

Local Government Public Works Study Committee

July 23, 2020 Meeting

Small and Disadvantaged Business Participation and Barriers to Participation

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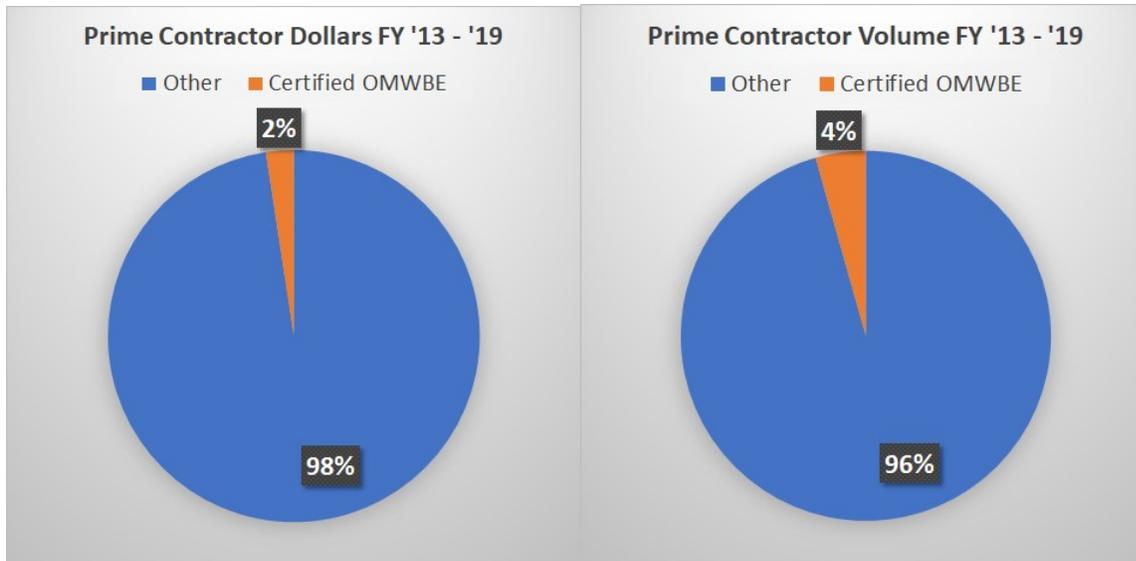
Small Business Participation Rates

There is no definition of small business in Washington State public works statute. Due to the lack of definition, it makes it difficult to understand small business participation in public works projects. The Office of Minority and Women Owned Business Enterprises currently uses the U.S. Small Business Association size standards to determine if a business is small. Furthermore, the purchasing statute of RCW 39.26.010 for state agencies defines micro-business as “any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that: (a) Is owned and operated independently from all other businesses; and (b) has a gross revenue of less than one million dollars annually as reported on its federal tax return or on its return filed with the department of revenue.”

In our current data collection efforts through Labor and Industries, there is no indication of whether or not a contractor is a small business. Because of the lack of clear indicator or definition, it is not possible to show the average participation rates for small businesses in local government public works.

DBE Participation Rates

It is difficult to measure participation rates for minority and/or women-owned businesses in local government procurement as there is no centralized report for this information. The Office of Labor and Industries (L&I) did link information from OMWBE in fall of 2019 but L&I does not capture this information in the historical data used in this report. The following participation rates were compiled by matching prime contractor information in the L&I database to OMWBE certification status via their Unified Business Identifier (UBI#). According to data from fiscal 2013 – 2019, minority and women-owned businesses were the prime contractor in four percent of projects, totaling two percent of total dollars spent.



This data only represents OMWBE certified firms that were listed as the prime contractor on the report. Sub-contractor data is reported separately in the L&I database and is difficult to link to the OMWBE database.

Barriers to Participation

Public Agencies

When Public Agencies were asked what they perceive the barriers of participation for minority and/or women-owned businesses to be, the following were common answers. Many of the barriers identified by public agencies and businesses echo the findings of the Washington State Disparity Study, indicating that the same barriers that exist for state projects may affect local governments. A full list of agencies' comments is available in **appendix #**.

