

*State of Washington  
Department of Transportation  
Notice to Consultants  
Disadvantaged Business Enterprise Program 2021 Disparity Study*

The Washington State Department of Transportation (WSDOT) solicits interest from consultants who wish to be evaluated and considered to conduct a Disadvantaged Business Enterprise (DBE) Program Disparity Study. One (1) agreement may be awarded. The agreement will be for approximately one (1) year in duration with the option for WSDOT to extend it for additional time and money if necessary. The Agreement will be Negotiated Hourly Rate and approximately \$1,200,000.00.

WSDOT reserves the right to amend terms of this “Request for Qualifications” (RFQ) to circulate various addenda, or to withdraw the RFQ at any time, regardless of how much time and effort consultants have spent on their responses.

*Project Description*

The primary purpose of a disparity study is to determine what, if any, discrimination and barriers may exist resulting in a quantifiable statistically significant variance of availability versus utilization of businesses that perform contracting for public transportation projects when those businesses are owned by member(s) of presumptive groups, as defined by 49 CFR 26.5. In order to meet the requirements for this project, all proposals must be consistent with federal law and court rulings including, but not limited to 49 CFR 26, Subpart C. The consultant should address 49 CFR 26.45 in their submission of their Statement of Qualifications (SOQ).

Since 1987, the United States Department of Transportation (USDOT) has required that subrecipient (i.e. WSDOT) implement a DBE program based on regulations found in 49 Code of Federal Regulations (CFR) Parts 23 and 26. The most current regulations, contained at 49 CFR Part 26, provide the states with a tri-annual DBE goal-setting methodology. WSDOT will follow federal law for determining the methodology by which to analyze DBE goals for the next three (3) year period. Federal statutes, federal regulations, and court interpretations of federal law pertaining to the USDOT DBE program are controlling and therefore of paramount importance.

The successful consultant will be expected to provide the following:

- Possess the ability to produce a legally defensible disparity study.

A legally defensible disparity study should include the following elements:

- Initiate the study by preparing necessary outreach documents, conducting relevant meetings and preparing and maintaining a study website.
- Conduct monthly progress meetings with designated WSDOT representatives.
- Provide detailed monthly invoices with written progress reports.
- Collect WSDOT contract data from local programs, consultant services and construction.
- Provide a relevant and detailed analysis of all collected contract data (quantitative data).

- Review WSDOT’s DBE Program by collecting and evaluating program administrative documents and conduct various WSDOT staff interviews.
- Perform statewide meetings (in-person or via technology as appropriate) with stakeholders and DBEs to collect applicable anecdotal data.
- Collect qualitative and quantitative evidence of discrimination.
- Provide detailed analysis of collected information (qualitative data).
- Collect relevant regional economic and business data and using contract data determine applicable market area.
- Perform Disparity Analysis using DBE utilization estimates and the DBE availability estimates using statistical methods approved by the courts.
- Provide a comparison of state-funded contracts and the availability versus utilization of minority, veteran, and women's business enterprises.
- Provide a detailed Capacity Analysis including the methodology to be used.
- Recommend overall DBE Goal setting methodology.
- Provide DBE program recommendations.
- Provide a draft study to WSDOT prior to public release.
- Conduct statewide public outreach meetings to share study findings.

### DBE Participation

WSDOT has an overall Disadvantaged Business Enterprise DBE Goal. The DBE goal for participation will be obtained through a combination race-neutral/race-conscious means as outlined in WSDOT’s “Disadvantaged Business Enterprise Program Plan”. The resulting Master Agreement (Agreement) from this RFQ will be subject to a **18%** DBE goal. If the Consultant fails to meet the DBE goal attainment for the Agreement, good faith effort (GFE) documentation complying with the requirements of Appendix A of 49 CFR 26 shall be submitted to WSDOT for approval in lieu of meeting the goal.

The selected consultant will be required to submit DBE Commitment Forms for approval with their submittal.

For more information about the DBE program:

<https://www.wsdot.wa.gov/EqualOpportunity/DBE.htm>

WSDOT encourages disadvantaged, small, minority, veteran and women-owned consultant firms to respond to this RFQ.

