Section 1: Qualifications/Expertise Team

Proposed WSDOT Disparity Study Team Members

Colette Holt & Associates, Prime Consultant
CHA is an African American- and woman-owned law and consulting firm. CHA is the nation’s most experienced team in conducting legally defensible disparity studies that fully meet all constitutional and regulatory requirements. Founded in 1994, CHA has conducted or participated in over 75 availability and disparity studies, including for transportation agencies. The firm has designed administratively successful programs that provide remedies to a broad array of groups and industries for both prime contract and subcontract opportunities, and defended our clients when programs based upon our work have been challenged. In addition to our study expertise, we have designed DBE goals and programs for dozens of agencies across the nation. Our contract goal setting methodology has been deemed a “best practice” by FHWA. Decades of experience with DBE programs, conducting legally defensible disparity studies, and 100% winning litigation record make us uniquely qualified to undertake this study and ensure that the study process is successful.

CHA does not have any offices in Washington State or the Greater Portland Metropolitan area.

Yates Consulting
Yates Consulting Group, founded in 2008, specializes in diversity and inclusion support for prime contractors and government agencies. President Henry Yates has more than 30 years’ experience in senior state and local government positions. He has helped national and local firms with recruitment, compliance and monitoring of disadvantaged and diverse firms. The firm has been assisting CHA with outreach and anecdotal data collection on the City of Seattle Disparity Study since 2021.

Yates Consulting has worked on the following relevant projects in the last three years:

Road Usage Charge Study for Washington State: 2020 to the present
Yates Consulting performed significant outreach throughout the state to coordinate more than 200 different groups and conducted presentations for several. The firm also crafted focus group questions and surveys and conducted one-on-one interviews with individuals statewide. The compensation for the project was $161,422.

Inclusion Manager for Design/Engineering of Washington State Hybrid Electric Olympic Class Car Ferry: 2020 - 2021
Yates Consulting identified small businesses and analyzed their ability to perform on the design-build contract for the large car ferries for the state. The firm conducted statewide searches for eligible businesses. Mr. Yates participated in the crafting of bi-weekly DBE progress reports to WSDOT. The firm also worked with organizations representing M/WBEs to alert them to opportunities and facilitate introductions to Vigor Fabrication. The approximate compensation for the project was $150,000.

Inclusion Manager/Diversity Expert for Van Asselt/Mercer Middle School: 2020- 2021
This new construction and renovation project set goals for the inclusion of M/WBEs. Yates Consulting identified more than 200 M/WBEs to work on the project either as subcontractors to Cornerstone Construction or to one of its major subcontractors. The firm worked to ensure that community businesses and residents are aware of the project, its potential impacts and how they can engage with the contractor. The approximate amount received for the project was $37,000.
WindGypsy Consulting

WindGypsy Consulting leverages 16 years of business consulting to assist small and diverse businesses with analyzing goals and establishing, developing, and improving internal processes. The firm assists prime contractors and agencies to connect with small and diverse businesses to surpass their procurement goals. The firm has been assisting CHA with outreach and anecdotal data collection on the City of Charlotte Disparity Study since 2021.

WindGypsy has worked on the following relevant projects in the last three years:

**Harris (Texas) Health Disparity Study, 2021**

WindGypsy served as a subconsultant to assist with qualitative data collection follow-up. The firm contacted vendors by telephone and emails to follow-up and validate contract award data, explain the purpose of the disparity study and the importance of participation, and assist in obtaining responses across industries and socioeconomic demographics. The compensation received for the project was $6,000.

**Cook County, IL Disparity Study, 2021**

WindGypsy served as a subconsultant for CHA to augment the local subconsultants with contract data communication with prime contractors. The firm contacted vendors by telephone and emails to follow-up and validate contract award data, explain the purpose of the disparity study and the importance of participation, and assist in obtaining responses across industries and socioeconomic demographics. The compensation received for the project was $5,000.

**Memphis-Shelby County Airport Authority Disparity Study, 2019-2020**

WindGypsy served as a subconsultant for CHA to augment the local subconsultants with contract data communication with prime contractors. The firm contacted vendors by telephone and email to follow-up and validate contract award data, explain the purpose of the disparity study and the importance of participation, and assist in obtaining responses across industries and socioeconomic demographics. The compensation received for the project was $19,000.

Washington Offices

Yates Consulting

Yates Consulting has one office in the state of Washington, located at 4034 Cascadia Ave. So., Seattle, WA 98118. There are three employees at this location, with expertise in communication, outreach, diversity, equity, compliance, and advocacy for minority communities.

WindGypsy Consulting

WindGypsy Consulting has one office in the state of Washington, located at 14057 23rd Pl NE, Seattle, WA 98125. There is one employee at this location, with expertise in communication and outreach, data gathering, marketing, and information technologies research.

Colette Holt & Associates Projects

**Texas Department of Transportation Disparity Study, 2019**

CHA was retained by the Texas Department of Transportation (“TxDOT”) to perform a Disparity Study of its FHWA, FAA and state funded contracts. The Study analyzed contract data for 2012 through 2016. We determined TxDOT’s utilization of DBEs and Historically Underutilized Businesses (“HUBs”) by funding source; estimated the availability of DBEs and HUBs as a percentage of all firms in TxDOT’s geographic and industry market area; calculated disparities between its utilization of
HUBs on its state funded contracts and HUB availability; conducted an economy-wide analysis; reviewed the legal standards for the DBE and HUB programs; gathered anecdotal evidence of race- and gender-based barriers in TxDOT’s markets and the experiences of DBEs and HUBs in obtaining TxDOT work through focus groups and surveys; and evaluated whether the use of race- and gender-conscious measures for TxDOT’s state funded contracts continues to be supported by the results of this analysis. We evaluated the DBE and HUB programs for conformance with constitutional standards, national best practices, and the DBE program regulations. Based on the results of these extensive analyses, we made recommendations for the programs. Our findings formed the basis for TxDOT’s DBE goal submission to the USDOT and this has been approved. We continue to provide counsel to TxDOT and have been retained by the agency to again conduct its DBE Goals Methodologies project. The compensation for this project was approximately $1.4M.

Washington State Airports Disparity Study, 2019

CHA conducted a Disparity Study for the 54 Washington State airports that received funds from the FAA. This included the Port of Seattle, as well as the State’s medium and small hub and general aviation airports. The Study analyzed contract data for 2012 through 2016. We determined the Airports’ utilization of DBEs; estimated the availability of DBEs as a percentage of all firms in the airports’ geographic and industry market areas; calculated disparities between the airports’ utilization of DBEs and DBE availability; conducted an economy-wide analysis; reviewed the legal standards for the DBE program; reviewed the Port of Seattle’s DBE program and its program for non-FAA funded contracts; reviewed the DBE programs and goals for the other 53 airports; gathered anecdotal evidence of race- and gender-based barriers in the airports’ markets and the experiences of DBEs in obtaining airport jobs through focus groups and surveys; and evaluated whether the use of race- and gender-conscious measures is supported by the results of this analysis. We also made recommendations for the Port’s DBE small business and development programs. The Study was accepted by the Port of Seattle, and it formed the basis for the agency’s DBE goal submission to the FAA. The compensation for this project was approximately $1M.

State of Washington Disparity Study, 2019

CHA was retained by the Washington State Department of Enterprise Services to perform a Disparity Study of its two universities and 31 agencies. The study analyzed contract data for the years 2012 through 2016. We determined the agencies’ utilization of M/WBEs; the availability of M/WBEs in the State’s market area; any disparities between its utilization of M/WBEs and M/WBE availability; conducted an economy-wide analysis; reviewed the legal standards; gathered anecdotal evidence; and evaluated whether the use of race-conscious measures is supported by the results of this analysis. The State accepted the study and is moving forward on its recommendations. The compensation for this project was approximately $980,000.
Organizational Chart

Availability of Key Staff and Resources

<table>
<thead>
<tr>
<th>Firm and Staff member</th>
<th>Average Hours/Month for 12 Month Timeline</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Colette Holt &amp; Associates</strong></td>
<td></td>
</tr>
<tr>
<td>Colette Holt</td>
<td>Approximately 80</td>
</tr>
<tr>
<td>Dr. Steven Pitts</td>
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<tr>
<td>Joanne Lubart</td>
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<tr>
<td>Glenn Sullivan</td>
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<tr>
<td>Ilene Grossman</td>
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<tr>
<td>Victoria Farrell</td>
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<tr>
<td>Carol Borst</td>
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<tr>
<td>Megan Schenk</td>
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<tr>
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<td><strong>WindGypsy Consulting</strong></td>
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<tr>
<td>Marnie Tyson</td>
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</table>
Section 2: Qualifications Of Proposed Project Manager

Colette Holt, J.D., Project Manager and Legal Counsel

Colette Holt received her B.A. in Philosophy from Yale University in 1979 and her J.D. from the University of Chicago in 1985.

Ms. Holt will serve as Project Manager and Legal Counsel for the disparity study. All team leads will report directly to Ms. Holt.

Ms. Holt is the nation’s foremost attorney and consultant in the specialty of contracting affirmative action issues, including defensible disparity studies, M/W/DBE program development and M/W/DBE program defense. Ms. Holt has been instrumental in the development of the law governing these programs, and she has concentrated her practice in these areas for over 30 years. She is the co-author of the National Disparity Study Guidelines, commissioned by the Transportation Research Board of the National Academy of Sciences. These important national standards have been recognized as the best methodology for availability and disparity studies for USDOT recipients.