Lack of availability

Many public agencies voiced their concern that there are not many, or any, minority and/or women-owned businesses in their area. Because of the lack of available certified businesses, they are unable to reach or create any diversity goals:

- “There are not many in our geographic area that are registered which makes it challenging to meet goals or it means that the same companies are being used repeatedly not distributing the work.”
- “Very limited choices in the Tri-City region for minority and women owned businesses, which can significantly increase the project cost.”
- “We are a small community, isolated on the Olympic Peninsula. The percentage of minority and women owned business is very low. Having to wade through the requirements is onerous, and produces no results.”

Difficult to know Status

Agencies also indicated that it can be difficult to understand the status (veteran, minority and/or women-owned, etc.) of a business:

- “We use the MRSC roster exclusively. We also consult Seattle's and King County's register of MWBE contractors. A single source for combined contractor and MWBE info would be helpful.”
- “Clearly identified as being disadvantaged on the roster.”
- “Difficult to identify on the roster lists”

The Office of Minority and Women Owned Business Enterprises (OWMBE) does maintain a list of certified minority and/or women-owned businesses as well as some individual local governments (City of Seattle, King County, etc.). Agencies find this system difficult to navigate and would like to see a centralized listing to be able to quickly identify these businesses. Some of these programs have different required qualifications to be placed on the list. For example OWMBE uses the Federal Small Business Administration (SBA) standards for determining if the business is small and is limited to minority and women-owned businesses.³ King County’s Small Contractor program, however, requires a business to meet 50% of the SBA standards and is open to all business, regardless of ownership.⁴ Due to the different definitions and places to look, it can be difficult to find this piece of information.

Outreach

Agencies identified the need for specific additional outreach to market specifically to disadvantaged businesses. However, this process takes additional time and resources which may not be available, especially for small works projects:

- “It would take additional time/resources to look up and reach out to just DBE contractors. Typically we just send out bid requests to all contractors in the applicable category.”
- “More active recruitment of target communities needs to happen.”
- “No local events or advertisement by agencies to attract with MWBE businesses”
- “Time consuming for small projects to contact business.”

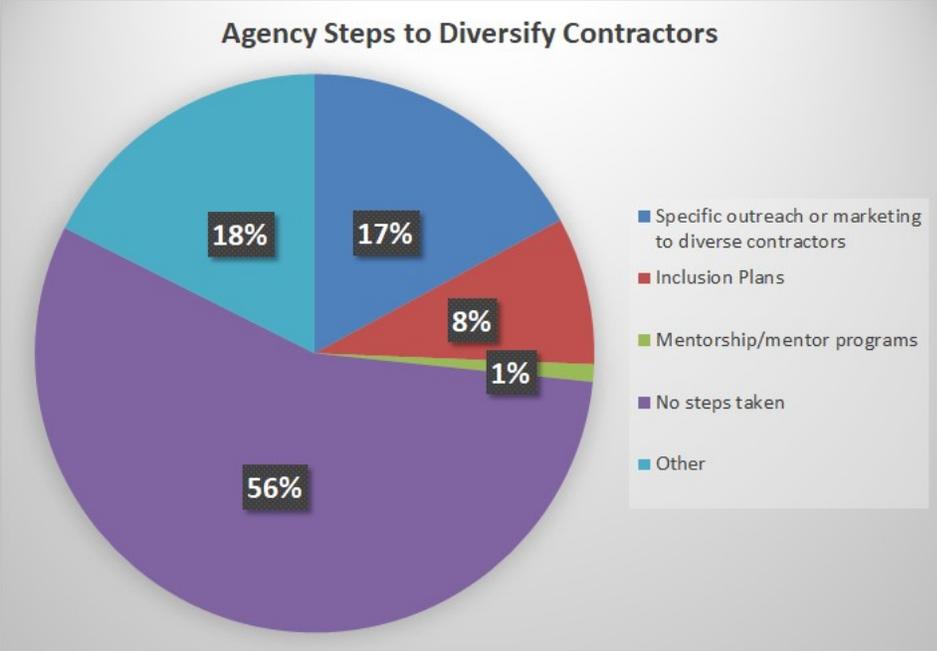
Requirements

Agencies also identified the amount of requirements, both administrative and financial, may be difficult for a small business to comply with. Requirements for a specific project (prevailing wage, bond payments, etc.) and general procurement (registering for a roster, getting certified as OWMBE) were identified:

- “The ability to follow and comply with all prevailing wage laws and requirements.”
- “Some small business contractors can't afford the required bonds and insurance for small works contracts.”
- “no one bids because of the amount of paperwork and reqs. by the county.”
- “Businesses that are minority- and/or women- owned businesses don't always volunteer that information or get certified as such. The process is arduous and they either don't have the staff resources to complete the 'necessary' paperwork and process or they don't want to.”

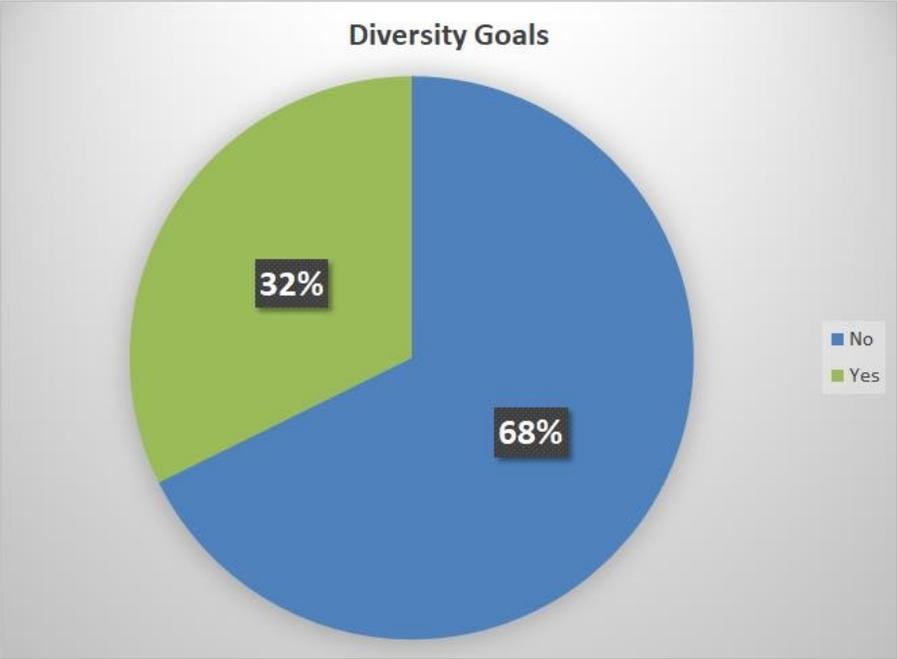
Public Agency Efforts

The survey asked each public agency to identify any current efforts to increase minority and/or women-owned business participation in their public works projects. Of the 364 respondents to this question over half (56%) have not taken any steps to diversify their contractor pool.



