



CENTER FOR
ECONOMIC AND
BUSINESS RESEARCH

Washington State Contracting – Bonding Study

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Overview

The 2022 WSDOT Contractor Survey (Survey) is a collaboration between the Washington State Department of Transportation and the Center for Economic and Business Research (The Center) to collect information regarding contracting with small businesses.

The goal of this research is to evaluate requirements placed on subcontractors regarding bonding, insurance, retainage, and indemnification requirements as well as barriers concerning under-represented firms that decrease their participation with WSDOT.

About the Authors

The Center for Economic and Business Research is an outreach center at Western Washington University located within the College of Business and Economics. In addition to publishing the Puget Sound Economic Forecaster, the Center connects the resources found throughout the University to assist for-profit, non-profit, government agencies, quasi-government entities, and tribal communities in gathering and analyzing useful data to respond to specific questions. We use a number of collaborative approaches to help inform our clients so that they are better able to hold policy discussions and craft decisions.

The Center employs students, staff and faculty from across the University as well as outside resources to meet the individual needs of those we work with. Our work is based on academic approaches and rigor that not only provides a neutral analytical perspective but also provides applied learning opportunities. We focus on developing collaborative relationships with our clients and not simply delivering an end product.

The approaches we utilize are insightful, useful, and are all a part of the debate surrounding the topics we explore; however, none are absolutely fail-safe. Data, by nature, is challenged by how it is collected and how it is leveraged with other data sources. Following only one approach without deviation is ill-advised. We provide a variety of insights within our work – not only on the topic at hand but also the resources (data) that inform that topic.

We are always seeking opportunities to bring the strengths of Western Washington University to fruition within our region. If you have a need for analysis work or comments on this report, we encourage you to contact us at 360-650-3909 or by email at cebr@wwu.edu.

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Introduction

The Washington State Department of Transportation is interested in evaluating their prime and subcontractor bonding, insurance, and retainage requirements to assist in determining if there are options that might ease the burden on small businesses to engage with the agency as either a prime or subcontractor.

A survey was sent to current and past prime and sub-contractors that were identified in WSDOT's database of contractors, as well as contractors throughout Washington State that have not worked with WSDOT in the past. The survey aimed to understand the potential barriers and experiences for contractors and consultants within and outside of WSDOT.

The survey results are divided into three different sections. The first is for prime and subcontractors who had previous experience working for WSDOT, the second is for prime and sub-contractors that had not previously worked for WSDOT but had bid on a previous project, and the third section is for prime and sub-contractors who had not previously worked for WSDOT and had never bid on a previous WSDOT project. Data analysis and visual graphics are displayed for each question in the survey.

Survey Methodology

Participants received a survey, generated through Qualtrics, with questions meant to record sentiment and perception regarding past experiences, or lack of experience, with WSDOT as either a contractor, sub-contractor, consultant, or sub-consultant. Demographic information was collected to understand whether these factors affect contractors' or consultants' ability to secure bids on WSDOT projects.

Respondents were provided a survey introduction explaining the meaning and background of this research. The survey covers the parameters of the Scope of Work, as provided by WSDOT, and was reviewed by The Center for Economic and Business Research and WSDOT carefully, before launching the survey.

WSDOT provided a contact list of contractors and consultants that have either worked for WSDOT in the past, have applied for a project at WSDOT and were denied, or have never applied or worked with WSDOT on a project. The Center collected additional contractor contact information from various resources. Based on their relationship with WSDOT, respondents answered questions that can provide insight into any preferences or perceived barriers of entry in WSDOT's hiring process.

Respondents received multiple invitations to respond to the survey. The Center sent out initial emails describing the reason they were chosen to participate and the survey link, followed by two reminder emails within a week and a half time period. Respondents were also able to skip questions at their discretion, therefore the total number of responses varies between questions.

Key Findings from Survey

Previously Worked for WSDOT

Demographics:

- These respondents accounted for 92 percent of the total survey respondents
 - 39 percent prime contractors
 - 53 percent subcontractors
- 27 percent of these respondents identified as either minority-owned, woman-owned, or veteran-owned

Positive Responses About Requirements:

- More than half of the respondent were able to meet the bonding, retainage, and insurance requirements quickly and without any issue (52 percent)
- 89 percent of respondents reported no problem having sufficient experience to work for WSDOT
- 70 percent of respondents reported encountering no barriers securing bonding, retainage, and insurance requirements
- 61 percent of respondents were able to attain these bonding, retainage, insurance and experience requirements within a week
 - 89 percent were able to attain these requirements within 3 weeks

Negative Responses About Requirements:

- 8 percent of respondents reported having many problems meeting the bonding, retainage, and insurance requirements for their WSDOT projects
- Composing the 30 percent of respondents who did report encountering barriers, 13 percent selected bonding, 10 percent selected retainage, and 7 percent selected insurance
- Bonding and retainage were brought up the most in the free response questions as issues
- 85 percent of respondents were unaware of resources available to them through WSDOT such as the Small Business Administration (SBA), Local Chamber of Commerce, USDA Resource Center, and the Local Economic Development Center

Has Not Worked for WSDOT (Has Previously Bid)

Positive Responses About Requirements:

- 86 percent of respondents had previously done a job that required a similar level of bonding, retainage, insurance, and/or experience for someone other than WSDOT

Negative Responses About Requirements:

- The firms that lack experience working with WSDOT disapprove of what they view as the high cost of insurance, claim the prequalification paperwork is overly stringent, and assert that retainage and payments are too delayed for small businesses
- 35 percent of firms who had not worked with WSDOT before said bonding requirements were the biggest barrier

Recommendations for Consideration

Issue 1: Large requirements can make it difficult for smaller firms. Sometimes WSDOT can have requirements for smaller sub-contracting firms that are too high and unnecessary for the size of work they are doing. This eliminates smaller firms and does not always allow for projects to have the 'best of the best' working on them.

Solution: Better delegation of projects. Giving large size projects to large firms, medium size projects to medium firms, and small size projects to small size firms. This would allow for more reasonable requirements for smaller firms on a smaller project.

Issue 2: Quicker return of retainage payments. Drawing out this payment process can severely hurt a small firm's cashflow, which affects their bonding and insurance.

Solution: Holding government agencies and prime contractors more accountable for late payments. Prime contractors are required to pay the sub-contractor once their portion of the project is complete, yet the sub-contractors in these focus groups reported still waiting far too long for payments once they held up their end of the contract.

Issue 3: Difficulty for new firms to get their foot in the door. In a lot of instances, primes like to stick with the same sub-contracting firms for project repeatedly due to familiarity. It can be time consuming for them to try and build relationships with new firms.

Solution: Incentivize prime contractors to hire new firms. In addition, breaking up the required DBE percentage for a project into multiple areas instead of just one.

Issue 4: Communication surrounding requirements is sometimes misunderstood by engineers.

Solution: Having a packet of information (provided by prime contractors) for specific projects encapsulating all paperwork and forms, requirements, and scope of work, would make it easier for sub-contractors and engineers to know what is being asked of each other.

Cross – Tabulating

From the three sections that are broken down in this survey, there are some overlapping questions that can further explain who is experiencing what barriers. We will be cross tabulating Question 6 with Question 7 and 17 to show the results of further questions that emerged from the results of the survey:

1. Did previous experience obtaining bonding, retainage, insurance forecast a difficulty in obtaining bonding, retainage, insurance?

Question 7: Did you find that you encountered any barriers to securing bonding, retainage, insurance, and/or experience for your WSDOT project? From the list below, check all that reflect your experience in the past three years.

Question 6: Was getting access to a required amount of bonding, retainage, and/or insurance something you've done before working for WSDOT?

	Total	Yes	No
	121	99	22
Bonding	17	13	4
	14.0%	13.1%	18.2%
Retainage	13	8	5
	10.7%	8.1%	22.7%
Insurance	10	10	0
	8.3%	10.1%	0.0%
No, I had no problem securing bonding, retainage, or insurance requirements	92	76	16
	76.0%	76.8%	72.7%

The people who answered no had not obtained bonding, retainage, and/or insurance for previous contracting projects. 22 people fit this description. The other 99 responders had obtained these requirements previously, and 31.3% said they experienced barriers within WSDOT. Bonding was selected the most out of the barrier options representing 13.1%. Because 82% of people said they had experience obtaining these requirements, it does not appear that experience is a significant indicator of barriers for obtaining these requirements.

2. How were the under-represented firms affected by a lack of experience obtaining bonding, retainage, insurance?

**Question 17: Do you identify as minority-owned, woman-owned, or veteran-owned?
Please select all that apply.**

Question 6: Was getting access to a required amount of bonding, retainage, and/or insurance something you've done before working for WSDOT?

	Total	Yes	No
	46	36	10
Minority-owned	35	28	7
	76.1%	77.8%	70.0%
Woman-owned	15	12	3
	32.6%	33.3%	30.0%
Veteran-owned	11	7	4
	23.9%	19.4%	40.0%

The total amount of responders that identified as minority-owned, woman-owned, and veteran-owned who answered question 6 was 46 out of a total of 121 responders. Out of those 46 responders, 36 said that they had been required to access bonding, retainage, and/or insurance for previous contracting work outside of WSDOT. Minority-owned businesses had the highest percentage out of 10 responders who said they had not needed these requirements.