Evaluation Criteria

Pursuant to state, (RCW 39.26) regulations, a qualifications-based selection process will be used to select a consultant for this project. The following information and criteria will be used to evaluate and rank responses:

1. Qualifications/Expertise of Team;
2. Qualifications of Proposed Project Manager;
3. Key Team Members Qualifications (Prime Consultant and Sub-Consultants);
4. Firm's Project Management System (Prime Consultant Only);
5. Project Delivery Approach;
6. Investigation and Analysis;
7. Continuous Improvement;
8. DBE Participation;
9. References/Past Performances (Prime Consultant Only);
10. Samples of Work Products;
11. Cost Factors (Prime Consultant and Sub-Consultants);
12. Contractor Certification - Workers' Rights (Prime Consultant and Sub-Consultants); and
13. Wage Theft Prevention Contractor Certification - Professional Services (Prime Consultant and Sub-Consultants).

The link to the definitions and point value for each of the proposed criteria may be found on the first page of this advertisement web site.

WSDOT reserves the right to ask for additional qualifying information, conduct interviews and/or select the highest scoring consultant(s) from the written submittals received as a result of this RFQ. If a secondary process is deemed necessary, final selection from short listed firms shall be made based upon:

- Interview/additional qualifying information scoring only.
- Combined results of the submittal and the interview/additional qualifying information scoring.

Note: It is imperative that the consultant reviews the definitions of the scoring criteria. We have included requirements and/or limitations for the information that is being requested. Scoring criteria 8 and 9 will not be scored, but are considered non-responsive if not addressed as instructed.

Submittals

Consultants are invited to submit their Statement of Qualifications (SOQ) at their own cost. WSDOT assumes no obligation of any kind for expenses incurred by any respondent to this solicitation. The submittal must be submitted as separate Adobe Reader compatible (pdf) files and formatted as follows:

- Submitted as an 8.5" x 11" sheet, single sided only, and with text (font) size no smaller than 12 points;
- If charts and/or graphs are utilized text (font) size must be no smaller than 8 points;
- Submittal is NOT password protected.
- Submitted as ADA accessible. ADA and documents for the web can be found: <https://wsdot.wa.gov/communications/web-toolkit/standards/accessibility>. All documents need to be

tagged, have the correct document properties, correct reading order and all figures, images, graphics need to have alternative text added.

Your SOQ must be broken into two (2) separate packets. Your SOQ “Packet A” must consist of:

- Responses to scoring Criteria 1 through 8; and
- Packet “A” is limited to 30 pages, single sided only, not including the front and back cover.

Your SOQ “Packet B” must consist of:

- Letter of transmittal;
- Response to scoring criteria 9, through 13. The (Performance Evaluations must be included in this packet);
- Consultant Information forms for both the Prime Consultant and all proposed Sub-Consultants;
- Completed “Contractor Certification - Workers' Rights” forms for both the Prime Consultant and all proposed Sub-Consultants;
- Completed “Wage Theft Prevention Contractor Certification - Professional Services” forms for both the Prime Consultant and all proposed Sub-Consultants;
- Packet “B” has no page number limitations.

The SOQ shall meet the following requirements or will be deemed non-responsive and will not be eligible for consideration of this work:

- Title of the RFQ and your firm clearly identified on the cover of the submittal Packets “A” and “B”, and the letter of transmittal;
- SOQ broken into “Packet A” and “Packet B” (two (2) separate documents) as indicated above;
- Responsive to all evaluation criteria;
- Inclusion of complete DBE participation documentation requirements
  - DBE Written Confirmation forms ([Form 226-016](#)); and
  - Good Faith Effort documentation, if applicable.
- Meeting page limitations and font size requirements; and
- Meeting submittal deadline submission date and time.

Faxed submittals will not be accepted. Submittals must arrive at the following email address no later than 4:00 p.m. PST on Tuesday, February 1, 2022.

Submittal email address: [CSOSubmittals@wsdot.wa.gov](mailto:CSOSubmittals@wsdot.wa.gov)

Note: Submitters may want to consider setting your email to automatically receive a “Delivery/Read Receipt” for confirmation purposes, as WSDOT will not respond with notification of receipt.

Multiple emails are acceptable due to file size limitations of 10mb per email.

The Consultant, with regard to the work performed during the resulting agreement, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants,

including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR Section 21.

