43.60A.010.



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	<ul style="list-style-type: none"> Examples of firm’s outreach approach and methodology (e.g. website, advertising)
A description of firm’s process to ensure small businesses have enough time and information to respond	Provide timelines which allow the Small and Diverse Businesses to respond to the solicitation and submit a timely offer for the subcontract. Outline measures taken to promote Small and Diverse Businesses interest and participation.
An explanation of how firm ensures small businesses understand the bid and specifications and are able to improve if they are not selected	Outline process to ensure adequate information about the subcontract and to assist them in responding to a solicitation with their offer for the subcontract (e.g. pre-bid meetings, debriefing).
A description of how firm considers small business in the development of bid packages	Outline the process by which bidder selects portions of the work to be performed by Small and Diverse Businesses in order to increase the likelihood that the Small and Diverse Business goals will be achieved (e.g. establishing flexible timeframes for performance and delivery schedules).
Identification of the firm’s “Diverse Expert” and the name(s) of the person who oversees this program	Provide the names, title and duties of individual(s) within firm’s organization who will have the authority and responsibility to implement, monitor and report on firm’s inclusion plan progress.
A list of projects (5 max.) with diverse business participation in the last five (5) years	Provide a list of past projects with Small and Diverse Business participation (if applicable).
Acknowledgement of firm’s awareness and commitment towards business diversity	Submit policy statement acknowledging firm’s commitment to developing opportunities to grow Small and Diverse Business participation via firm’s inclusion plan implementation and work with the public entity to exceed goals for Small and Diverse Businesses.
Acknowledgement of firm’s education and training programs to communicate to employees the firm’s expected employee behaviors and performance relative to implementing the diverse business inclusion plan	<p>Describe firm’s internal training for each of the diverse business inclusion plan strategies (e.g. list of trainings, who attended).</p> <p>Describe how the firm has implemented inclusion plan participation training with subcontractors and suppliers and/or if firm uses educational institutions, programs offered by OMWBE or other training to educate its subcontractors and suppliers.</p>

[Link to sample plans](#)



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Why are inclusion plans important?

Internal benefits:

- To create a tool that will help increase diverse participation in State Agency contracting.
- To create diversity expectations among state agency primes.
- To create an environment where state agencies will receive information from the primes as to who will be used.
- To activate early planning to encourage registration and/or certification.
- To clarify the responsibility level with regard to collection of subcontractor data and the prime's inclusive environment.

External benefits:

- Economic impact – increase utilization of diverse firms which increases competition, jobs and decreases contract cost.
- Equality – underrepresented individuals are provided equal participation.
- Equity and transparency in contracting.

When are inclusion plans appropriate?

What are the questions to ask?

- Are diverse firms available (e.g. ready, willing and able) for this project?
- Is the project (e.g. location, scope, etc.) conducive to inclusion?
- What is the size of the project and / or contract (e.g. sub-contractible or partnership opportunities)
- How can you avoid using the same vendor multiple times – instead of renewing, should you consider re-advertising to increase inclusion?
- Does the contractor have ancillary services that are not directly related to the proposal that are diverse (e.g. trucking, shipping, janitorial, manufacturing, operational, telecommunications, IT supports, administrative, etc.)?

Is there ever a reason to not have an inclusion plan?

- No sub-contractible opportunities
- Too small of a project
- Unique qualification (e.g. national standard certification, software produced in Europe, etc.)

What kind of resources does an agency need to implement, maintain and monitor an inclusion plan?

- Reporting through an electronic payment tracking system (e.g. B2GNow, etc.)
- Commitment from Executive Leadership
- Training
- Build capacity within the organization, provided by DES



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What do agencies do once an inclusion plan is in place?

- Evaluation/Consultation - Feedback
- Verification
- Monitoring/Reporting & Tracking – (e.g. B2GNow)
- Accountability

DRAFT



Proposal:

Inclusion Plans – Public Works: Job Order Contracts (JOCs)

Model Policy, Procedure & Task Outliner

Community of Practice

Policy Action Team

Diverse Businesses (small, minority-, women- and veteran-owned businesses) face historical and unintended barriers that prevent equitable access to public contracts and procurements including a lack of established relationships with prime contract holders resulting in further underutilization of these businesses. In 2016 Washington State commissioned a disparity study to determine statistical and anecdotal evidence of participation levels by Diverse Businesses in Washington State contracting activity from 2012 through 2016. The statistical and anecdotal evidence of underutilization of Diverse Businesses establishes a compelling interest for the state of Washington to address disparities in its programs and services as part of its commitment to a strong and resilient economy.