Focus Group Feedback

Topic 1: Introductions

We facilitated focus groups to allow people who have previous experience working with WSDOT to have the ability to speak freely about their opinions and build off other participants' points. The focus groups we conducted were split into three different sessions and each participant represented a specialized firm. The first group was composed of three subcontractors, the second group had one prime contractor, and the last group had four underrepresented contractors. This allowed for a wide diversity of perspectives and opinions on WSDOT and their requirements with regards to bonding, insurance, and retainage.

Topic 2: Current Perceptions

Question 1: "When I say that contracting for WSDOT requires specific levels or amounts of insurance how well would you say you understand the options that exist for your company to secure such insurance?"

The sub-contractor firms felt mostly knowledgeable about insurance, bonding, and retainage requirements. While some did not have to deal with all these requirements personally, they all at least seemed to have a grasp of the concepts. The prime contractor firm has had very little experience with bonding and insurance but does have some with retainage. The underrepresented firms had good knowledge of insurance, but they were overall a little less confident in bonding and retainage.

Question 2: "I am wondering how much of an issue these are from your vantage point. Using a 5-point scale how much of an issue are these to securing work with WSDOT from your perspective?"

The issues that we prompted the participants to discuss were bonding, insurance, and retainage. One major issue that was discussed by the sub-contractor group was that bonding requirements are not friendly to small companies. This comes from the fact that "WSDOT likes to treat everyone as if they're the prime even if they are subs". This makes it difficult for small companies who do not have the same resources as larger primes to be able to qualify for projects. In addition, one participant mentioned that while some primes do the honorable thing, some primes "try and keep their hands clean" by putting all the risks on to the subs. Once again, this can be very disadvantageous for smaller sub-contracting companies that simply cannot afford to hold some of these large bonding and insurance policies. Another participant reported being required to hold a \$10 million dollar insurance policy for a \$50,000 project. These large requirements for small projects are beginning to eliminate smaller firms from qualifying for WSDOT projects.

The underrepresented firms also agreed that insurance and bonding requirements can simply be too expensive at times. For them retainage was the most addressed requirement that was an issue. For some of the participants, it takes far too long for them to be paid by the prime contractor once their portion of the project is completed. They reported primes waiting till the whole project is complete to pay the sub-contractor, when WSDOT specifically says that subcontractors should get paid once their portion of the project is complete.

Notable Quotes:

"You'll have good primes on both sides and bad primes. Bad primes push all the risk on all their subs, and basically try to keep their hands clean."

- Sub-Contractor, On issues with primes

"The new wrinkle is, there is pressure from it within the state, as well as on the Federal level to overlay project labor agreements and community workforce agreements on projects. If you do that on the smaller firms, you're starting to eliminate firms. 98% of the minority contractors in the United States are merit shop. They are not Union or signatory firms, and in Washington State that that is definitely the case as well."

- Sub-Contractor, On eliminating small firms

"I think the concern with WSDOT has always been probably paperwork related."

- Prime Contractor, On administrative burden

"You know the burden, both on the front end for identifying and kind of qualifying for projects, and then through the project, the startup phase has been kind of a volume and depth of submittals and so I think the administrative burden is what I hear people negatively comment on most. It can be hard to identify projects that you are actually qualified for."

- Prime Contractor, On most common complaint for WSDOT

"You have to be skeptical of the prime contractors that you're working with on retainage, because they might try to withhold your retainage until the end of the project."

- Underrepresented contractor, On issues with primes

"Insurance is inflated. So, I mean it's just a problem, monetarily wise. You don't get a benefit for not putting any claims in or anything, you know. It still goes up every year."

- Underrepresented contractor, On price of insurance

"They often will clump things together that don't seem like they should belong together."

- Underrepresented contractor, On clumping things together

Topic 3: Barriers

Question 1: "If I asked you to name the top 3 barriers for securing work as either a WSDOT prime or subcontractor what would you identify in your list?"

The participants were then asked to name the top 3 barriers for securing work as either a WSDOT prime or subcontractor. For the subcontractor group the biggest barriers discussed were a shortage of skilled labor, a disconnect between appropriately matching the size of a project to the size of a firm and taking too long to receive retainage payments. The most agreed upon of those three were the length of time it takes to receive retainage payments, which is beginning to look like a common issue among contractors for WSDOT. Some reported having to wait up to 6 months to receive this payment, with a record wait time of 2 years. This severely hurts the businesses cashflow.

Some participants from the underrepresented firm's group brought up similar barriers with regards to the withholding period of retainage payments. They explained how this makes it take so long to earn a profit. Many of these smaller businesses do not have as large of a margin of error as bigger prime

contractors. Some mentioned that working with primes for longer speeds up this payment process, but for smaller subs trying to get their foot in the door, this process can be very difficult. This is because “once a prime gets comfortable with a DBE (Disadvantaged Business Enterprise) they just stick with that DBE like clockwork”. Again, this makes it hard for new companies to get their foot in the door.

The prime contractor group acknowledged the difficulties for small firms as they acknowledged that many projects are designed for larger firms. In addition, local geography is rarely considered with regards to choosing a company for a project but is “instead limited to 5 or so large primes regardless of location”. Furthermore, the economic model can be a challenge because the cost structure for a small firm is different, which “may hurt the perception of profitability.”

Notable Quotes:

“One issue is access to capital...and that is because of the continuous discrimination that minority and women businesses still encounter, particularly in construction, and trying to get financing. Even the bonding industry, the difference in the payments for bonding insurance, and all that is problematic for minority women businesses.”

- Sub-Contractor, On issues for woman and minority owned businesses

“So, if you have a retainage bond, you're only at 5 (percent). But if you can't swing a retainage bond in construction that prime will withhold an additional 5, so now they're holding 10% of your money, and if your contract was \$100,000 and you were at the front end, you're waiting years to get your remaining \$10,000, and if you're on multiple projects like that you can have a firm that can have 1 million dollars in retainage, waiting for their money. Now that affects their bonding, it affects their insurance because it affects their cash flow.”

- Sub-Contractor, On issues with retainage

“L&I does not have sufficient staff to process the retainage requirements timely. They're supposed to have that done within 30 days of receipt and you have people who sometimes can wait up to 2 years before L&I finally finishes the paperwork. It's currently averaging about 6 months out.”

- Sub-Contractor, On issues with retainage

“Nobody is talking to the legislature about making sure that it's properly being executed, and frankly L&I should be paying interest to anyone and everyone that they're late on in the statute that we have here in Washington State, if its agency is late paying within 30 days. If the prime is late paying to the sub 30 days, everybody gets to collect and trust. Government agencies don't pay within 30 days, and they don't pay the interest...it should be automatic. And so, there's this whole chain of people, you know, not being held accountable, by the Government agency.”

- Sub-Contractor, On government not being held accountable

“So, it's big projects set up to be pursued by big contractors. I think that that many of the projects don't target the kind of local geography and local contractor population that may be available to perform at work that on many WSDOT projects. Again, because of their size, scale, complexity, and price are really going to be narrowed down to 5 large contractors that have home offices in Western Washington. It doesn't matter if your project is sitting in, you know, small town, central, Eastern Washington. It still has the likelihood of being one of those large primes which you know have identified and processes by which they can be efficient, responding to the paper or burden at, you know, a profitability that allows them to continue moving forward.”

- Prime Contractor, On difficulty for firms getting projects

"I think the other thing that's kind of interesting from a small firm perspective, is my cost structure is going to be different, and so I think the perception of profitability in some respects is much more difficult to achieve in a smaller, firm perspective."

- Prime Contractor, On profitability for a smaller firm

"If I were a salaried employee if I work overtime now every overtime hour that I've used on my project has a depressed value, right? Because now I'm taking my base salary costs, and I'm spreading the costs. Not 40 hours of typical work, but perhaps 60 hours. And so, I've just resulted in a diminished individual value."

- Prime Contractor, On diminished value for smaller firm

"The economic model is a challenge under state contracting."

- Prime Contractor, On challenges of economic model

"And then the other thing I would probably list would be this- the structure of the payment, meaning that it takes so long to get your money back and your profit... And you have to be able to cover your costs until you get there."

- Underrepresented Contractor, On issues with retainage

"My experience, too, is working with prime contractors as a new subcontractor with them. They do draw it out like paying you and everything. But once you have a relationship like that with them, they know that they can count on you, I've noticed that it comes a lot quicker if you're doing multiple contracts with like the same prime, and you're dealing with their estimators and everything like that, you know, when the years of experience with them, then the payment comes in like clockwork."

- Underrepresented Contractor, On receiving retainage payment

"If there was some sort of shuffle system that say, no, you need to reach out and do a new one after that, you know."