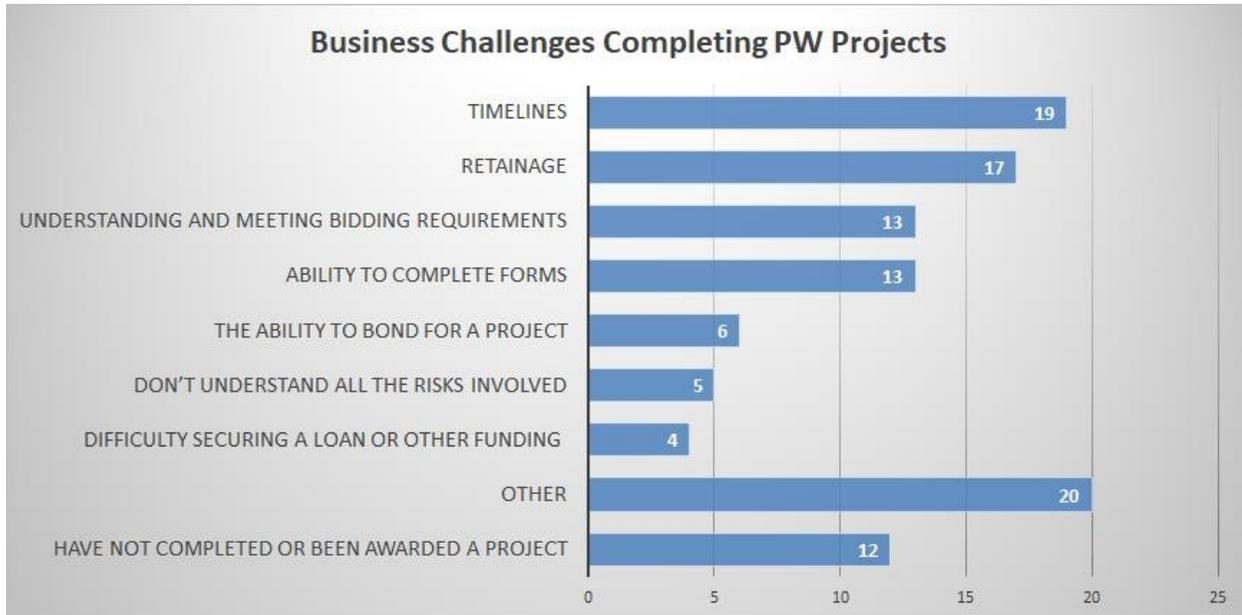
The largest identified step respondents are taking (17%) is specific targeted outreach to diverse contractors. Eight percent have inclusion plans as part of the bidding process and one percent have implemented mentorship programs. Those respondents that shared they have taken other steps (18%) mentioned they include inclusive language on their contracts and rely on contractors or consultants to find diverse sub-contractor.

Agencies were also asked to identify whether or not they have current diversity goals as an organization. Of the 192 respondents to this question, 62 (32%) identified that they do have diversity goals in place.



Businesses

Businesses were asked to identify, generally, what challenges they face when completing public works projects. The most commonly identified challenges were: timelines, retainage, understanding and meeting bidding requirements and the ability to complete all required paperwork and forms.



Businesses were also surveyed on the topic of barriers to the small works roster in general and, specifically, barriers for minority and/or women-owned businesses. Of the 95 businesses that participated in this survey, 18 identified as minority and/or women-owned businesses, 6 identified as veteran-owned businesses and 67 identified as small businesses (all minority, women and/or veteran-owned businesses identified as small). The next section identifies some of the common themes. All comments related to barriers to the small works roster in general are available in **appendix #** and all comments related to barriers specific to minority and/or women-owned businesses are available in **appendix #**.

Barriers to Small Works Roster:

Not enough projects

Businesses expressed concern that the small works roster takes time to get on with few benefits. They are not receiving many bid opportunities after getting on a small works roster:

- “Hard work to get on roster, often resulting in little or no work.”
- “Poor selection of projects for small businesses.”
- “Not enough projects going out to all to bid.”

Agencies who use the small works roster may send invitations to bid to at least five contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted, in a way that will equitably distribute the opportunity. Using this process, contractors do not hear about every project that comes through the roster (although it is important to note that if the project exceeds \$250,000, the public agency must notify all businesses on their roster that quotes are being sought). This practice may contribute to the lack of small works roster opportunities seen by

businesses. It is also possible that as other alternative contracting processes are made available to local governments (including unit-price contracting, job order contracting, etc.) less projects in general are made available through the small works roster process. For example, the City of Seattle has completely phased out their small works roster in favor of job order contracting and formal competitive bid.

Paperwork and Requirements

Businesses also identified the amount of paperwork to be too arduous to complete for small project. The extra time spent on submitting the roster application and bid requirements can be costly to small businesses. They also identified the requirements and paperwork to be confusing and hard to keep updated:

- “Increased paperwork”
- “No one help you through the process for the first time”
- “I’m in favor of small works rosters, although it takes a lot of time to keep up, and make sure we’re on all the ones we should be on.”
- “Public notice of availability to bid/propose; requirements from RFPs that create a huge expense for bidders.”

Lack of Information

Businesses want more clarification on when a bid is taking place, the scope of the project, who won the bid and more information about the bid process:

- “there is not enough information about the job.”
- “Need better visibility of when cities are going for bid.”