Ms. Holt is a frequent educator, author and media commentator on affirmative action topics. She is also a former Adjunct Professor of Law at Loyola School of Law and the John Marshall Law School (now the University of Illinois at Chicago). She has served as General Counsel to the American Contract Compliance Association for over 20 years, the national organization of officials responsible for training minority, woman and disadvantaged business compliance professionals, and has presented training at the National Training Institute since 1993. Ms. Holt is regularly invited to make presentations by groups such as the USDOT, the American Association of State Highway Transportation Officials (“AASHTO”), the American Public Transit Association, the Conference of Minority Transportation Officials, the National Association of Minority Contractors, the Women Construction Owners and Executives, the American Bar Association, law firms, majority contractors and other organizations.

Ms. Holt has performed work for WSDOT for many years and is deeply familiar with public agency regulations and procedures in general and with WSDOT’s in particular. Her firm performed the disparity studies for WSDOT of its FHWA, FTA and state funded contracts, as well as for FAA funded contracts. She conducted a seminar for WSDOT on the DBE program’s legal standards and recent regulatory changes. Ms. Holt has been repeatedly retained by the Washington State Attorney General’s Office as a Special Assistant Attorney General (“SAAG”) to work with the State to investigate allegations of discrimination brought pursuant to Title VI of the 1964 Civil Rights Act, and other issues related to the DBE program. She also served as a SAAG in the Western States litigation. In the wake of Western States, Ms. Holt conducted an anecdotal study and DBE program review and provided training and counsel to WSDOT staff.

Ms. Holt and her team pride themselves on working across a wide array of diverse communities. Through our over 30 years of practice, we have developed a deep understanding of all actors’ viewpoints and experiences. From prime contractors and consultants to D/M/WBEs to federal regulators to community stakeholders, we generate support and participation, and manage expectations, by explaining the study standards and process. We understand the concerns of all parties and respect all points of view. Ms. Holt has interviewed over 1000 business owners in her

disparity study research and is acutely aware of the various impacts of discrimination in construction, public contracting and employment. Ms. Holt’s relationships with national general contractors and relationships with groups such as the Associated General Contractors and the American Council of Engineering Companies, as well as with numerous DBE organizations, has fostered a deep understanding of the experiences and needs of all parties to ensure successful study and program outcomes.

Ms. Holt is the most prominent attorney in the country in the development of the law governing M/W/DBE programs, through her intimate involvement in almost every major case. Her expert witness and litigation experience include the successful defense of the DBE programs of the Illinois Tollway, the Illinois Department of Transportation and the Minnesota Department of Transportation; the State of Maryland’s M/DBE program; the M/WBE programs of the City of Chicago and the City and County of Denver; and the U.S. Small Business Administration’s 8(a) program.

Ms. Holt’s expertise was further recognized when she was appointed as the three-year Monitor by the U.S. Department of Justice, the Office of the Inspector General of the State of Illinois and the Corporation Counsel for the City of Chicago in the settlement of civil and criminal litigation against a major construction contractor regarding M/W/DBE issues.

Ms. Holt is an active and longstanding member of the Disadvantaged Business Enterprise Committee (now the Contracting Equity Committee) of the Transportation Research Board of the National Academies. She has conducted presentations, served on panels to evaluate draft publications and attended the Annual Meetings every year. In 2020, she was an Honoree of TRB’s 16th Dialogue with Leaders in Design and Construction.

Ms. Holt has been honored by numerous groups for her work on behalf of M/W/DBE programs. She was honored to be the keynote speaker at the Tabor 100 2014 Gala. Other honors include awards from AASHTO, the U.S. Small Business Administration, Black Contractors United, the Women’s Business Development Center, the Federation of Women Contractors, and many others.

Washington Department of Transportation Disparity Study, completed 2017  
Washington State Airports Disparity Study, completed 2019  
Texas Department of Transportation Disparity Study, completed 2019

Colette Holt was the Project Manager on these three disparity studies. She oversaw all aspects of each study, including supervising all key team members; conducting all webinars, stakeholder interviews, business owner interviews, and staff interviews; drafting the legal analysis; reviewing the agency’s DBE program; developing the findings and recommendations; and drafting the draft and final study reports; and presenting the final study results to the client and to the public.

As Project Manager, Ms. Holt was responsible for managing deviations from the original project schedules. Study delays are almost without exception caused by unforeseen difficulties in the agency producing the contract records. For example, it became clear after contract award that TxDOT would have many more divisions and districts that housed their own contract data from which contract records would have to be extracted than was originally understood. Ms. Holt and her team worked with the client to develop a plan whereby CHA contacted every division and district separately to ascertain if they issued their own contracts; if they did, we then worked with that district to review data requirements and obtain their records.

Other departments do not always cooperate on the original schedule. CHA does everything possible to follow-up as needed and take all steps necessary to keep the project and the schedule on track.
CHA has not had any issues with scope of work or project creep. It is clear what contracts are to be included in a study and once the years to be analyzed are determined, the parameters of the project are set. CHA has never requested a change order to increase price because the project turned out to take more time or resources than estimated; we stand behind the pricing we provide and ensure that the best quality work product is developed.

**Section 3: Key Team Members Qualifications (Prime Consultant and Sub-Consultants)**

**Prime Consultant**

In addition to Colette Holt, our key team members will the following firm members:

**Steven Pitts, Ph.D., Economist and Statistician**

Dr. Steven Pitts received his B.A. in Economics with honors from Harvard University in 1974 and his Ph.D. in Economics with an emphasis on Urban Economics from the University of Houston in 1994.

Dr. Pitts is a nationally recognized economist and statistician. Recently retired from the University of California at Berkeley, he is one of the nation’s foremost African American economists. Dr. Pitts has concentrated his professional efforts for over 35 years in the area of the effects of race discrimination on economic opportunities. He has published over 20 articles on these issues and made dozens of presentations regarding the interplay of race and economics. Dr. Pitts has been collaborating with CHA on disparity studies since 2009. He has extensive experience in using large databases, including those of the Census Bureau, to perform statistical analyses of labor and employment issues. He has offered expert witness testimony on race and employment issues and has been honored for his work with significant grants from many foundations. Dr. Pitts has taught statistics and economics for many years and is thoroughly familiar with the principles of these disciplines and their application to real world problems. He has decades of experience in making complex economic information accessible to the general public.

He will be responsible for all sampling and quantitative analysis of contract data files and documentation of the analytical findings for the study report.

**Joanne Lubart, J.D., Associate Counsel**

Joanne Lubart received her B.A. in Sociology from University of Pennsylvania in 1976 and her J.D. from American University Law School in 1980.

Ms. Lubart joined CHA after over 30 years of DBE and government contract law practice. She served in the Office of Chief Counsel to the Pennsylvania Department of Transportation, where she became a national expert on M/W/DBE programs and disparity studies. Her work included serving as the statewide adviser on federal DBE regulations and contracting equity program issues; drafting certification, goal setting, commercially useful function and good faith efforts guidance documents; serving as Legal Adviser to the Pennsylvania DBE Unified Certification Program and its Appeals Committee; and providing frequent trainings and lectures on DBE certification, as well as the legal issues associated with M/W/DBE programs. Ms. Lubart has been honored with the appointment as Chair of the Contracting Equity Committee (formerly, the Disadvantaged Business Enterprise Committee) of the Transportation Research Board of the National Academies. Ms. Lubart has a deep understanding of public agency regulations and procedures from her long career in advising on DBE regulations and contracting equity programs.
She will be responsible for assisting with all legal research and program elements of the disparity study, including developing recommendations and USDOT modal goal submissions.

**Glenn Sullivan, B.S., Chief Technology Officer, Quantitative Data Lead**

Glenn Sullivan received his B.S. in Business Management from University of Phoenix in 1997.

Mr. Sullivan has over 36 years of project management experience in the high-tech industry, the past five of which he has worked with CHA to improve the efficiency and accuracy of the data collection process for study analysis. He works closely with the project manager and assistant project manager on each study to help the client with the initial identification and production of their data and then carries that through our entire process to ensure that complete and accurate data is used in our analyses. He also works with our economist during the analyses to help define and understand the data collected. At the company level he has identified, developed and implemented company policies, standards, changes in operation, and systems that optimize productivity and our work products. Mr. Sullivan has gained knowledge of WSDOT and other public agency procedures through the work he has performed on contract data for disparity studies.

He will be responsible for managing all data processes and will oversee all quantitative data collection elements of the disparity study. He will also be responsible for assisting with producing the final disparity study report.

**Ilene Grossman, B.S., Chief Operating Officer, Assistant Project Manager**

Ilene Grossman received her B.S. in Family and Community Services from Syracuse University in 1978.

Ms. Grossman has extensive experience in project management with government and corporate clients and excels in her ability to oversee the larger structure of a project. She regularly coordinates all CHA project requirements and oversees all outside firm resources. She coordinates internal scheduling and project timelines and oversees all departmental communication. She has worked with CHA on multiple disparity studies in this capacity since 2015. Ms. Grossman was the liaison with WSDOT on the Washington States Airports study as well as the liaison with all agencies to coordinate study functions and obtain contract data records. This has provided her with in depth knowledge of agency procedures. All team departments report directly to Ms. Grossman. Ms. Grossman also handles all financial transactions for the company, manages payroll, and oversees efficiency and accountability of timelines and budgets.