- Underrepresented Contractor, On primes sticking with the same subs

"I think part of the problem is, too, is the time it takes to bid some of these projects... the time it takes to ensure you hit every possible scenario where you could, you know, make or lose money when you only have so much time to bid the work... So sometimes these you know, 1,000-page books are a little intimidating, and we have to be very careful you know, to pick and choose our projects with our specific primes, because we know they review that information for us, and all we have to do is do it work? You know they're kind of helping us through that process, because it's just too much to keep track of."

- Underrepresented Contractor, On administrative burden

Question 2: "In thinking about the potential barriers how do you think some businesses may find these especially challenging?"

The prime contractor group talked about how startups are going to have a difficult time dealing with insurance and getting reasonable rates. In addition, they might struggle with bonding because contract performance is what it is based on, "which is difficult for companies with not a lot of public work". In addition, finding project opportunities can be difficult. This is because "true large primes are disincentivized because it's not worth it for them to train and build relationships with new small firms, which could be woman or minority owned".

The underrepresented firms section also discussed possible difficulties for newly formed businesses. They mentioned how even once you become DBE certified “there is no playbook for what to do”. There is a long figuring out process that can be difficult to navigate. Furthermore, WSDOT projects have a lot of hidden requirements in them that need to be carefully examined. One participant described being a new contractor as “being put through the ringer” with the potential risk of absorbing financial hits early on.

Notable Quotes:

“I think startups are always going to have an interesting challenge when it comes to insurance, because they simply may not be able to qualify for insurance coverage at reasonable rates.”

- Prime Contractor, On struggles for start-ups

“Bonding is a relatively easy process to get in. But again, the bonding companies are all going to look at your contract performance, and if you don't have a contract performance to base on, the only thing they can do is that premium.”

- Prime Contractor, On struggles for start-ups

“It's always difficult to fill out your first iteration of a new form. Even the degree to which we all think we can do well and generate good, clear, simple forms. They're never as clear and as simple as we might like, and so there's always an administrative burden that comes up.”

- Prime Contractor, On administrative burden

“I think we all face a difficulty of understanding where the project opportunities are and where the project opportunities could fit... you know there are obligations to get out for the true large primes that try to solicit a group of qualified partners in different disciplines. But the reality is we all get to a point where, if we've had success with one project, we're less likely to go pursue with a different project partner.”

- Prime Contractor, On difficulty for new firms

“And yet again a true large prime is disincentivized to do that because they don't want to spend the time and effort to develop new relationships if they have good successful relationships already in place.”

- Prime Contractor, On difficulty for smaller firms

“I do think as a new contractor, if you came into, you know, some of these public works contracts just green, and having no experience at all, I think you would be put through the ringer. There's a lot of hidden requirements... if you start with a big project you're going to be burned, you know. Usually, you try to learn those lessons with the smaller guys so your losses are a little bit less.”

- Underrepresented Contractor, On early struggles for new companies

Question 3: "I am curious about why you think WSDOT has their specific retainage requirements?"

While there was little discussion when asked about why WSDOT has these specific requirements, some responses mentioned that retainage makes sense to some degree on public projects. One participant from the underrepresented firms group believed WSDOT uses it as a source of control, especially over smaller contractors that are so 'ecstatic' to be on the project. They said that "the retainage to me is just like a little thing of control, like where they would rather keep the money in their bank account, you know, instead of giving it to you to earn interest on."

Notable Quotes:

"Control. They just want to have, you know, control over you, I guess, because for the most part there. I would assume for most industries the retainages like, I mean for you to even get put on the project as a subcontractor. You're ecstatic, nonetheless, and you want to perform the work the best you can, because you know how few and far between the opportunities may come. So, for them to hold the retainage over you as well. You're like, hey? We're already, you know, going above and beyond the you know the mentality have of wanting to perform stellar work. So, the retainage to me is just like a little thing of control, like where they would rather keep the money in their bank account, you know, instead of giving it to you to earn interest on."

- Underrepresented Contractor, Why does WSDOT require retainage

Question 4: "If you had a magic wand to address these challenges with securing work as either a prime or subcontractor for WSDOT projects what would you do?"

The final question of this section was how you would address these challenges if you had the chance. This became a popular topic of discussion for all three groups. Starting with the sub-contractors, the idea of having different insurance requirements for primes and subs was mentioned. Another idea that was discussed in some length was better support services, specifically for minority/woman owned businesses. One representative said that the programs as currently modeled are not set up to actually provide a service.

The prime contractor group discussed having better delegation of projects. This includes properly matching the size of the project to the size of the contractor and not overloading smaller firms with overwhelmingly large projects.

The underrepresented firms group floated many ideas to address these challenges. The main ones included: consistent bid styles for the scope, more diversity in who primes choose as subcontractors, and better communication and more transparency. An issue discussed heavily was prime contractors using the same sub-contractors over and over again for every project. Once again, this makes it difficult for new businesses to get their foot in the door. One suggestion was forcing projects to get their percentage of DBE in multiple areas of the project, and not just getting it all in one area.

Notable Quotes:

"There should be some more guidance for primes in terms of conditions that they place on the subcontractors, streamlining the number of bonds or bond processes."

- Sub-Contractor, On more guidance for subcontractors

"I think also for the insurance requirements that they can be different for the prime and the sub, because if the prime is taking on 10 million dollars of work, and I'm only doing \$50,000 of analysis or review of their work, I shouldn't have to have the same insurance requirement."

- Sub-Contractor, On different requirements for primes and subs

"I think the sad thing about all of this, and this is the sad thing is how many projects miss out on the opportunity of getting the best of the best because of over regulation because that's really what it is."

- Sun Contractor, On over regulation

"I think you need to grade out some smaller projects of these are medium projects, and we're going to set these up to be achieved by medium contractors with medium risk, etc. Then again, these are small contractors with small risk small contracts, small risks, small time frames and we need to set those aside for new and developing or small firms. So, I think a better gradation of project would be valuable."

- Prime Contractor, On better division of projects

"I think they should break it down that DBE goal like separate the goal. Maybe this might be a good idea. Separate the goal if it's a highway project, you know, say, okay, DBE, you got to use 10 of DBE on this project. But then break down that 10% say maybe only 5% can go to traffic control, and then you have to get your remaining DBE elsewhere, like as in trucking."

- Underrepresented Contractor, On better distribution of meeting DBE requirements

Topic 4: Support

Question 1: "As you create a bid for a project have you ever looked for assistance from any websites or organizations in meeting some of the requirements such as bonding, insurance, retainage, etc.?"

The only response generated from this question, outside of the Small Business Administration (SBA) and the Washington Procurement Technical Assistance Center (PTAC), was from a contractor from the underrepresented group who said the DBE Support Service Program for web design and accounting offered helpful classes.

Notable Quotes:

"Good prime-contractor relations is where I have learned the most about insurance, retainage, and bonding."

- Underrepresented Contractor, On understanding requirement information

Question 2: "Has anyone looked at the WSDOT web site for contractor resources?"

The subcontractor group responded to this question the most. When asking this group about the WSDOT website, they expressed the need for more direct links to accounting and bidding forms. None of them visited the site generally because it was easier for them to look back through emails to find specific links than sift through the website. This was expressed as a barrier for smaller firms in terms of general support services because these firms are already competing with bigger firms financially who have more experience.

In addition, none of the members of the underrepresented firms nor the prime contractor reported using the WSDOT website for anything other than occasional bidding opportunities

Notable Quotes:

"Having a packet of information (instructions, form links, examples) for subcontractors that laid out On-Call, MPA, Overhead Audit, and Anti-Table Review contracts would be nice. It took us a while to figure out the difference for all of these and how they applied specifically to our scope of work."

- Subcontractor, On suggestion for WSDOT website

"If I were to go to a bid, I would want a link to the forms (from the Prime) that relate to that specific bid. I would like to know the specific requirements that WSDOT needs done before I can even think about working on a specific project, what I need to do the bid part, and all the documentation I would need if I win that bid."

- Subcontractor, On suggestion for WSDOT website

Question 3: "Has anyone looked at the SBA or an organization such as PTCA or any others for assistance with meeting requirements?"

As far as other support services, there was only one participant in the subcontractor group who could speak on experiences with the SBA and PTAC. This participant stressed that non-profit support services are not helpful and that PTAC is not as focused as it should be. The constructive feedback we heard regarding Washington's Electronic Bidding System (WEBS), PTAC, and SBA is addressed in the Notable Quotes section.

With regards to the prime contractor group, in terms of a support system, this prime participant had ties with PTAC but never reached out to SBA services. One of the underrepresented firms in boat manufacturing shared that being specialized in this particular business made finding primes a lot easier and carried his business to 8+ years of experience with the same pool of primes.

Notable Quotes:

"There are firms that don't want solicitations, so when consulting firms go to contact them in this system, they are blocked. I then have to contact the firm in other ways and ask them to go behind the scenes and do a print screen for me. They also don't use NAICS codes, and the commodity codes offered are too broad."

- Subcontractor, On online support services

"Most of PTAC classes are too generic, there are a few gems in there, but for example an instructor specializing in concrete work would be of no benefit to people working on drywall FAA or FTA projects. They use a 'universal' course for estimating and bidding, and that is a problem."