The agreement for services is subject to provisions of Executive Order 11246 (Affirmative Action to Ensure Equal Employment Opportunity) and to the provisions of the Department of Transportation Regulations 49 CFR 26 (Disadvantaged Business Enterprise.)

Vaccine Mandate Statement:

In light of the COVID-19 pandemic, Washington State Governor Jay Inslee has issued a Proclamation directing mandatory vaccination for all cabinet agency state employees, which includes WSDOT. This requirement extends to contractors who may be physically present on WSDOT owned, leased, or controlled property and right-of-way in the conduct of their work. Contractors will need to acknowledge, in writing, their acceptance of these terms as a condition of the contract. Please note that WSDOT has elected to implement the “Path Two” option within the Governor’s Vaccination Proclamation requirements. Under Path Two, contractors are required to assume responsibility for the vaccination verification and accommodation requirements set forth in the Proclamation. Therefore, WSDOT contractors must certify that all employees of the contractor, and employees of any subcontractors, working “on site” comply with the terms and requirements of the Vaccine Mandate Proclamation. The mandate only applies to contract employees who are physically present on WSDOT property and does not apply to contractors working from locations which are not considered “on site.” The Governor’s Office has created a [resource website](#) that contains FAQ’s and information for complying with [Proclamation 21-14.1](#).

Protest Procedures

A. Form and Substance

All protests regarding any contents or portion of this RFQ must be submitted to WSDOT Headquarters Consultant Services Office (CSO) as soon as possible after the Proposer/protestant becomes aware of the reason(s) for the protest. All protests must be in writing and signed by the Proposer/protestant or an authorized agent. Such writing must state all facts and arguments on which the Proposer/protestant is relying as the basis for its action. Such Proposer/protestant shall also attach, or supply on demand by CSO, any relevant exhibits referenced in the writing. Copies of all protests and exhibits shall be mailed or delivered by the Proposer/protestant to the Proposer against whom the protest is made (if any) at the same time such protest and exhibits are submitted to CSO. All protests shall be directed to:

Manager, Consultant Services Office  
Washington State Department of Transportation  
310 Maple Park Avenue SE  
PO Box 47323  
Olympia, WA 98504-7323  
Phone: 360-705-7106  
Fax: 360-705-6838

B. Pre-Selection Protests

To allow sufficient response time, all pre-selection protests (i.e., prior to CSO's official selection of the successful proposal(s)) must be received by CSO no later than 3:00 p.m. PST of the second business day after the Final Proposal Due Date. If the protest is mailed after the Final Proposal Due Date, and before the pre-selection protest deadline, the Proposer/protestant shall immediately notify CSO's Manager by telephone, or some other means of rapid communication, that a protest has been made.

CSO shall consider all the facts available to it, and issue a decision in writing within five (5) business days after receipt of the protest, unless more time is needed. The Proposer/protestant and the Proposer(s) against whom the protest is made will be notified if a longer time is necessary and, if the additional time required affects the Final Proposal Due Date or the selection date, all Proposers shall be notified.

CSO's decision shall be final and conclusive. Selection of the successful Proposer, if any, will be postponed until after CSO has issued its decision.

#### C. Post-Selection Protests

CSO shall notify all unsuccessful Proposers of CSO's selection decision. To allow sufficient response time, all post-selection protests must be received by CSO no later than 3:00 p.m. PST of the second business day after receipt of a Non-Selection Notice. If the protest is mailed before the post selection protest deadline, the Proposer/protestant shall immediately notify CSO's Manager by telephone, or some other means of rapid communication, that a protest has been made.

CSO shall consider all the facts available to it, and issue a decision in writing within five (5) business days after receipt of the protest, unless more time is needed. The Proposer/protestant and the Proposer(s) against whom the protest is made will be notified if a longer time is necessary and, if the additional time required affects the Award Date, all Proposers will be notified.

CSO's decision shall be conclusive unless appeal from it is taken by an aggrieved firm to the Superior Court of Thurston County within five (5) calendar days after receiving notice of CSO's decision on the protest. The court shall hear any such appeal on CSO's administrative record for the project. The court may affirm CSO's decision, or it may reverse the decision if it determines the action of CSO was arbitrary and capricious.

Post-selection protests which do not comply with the above-specified procedures will not be considered.