She will be the direct liaison with the WSDOT to obtain all contract data records and will work closely with Mr. Sullivan to create complete original contract data files.

**Victoria Farrell, M.B.A., Manager Qualitative Data Collection**

Victoria Farrell received her B.A. in Sociology from Skidmore College in 1977 and her M.B.A. from George Washington University in 1985.

Ms. Farrell has vast business and organizational experience and has worked extensively on all aspects of disparity studies with CHA. Ms. Farrell manages all subcontractor interactions and anecdotal data collection activities, including the online anecdotal surveys since joining CHA in 2017. Ms. Farrell has collaborated effectively with diverse communities. She successfully interacts with and supervises a diverse group of subcontractors on CHA studies. She also communicates effectively with a wide range of individuals in her daily tasks. She regularly interacts with multiple stakeholder organizations and individual business owners from all parts of the country.
Ms. Farrell has gained knowledge of agency procedures in working with agency staff to facilitate staff interviews, obtain program and policy documents, and solicit other needed information for the disparity studies.

She will oversee all anecdotal data collection, supervise our subconsultants, and assist in coordination of all elements of the draft study report.

Carol Borst, Contract Data Collection Manager
Ms. Borst is an expert in contract data collection and follow-up and has successfully completed multiple studies as a member of CHA. Ms. Borst joined CHA in 2016 and oversees and coordinates our data collection team to ensure complete contract data. Ms. Borst has excellent communication skills with a wide range of individuals. This is demonstrated by her ability to obtain needed information from a large variety of personalities and overcome all resistance to cooperation upon initial request for information.

She will be responsible for managing the CHA data collection team; all contract data follow-up requirements; and training and communicating with team members on all necessary tasks for the disparity study.

Megan Schenck, Senior Data Research Specialist
Megan Schenck received her B.S. in nutrition from California Polytechnic State University in 2017.

Ms. Schenk is an expert in data research and an integral part of the CHA’s data collection team. She performs all research necessary to complete contract data files. She is also involved in training all additional research team members. Ms. Schenck has worked with CHA since 2017.

She will be responsible for all research required to complete the study’s contract data files.

Prior Relevant CHA Team Projects
All CHA team members worked on the following three previous projects:

Washington State Airports Disparity Study, 2019
Texas Department of Transportation Disparity Study, 2019
City of Chicago Disparity Study, 2021

Colette Holt, J.D. Project Manager/ Legal Counsel- Ms. Holt oversaw all aspects of the disparity study, including developing recommendations and USDOT modal goal submissions for the TxDOT study. All team leads reported directly to her.

Steven Pitts, Ph.D., Economist and Statistician- Dr. Pitts was responsible for all sampling and quantitative analysis of contract data files, the economy-wide disparity analyses and documentation of the statistical findings for the study report.

Joanne Lubart, J.D., Associate Counsel- Ms. Lubart was responsible for assisting with legal research and program elements of the disparity study, including developing recommendations and USDOT modal goal submissions for the TxDOT study.

Glenn Sullivan, B.S., Chief Technology Officer, Quantitative Data Lead- Mr. Sullivan was responsible for managing all data processes and supervised all quantitative data collection elements of the disparity study. He was also responsible for assisting with producing the final disparity study report.
Ilene Grossman, B.S., Chief Operating Officer, Assistant Project Manager- All team departments reported directly to Ms. Grossman. Ms. Grossman also oversaw efficiency and accountability of timelines and budgets. She was the direct liaison with the client to obtain all contract data records and worked closely with Mr. Sullivan to create complete original contract data files.

Victoria Farrell, M.B.A., Manager Qualitative Data Collection- Ms. Farrell oversaw all anecdotal data collection, supervised our subconsultants, and assisted in coordination of all elements of the draft study report.

Carol Borst, Contract, Data Collection Manager- Ms. Borst was responsible for managing the CHA data collection team; all contract data follow-up requirements; and training and communicating with team members on all necessary tasks for the disparity study.

Megan Schenck, Senior Data Research Specialist- Ms. Schenck performed all research necessary to complete contract data files. She was also involved in training all additional research team members.

Subconsultants

Yates Consulting (DBE, MBE)

Henry Yates earned a BA in Journalism/Communications at Evergreen State College in 1988.

Yates Consulting Group, founded in 2008, specializes in diversity and inclusion support for prime contractors and government agencies. President Henry Yates has more than 30 years’ experience in senior state and local government positions. He has helped national and local firms with recruitment, compliance and monitoring of disadvantaged and diverse firms with emphasis on the construction industry. Mr. Yates has focused his career on working with diverse communities to promote equity and inclusion. Working with entities such as City of Seattle, WSDOT and the Washington State Department of Enterprise Services as well as large national contractors and smaller local firms has given him an understanding of the overall impact of discrimination in employment and construction and public contracting on minority communities throughout the various areas of State of Washington.

Prior Relevant Yates Consulting Projects:

Washington State Hybrid Electric Ferry Design/Engineering: 2020 - Present

Henry Yates serves as the Inclusion Manager for the Design and Engineering portion of the Washington State Hybrid Electric Olympic Class Ferry. He is responsible for oversight of all efforts to attain an eight percent small business goal. Yates recruited firms and worked with various M/WBE organizations to assist in recruitment efforts. He provided advice and guidance to Vigor Fabrication, the firm designing the vessel, and served as liaison to WSDOT’s Office of Equal Opportunity (OEO”) throughout the design and engineering phase. Mr. Yates also conducted several meetings to ascertain the status and/or eligibility of small businesses to become eligible as a certified SBE.

Sound Transit Disparity Study: 2018 - 2019

Henry Yates interacted with local social, trade and civic organizations to interest their members in participating in the Disparity Study. He prepared email blasts, arranged and attended one informational meeting and accompanied Griffin & Strong staff to several local meetings. He arranged for meetings in Tacoma and Everett by securing the venue, recruiting participants and attending the session. He debriefed Griffin & Strong staff on various issues confronting Washington State businesses that might have a bearing on the Disparity Study.
Henry Yates provided general outreach support to OEO. He represented the agency with prime and subcontractors at trade organization events and outreach gatherings for individual projects. Mr. Yates made presentations about OEO to minority contractor and labor groups. He arranged for OEO staff to meet with members of the minority community in King and Pierce Counties. He also arranged meetings between state legislators and the Director of OEO and attended the meetings.

**WindGypsy Consulting (DBE, WBE)**

Marnie Tyson received her BA in Business Administration from Ashford University in 2014. She was on the Dean's List from 2010-2014. She also received her Certification as a Procurement Professional from the National Association of Procurement Technical Assistance Centers in 2017.

WindGypsy Consulting leverages 16 years of business consulting to assist small and diverse businesses with analyzing goals and establishing, developing, and improving internal processes. The firm connects prime contractors and agencies to small and diverse businesses to surpass their procurement goals.

Ms. Tyson has a detailed understanding of public agency regulations/procedures. This has been demonstrated in her work with DBE supportive services agencies. She educates clients on how to work with federal, state and local governments, including site registration, certifications, researching and finding opportunities, understanding and responding to solicitations, networking and building partner relationships. She has over a decade of experience assisting contractors with navigating Washington State contracting as well as federal and local government contracting. She has spoken at WSDOT EEO trainings, supported primes with connecting to subcontractors and walked contractors through eligibility and application of OMWBE certifications. Ms. Tyson taught Business Planning as a continuing education instructor at Edmonds Community College from 2010 through 2012. This class encompassed writing instructional documents and teaching colleagues and clients about government contracting processes.

Ms. Tyson has demonstrated capacity for effective collaboration within diverse communities by providing government contracting support services to Native American communities throughout four states. She communicates effectively with a wide range of individuals through coaching and assisting small business owners across socioeconomic demographics and industries. She has worked with prime contractors and government agencies to improve subcontractor practices.

**Prior Relevant WindGypsy Consulting Projects:**

*State of Washington Disparity Study- December 2017- December 2018*
*Washington State Airports Disparity Study- January 2018- March 2019*
*Port of Seattle Disparity Study- January 2018- March 2019*

For these three disparity studies, WindGypsy performed contract data follow-up with prime contractors by making follow-up phone calls and sending emails; updating addresses, e-mails, and new points of contact; contacting individual companies to confirm or update contract data; inputting data into SmartSheet; and maintaining logs of communication with all contractors. Ms. Tyson prepared for small group business owner interview sessions by researching and scheduling venues; collecting data on addresses, e-mails, and new point of contacts; contacting individual companies; encouraging participation in sessions; and maintaining communication logs.
Section 4: Firm's Project Management System (Prime Consultant Only)

CHA adheres to a strict quality assurance and quality control approach. The CHA team begins each study with a master project plan mapping out all functions of the study. The plan is then broken down by category and assigned to the appropriate team member with specific action items and delivery dates. We are in regular contact with all team members, often several times per day. Our staff has all worked together on dozens of projects and are thoroughly familiar with the steps and protocols for a successful study. We provide formal detailed monthly progress reports that describe any issues or obstacles encountered that month and how they will be addressed. We will be in regular communication with WSDOT's project staff to answer questions and resolve any concerns, on a daily basis if needed. Our team prides itself on timely response to all communications with clients.

We will work with WSDOT's study manager to ensure that data from the client are received in a timely manner and that deliverables are provided per the study timeline.