- Subcontractor, On workshop support services

"Registering with PTAC is too much of a time commitment. They require a lot of you."

- Underrepresented Contractor, On requirement assistance

"I am more interested in 8A (Program within SBA) than I would be with PTAC."

- Underrepresented Contractor, On requirement assistance

"Minority and Women-owned firms are affected by DBE services because the beneficiaries of these services are the small consulting firms that are given the money, and not the small firms who should be receiving the support services."

- Subcontractor, On online support services

"I think through these outreach [events] is the only way WSDOT can be successful. Outreach should also be done on a local level (Eastern Washington) because we don't bid for projects on the west side. Growing and developing my team would help with the onset burden. I would advocate for more regional offices. WSDOT could consider building pools of potential partners that differ every two-three year."

- Prime, On suggestions for WSDOT

Topic 5: Market Considerations

Questions 1 & 2: "In thinking about the variety of places you may do business, what are the differences between working with WSDOT and working with entities other than WSDOT? Other State agencies? Counties? Cities? Private Sector?"

When considering other markets for retainage, bonding, and insurance, participants from the subcontractor group said that there are not a lot of opportunities in construction. Furthermore, Universities tend to reach out to the same contractors, and Sound Transit and the Port of Seattle use On-Call too much and don't get back in a timely manner. Seattle Public Utilities was more favored over King County (poor relationship with primes and poor auditing) Responses targeted toward working with cities and counties on retainage contracts was more favored (1:19). In terms of utilizing outside resources from WSDOT, the prime contractor said that cities and counties offer more streamlined and focused projects.

When asked about experience working with other state agencies, one respondent from the underrepresented firms group explained how King County, Sound Transit, and Port of Seattle, all have their own payment structures that took time for his/her company to figure out, but they all pay in 30 days, whereas WSDOT's retainage process takes months to see insurance payment back. More pull quotes include:

When asking about private sector work experience, barriers that underrepresented firms run into is having to use a credit instrument such as loans, to help pay their suppliers in expensive resource areas like irrigation and boat manufacturing. The prime contractor experienced a relatively low paperwork burden when working in the private sector. The subcontractor groups said that private sector work is easier than working with the government because there are less requirements and insurance is more appropriately priced.

Notable Quotes:

"It depends on the agency and the actual people you are partnering with that makes contracting easier or harder, but it ultimately comes back to the payment structure. WSDOT isn't as timely and reliable to see money back."

- Subcontractor, On business relations

"I would like to have better communication with engineers, this is often where miscommunication or misunderstanding happens in the scope of work."

- Underrepresented Contractor, On communication

"In the last economic downturn, we needed to pull lines of credit just to keep projects going."

- Underrepresented Contractor, On expensive supplier requirements

"They are more flexible in their contract for scope, so that if we need to make changes in our modifications with the scope, I'm going to get paid the same rather than waiting on a change order that can take years to get paid on and that's one of the problems with WSDOT."

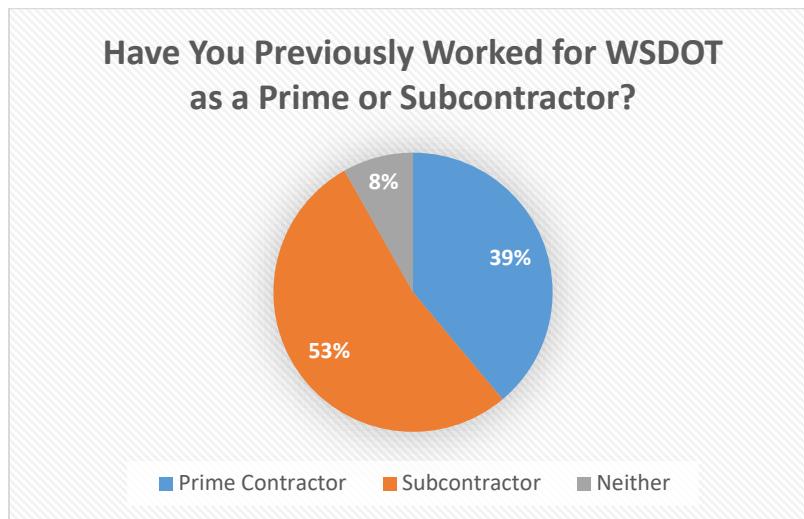
- Subcontractor, On working in the private sector

Survey Results

Q1: To begin our survey, we are interested in learning if your firm has worked on project(s) as either a prime or subcontractor for WSDOT in the past. (n=257)

Answer	WSDOT Survey Results	Count
Prime Contractor	38.91%	100
Subcontractor	52.92%	136
Neither a Prime Contractor nor a Subcontractor	8.17%	21
Totals	100%	257

Out of the 257 respondents to this survey, 92 percent of them had worked for WSDOT in the past. 39 percent of them had worked for WSDOT as a prime contractor, and 53 percent as a subcontractor. The remaining 8 percent of respondents had not previously worked for WSDOT as either a prime or subcontractor. 92 percent of respondents who had previously worked for WSDOT were given a different set of questions in comparison to those who had not.



Section I: Prime and subcontractors

This section focused on the respondents to this survey who had previously worked on a project for WSDOT as either a prime contractor or a subcontractor. In total there were 236 respondents who identified as this. The questions asked to these respondents centered around their type of work, their ability to complete bonding, insurance, and retainage requirements, and different barriers that may have been encountered during this process. The number of responses to these questions varied from 75 to 136. This low percentage of response rates compared to the response count to the first question shows that many respondents taking the survey ended it early or skipped several questions. The questions were in the form of multiple choice, including some that were 'select all that apply', and free response.

Q2: If your company is construction focused, which of the following types of work have you engaged with WSDOT on past projects? Please select all that apply. (n= 363)

Answer	Results	Ct.	Answer	Results	Ct.
Bridges and Structures	10.47%	38	High Friction Surface Treatment	1.10%	4
Asphalt Concrete Paving	7.16%	26	Concrete Restoration	0.83%	3
Clearing, Grubbing, Grading and Draining	4.96%	18	Steel Fabrication	0.83%	3
Erosion Control	3.58%	13	Street Cleaning	0.83%	3
Cement Concrete Curb and Gutter	3.31%	12	Ground Modification	0.83%	3
Demolition	3.31%	12	Painting	0.83%	3
Traffic Control	3.31%	12	Pavement Making (Excluding Painting)	0.83%	3
Buildings	3.03%	11	Electronics-Fiber Optic Based Communications System	0.83%	3
Concrete Sawing, Coring, and Grooving	2.75%	10	Ground Modification	0.83%	3
Landscaping	2.75%	10	Vessel Electrical Repairs	0.83%	3
Slope Protection	2.48%	9	Surveying	0.83%	3
Sewers and Water Mains	2.48%	9	Gabion and Gabion Construction	0.83%	3
Cement Concrete Paving	2.48%	9	Dry Docking and Hull Repairs	0.55%	2
Materials Transporting	2.48%	9	Intelligent Transportation Systems (ITS)	0.55%	2
None of these Options	2.38%	9	Wire Mesh Slope Protection	0.55%	2
Hazardous Waste Removal	2.20%	8	Mechanical	0.55%	2
Marine Work	1.93%	7	Paint Striping	0.55%	2
Engineering	1.65%	6	Production and Placing of Crushed Materials	0.55%	2
Concrete Surface Treatment and Finishes	1.65%	6	Pile Driving	0.55%	2
Guardrail	1.65%	6	Water Distribution and Irrigation	0.55%	2
Signing	1.65%	6	Earth Retention and Anchoring	0.55%	2
Vessel Construction and Renovation	1.65%	6	Impact Attenuators	0.55%	2
Asphalt Concrete Curb and Gutter	1.65%	6	Asbestos Abatements	0.28%	1
Bridge Deck Repair	1.65%	6	Sand Blasting and Steam Cleaning	0.28%	1
Traffic Signals	1.38%	5	Drilling and Blasting	0.28%	1
Bituminous Surface Treatment	1.38%	5	Tunnels and Shaft Excavation	0.28%	1
Concrete Structures Except Bridges	1.38%	5	Structural Tile Cleaning	0.00%	0
Riprap and Rock Walls	1.38%	5	Drilled Large Diameter Slurry Shafts	0.00%	0
Fencing	1.38%	5	Slurry Diaphragm and Cut-off Walls	0.00%	0
Vessel Miscellaneous Repairs	1.10%	4	Shafts	0.00%	0
Railroad Construction	1.10%	4	Well Drilling	0.00%	0
Illumination and General Electric	1.10%	4	Sewage Disposal	0.00%	0
Precast Median Barrier	1.10%	4			
Totals	100%	363			

This question prompted the respondents who had done construction work previously, to specify what type of work they've done for WSDOT. The question allowed them to select multiple answers, which explains the large response count. The most common types of work the respondents engaged in were bridges and structures (10 percent), asphalt concrete paving (7 percent), and clearing, grubbing, grading, and draining (5 percent). There were 65 options to choose from, 6 of which were not chosen once.