This Community of Practice model policy and procedure clarifies how state agencies can encourage prime contract holders to:

- Cultivate and establish relationships with Diverse Businesses to maximize participation;
- Create opportunities for diverse businesses to market themselves to prime contract holders;
- Create a system with contract holders to implement efforts that incorporate diverse businesses into their network of vendors when possible; and
- Use the contract inclusion plan to support the development of impactful relationship-building in JOCs for public works.



Effective Date: mm/dd/yy

POLICY

Cancels:

References/Authority:

[RCW 39.26.010](#),
[RCW 39.19](#),
[WAC 326-20](#),
[RCW 43.60A.010](#)

Approved by:

POL-XXX INCLUSION PLANS FOR JOB ORDER CONTRACTS

This inclusion plan¹ policy applies to all Job Order Contracts for construction and/or maintenance contracts.

D **Inclusion plan:** outlines the commitment the contractor, vendor or consultant will make toward the OMWBE Annual Inclusion Goals for Diverse Businesses².

D **Job Order Contract**³: a contract in which the contractor agrees to a fixed period, indefinite quantity delivery order contract which provides for the use of negotiated, definitive work orders for public works.

1. Executive Leadership Commitment to Business Diversity

- a. Executive leadership should develop a policy that:
 - i. Ensure business diversity is in the agency’s strategic plan.
 - ii. Ensure a contracting equity statement is available in agency mission, vision, values and posted internally and externally.
- b. Review business diversity goals and progress with the designated lead quarterly, at minimum.

D = Definition

¹ As defined in [RCW 39.26.010](#), Minority and Women Business Enterprises (M/WBEs) as defined in [RCW 39.19](#) and [WAC 326-20](#), and Veteran-owned businesses as defined in [RCW 43.60A.010](#): An inclusion plan is a vendor, contractor or consultant’s commitment to demonstrate a good faith effort to include diverse businesses by working with the agency to develop a comprehensive “Outreach Strategy” that will engage and identify the eligibility and availability of (e.g. ready, willing and able) Minority, Small, Veteran, and Women’s Business Enterprises.

² Diverse Businesses (small, minority-, women- and veteran-owned businesses)

³ The Job Order Contracting process was established by the Legislature of the state of Washington, which was signed into law in 2003. Job Order Contracting (JOC) is defined by: [RCW 39.10.430](#), [RCW 39.10.440](#), [RCW 39.10.450](#); [RCW 39.10.460](#).



2. Diversity Leadership

- a. Annually review, draft or modify program materials (i.e. internal procedural pieces, documents, guides, templates for constructions contracts, procurement instructions) content and criteria as it pertains to public works.
- b. Finalize the contract inclusion plan content and criteria with Assistant Attorney General.
- c. Distributes to internal Lead Program Managers (i.e. construction).

3. Lead Program Manager and Diversity Leadership

- a. Implement inclusion plan criteria in requirements and contract guidance documents in consultation with Assistant Attorney General.
- b. Determine and ensure necessary training requirements for Project Managers, contractors and the diverse community we are trying to reach.
- c. Determine whether there will be interview process to include diversity scoring.
- d. Track and report performance of contract inclusion.
- e. Act as the agency's public works diversity and inclusion point of contact.



Effective Date: mm/dd/yy

PROCEDURE

Cancels:

References/Authority:

Approved by:

PRO-XXX CONTRACT INCLUSION PLAN FOR JOB ORDER CONTRACTS

This procedure applies to the procurement of all Job Order Contracts of two years with a third year option.

Action by:

Action:

Phase 1: Submission of Inclusion Plan

Project Manager

1. Conducts first review and analyze submitted inclusion plan for responsive bidders.

D **Responsive bidders:** Bidders that submit an inclusion plan. DES currently considers bidders non-responsive if they fail to submit a plan.

- 2.

Conducts first review and analyze submitted inclusion plan for responsible bidders⁴.

D **Responsible bidders:** Bidders that have any amount of diverse participation on their inclusion plan. DES currently considers bidders non-responsive if their inclusion plan has a zero diverse participation amount.

D = Definition

⁴ As stated in [RCW 39.26.160](#), in determining whether the bidder is a responsible bidder, the agency must consider the following elements: (a) The ability, capacity, and skill of the bidder to perform the contract or provide the service required; (b) The character, integrity, reputation, judgment, experience, and efficiency of the bidder; (c) Whether the bidder can perform the contract within the time specified; (d) The quality of performance of previous contracts or services; (e) The previous and existing compliance by the bidder with laws relating to the contract or services; (f) Whether, within the three-year period immediately preceding the date of the bid solicitation, the bidder has been determined by a final and binding citation and notice of assessment issued by the department of labor and industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in [RCW 49.48.082](#), any provision of chapter [49.46](#), [49.48](#), or [49.52 RCW](#); and (g) Such other information as may be secured having a bearing on the decision to award the contract.