Our main project management system is a product called SmartSheet. SmartSheet is an online project management tool that allows multiple users to access, update and review information in real time. We work effectively with SmartSheet to enable adherence to the schedule and to support close team collaboration and discussion through each phase of the project, despite geographic and pandemic separation issues. We utilize it for all areas of project management, including scheduling, scope, and budgeting. In addition, this tool allows us to track all quantitative and anecdotal data follow-up efforts, including the date and time of every contact, the person contacted, and notations on information discussed. SmartSheet also allows for reminders for future contacts. We have used SmartSheet for all our studies in the last five years.

Additionally, we use BOX.com as a method to provide team members access to all needed project documentation as well as keep secure real-time backup and versioning of the project documents. Team members are trained on data storage systems to provide accurate and organized data records. All team members have the opportunity to share information and weigh-in on any questions. Box also provides sophisticated prevention against hacking and helps to ensure all client files are secure.

Section 5: Project Delivery Approach

Research Paradigm

CHA’s court-approved and nationally recognized disparity study methodology meets all aspects of strict constitutional scrutiny applicable to race- and gender-based contracting affirmative action programs, as well as the regulatory requirements of the DBE program. We provide the highly detailed data that accurately reflect WSDOT’s contracting activities and the firms in its marketplace. Our results will assist WSDOT to evaluate whether to use DBE contract goals to meet the triennial goals, within the framework established by the Western States case. Our methodology has been repeatedly accepted as the basis for goal submissions by USDOT. If contract goals are supportable, our methodology provides the study data to set those goals. We will also address regulatory issues such as overconcentration of DBEs. All data will be provided to WSDOT at the conclusion of the study, including an Excel spreadsheet listing all firms identified during the course of the study.

CHA’s study methodology answers the following critical legal and research questions and provides a framework for the quantitative and qualitative data collection necessary to meet the requirements of strict constitutional scrutiny and the DBE program regulations, as well as best practices for conducting disparity studies.
• What are the legal standards and regulatory requirements governing WSDOT’s DBE program?
• What is the empirically based geographic market in which WSDOT procures and awards construction and engineering contracts?
• What are the relevant industry classifications from which WSDOT procures construction and engineering services in their markets? In what six-digit North American Industry Classification System (“NAICS”) codes do firms operate?
• What has been WSDOT’s utilization of racial and ethnic minorities and White women as prime vendors and subcontractors compared to White male-owned firms as prime vendors and subcontractors? What has been the racial, ethnic and gender breakdown of that utilization?

What is the availability of ready, willing and able DBEs to provide the products purchased by the Department in its geographic market?
• What is the availability of ready, willing and able DBEs compared to ready, willing and able non-DBEs throughout the Washington economy, where affirmative action contracting programs are rarely employed? Are there disparities in earnings between minorities and women compared to similarly situated White males? Are there disparities in the rates at which minorities and women form firms compared to similarly situated White males? Are there disparities in the earnings from firms that are formed by minorities and women compared to those of similarly situated White males?
• What have been the experiences of DBEs and non-DBEs with WSDOT’s DBE program? How is the program implemented? What race-neutral measures or small business elements have been helpful? What program aspects could be improved?
• What data are available to address discrimination against firms owned by military veterans? If disparity testing can be performed, what are the results? What remedies are supportable and useful to address any identified discrimination? What might be the impact on the DBE program of the inclusion of veteran-owned firms in a program for state funded contracts?
• Based on the study’s results, what measures might WSDOT undertake to ensure the full and fair inclusion of all firms in its contracting opportunities and to comply with the DBE program regulations? What best practices should WSDOT consider to ensure that all firms enjoy a level playing field for its contracts? What race- and gender-neutral measures and small business elements are effective and feasible? What should be the formula for setting the triennial DBE goal for each modal administration? If DBE contract goals are supported by the study’s findings, what contract goal setting methodology is defensible and results in reasonable and achievable goals?

Our study will address these critical legal and regulatory questions and produce a report that is both legally defensible, regulatory compliant and administratively useful.

**Study Work Plan**

CHA proposes to follow the approach we have used successfully for other clients, including for WSDOT. The Project Manager, Assistant Project Manager, and Chief Technology Officer are the team members responsible for creating the work plan and will be the main points of contact between the firm and assigned WSDOT staff. We will review all study requirements and develop a plan based on the variables of contract data, anecdotal data requirements, the number of subcontractors, the participation of local subrecipients, and multiple other factors that can influence the project plan. We will work closely with WSDOT to develop the work plan that meets all study requirements and best practices.
Coordination of all efforts, including meeting logistics, will be CHA’s responsibility. All meetings will be attended by Colette Holt and any other team members deemed necessary by CHA and WSDOT.

CHA will schedule an initial call with WSDOT’s Study Manager to review all elements of the study and any requirements from WSDOT.

CHA will schedule calls with the person or persons at WSDOT who will be responsible for providing the contract data records for the study. We will review the data collection aspects of the study and identify requirements from WSDOT. CHA will supply all data request and instruction forms in advance of the telephone conference.

CHA will conduct a Project Kick Off Meeting with WSDOT’s study team to facilitate data collection, project planning and scheduling, and address questions or concerns regarding our approach or timeline. Prior to the meeting, CHA will submit the agenda, study elements and methodology presentation and Frequently Asked Questions sheet. We will work with WSDOT to identify key personnel to include in the meeting. At the meeting, CHA will present the study approach, timeline, and will review the roles and responsibilities of all parties.

One of our strengths is excellent communication with our clients. In addition to monthly written progress reports, we will also conduct meetings with WSDOT at least bi-monthly to ensure all parties are fully up to date on the study and resolve any issues with WSDOT or stakeholders. Our decades of experience managing studies and public means any concerns will be addressed quickly and satisfactorily.

To control quality and correct mistakes, our team adheres to a defined quality control approach. We are in regular contact with all team members, often several times per day. We have all worked together on previous projects and are thoroughly familiar with the steps and protocols for a successful study. Next, we provide bi-weekly performance reports and formal monthly progress reports that detail the actions taken and describe any issues or obstacles encountered that month and how they will be addressed. We will be in regular communication with WSDOT’s study manager to answer questions and resolve any concerns. This approach will ensure that any contingencies or issues that may arise are addressed promptly and completely.

**Statewide Outreach and Public Engagement**

CHA is deeply committed to public engagement and outreach. We are highly experienced in reaching all demographic groups and performing statewide studies. Our familiarity with Washington communities through our work for WSDOT, DES, and now for the City of Seattle, will ensure we reach all demographic groups.

We engage the public through numerous channels.

- At the beginning of the study process, CHA will develop and maintain a public study website to provide information in an accessible and easy to understand format and to gather comments from business owners and stakeholders. This website will be updated throughout the study process to keep the community and all interested parties informed. It will have WSDOT’s logo on the home page, along with one or more photo images provided by the Department. There will be pages explaining the elements of a disparity study; a Frequently Asked Questions sheet; a biography of CHA and our subconsultants; and information on how the community can participate in the public introductory webinar, the business owner electronic survey and the
stakeholder and business owner interview sessions. There will also be a page for any interested party to submit contact information to be informed about events and invited to participate. A dedicated study email address and telephone number will be listed on the contact page for easy access to the study team members.

- To ensure that there is as much public participation as possible, CHA will engage Yates Consulting, a Seattle-certified D/MBE consulting firm, to assist with anecdotal data collection and community outreach. Yates has extensive experience working with government agencies and a deep understanding of WSDOT’s DBE and majority and minority contracting communities, including the veteran and Native American communities. Yates will perform extensive outreach to invite firms, industry trade groups, community organizations and other interested stakeholders and business owners to encourage participation in the public informational webinar, electronic survey, stakeholder and small group business owner interview sessions.

Legal Analysis

CHA will provide the legal and regulatory standards that form the governing principles of the study methodology, both to educate the reader about the elements of strict constitutional scrutiny and to provide a framework for a court in litigation. We will describe the current constitutional standards, recent case law, USDOT Guidance and current trends applicable to race- and gender-conscious public contracting programs, with an emphasis on Ninth Circuit case law. We will explain our research methodologies that guide the overall conduct and specific elements of the study to inform readers—including a court—of how the study methodology fully meets strict scrutiny.

Determination of the WSDOT’s Geographic Market Area

The study will analyze WSDOT’s utilization of DBEs on construction and consulting contracts valued at $50,000 and above awarded between October 1, 2015, and September 30, 2021.

Strict constitutional scrutiny requires WSDOT to determine its geographic and product market areas so that WSDOT’s administration of the DBE program remains narrowly tailored. A market area has two dimensions: geography and industry. CHA will take four steps to determine WSDOT’s geographic market areas as determined by its utilization of DBEs:

1. Develop the Initial Contract Data Files.

CHA will collect contract data through the receipt of WSDOT’s contract records. We almost always collect the initial contract data records from clients utilizing remote systems, so the pandemic has caused no change in protocols.

We will provide detailed instructions and a formatted spreadsheet on which to provide the basic information necessary to begin the study analysis.

The following data points will be necessary for initial contract data collection:

Prime Contracts

- Contract number
- Contract industry (construction and engineering services)
- Funding Source (FHWA, FTA, state)
- Original contract award amount
2. Develop samples from the Initial Contract Data Files.

Depending on the number of the contracts, we may need to develop statistically valid samples by funding source from the Initial Contract Data Files. In constructing this Sample Contract Data Files, CHA will select appropriate contracts to ensure that the study is legally defensible.