Q3: If your company is consulting focused, which of the following types of work have you engaged with WSDOT on past projects? (n = 63)

Answer	Results	Count	Answer	Results	Count
None of these Options	20.63%	13	Construction Management and Inspection Services	3.17%	2
Other Subconsultant Work	14.29%	9	Transportation Studies Services	3.17%	2
Construction Materials Testing Services	6.35%	4	Cost Risk Assessment and Risk Analysis Services	1	1.59%
Environmental Services	6.35%	4	Facilities Mechanical and Electrical Engineering Services	1	1.59%
Fish Passage Barrier Correction	6.35%	4	Subject Matter Expert (SME) Services	1	1.59%
Geotechnical	6.35%	4	Traffic Engineering Services	1	1.59%
Surveying Services	6.35%	4	Unstable Slopes	1	1.59%
Transportation Design Plans Specs and Estimate Services	6.35%	4	Value Engineering Services	1	1.59%
Naval Architecture and Marine Engineering Services	4.76%	3	WSF Terminal Design Engineering	1	1.59%
Structural Engineering Services	4.76%	3			
Totals	100%	63			

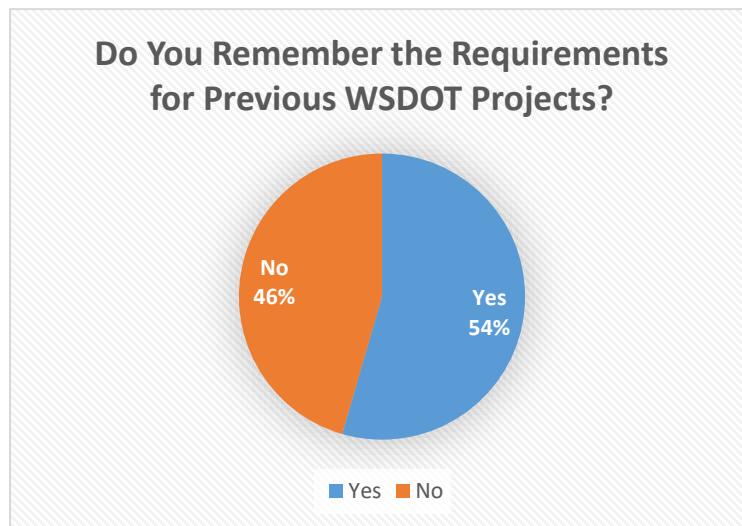
This question prompted the respondents who had previously done consulting work for WSDOT to specify which kinds of consulting they did. The question allowed the respondents to once again select multiple answers, however, the number of responses is much lower than the construction question. This implies that more of the respondents were involved in construction work, rather than consulting work. The most popular types of consulting work consisted of options that were not listed on this survey, with 21 percent of respondents saying that it was none of these options, and 14 percent saying it was other subconsultant work. Other popular consultant work was construction materials testing services, environmental services, and fish passage barrier correction.

Q4: Do you recall what the bonding, retainage, insurance, and experience requirements were for these projects with WSDOT? (n = 99)

Answer	Results	Count
Yes	54.55%	54
No	45.55%	45
Total	100%	99

More than half of respondents said that they recall what the bonding, insurance, and experience requirements were for their projects. The remaining 45.5 percent of respondents did not recall the requirements.

There were 99 responses to this question when there were 236 eligible respondents. Since 124 responses were gathered in the next question, we can assume that some respondents skipped this question. It is likely they did not recall or within their role did not interact with this component and were unable to provide an answer.

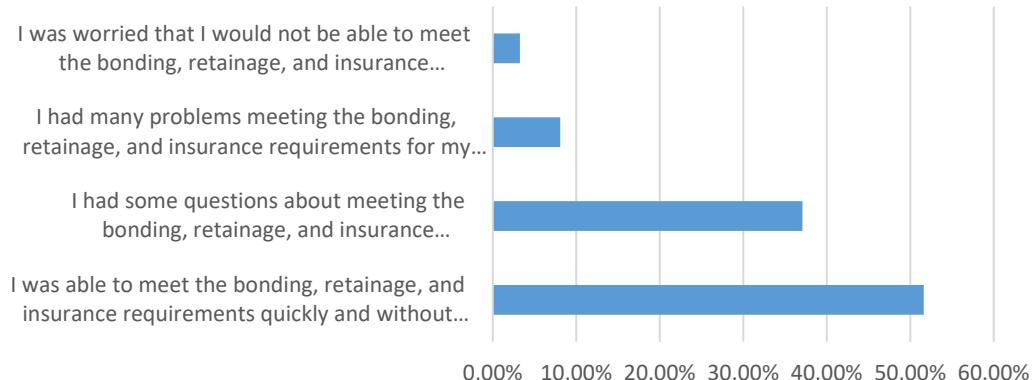


Q5: How would you describe the process of meeting the bonding, retainage, insurance, and/or experience requirement for your WSDOT project(s)? (n = 124)

Answer	Results	Count
I was able to meet the bonding, retainage, and insurance requirements quickly and without issue for my WSDOT project	51.61%	64
I had some questions about meeting the bonding, retainage, and insurance requirements for my WSDOT project, but was able to meet these requirements after my questions were answered	37.10%	46
I had many problems meeting the bonding, retainage, and insurance requirements for my WSDOT project	8.06%	10
I was worried that I would not be able to meet the bonding, retainage, and insurance requirements set by WSDOT for my project	3.23%	4
Totals	100%	124

With regards to the process of meeting WSDOT's requirements, over half of respondents were able to meet them quickly without any issues (51.6 percent). 37 percent had some initial questions but were able to get them answered quickly. The remaining 11 percent of respondents had many problems or were worried about not being able to meet the requirements.

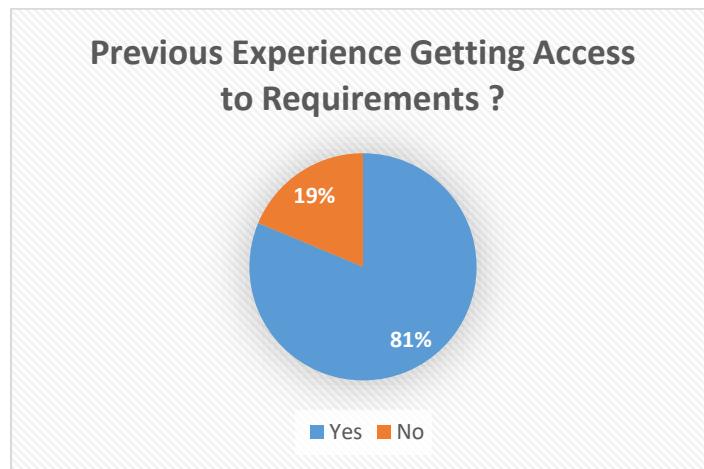
Meeting Requirements for WSDOT



Q6: Was getting access to a required amount of bonding, retainage, and/or insurance something you've done before working for WSDOT? (n = 123)

Answer	Results	Count
Yes	81.30%	100
No	18.70%	23
Totals	100%	123

81 percent of respondents reported having been required to meet bonding, retainage, and/or insurance requirements before working for WSDOT. These requirements are most likely very commonplace for contractors in the state of Washington.



Q7: Did you find that you encountered any barriers to securing bonding, retainage, insurance, and/or experience for your WSDOT project(s)? (n = 136)

Answer	Results	Count
Bonding	13.24%	18
Retainage	9.56%	13
Insurance	7.35%	10
No, I had no problem securing bonding, retainage, or insurance requirements	69.85%	95
Totals	100%	136

Most respondents reported encountering no barriers when attempting to secure bonding, retainage, insurance, and/or experience for WSDOT projects (70 percent). Of the remaining 30 percent that did report encountering a barrier, the most were from bonding at 13 percent, with retainage next at 9.5 percent, and insurance at 7 percent. This was the most answered question in this section.

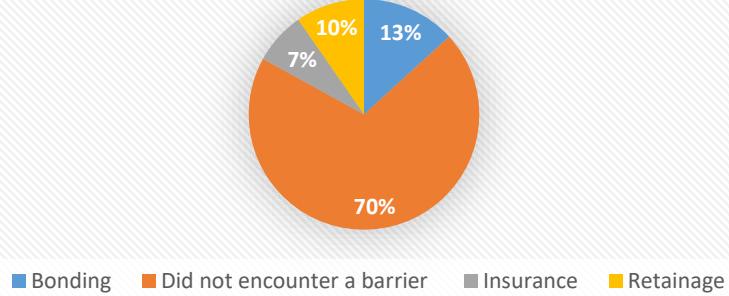
When conducting this survey, an important area to look at is the equity perspective of whether minority, woman, or veteran-owned businesses faced more barriers to work for WSDOT than the businesses that did not identify as any of these. This question provides the opportunity to gather insight on this topic with crosstab analysis.

“Barrier responses show bonding as 55%, retainage as 25%, & insurance as 20%.”