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|--|--|
| Diversity Lead | 3. Conducts second review and analysis of project submitted inclusion plan for responsive bidders. |
| | 4. Conducts second review and analysis of project submitted inclusion plan for responsible bidders. |
| | 5. Approves final submissions or returns submissions to Project Manager with recommendations. |
| Project Manager | 6. When the procurement method requires an interview ⁵ , considers including the Diversity Lead in the process. |
| | 7. Provides list of finalists to Management Analyst or Project Coordinator. |
| Management Analyst/
Project Coordinator | 8. Coordinates and manages interview process. |

Phase 2: Interview Panel

- | | |
|--|---|
| Management Analyst/
Project Coordinator | 9. Encourages and evaluates inclusion efforts as a part of scoring criteria. (See Task Outliner.) |
| | 10. Includes diversity expert in panel when possible. |
| | 11. Distributes scoring sheet to panel. |
| | 12. Provides guidance and instructions on scoring to interview panel. |
| | 13. Informs Diversity Lead of selected firm. |
| Diversity Lead | 14. Reviews selected firm's inclusion plan with OMWBE ⁶ . |
| | 15. Receives OMWBE approval prior to execution of contract. |

D = Definition

⁵ The JOCs procurement method always requires an interview.

⁶ [RCW 39.10.450 \(5\)](#) states "A public body may issue no work orders under a job order contract until it has been approved, in consultation with the office of minority and women's business enterprises or the equivalent local agency, a plan prepared by the job order contractor that equitably spreads certified women and minority business enterprise subcontracting opportunities, to the extent permitted by the Washington state civil rights act, [RCW 49.60.400](#), among the various subcontract disciplines".



Effective Date: mm/dd/yy

TASK OUTLINER

Cancels:

References/Authority:

Approved by:

TSK-XXX SUBMISSION OF INCLUSION PLANS FOR JOB ORDER CONTRACTS

Project Manager Ensures that the following criteria is utilized to verify responsive and responsible bidders of submitted inclusion plans (while including all criteria is not required, including all criteria can produce a great inclusion plan):

Component	Definition / Instructions
Diverse Business Participation (Voluntary Goals)	Of the total contract work, list the voluntary goals for diverse participation for subcontracting/joint venturing on this project.
The firm's Diverse Business Subcontracting list	Provide a list of Diverse Businesses vendors and sub-contractors ⁷ (or potential), that may be available for the project which can include contracted services that support company operations and administration.
Planned efforts by the firm to support the voluntary inclusion goals. To include a general description, not limited to the following: <ul style="list-style-type: none"> • Policies and procedures • Mentoring, training and capacity building programs • Prompt payment, retainage and dispute resolution 	Provide a general description of firm's plan to support Diverse Businesses (approaches and methodology). Examples may include: <ul style="list-style-type: none"> • Policy and procedures to promote Small and Diverse Business goals and explanation of how these support diversity and inclusion. • Examples (e.g. dispute resolution, training, prompt payment, change management, evaluating new vendors, quality, LEED). • Plan for unbundling jobs (smaller work packages) to allow for greater participation. • Current or planned Small and Diverse Business programs (e.g. apprenticeship, mentor, workshops, special events,

⁷ The Diverse Business definition – includes Washington small business, micro-business, and mini-business as defined in [RCW 39.26.010](#), Minority and Women Business Enterprises (M/WBEs) as defined in [RCW 39.19](#) and [WAC 326-20](#), and Veteran-owned businesses as defined in [RCW 43.60A.010](#).



	bonding and surety, financing program, early payment). <ul style="list-style-type: none"> • Efforts to assist interested Small and Diverse Businesses in obtaining related assistance or services.
Identification of the firm’s “Diverse Expert” and the name(s) of the person who oversees this program	Provide the names, title and duties of individual(s) within firm’s organization who will have the authority and responsibility to implement, monitor and report on firm’s inclusion plan progress.

Project Manager & Diversity Lead

Provides assistance to awardee as necessary through the life of the project. Use the remaining components of page 2-3 of Inclusion Plans FAQ to assist with ensuring goals are met.