In developing a statistically representative sample, two parameters are important: the confidence level and the confidence interval. The confidence level represents how certain we are that the sample is representative of the universe (in this case, how certain we are that the sample we draw is representative of the Initial Contract Data Files). A widely accepted confidence level is 95%; this means that we would be 95% confident that the sample is representative of the universe. CHA will use this confidence level. The confidence interval indicates the margin of error of the results. This margin of error is often reported in political polls (e.g., a candidate should receive 55% of the total vote; because the margin of error is five percent, the actual vote total might range between 60% and 50%). In the development of this sample, it is important to have a confidence interval that is sufficiently high. Statisticians typically use either five percent or one percent. We will use five percent, and this has been accepted by the courts in challenges to M/WBE programs. With these parameters, we will calculate the sample size to be drawn from the Initial Contract Data Files.

Subcontractors/Subconsultants/Suppliers (if available)

- Name of subcontractor/subconsultant/supplier
- Address of the subcontractor
- Total amount paid to subcontractor to date (if known)
- Contract number
- Contract title
- Description of work performed on the contract
- NAICS code (if known)
- Race (51% ownership) (if known)
- Gender (51% ownership) (if known)
- Veteran status (51% ownership) (if known)
3. Develop the Final Contract Data Files.

Starting with either the universe of contracts or a sample of this universe, CHA will then compile the Final Contract Data Files. We will contact the prime contractors in the universe (or sample) and obtain additional missing information to include on any subcontractors utilized on a contract.

WSDOT may not have tracked some of the information required for the study analysis. Therefore, CHA will collect any remaining necessary data directly from the prime contractors. This is our responsibility, not that of WSDOT. CHA has a dedicated data collection team that performs follow-up with all prime contractors. CHA will assign missing six-digit NAICS codes and race and gender to the prime contractor or subcontractor; to the extent that data are available, we will assign veteran status. We take the time to assign a code that reflects the actual work of the business on that contract, not default to the first code listed in a directory or the “primary” code. Our approach yields accurate results. We will also research whether a firm whose address is not within the geographic market area also has a Washington office. Follow-up by the CHA team will continue until all necessary data for at least 80% of the contract dollars in the Contract Data Files has been collected. This process ensures comprehensive Files that mirror WSDOT’s contracting activities.

4. Determine WSDOT’s geographic markets.

Beginning with the Final Contract Data Files, CHA will define the relevant geographic market, by funding source, for assessing the availability of DBE prime contractors and subcontractors ready, willing and able to participate in WSDOT contracts. (i.e., the location of the firms that were awarded contracts). While it may turn out that the State of Washington is the correct market, the courts and Section 26.45 require that this be an empirical determination that it is established by WSDOT’s actual contracting activities.

To determine the geographic markets, CHA will identify where businesses who received WSDOT contracts are located (as indicated by that business’ presence and/or its headquarters) and then identify the contiguous political jurisdictions that capture at least 75% of the dollars (the threshold of 75% is widely accepted by the courts). Once these geographic parameters have been established and imposed on the Final Contract Data Files, NAICS codes which were part of these files may be dropped because WSDOT spent a small portion of its funds in these codes or the firms that did the work were located outside of the identified contiguous political jurisdictions.

Determination of WSDOT’s Product Market Area

In addition to calculating the geographic market area, an additional outcome of the steps described above is the distribution of WSDOT spending across NAICS codes. The NAICS codes in the Final Contract Data files will constitute the unconstrained product market. These calculations will be used as weights in the determination of weighted availability, discussed below. These codes will then be constrained by the parameters of the geographic market area, described above.

Determination of DBE Utilization

The resulting Final Contract Data Files will be used to calculate WSDOT’s utilization of DBEs in its geographic and product market areas. Results will be calculated and presented as a percentage of all firms by each racial or ethnic group and White women, as described in 49 C.F.R. Part 26. To the extent data are available, we will do the same for firms owned by military veterans. These will be aggregated and disaggregated by detailed six-digit NAICS codes. In addition to calculating DBE
utilization, the product market analysis produces the NAICS weights to be applied to the unweighted availability results, discussed below.

**Estimation of DBE Availability**

CHA will conduct a legally defensible availability analysis that also comports with the DBE program regulations. CHA will calculate an overall estimate of the number of available ready, willing and able DBE firms in WSDOT’s market area as a percentage of all dollars spent with the total universe of firms. These results will be a narrowly tailored, dollar-weighted average of all the underlying industry availability numbers; larger weights will be applied to industries with relatively more spending and lower weights applied to industries with relatively less spending. The availability figures will be subdivided by race, ethnicity, gender, veteran status and by contracting category.

At the conclusion of the availability analyses, we will provide to WSDOT the availability data delineated by business name, contact information, work types, and geographic areas in which firms are willing to work, in Microsoft Excel.

There are three components to the process of estimating availability: the compilation of the DBE Master Directory; the determination of the constrained product market; and the extraction of firms from the Dun & Bradstreet MarketPlace/Hoovers database.

To perform this analysis, CHA will take the following steps:

- **The development of the Master Business List.** Three data sets are used to develop the Master Business List: a) the firms in the DBE Master Directory; b) the firms contained in the Contract Data Files; and c) the firms extracted from the Dun & Bradstreet MarketPlace/Hoovers database. To compile the Master Directory, CHA will acquire all available government directories of minority, woman, and disadvantaged firms, as well as listings from private entities. After these records are acquired, we will prepare a final list of all the combined directories that consolidates information across fields, resolves field conflicts, and removes duplicates. CHA will limit the firms to those within WSDOT’s geographic and product market.

  Next, CHA will return to the product and geographic data in the Final Contract Data Files and compile a list of firms that received contracts from WSDOT. This will require the elimination of any duplications because a firm might have received more than one contract for work in a given NAICS code during the study period.

  Finally, using the relevant geographic and product market definitions identified, CHA will define a subset of business data to be licensed from Dun & Bradstreet/Hoover MarketPlace database list. Hoovers maintains a comprehensive, extensive and regularly updated listing of all firms conducting business. The database includes a vast amount of information on each firm, including location and detailed industry codes, and is the broadest publicly available data source for firm information. We will purchase the information from Hoovers for the firms in the

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2 We note that the availability sources for firms owned by veterans are much less comprehensive than those for DBEs. It will also be important to separate out veterans who will already be counted because they are racial or ethnic minorities or White women. However, the strict scrutiny framework does not apply to veterans, as they are not members of a constitutionally protected classification. Therefore, while the data will not be as robust as that for race and gender, this is not an impediment to WSDOT enacting a program for state funded contracts to reduce discrimination or barriers to contracting with the agencies by veteran owned firms.
NAICS codes located in WSDOT’s market area in order to form our custom Dun & Bradstreet/Hoovers Database. In the initial download, the data from Hoovers simply identifies a firm as being minority-owned. However, the company does keep detailed information on ethnicity (i.e., is the minority firm owner Black, Hispanic, Asian, or Native American). We will obtain this additional information from Hoovers by special request.

- **The estimation of unweighted availability.** The Master Business List will be the available universe of relevant firms for the study. This process will significantly improve the identification of minority-owned and woman-owned businesses in the business population. CHA will assign race and sex to any firm not already classified in the Contract Data Files. CHA will produce estimates of woman and minority business availability in WSDOT’s markets for each NAICS code in the product market; for woman and minority business availability for all NAICS codes combined; and for the broad industry categories of non-construction goods and services.

- **The estimation of weighted availability.** Using the weights from the utilization analysis, the unweighted availability will be adjusted for the share of WSDOT’s spending in each NAICS code. This adjustment is important for two reasons. First, disparity analyses compare utilization and availability. The utilization metrics are share of dollars while the unweighted availability metrics are shares of firms. In order to make comparable analyses, the dollar shares are used to weight the unweighted availability. Second, any examination of WSDOT’s overall usage of available firms must be conducted with an understanding of what NAICS codes received what share of WSDOT’s spending. Without this, a particular group’s availability share (high or low) in an area of low WSDOT spending would carry equal weight as a particular group’s availability share (high or low) in an area of large WSDOT spending.

The unweighted availability determination will be weighted by the share of dollars WSDOT actually spends in each NAICS code, derived from the utilization analysis. These resulting weighted availability estimates will be used in the calculation of disparity indices.

We will perform a “capacity analysis” by conducting an electronic survey of interested firms. We will explore variables such as the largest contract performed, bonding limits for construction firms, number of employees, union membership, desire and ability to take on more work if it were made available, etc. We will also include these topics in the business owner interviews. We will apply the same criteria to non-DBEs, as it cannot be assumed that only DBEs have constraints. These results could be taken into account by WSDOT in setting its goals. We note that the courts, and the National Study Guidelines, recognize that capacity is both elastic and impacted by discrimination and so we will apply any adjustments on a legally and statistically valid basis.

We will also examine capacity variables at the economy-wide level of business formation and earnings, discussed below. They are relevant to contract goal setting, where the agency must use its judgment about whether to adjust the initial goal that results from the study data based on current market conditions and current firm availability; CHA’s goal setting methodology addresses these issues.

At the conclusion of the availability analysis, we will provide to WSDOT a detailed list of those firms included in the results. WSDOT will be able to filter, sort and export these data and generate reports and visualizations. The database will include the name of the firm; any contact information; the

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3 The variable is labeled: “Is Minority Owned” and values for the variable can be either “yes” or “no”.