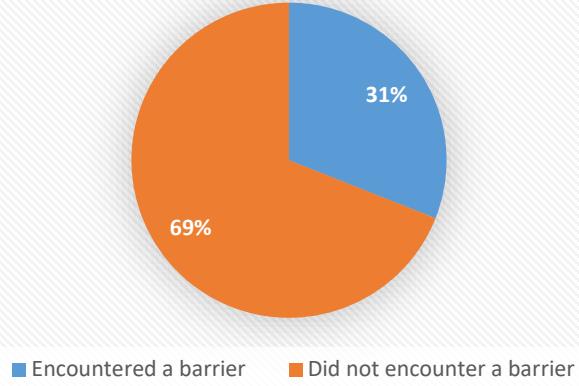
While the response count for this question was 136, there were 125 participants who responded to this question. 45 of them identified as either woman-owned, veteran-owned, or minority-owned, and the remaining 80 did not identify as any of these options. Of the 45 respondents that did fit one of these descriptions, 14 of them stated that they encountered barriers (31 percent). The response count was 20, with bonding making up 55 percent of the barrier responses, retainage making up 25 percent, and insurance making up the remaining 20 percent.

Of the 80 participants who responded to this question that did not identify as minority-owned, woman-owned, or veteran-owned, 16 of them reported encountering a barrier (20 percent). The response count for bonding, insurance, and retainage was 21, with 38 percent of the responses being towards retainage, 33 percent towards bonding, and 31 percent being towards insurance.

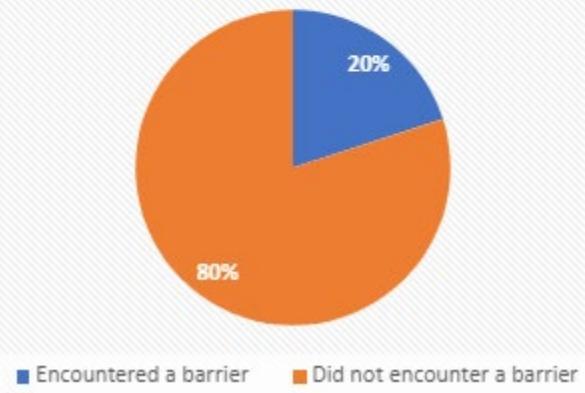
What Kind of Barriers Did You Encounter Securing Requirements for WSDOT?



Woman-owned, Veteran-owned, and Minority-owned Respondents



Non Woman-Owned, Veteran-owned, and Minority-owned Respondents



Q8: To better understand your experience with the bonding, retainage, insurance, and/or experience requirements, please provide a brief description of those barriers. (n = 25)

- The most responses were specifically about retainage requirements
 - Topics included:
 - Retainage being held too long after the job
 - Retainage requirements were too burdensome
 - Retainage removed profit margins
- Bonding requirements were also mentioned
 - Topics included:
 - Being difficult for small businesses
 - Difficulty finding one high enough
- Insurance requirements:
 - Topics included:
 - Insurance being overpriced
 - The requirements being complicated
- Other topics mentioned included:
 - Complicated coverage and language
 - Unnecessary requirements
 - Too long of a project

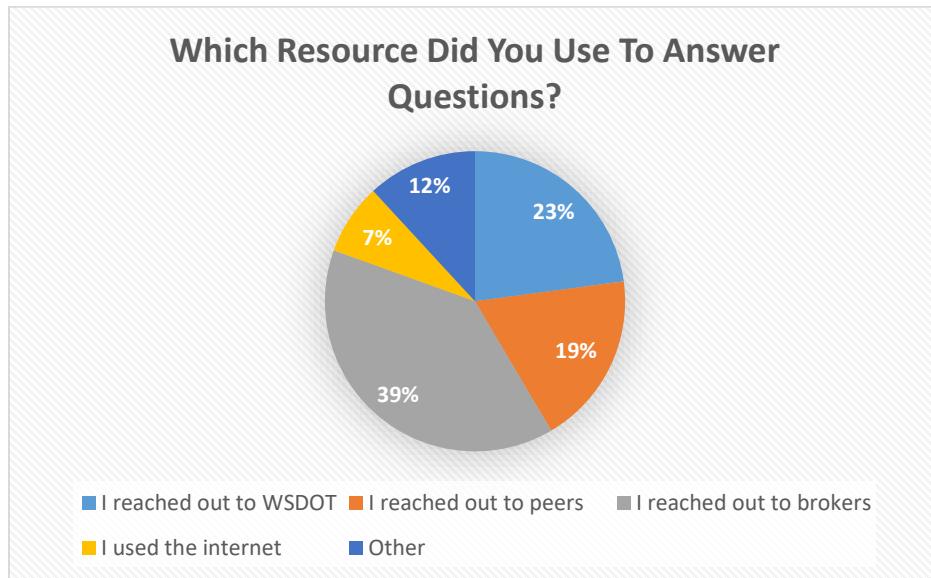
There were 30 respondents who were prompted to this question, 25 of which took the time to respond. 8 of the 25 responses had to do with retainage, 7 with bonding, and 3 with insurance. The remaining 7 covered miscellaneous topics. 14 out of 14 minority, woman or veteran-owned businesses that were eligible for this question responded (100 percent), while 11 of the 16 eligible non-women, minority, or veteran-owned businesses responded (69 percent). See Appendix A for a list of all responses.

Q9: If you had questions regarding bonding, retainage, insurance, and/or experience, what resources did you use to help answer your questions? (n = 118)

Answer	Results	Count
I reached out to WSDOT	22.88%	27
I reached out to peers	18.64%	22
I reached out to brokers	38.98%	46
I used the internet	7.63%	9
Other	11.86%	14
Totals	100%	118

The most popular resource to use for respondents who had questions regarding bonding, retainage, insurance, and/or experience was reaching out to brokers (40 percent). The next most used resource was reaching out to WSDOT directly (23 percent), followed by reaching out to peers (19 percent).

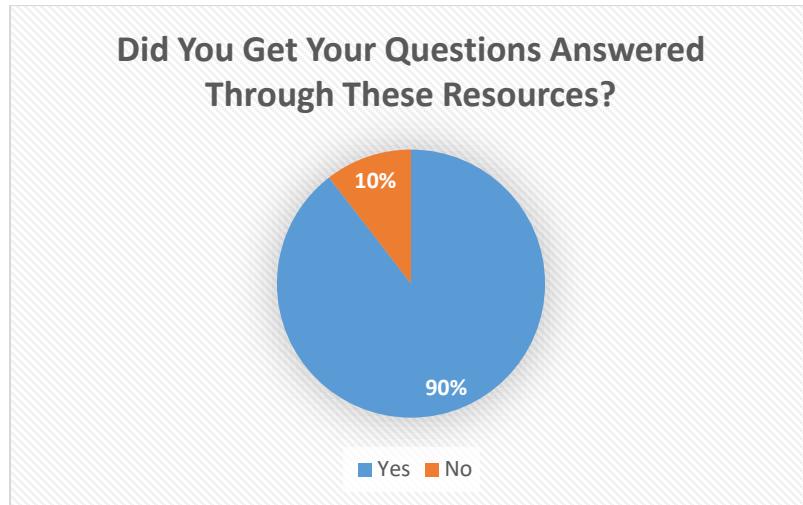
Approximately 8 percent of respondents used the internet as a resource. The final 12 percent used another resource not listed.



Q10: Were you able to get all your questions answered through these resources? (n = 86)

Answer	Results	Count
Yes	89.53%	77
No	10.47%	9
Totals	100%	86

90 percent of respondents said that they were able to get all their questions answered through the resources listed above. The remaining 10 percent of respondents reported not having their resources answered through these resources.



Q11: What questions do you still have that you were unable to answer through these resources? (n = 0)

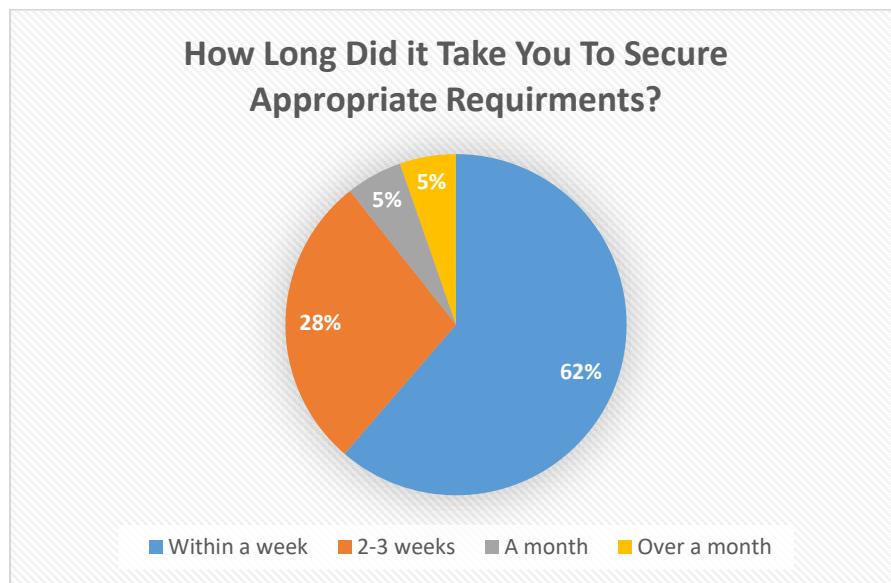
This free response question was prompted to respondents who answered **no** to the previous question, 'were you able to get all your questions answered through these resources?'. There were 9 of these respondents, none of which took the time to respond to this question.