Component	Definition / Instructions
A description of firm’s planned efforts at outreach to Diverse Business community	Participation plans to provide community education about government projects and the opportunities to participate in those project (e.g. tradeshow, workshop, seminars, OMWBE webinars, and sponsorship, teaming with public or non-profits event organizers). May include: <ul style="list-style-type: none"> • Communication plan • Examples of firm’s outreach approach and methodology (e.g. website, advertising)
A description of firm’s process to ensure Diverse Businesses have enough time and information to respond	Provide timelines which allow the Diverse Businesses to respond to the solicitation and submit a timely offer for the subcontract. Outline measures taken to promote Diverse Businesses interest and participation.
An explanation of how firm ensures Diverse Businesses understand the bid and specifications and are able to improve if they are not selected	Outline process to ensure adequate information about the subcontract and to assist them in responding to a solicitation with their offer for the subcontract (e.g. pre-bid meetings, debriefing).
A description of how firm considers Diverse Businesses in the development of bid packages	Outline the process by which bidder may select portions of the work to be performed by Diverse Businesses in order to increase the likelihood that the Diverse Business goals will be addressed (e.g. establishing



	flexible timeframes for performance and delivery schedules).
A list of projects (5 max.) with diverse business participation in the last five (5) years	Provide a list of past projects with Diverse Business participation (if applicable).
Acknowledgement of firm's awareness and commitment towards business diversity	Submit policy statement acknowledging firm's commitment to developing opportunities to grow Diverse Business participation via firm's inclusion plan implementation.
Acknowledgement of firm's education and training programs to communicate to employees the firm's expected employee behaviors and performance relative to implementing the Diverse Business inclusion plan	Describe firm's internal training for each of the Diverse Business inclusion plan strategies (e.g. list of trainings, who attended). Describe how the firm has implemented inclusion plan participation training with subcontractors and suppliers and/or if firm uses educational institutions, programs offered by OMWBE or other training to educate its subcontractors and suppliers.
Other	Any additional information the firm would like to include as part of their plan.



Tools & Resources

- [Inclusion Plans FAQ](#)
- [Inclusion Plan Guide and Template](#)
- [Inclusion Plan Examples 1 & 2](#)
- [Sample Diverse Business Inclusion Plan](#)
- [Sample Completed Project](#)



Community of Practice Action Team

Public Works Frequently Asked Questions

Public works projects are initiated by the state legislature, a state agency or educational institution request or by mandate under federal law. The planning, development, management, bid process, contract compliance and technical assistance is conducted by the Department of Enterprises Services (DES) or the Washington State Department of Transportation (WSDOT) depending on whether funding is federal or state. For example, highways are federally funded and public works is governed through WSDOT.

DES and WSDOT are both entrusted stewards of state resources, responsible for ensuring equitable access, maximum participation, adequate regulatory procedures, reporting compliance and results that align with obtaining good prices and good products from qualified providers in a timely manner. It is through DES and WSDOT that Public Works is done.

What is the role of Department of Enterprise Services (DES) in Public Works?

The Department of Enterprise Services manages over 90% of all public works projects for state agencies by providing project management, consultation, compliance reporting, pre-design services, energy commissioning and life cycle cost analysis, capital budget development assistance, claims and dispute resolution, green building consulting, contracting, small and limited works assistance, diverse business inclusion and advertisement for bidding among many other services. DES client agencies include thirty-four (34) community and technical colleges, the Department of Corrections, the Department of Social and Health Services, Department of Veteran Affairs, Department of Health, Department of Enterprise Services, the Washington State Patrol, the Military Department and numerous state boards, commissions and agencies. DES also provides contracting services and program services to universities, K-12 schools, local governments, state agencies and other public agencies.

What is the role of Washington State Department of Transportation (WSDOT) in Public Works?

The state of Washington has assigned responsibility to WSDOT to serve as steward of the Washington state owned multimodal transportation system, public lands and infrastructure. WSDOT's multimodal transportation network includes nearly 19,000 miles of state highways and the nation's largest ferry system, all designed, built and operated and maintained by WSDOT.

What does public works mean?

RCW 39.04.010 Definitions: Public Works

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



Community of Practice Action Team

Public Works Frequently Asked Questions

under [RCW 36.102.060\(4\)](#) or under development agreements entered into under [RCW 36.102.060\(7\)](#) or leases entered into under [RCW 36.102.060\(8\)](#).

Who does it apply to?

Anyone delegated the responsibility to spend/contract the public's money under [RCW 39.12](#) for the public benefit.

Who is a public works Prime Contractor? Subcontractor?

- **Prime Contractor:** The winning bidder/contract holder with the owner agency
- **Subcontractor:** Contracted with the Prime to deliver portions of work included in the Prime's contract with the agency. Includes suppliers and brokers who are responsible for performing work on a public works project, even if they do not have employees or will not use their own employees to perform the work, unless required by contract provision
- **Both** are committed to delivering a public works project through legal contract in compliance with established RCW and CFR

What are the different types of procurement?