#### D. Post-Debrief Protests

To allow sufficient response time, all post-debrief protests must be received by CSO no later than 3:00 p.m. PST of the second (2<sup>nd</sup>) business day following the debrief. If the protest is mailed before the Post-Debrief protest deadline, the Proposer/protestant shall immediately notify CSO's Manager by telephone, or some other means of rapid communication, that a protest has been made.

CSO shall consider all the facts available to it, and issue a decision in writing within five (5) business days after receipt of the protest, unless more time is needed. The Proposer/protestant and the Proposer(s) against whom the protest is made will be notified if a longer time is necessary and, if the



additional time required affects the Final Proposal Due Date or the selection date, all Proposers shall be notified.

CSO's decision shall be final and conclusive. Selection of the successful Proposer, if any, will be postponed until after CSO has issued its decision

System for Award Management (SAM) Excluded Parties Records

- A. Per federal regulations, CSO is required to ensure, to the best of its knowledge and belief, that none of the principals, affiliates, third party Contractors and subcontractors are suspended, debarred, ineligible or voluntarily excluded from participation in federally assisted transactions or procurements. Federal regulations require CSO to review records of excluded parties in the federal System for Award Management (SAM) before entering into any third party Contracts exceeding \$25,000.00.
- B. Prior to award of a federally funded Contract, CSO will search the SAM system to ensure that excluded parties do not participate in covered transactions. A copy of the SAM search page evidencing such search will be retained in the Contract file.
- C. To learn more about the federal SAM, go to [www.sam.gov/portal/public/SAM/](http://www.sam.gov/portal/public/SAM/).

Public Records

Any information contained in the response that is proprietary or confidential must be clearly designated. Marking of the entire submission as proprietary or confidential may be rejected as non-responsive.

To the extent consistent with chapter 42.56 RCW, the Public Disclosure Act, WSDOT shall maintain the confidentiality of Consultant's information marked confidential or proprietary. If a request is made to view Consultant's proprietary information, WSDOT will notify Consultant of the request and of the date that the records will be released to the requester unless Consultant obtains a court order enjoining that disclosure. If Consultant fails to obtain the court order enjoining disclosure, WSDOT will release the requested information on the date specified.

WSDOT's sole responsibility shall be limited to maintaining the above data in a secure area and to notify Consultant of any request(s) for disclosure for so long as WSDOT retains Consultant's information in WSDOT records per state law. Failure to so label such materials or failure to timely respond after notice of request for public disclosure has been given shall be deemed a waiver by Consultant of any claim that such materials are exempt from disclosure. WSDOT reserves the right, if it deems action to be in the best interest of WSDOT, to reject any and all submittals or to waive any irregularities or informalities therein. Any incomplete, false or misleading information provided by or through the Consultant shall be grounds for non-consideration. If submittals are rejected, WSDOT further reserves the right to investigate and negotiate with the next ranked Consultant in order of ranking or to reject all Consultants and re-solicit for additional firms.

Any questions regarding this RFQ should be directed to WSDOT's Headquarters Consultant Services Office.

Americans with Disabilities Act (ADA) Information

This material can be made available in an alternate format by emailing the WSDOT Diversity/ADA Affairs team at [wsdotada@wsdot.wa.gov](mailto:wsdotada@wsdot.wa.gov) or by calling toll free 1-800-362-4ADA(4232). Persons who are deaf or hard of hearing may make a request by calling the Washington State Relay at 711.

*Title VI Statement to Public*

It is the Washington State Department of Transportation's (WSDOT) policy to assure that no person shall, on the grounds of race, color, national origin or sex, as provided by the Title VI of the Civil Rights Act of 1964, be excluded from participation in, be denied the benefits of, or be otherwise discriminated against under any of its federally funded programs and activities. Any person, who believes his /her Title VI protection has been violated, may file a complaint with WSDOT's Office of Equal Opportunity (OEO). For additional information regarding Title VI complaint procedures and/or information regarding our non-discrimination obligations, please contact OEO's Title VI Coordinators: Eastern Washington at 509-324-6018; or Western Washington at 360-705-7082.

Dates of publication in the Seattle Daily Journal of Commerce: Tuesday, January 11, 2022 and Tuesday, January 18, 2022.

Submittal Due Date and Time: 4:00 p.m. PST on Tuesday, February 1, 2022.