Q12: How long did this process of attaining the required bonding, retainage, insurance, and experience take you to complete? (n = 75)

Answer	Results	Count
Within a week	61.33%	46
2-3 weeks	28.00%	21
A month	5.33%	4
Over a month	5.33%	4
Totals	100%	75

61 percent of respondents were able to attain the appropriate bonding, retainage, insurance, and experience requirements within one week, and 89 percent of respondents were able to attain them within 3 weeks.

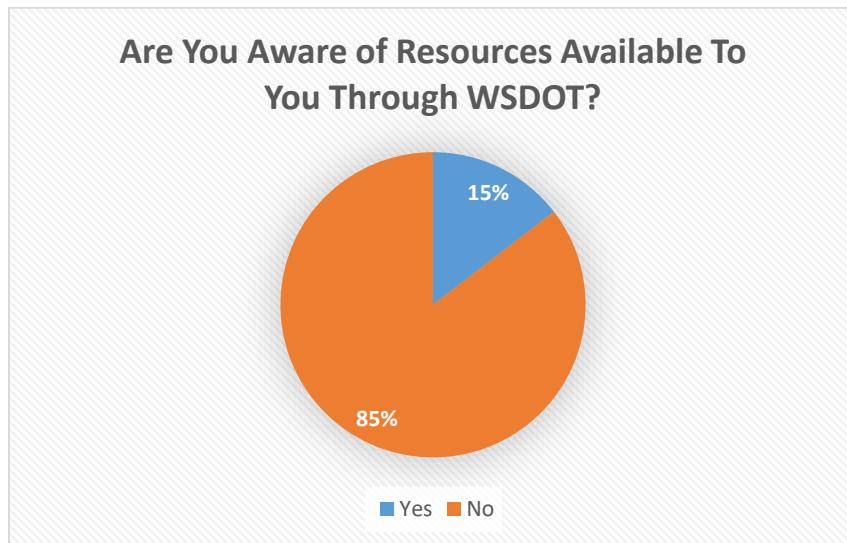
5 percent of respondents reported it taking a month, and the remaining 5 percent reported it taking over a month. There were just 75 responses to this question.



Q13: Are you aware of any bonding, retainage, insurance, or experience resources available to contractors through WSDOT? (n = 110)

Answer	Results	Count
Yes	14.55%	16
No	85.45%	94
Totals	100%	110

85 percent of respondents reported not being aware of any bonding, retainage, insurance, or experience resources available to them through WSDOT. The remaining 15 percent of the respondents reported being aware of the resources available to them.

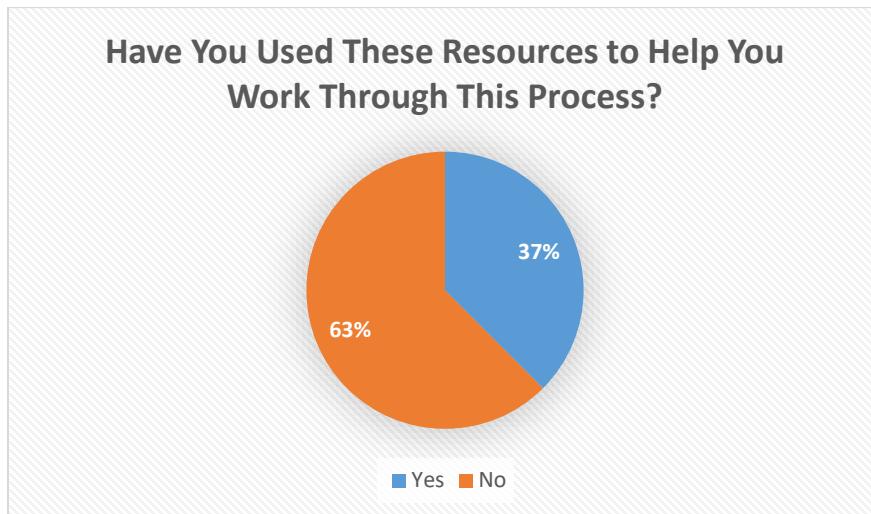


Q14: Have you used these resources to help you work through this process? (n = 16)

Answer	Results	Count
Yes	37.50%	6
No	62.50%	10
Totals	100%	16

This question prompted respondents who answered yes to the previous question about being aware of resources available to them. All 16 respondents who answered yes to the previous question responded to this question.

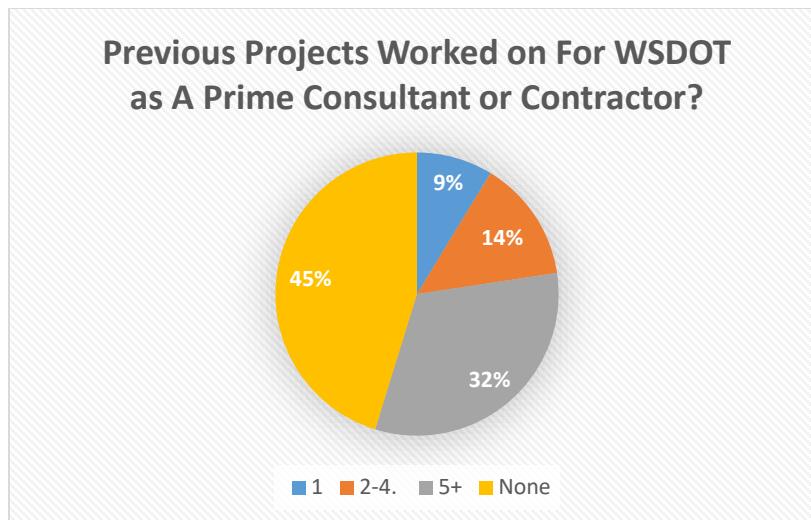
38 percent of respondents reported having used these resources to help them work through this process, while the remaining 62 percent reported not using these resources.



Q15: How many prime contracting or prime-consulting projects have you worked on with WSDOT in the past? (n = 115)

Answer	Results	Count
1	8.70%	10
2-4	13.91%	16
5+	32.17%	37
None	45.22%	52
Totals	100%	115

45 percent of respondents reported not working on any projects for WSDOT as a prime contractor or consultant. 9 percent of the respondents reported working on 1 project, and 14 percent reported working on between 2-4 projects. The final 32 percent reported working on 5 or more projects.



Q16: How many subcontracting or sub-consulting projects have you worked on with WSDOT in the past?
(n = 88)

Answer	Results	Count
None	10.23%	9
1	6.82%	6
2-4	26.14%	23
5+	56.82%	50
Totals	100%	88

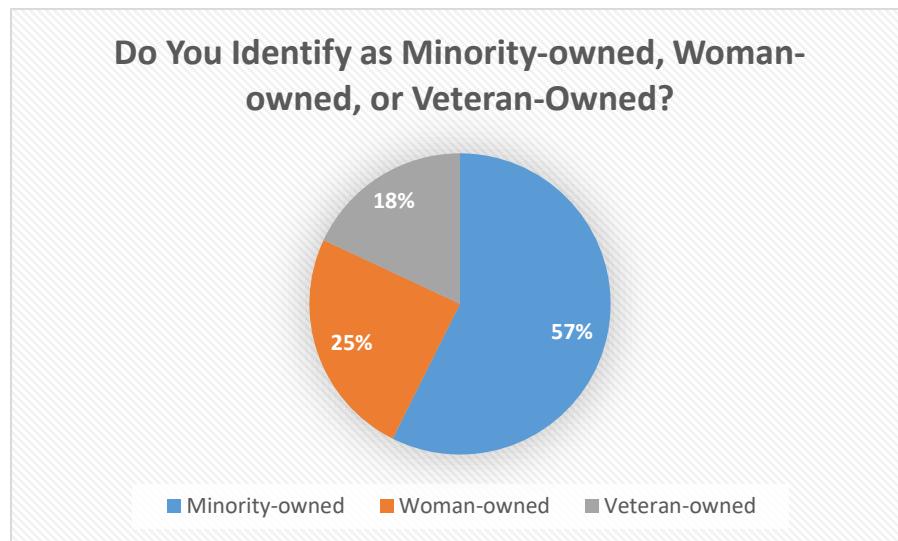
Most respondents have done sub-consulting or contracting for WSDOT in the past on 5 or more projects. 26 percent of respondents reported working on 2-4, 7 percent reported working on one, and 10 percent reported working on none.



Q17: Do you identify as minority-owned, woman-owned, or veteran-owned? Please select all that apply.
(n = 61)

Answer	Results	Count
Minority-owned	57.38%	35
Woman-owned	24.59%	15
Veteran-owned	18.03%	11
Totals	100%	61

There were 61 remaining respondents who reported being either a minority-owned business, a woman-owned business, or a veteran-owned business. 57 percent reported as being minority-owned, 25 percent reported as being woman-owned, and the final 18 percent reported as being veteran-owned.