4 Northern Contracting, Inc. v. Illinois Department of Transportation, 473 F.3d 715, 721 (7th Cir. 2007).

5 For a detailed discussion of the role of capacity in disparity studies, see the National Disparity Study Guidelines, Appendix B, “Understanding Capacity.”
primary NAICS code; the firm owner’s race/ethnicity and gender; CHA’s determination of the contract category in which the firm was included for purposes of the study; the source from which the firm was identified; and any other demographic information upon which we relied in our analysis.

**Analysis of Disparities and Concentration in WSDOT’s Utilization of DBEs**

Once the utilization and availability data have been compiled and analyzed, we will then examine whether there are disparities between WSDOT’s utilization of DBEs and their availability in the market area. CHA will apply accepted statistical tests to measure the amount of any disparities. Using the DBE firm utilization estimates and the weighted availability estimates, CHA will calculate a disparity index using well accepted statistical principles. The disparity index will be formed by dividing DBE firm availability into utilization and multiplying the result by 100.

CHA will produce statistical comparisons of availability with the utilization of DBE firms on WSDOT’s contracts for the study period; produce disparity indices for all race, sex, and detailed industry categories; and apply statistical and substantive significance tests, to the extent permitted by the sample sizes. Separate disparity indices will be calculated in the aggregate and separately for each racial/ethnic group and by gender.

We will evaluate the strength and sufficiency of the statistical evidence of discrimination. We will examine whether disparities between availability and utilization are the result of discrimination or some other factor. These results will shed light on the extent to which identified disparities may be attributable to race and gender discrimination and whether the Department may set DBE contract goals to ensure a level playing field.

Since our last study for WSDOT, we have recently expanded our analysis to consider the specific results of disparity testing where the utilization of DBEs exceeds 100%. While the standard disparity ratio presents the difference between the agency’s utilization of M/WBEs and the weighted availability of M/WBEs, it is important to examine whether a disparity ratio greater than 100% is not the result of an abnormal pattern of M/WBE concentration. Without this understanding, an agency might reach the unwarranted conclusion that race- or gender-conscious remedies are no longer needed to redress discrimination against a particular socially disadvantaged group. It is possible that a group’s disparity ratio that is larger than 100% might be the result of the success of a few firms and not indicative of the experiences of the broad set of firms in that group. The results of excluding a group for goal credit— the drastic and quick reduction in opportunities for that group— counsels caution about concluding from such results that the market failure of discrimination has been fully corrected.

Therefore, after calculating a disparity ratio, CHA will look more closely at contract data for those DBEs where the disparity ratio exceeded 100%. We will identify those NAICS codes where WSDOT spends a relatively high amount (typically over four percent) and where the DBEs received a relatively larger share of all of the groups’ contract dollars (typically over six percent). With this set of NAICS codes, we will examine the degree to which DBE contract dollars are concentrated among top firms compared to non-DBEs.

The DBE regulations require that recipients examine whether DBEs are overconcentrated compared to non-DBEs. 49 C.F.R. §26.33 requires WSDOT to determine whether “DBE firms are so overconcentrated in a certain type of work as to unduly burden the opportunity of non-DBE firms to participate in this type of work.” To explore this question, we will examine the distribution of contracts and the distribution of contract dollars within each DBE category and within non-DBEs in specific NAICS codes. This approach will illuminate whether the group’s success in receiving contract dollars
may be caused by an unusual amount of dollars concentrated among a few firms. If that is the case, then WSDOT can properly narrowly tailor any response to the actual results on its contracts. This analysis is also relevant to whether the use of contract goals that include DBEs in those codes may still be supportable even though a few firms have been able to overcome discriminatory barriers. To the extent our results suggest that non-DBEs are being unduly burdened, we will suggest race-neutral approaches to address this overconcentration.

Economy-Wide Disparity Analyses

To better understand the presence or absence of discrimination in WSDOT’s market, it is important to analyze the extent to which discrimination exists in the entire Washington economy, where the impact of DBE policies is relatively small. The courts have held that an economy-wide analysis is relevant and probative of the likely results of a fully race- and gender-neutral approach by an agency to its contracting opportunities. This approach contributed to the successful defense of the Illinois Department of Transportation’s Disadvantaged Business Enterprise program in which Ms. Holt testified as an expert. Our methodology sheds light on the likely outcomes of dropping any group from the program and whether in fact there is a level playing field for all groups for WSDOT projects.

To produce this econometric analysis, CHA will examine two large Census Bureau databases: the American Community Survey (“ACS”) and the Annual Survey of Businesses (“ABS”). CHA will use approved statistical techniques to examine these data sets, broken out by market sectors.

To evaluate potential disparities in economic outcomes on the basis of race and gender, CHA will use ordinary least squares and probit regression techniques to analyze the most recent ACS data for Washington. We will determine if minorities and women, and to the extent supported by the data for veterans, have different economic outcomes compared to non-minority men along four outcomes:

- Business formation rates
- The probability of forming a business
- Business incomes
- Wage earnings

These disparity results can be used to estimate the maximum use of minority- and woman-owned firms. It is important to note that the statistical significance of all of these analyses depends upon the sample size in each analysis.

CHA will further determine whether there are disparate economic outcomes by examining the ABS data, which presents information on the number, sales, employment, and payrolls of businesses owned by women and members of racial and ethnic minority groups. The Census Bureau recently replaced the Survey of Business Owners, which was taken every five years, with the ABS which sampled nationwide approximately 850,000 employer businesses in 2017 and approximately 300,000 employer businesses annually in years 2018-2021. Identified firms were those non-farm businesses which completed the 941, 944, or 1120 tax forms. We will limit the firms to those in the State of Washington, which is the smallest geographic unit available for analysis.

Six key variables are used in this analysis:

- The number of all firms

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Footnote:
6 For more information on the ABS, please see https://www.census.gov/programs-surveys/abs/about.html.
• The sales and receipts of all firms
• The number of firms with employees (employer firms)
• The sales and receipts of all employer firms
• The number of paid employees
• The annual payroll of employer firms

CHA will examine these data in two ways: First, we will calculate the minority- and woman-owned business share of each variable. Second, we calculate three disparity ratios for each grouping of minority- and woman-owned businesses and for the grouping of firms that are not non-White or White woman-owned:

• Ratio of sales and receipts share for all firms over the share of total number of all firms
• Ratio of sales and receipts share for employer firms over the share of total number of employer firms
• Ratio of annual payroll share over the share of total number of employer firms

CHA will test disparities for statistical significance for those cases where data have not been suppressed and where standard errors have been published.

Anecdotal Data Analyses

In addition to our rigorous quantitative data collection and analyses, CHA will elicit and analyze high quality anecdotal data. Qualitative information serves two purposes. First, it addresses whether statistical disparities can be inferred to be the result of discrimination. Second, business owners, stakeholders, trade groups and other interested parties can provide great insights into the barriers they face in the overall marketplace and to working on WSDOT projects and how to best reduce or remedy such barriers. People are the experts of their own experiences, and their input will inform our program review and the development of narrowly tailored recommendations.

CHA will collect anecdotal or qualitative evidence of discrimination through multiple avenues.

• CHA will conduct a public informational webinar. We will first make a presentation of the study’s objectives, elements and methodology. We will solicit testimony from stakeholders, business owners, and other interested members of the public.
• CHA will design and administer an electronic survey of firms on the Master Business List. The survey will collect information about anecdotal experiences in conducting business in the marketplace and with WSDOT. The Master Business List is the list of firms derived from a variety of sources, including stakeholder lists, certification directories, individual contacts and other relevant sources. These firms are comprised of contractors, subcontractors, vendors and consultants. The survey will be used to collect firm information and firm owner demographics, work profile details and capabilities, experiences with performing work privately and for the WSDOT, and detailed information about experiences with bias, discrimination or race-, gender- or veteran status-based barriers in the marketplace. This information is collected using both closed-ended and open-ended questions. To provide ease of completion, the survey is emailed to relevant firms as an embedded link. The survey is typically kept open for at least eight weeks. Email reminders with the survey link are sent regularly to encourage responses. Key findings are reported in simple charts and are supported by verbatim quotes.
• CHA will conduct sessions for stakeholder groups to relate the experiences of their members and share suggestions for approaches to reduce barriers to State contracts and subcontracts.
Sessions will be divided into stakeholder organizations that represent DBE firms and those that represent non-DBE firms.

- CHA will then invite business owners to participate in small group interview sessions to further explore topics and issues that were identified in the electronic survey. Sessions will be divided into DBE firms and non-DBE firms, and further divided by industry. CHA will explore past and current discriminatory practices within these specific industries that impede the ability of DBE firms to participate in WSDOT’s opportunities or private sector projects. We will discuss possible marketplace discrimination, bidding specifications, requirements, and procedures, anti-competitive practices, or other barriers we, or the participants, identify. We will also focus on the efficacy of race- and gender-neutral measures and the current DBE Program. Yates Consulting, a Seattle based D/M/BE subconsultant firm will conduct extensive follow-up to encourage participation, also focusing on the veteran and Native American communities.

- CHA and our subconsultant will also encourage all interested parties to submit written comments through the dedicated study email and website.

We will develop data to determine what, if any, barriers may be adversely affecting the participation of DBE firms in WSDOT’s prime and associated subcontracts and may be leading to disparities in DBE firm utilization. We will examine factors affecting the utilization of DBE firms on WSDOT contracts as well as any specific instances of discrimination or discriminatory barriers. Our questions will explore any historical or ongoing practices or patterns that amount to active or passive discrimination.