- Design Build
 - [Usage](#)
 - [Progressive Design Build](#)
 - [Contracting Requirements](#)
 - [Award Process](#)
 - [Best Practices](#)
- Job Order Contracting:
 - [Definition](#)
 - [Process](#)
- [General Contractor Construction Manager](#)
- [Small Works Roster](#)
- Consultant Roster: Architecture and Engineering Consultant On Call Lists utilized by University of Washington, Department of Enterprise Services, Washington State Department of Transportation & many other Washington State public owners:
 - [DES](#)
 - [WSDOT](#)
- [Emergency](#)

What is the process for being awarded a public works contract?

-Educational Institutions



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- **For Design Build:** Request for Qualifications (RFQ) is issued, we evaluate the Statement of Qualifications (SOQ) and then a “short list” of the top 3 is created to respond to the Request For Proposals (RFP) (best value)
- **For Design-Bid-Build:** RFP issued for each phase of project: pre-design, design and construction. Contracts are awarded accordingly (lowest bid)
- **For Job Order Contracting:** RFP issued and contract awarded to successful bidder.
- **For General Contractor Construction Management:** RFP issued and contract awarded to successful bidder
- **For Small Works Roster:** Prequalified vendors on the list are selected for RFQ [Here](#) is an example of prequalification requirements:
- **Consultant Roster:** Prequalified vendors on the list are selected and invited to submit a SOQ.
 - CWU: [Here](#) is a link to the CWU Prequalification Roster
 - UW: Uses the [DES roster](#). Rosters with a upper limit of 350K and the On-call Roster, with an upper limit of 200K We select firms from the roster and ask those firms to submit their proposal.
- **Emergency:** Follows [RCW \(39.04.40\)](#)

-State Agencies

- **For Design Build:** RFQ is issued, we evaluate the SOQ and then a “short list” is created (usually minimum of 3) to respond to the RFP (best value)
- **For Design Bid Build:** RFP issued for each phase of project: pre-design, design, and construction. Contracts are awarded accordingly (lowest bid) (WSDOT and other agencies require prequalification for construction, electrical, and mechanical per RCW [47.28.070](#).) Here are additional links to related [WAC](#) and [RCW](#) regarding pre-qualification:
- **For Job Order Contracting:** RFP issued and contract awarded to successful bidder. Individual work orders will be issued for each task.
- **For [General Contractor Construction Manager](#):** RFP issued and contract awarded to successful bidder. Subsequent sub-contractor bid packages must be awarded to low bidder
- **For Small Works Roster:** Prequalified vendors who have indicated the ability to provide the requested service are notified/invited to respond to a solicitation.
- **[Consultant Roster](#):** The “most qualified” firms (based on evaluation criteria set by the agency) are selected from the roster and are invited to submit their SOQ. SOQs are then evaluated and a firm is selected.
[WSDOT Consulting](#)
- **[Emergency](#):** Transportation Follows RCW (47.28.170) Other state agencies follow RCW (39.04.020)



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How is the awards process reviewed, monitored, modified?

-Educational Institutions and most State Agencies

- Although this is needed, a formal process has not yet been established.

-State Agencies

- **WSDOT is the only state agency with a formal process-** There are three levels of audit, which ensure the process is reviewed, monitored and improved.
 1. Project staff puts SOQ together, deciding what the best value terms will be (diversity, safety, environmental, managed risk, etc.) They also create the Request for Proposal (contract.)
 2. The Ad and Award group independently advertises and will determine best value (mathematical value on points) for the RFQ, RFP. Points may include submitting an Inclusion Plan and having an Inclusion Manager for the project.
 3. In Design Build, we have an observer to ensure congruence with SOQ and RFP. Here is our [Advertisement and Award](#) information followed by a link to the [Advertisement and Award Manual](#)
- Prime Contractors are subject to *Prime Contractor Performance Report* per RCW (Note: Subcontractors are not)
 - [Prime Contractor Performance Report Manual](#)
 - [Chapter 468-16-150 WAC](#)
 - [Chapter 468-16-210 WAC](#)
- Prime Contractors are subject to *Prequalification* (Note: Subcontractors are not)
 - [RCW 47.28.070](#) Form of bid—Data required
 - [Chapter 468-16 WAC](#), Prequalification of Contractors

Note: Agencies must advertise the opportunity to apply for the prequalification roster at least once a year, though applicants may submit applications for the roster any time of the year.