In interviews with businesses and local governments, there was a clear desire from businesses to increase transparency about who is winning awards, when projects are out for bid, etc. at all project cost levels.

Barriers to Minority and/or Women-Owned Businesses:

Paperwork and Requirements

Common to all businesses, barriers to participation were paperwork and extra requirements. Businesses who are minority and/or women owned businesses identified the amount of paperwork to get on the roster and complete bid packets was arduous for a small business, and some businesses identified that finding and completing projects that have sub-contractor requirements for diverse businesses was a difficult process that increased cost:

- “Red tape bull, to many hoops to jump through. Raises the cost to most PW projects x 2”
- “the increased paperwork required could be driving businesses away from small projects.”
- “That if they are small companies, it’s hard to dedicate the time the amount of paperwork takes to complete. It can also be difficult to work within strict time confines.”
- “Limits that apply to how much a woman-owned business can make that allow for certification”

Lack of Availability

Similar to public agencies, businesses identified that there are not many minority and/or women owned businesses in their area to contract with. They also identified that it may be difficult to judge the quality of a business.

- “Just not that many in the landscape business.”
- “It is very difficult to find UDBE firms that have the expertise or experience needed on a project. The OWMBE database search function is onerous and often does not produce any results for the category I am searching.”
- “Lack of qualified service providers (contractors).”
- “Competency of a defined privileged class when contract demands performance is a conflicting standard.”

Barriers Identified by Minority and/or Women-owned businesses

The above questions were asked of every business that answered the survey, regardless of certification or ownership. Below are the comments received from self-identified minority and/or women-owned businesses. Although also echoing the above points, multiple respondents also mentioned bonding and payment requirements, and the need for further training to understand the process.

What barriers do you see participating on the Small Works Roster?

Some barriers were identified by Minority and/or women-owned businesses while 5 out of 12 commenters mentioned they saw no barriers to entry. Identified barriers included the need for more training, the difficulty of on-call work, and too much paperwork. The full list of answers to this question can be viewed in appendix #, answers received from minority and/or women-owned businesses are marked with an asterisk(*).

- “It is very difficult for a very small business to be profitable with on-call work. We are not big enough to be able to dedicate a crew to such work, which means we cannot always be as responsive as the owner would like us to be”
- “No one helps you through the process for the first time”
- “I’m in favor of small works rosters, although it takes a lot of time to keep up, and make sure we’re on all the ones we should be on.”
- “My company’s employees and myself need to receive some paperwork training.”

What barriers do you see to increasing diverse businesses (women-and-minority owned) participation in public works contracting?

Many barriers were identified by minority and/or women-owned businesses including: understanding contracts, too much paperwork, bonding and deposit payments, certification requirements, and being unaware of projects. The full list of answers to this question can be viewed in appendix #, answers received from minority and/or women-owned businesses are marked with an asterisk(*).

- “Limits that apply to how much a woman-owned business can make that allow for certification”
- “To much paperwork”
- “Many minorities like myself are not made aware of the opportunities available. The financial resources are sometimes not readily accessible for minority owned companies.”
- “probably bonding”

OWMBE Certification

Of the 18 minority and/or women-owned businesses that completed the survey, eight have identified as either having certification or currently in the process of gaining certification from the Washington State Office of Minority and Women Owned Business Enterprise. Businesses identified multiple reasons for not getting certified including not knowing how, not knowing the benefit, not qualifying or have plenty of work without it. All comments from businesses on this topic are available in **appendix #**.

Barriers Identified by Veteran-Owned Businesses

Of the 6 veteran-owned businesses that participated in the survey, only 4 answered the question: *What Barriers do you see participating on the Small Works Roster?* Two respondents identified barriers: lack of qualified workers and the lack of a centralized roster list. The full list of answers to this question can be viewed in appendix #, answers received from minority and/or women-owned businesses are marked with an carrot(^).

- “I'm not sure what Small Works Roster you are referring to. Is this a state-wide list?”
- “The MRSC small works roster is great. Establishing a presence on MRSC connects to many jurisdictions. One barrier is reaching the other jurisdictions not on MRSC individually.”
- “None”
- “lack of qualified workers”