CHA has developed and successfully implemented protocols for community engagement and anecdotal data collection that strictly adhere to guidelines regarding interaction during the COVID-19 pandemic. CHA was already utilizing technology, including virtual meeting and webinar formats, for some of its outreach to the community, so the transition to a completely virtual platform for anecdotal data collection has been a smooth one. Our experience has been that the attendance at meetings and interviews has increased with the virtual platform. Our subconsultant will continue to identify potential outreach events, which have also transitioned to virtual platforms. This has been a successful strategy for other studies. All follow-up to encourage participation at these sessions has always been and continues to be conducted by telephone. We distribute an electronic survey to business owners with no changes in the process.

**Review of WSDOT’s DBE Program**

We will conduct a thorough review of WSDOT’s DBE program and business assistance initiatives. We will examine relevant program documents; certification processes; outreach efforts; contract terms; any supportive services and technical assistance programs; and contract data collection systems and reporting. We will summarize the results of these efforts and identify any practices that may have hindered or impeded the ability of DBE firms to obtain prime contracts or associated subcontracts.

We will survey and interview business owners and stakeholders about their experiences with the DBE program. We will explore how WSDOT can better assist DBEs and other small firms. We will interview both DBE and non-DBE firms to ensure that all points of view are included. CHA will also interview the appropriate WSDOT staff with responsibility for making decisions, regarding possible barriers faced by DBE firms to WSDOT contracting opportunities.

The results of this review will inform any recommendations of possible revisions to the DBE program to ensure outreach, effectiveness and compliance with relevant laws. This evaluation is
crucial to ensure that our recommendations are narrowly tailored in compliance with strict scrutiny and best practices for contracting equity programs.

Findings, Recommendations and Report

CHA will provide a Draft Report that contains the study findings based on the results of our quantitative and qualitative analyses. Based on our 30 years of experience with national best practices, and the input of business owners, stakeholders and WSDOT staff, the draft report will suggest recommendations to current policies and the DBE Program, including effective race- and gender-neutral measures, to ensure full and fair opportunities for all firms to participate in WSDOT's prime contracts and associated subcontracts. If supported by the findings, we will suggest narrowly tailored measures that meet the DBE program requirements as well as strict constitutional scrutiny as applied in the Ninth Circuit. We will also provide recommendations for the triennial DBE goals for FHWA and FTA funded contracts to meet the requirements of 49 C.F.R. § 26.45. Ms. Holt has drafted many DBE goal submissions and programs, and our methodology has been repeatedly accepted by FHWA and FTA.

Based on WSDOT’s comments and feedback on the Draft Report, we will provide a Final Study Report. The Final Study Report will include all methodologies, findings, recommendations, tables, and spreadsheets. CHA will deliver presentations as directed by WSDOT.

Monthly Progress Reports

CHA will submit monthly progress reports that will include:

- Discussion of major tasks outlined in the proposal and timeline, and whether they have been completed or are still in progress.
- Discussion of any issues, as well as their resolution or attempts at resolution.
- Discussion of any contingencies that may arise.

CHA will also schedule and conduct status phone meetings with WSDOT project staff to update them on progress, findings and challenges and any suggested remedies.

Study Timeline for Key Milestones and Deliverables

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<td>Collect Initial Contract Data Files from WSDOT</td>
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<td>Submit questions and receive answers/clarifications on WSDOT contract data</td>
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<tr>
<td>Create Sample Contract Data Files (if necessary)</td>
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<td>Obtain missing data, including subcontract data, from prime contractors</td>
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<tr>
<td>Prepare Final Contract Data Files for analysis</td>
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<tr>
<td>Submit request for DBE program documents</td>
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</table>
Review DBE program documents for full submittal
Review all DBE program documents
Conduct WSDOT staff interviews
Conduct statistical utilization analysis by funding source
Conduct statistical availability analysis by funding source
Conduct statistical disparity analysis by funding source
Conduct economy-wide analysis
Conduct electronic survey of business owners
Conduct Stakeholder Small Group Interview Sessions
Conduct Small Group Business Owner Interview Sessions
Develop narrowly tailored remedies and recommendations
Deliver Draft Study Report
Deliver Final Disparity Report and written recommendations *
Presentation of Final Report (as instructed by WSDOT)

*Timing dependent on when CHA receives WSDOT comments on Draft Disparity Study Report

Work Breakdown

<table>
<thead>
<tr>
<th>TASK</th>
<th>CONSULTANT TEAM DELIVERABLES</th>
<th>WSDOT DELIVERABLES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conduct introductory and data collection telephone conference with WSDOT team</td>
<td>Schedule calls and provide documents to be reviewed prior to calls</td>
<td>Participate in calls</td>
</tr>
<tr>
<td>Perform directory collection and create Master D/M/WBE Directory</td>
<td>Research available lists and directories and produce master directory</td>
<td>Provide assistance, if requested, to obtain lists from another government agency</td>
</tr>
<tr>
<td>Collect Initial Contract Data Files from WSDOT</td>
<td>Provide data instruction sheets on variables needed for Initial Contract Data Files</td>
<td>Provide the files to CHA</td>
</tr>
<tr>
<td>Submit questions and receive answers/clarifications on WSDOT contract data</td>
<td>Review Initial Contract Data Files provided by WSDOT and request any clarifications</td>
<td>Provide answers and clarifications</td>
</tr>
<tr>
<td>Create Sample Contract Data Files (if necessary)</td>
<td>Review Initial Contract Data Files to ascertain if Sample Contract Data Files are necessary</td>
<td>None</td>
</tr>
<tr>
<td>Obtain missing data, including subcontract data, from prime contractors</td>
<td>CHA contract data team conducts follow-up with prime contractors</td>
<td>Provide CHA with any contract language requested; provide assistance, if requested, with any non-responsive prime contractors</td>
</tr>
<tr>
<td>Prepare Final Contract Data Files for analysis</td>
<td>Prepare the Final Contract Data Files for analysis</td>
<td>None</td>
</tr>
<tr>
<td>Submit request for DBE program documents</td>
<td>Submit the DBE program document request to WSDOT</td>
<td>Provide requested documents</td>
</tr>
<tr>
<td>Review DBE program documents for completeness</td>
<td>Review submitted documents for completeness</td>
<td>Provide any additional documents requested</td>
</tr>
<tr>
<td>Review DBE program documents</td>
<td>Review the WSDOT DBE program</td>
<td>Provide answers to any questions that might arise; provide any additional requested information</td>
</tr>
<tr>
<td>Conduct WSDOT staff interviews</td>
<td>Schedule and coordinate WSDOT staff interviews; provide agenda prior to session</td>
<td>Provide a list of relevant staff to be included in staff interviews</td>
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<tr>
<td>Conduct statistical utilization analysis by funding source</td>
<td>Perform analysis</td>
<td>None</td>
</tr>
<tr>
<td>Conduct statistical availability analysis by funding source</td>
<td>Perform analysis</td>
<td>None</td>
</tr>
<tr>
<td>TASK</td>
<td>CONSULTANT TEAM DELIVERABLES</td>
<td>WSDOT DELIVERABLES</td>
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<tr>
<td>Conduct statistical disparity analysis by funding source</td>
<td>Perform analysis</td>
<td>None</td>
</tr>
<tr>
<td>Conduct economy-wide analysis</td>
<td>Perform analysis</td>
<td>None</td>
</tr>
<tr>
<td>Conduct electronic survey of business owners</td>
<td>Develop, distribute and analyze survey results</td>
<td>None</td>
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<tr>
<td>Conduct Stakeholder Small Group Interview Sessions</td>
<td>Coordinate all aspects of the small group stakeholder interview sessions</td>
<td>None</td>
</tr>
<tr>
<td>Conduct Small Group Business Owner Interview Sessions</td>
<td>Coordinate all aspects of the small group business owner interview sessions</td>
<td>None</td>
</tr>
<tr>
<td>Develop narrowly tailored remedies and recommendations</td>
<td>Review all study data and develop recommendations</td>
<td>None</td>
</tr>
<tr>
<td>Deliver Draft Study Report</td>
<td>Write the draft study report</td>
<td>Deliver comments and feedback</td>
</tr>
<tr>
<td>Deliver Final Disparity Report and written recommendations *</td>
<td>Produce the Final Disparity Study Report incorporating all comments and feedback provided by WSDOT</td>
<td>None</td>
</tr>
<tr>
<td>Presentation of Final Report (as instructed by WSDOT)</td>
<td>Coordinate schedules with WSDOT to set up presentations of the final study findings; provide PowerPoint presentations; conduct presentation</td>
<td>Determine recipients of report and audience for presentation</td>
</tr>
</tbody>
</table>

**Key Issues and Critical Milestones**

Obtaining the prime level contract data from the agencies is the key issue that most often impacts a study’s schedule. WSDOT will need to take an active role in assisting us with obtaining data from the local jurisdictions to stay on schedule.

It is also critical that WSDOT and the local jurisdictions ensure that someone at each agency is responsible for responding to our data requests and questions and assisting with obtaining data from reluctant or uncooperative prime vendors to the extent such records are not available directly from the local agencies.

**Section 6: Investigation and Analysis**

**Disparity Studies**

CHA has conducted or participated in over 75 availability and disparity studies since 1997. We have pioneered the now accepted, legally defensible, approach to conducting this research that meets all constitutional standards while providing the type and quality of data needed for effective program design and implementation. We are currently completing the disparity study for the Oklahoma Department of Transportation. In addition to the studies listed under Criteria 1, Qualifications/Expertise Team, the following are some of the most relevant studies completed for the construction and consulting industries.

**Nevada Department of Transportation, 2021**

CHA was retained by the Nevada Department of Transportation ("NDOT") to perform a Disparity Study of its FHWA and state funded contracts. The 2021 Study analyzed contract data for the fiscal years 2015 through 2019. We determined NDOT’s utilization of DBEs by funding source; estimated the availability of DBEs; calculated disparities between its utilization of DBEs and DBE availability for both funding sources; conducted an economy-wide analysis; reviewed the legal standards for the DBE program; gathered anecdotal evidence through focus groups and surveys; evaluated the DBE program; and evaluated whether the use of race- and gender-conscious measures continues to be supported by the results of this analysis under the Western States standards; and made recommendations for the programs. NDOT has accepted our report and is moving forward with the recommendations.
City of Chicago Disparity Study, 2021
CHA was retained by the City of Chicago to perform a disparity study of its local construction contracts. The study analyzed construction contract data for years 2015 through 2019. We determined the City’s utilization of M/WBEs; estimated the availability of M/WBEs; calculated disparities between its utilization of M/WBEs and their availability; conducted an economy-wide analysis; reviewed the legal standards for the M/WBE program; gathered anecdotal evidence through focus groups and surveys; evaluated the M/WBE program; evaluated whether the use of race- and gender-conscious measures continues to be supported by the results of this analysis; and made recommendations. The City Council reauthorized the program based on our findings and the City is moving forward with the recommendations.

Port of Portland Disparity Study, 2018
CHA was retained by the Port of Portland to perform a Disparity Study in conformance with 49 C.F.R. Part 26 and 49 C.F.R. Part 23. We analyzed contract data for 2012 through 2016. We determined its utilization of D/M/WBEs and ACDBEs; the availability of DBEs and ACDBEs; calculated disparities between its utilization of DBEs and DBE availability; conducted an economy-wide analysis; reviewed the legal standards; evaluated the Port’s program; gathered anecdotal evidence; and evaluated whether the use of race-conscious measures is supported by the results of this analysis. We also made recommendations for the DBE, ACDBE and small business development programs. The agency is implementing the recommendations. Ms. Holt continues to advise the Port about implementation of the study recommendations and the drafting of its FAA goal submissions.

Illinois State Toll Highway Authority Disparity Study, 2015
CHA conducted a Disparity Study for the Illinois Tollway to revise its DBE program for construction and construction-services and provide litigation expertise for its defense of the DBE program. The Study analyzed contract data for federal fiscal years 2010 through 2012. It determined the Tollway’s utilization of DBEs; the availability of DBEs; any disparities between its utilization and DBE availability; conducted an economy-wide analysis; reviewed the legal standards; gathered anecdotal evidence; evaluated whether the use of race-conscious measures is supported by the results of this analysis; and made recommendations. Ms. Holt served as the Tollway’s testifying expert in Midwest Fence, Inc. v. Illinois Tollway et al, a challenge to the agency’s DBE program that she authored. Ms. Holt was qualified as an expert and provided expert statistical and program opinions in the case. The program has been upheld by the federal district and appellate courts and the U.S Supreme Court denied review. The Tollway revised its program based upon the study and Ms. Holt’s counsel on program development. CHA has been retained to conduct a new study for the Tollway.

Dallas Fort Worth International Airport Disparity Study, 2019
CHA was retained by the Dallas Fort Worth International Airport (“DFW”) to perform a Disparity Study of its Federal Aviation Administration funded contracts, locally funded contracts and airport concession contracts. The 2019 Study analyzed contract data for 2012 through 2017. We determined DFW’s utilization of DBEs, ACDBEs and M/WBEs by funding source; estimated the availability of these firms as a percentage of all firms; calculated disparities between DFW’s utilization of M/WBEs on its locally funded contracts and M/WBE availability; conducted an economy-wide analysis; reviewed the legal standards for the DBE, ACDBE and local M/WBE programs; gathered anecdotal evidence through focus groups and surveys; evaluated the DBE, ACDBE and M/WBE programs; evaluated whether the use of race- and gender-conscious measures for DFW’s locally funded contracts is supported by the results of this analysis; and made recommendations for the Airport’s business diversity programs. We continue to provide counsel to DFW on its program.
updates and enhancements, as well as training for its staff and contractors, as we have for many years predating the Study.

**Chicago Transit Authority Disparity Study, 2019**

CHA was retained by the Chicago Transit Authority (“CTA”) to perform a Disparity Study of its FTA funded and non-FTA funded contracts. The Study analyzed contract data for 2012 through 2016. We determined the Authority’s utilization of DBEs by funding source; estimated the availability of DBEs as a percentage of all firms; conducted an economy-wide analysis; reviewed the legal standards for the DBE program; gathered anecdotal through focus groups and surveys; evaluated the DBE and SBE programs; and made recommendations for the programs and triennial and contract goal setting.

**Northeast Illinois Regional Commuter Railroad d/b/a Metra Availability Study, 2016**

CHA was retained by Metra to perform an Availability Study of its FTA and state funded contracts. The Study analyzed contract data for 2009 through 2013. The Study determined Metra’s utilization of DBEs; estimated the availability of DBEs in the agency’s geographic and industry market area; performed an economy-wide analysis; reviewed the legal standards for DBE programs; gathered anecdotal evidence focus groups; evaluated the DBE program; and made recommendations for the program, including goal setting. Metra accepted the Study, and it formed the basis for its FTA submission. CHA also conducted a Title VI Study for the agency.

**Regional Transportation Authority of Illinois Disparity Study, 2016**

CHA was retained by the RTA to perform an Availability Study of its FTA and state funded contracts. The Study analyzed contract data for 2009 through 2013. The Study determined RTA’s utilization of DBEs; estimated the availability of DBEs as a percentage of all firms; performed an economy-wide analysis; reviewed the legal standards for DBE programs; gathered anecdotal evidence through focus groups; evaluated the DBE program; and made recommendations for the program, including for goal setting. RTA accepted the Study, and it formed the basis for its FTA submission. CHA has provided counsel to RTA for over 25 years, and continues to counsel the RTA on FTA compliance, including most recently with DBE goal setting and Title VI obligations.

**Investigation and Monitoring Projects**

**Washington Special Assistant Attorney General Appointment**

Ms. Holt was retained by the Washington State Attorney General General’s office as a Washington Special Assistant Attorney General. She was asked to investigate allegations of race discrimination filed under Title VI involving subcontractors on the Seattle Tunnel Project. She reviewed documents, interviewed the complainants and other witnesses, and made findings reading the sufficiency of the claims. She also worked with WSDOT on remediation plans to be submitted for FHWA approval, as well as program enhancements to ensure non-discrimination.

**Independent Monitor In the Matter of James McHugh Construction Co.**

Ms. Holt was appointed and approved by the federal court as the Independent Monitor to oversee compliance by a large prime contractor with a consent decree that arose out of federal criminal prosecutions for DBE fraud. McHugh was accused of using a DBE as a “pass through” and submitting false invoices to the agencies. To settle the matter and avoid criminal prosecution, McHugh paid large fines and agreed to an appointed monitor for three years. Ms. Holt monitored all of the firm’s public construction projects, including reviewing D/M/WBE compliance plans; checking firms’ eligibility for contract goal credit; conducting site visits to ensure that the listed certified firms
were working on the project; scrutinizing certified payrolls and other records; reviewing goal attainment; and preparing quarterly reports for the agencies and the court.

Section 7: Continuous Improvement

CHA is constantly striving to improve our productivity. When issues arise, we implement solutions in real-time so the impact is not carried forward into other projects. These solutions may range from additional checks and balances within the team to prevent single-user errors, to a topic-specific weekly meeting with the key players to ensure that the project is not delayed, to redundant work quality checks.

We have also developed a comprehensive contract data collection package for each client, that includes detailed instructions and spreadsheets. We begin each study with a contract data meeting. CHA and the agency’s contract data personnel go over the instructions, we answer any questions and develop refinements to the overall data collection plan to address the individual needs of the agency.

CHA is committed to producing disparity reports that are easy to understand. We have revised draft reports in response to comments from clients regarding points about which they would like more clarification. Examples include the addition of text boxes to highlight key definitions or moving information from footnotes to the body of the chapter with some expansion of the text.

We have also improved the presentation of the availability results. Our initial approach was to only use those NAICS codes where the agency spent at least one percent of its funds. This meant some NAICS codes would be excluded, resulting in a loss of just a small portion (less than five percent) of the overall contract dollars. While this is a legally sound methodology, after conversations with clients, we learned that an agency needs information on all of the codes to set narrowly tailored contract goals. Consequently, we have altered our approach and now include all of the NAICS codes. The result is a longer study with very little change in the resulting disparity analysis, but one that better addresses the needs of our clients.

Section 8: DBE Participation

Colette Holt & Associates will meet the 18% DBE goal on this project. We will subcontract with two Seattle based DBEs. We are currently working with these firms and have collaborated successfully with them on prior and ongoing disparity studies.

Yates Consulting (DBE, MBE)

Yates will assist with outreach and anecdotal data collection on the WSDOT study. The firm will receive nine percent of the contracted dollars.

WindGypsy Consulting (DBE, WBE)

WindGypsy will assist with contract data follow-up work on the WSDOT study. The firm will receive nine percent of the contracted dollars.