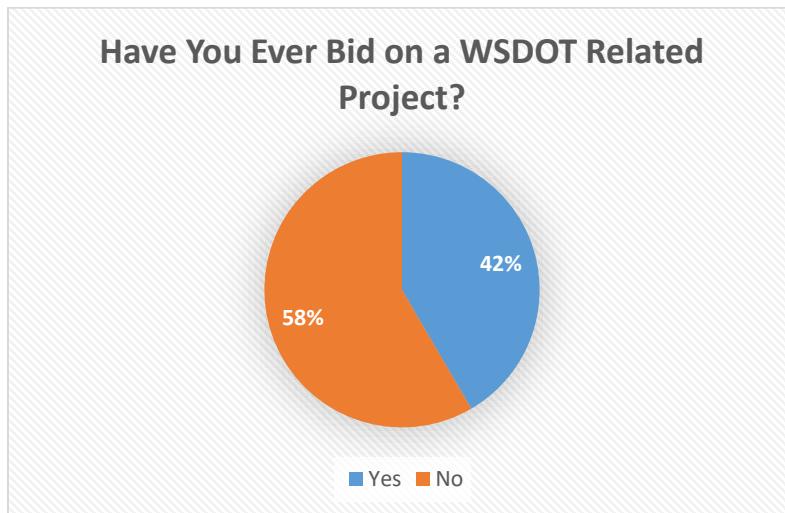


The respondents who answered that they had never worked as a prime or subcontractor for WSDOT were prompted to this question. Those that answered that they had worked as prime or subcontractors previously for WSDOT had their surveys end after the previous question.

Q18: Although your firm has not worked as a prime contractor/consultant or subcontractor/sub-consultant on a project with WSDOT, has your firm ever bid on a WSDOT related project? (n = 51)

Answer	Results	Count
Yes	41.18%	21
No	57.82%	30
Totals	100%	51

Of the 51 respondents who reported that they had never worked as a prime or sub-contractor for WSDOT, 41 percent of them had previously bid on a WSDOT project, while the remaining 58 percent had not.



Section II: Non-Partners (Bidding)

The respondents in this section had never been prime contractors or sub-contractors for WSDOT but had reported bidding on a WSDOT project in the past. 21 of the respondents fit this description. These questions centered around whether they had done work as a prime or subcontractor, their previous experience with required qualifications, and awareness of resources available to them through WSDOT. The questions were in the form of multiple choice and free response.

Q19: Was your bid on a WSDOT project as a prime or subcontractor/consultant? (n = 16)

Answer	Results	Count
Prime contractor	37.50%	6
Sub-contractor	62.50%	10
Totals	100%	16

Of the 21 respondents who had reported bidding on a WSDOT project in the past, 16 responded to this question. 38 percent of them had bid as a prime contractor, and 62 percent had bid as a subcontractor.



Q20: How many WSDOT projects have you bid on in the past? (n = 2)

Answer	Results	Count
1	50.00%	1
2-4	50.00%	1
5+	0.00%	0
Totals	100%	2

There were only 2 responses to this question of how many projects did you bid on in the past. Of the two, one said that they had bid on 1, and the other said they had bid on 2-4.

Q21: In a brief summary, can you please explain what type of work your firm engages in? (n = 16)

This was a free response question in which the respondents were asked to explain the type of work their firm engages in. 16 respondents took the time to answer.

- Archaeology and historic preservation
- Rental equipment
- Millwork and cabinetry
- Wall protection
 - Rockfall mitigation
 - Blasting
 - Tunneling
- Hydraulic systems
- Consultant Engineering Services
 - Project controls
- Heavy civil construction
 - Trucking
 - Excavation
 - Transportation (roads, highways, runways)
 - Marine and bridge construction

It appears that most of these firms are engaged in construction work over consulting work. Three of the firms work with either retaining walls or wall protection. A couple of them work in construction, whether it be heavy civil construction or heavy, highway, bridge, seismic and marine construction. For the most part each firm engages in different kinds of work.

Q22 - To the best of your knowledge, why do you think your firm has not qualified for WSDOT projects? Please select all that apply. (n = 2)

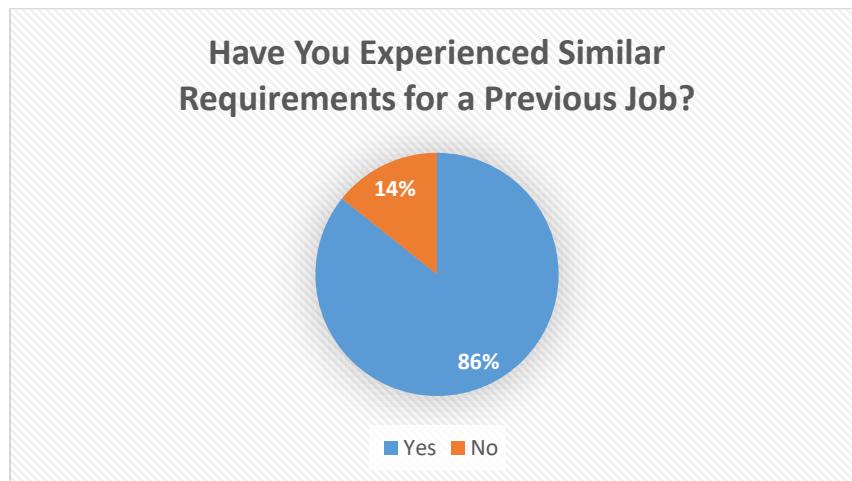
Answer	Results	Count
Too much competition	0.00%	0
Lack of experience	50.00%	1
Inability to secure the required bonding	0.00%	0
Inability to secure the required retainage	0.00%	0
Inability to secure the required insurance	0.00%	0
I'm not sure	50.00%	1
Totals	100.00%	2

Once again there were very few responses to this question. Out of the two responses, one stated that the reason they believed that their firm had not qualified for WSDOT projects was from lack of experience, and the other was not sure the reason why.

Q23 - In the past, have you done a job that required a similar level of bonding, retainage, insurance, and/or experience for someone other than WSDOT? (n = 14)

Answer	Results	Count
Yes	85.71%	12
No	14.29%	2
Totals	100.00%	14

Of the respondents who had unsuccessfully bid on a previous WSDOT project, 86 percent of them reported that they had previously done a job that had required similar bonding, retainage, insurance, and/or experience requirements.



Q24 - Was your previous work as a prime contractor/consultant or a subcontractor/sub-consultant, and was this a public or private contract? Please select all that apply. (n = 2)

Answer	Results	Count
I was a prime contractor	0.00%	0
I was a subcontractor	100.00%	2
I was a prime consultant	0.00%	0
I was a sub-consultant	0.00%	0
Public contract	0.00%	0
Private contract	0.00%	0
Totals	100%	2

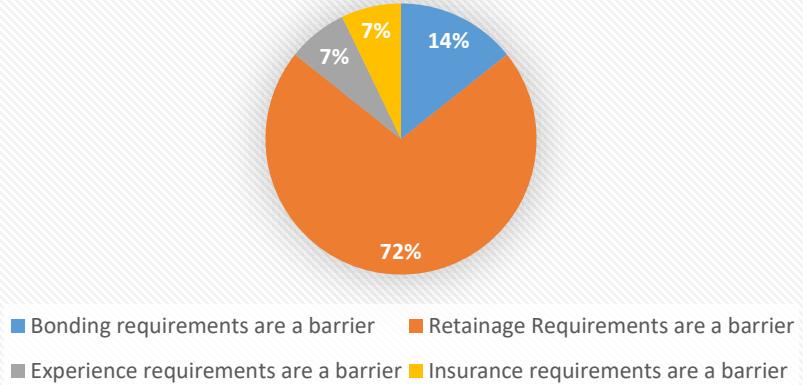
This question received a very low responses rate. Out of the two respondents who did answer, they were both subcontractors.

Q25 - Do you think bonding, retainage, insurance, and/or experience requirements affect or prohibit you from working with WSDOT? Please select all that apply. (n = 14)

Answer	Results	Count
Bonding requirements are a barrier	14.29%	2
Retainage requirements are a barrier	71.43%	10
Experience requirements are a barrier	7.14%	1
Insurance requirements are a barrier	7.14%	1
The bonding, retainage, and insurance requirements are not a barrier for my firm to work with WSDOT	0.00%	0
I'm not sure	0.00%	0
Totals	100%	14

Of the respondents who answered this question, they reported retainage requirements as being the biggest barrier at 71 percent. Bonding requirements was the second highest at 14 percent, with experience and insurance requirements coming in third at 7 percent. None of the respondents reported these requirements not being a barrier. Respondents were prompted to select all that apply, allowing for multiple entries for each.

Which Requirements Prohibited You From Working With WSDOT?



Q26 - Are you aware of any bonding, retainage, insurance, and experience resources available at the following resource centers? Please select all that apply. (n = 2)

Answer	Results	Count
Small Business Administration (SBA)	50.00%	1
Local Chamber of Commerce	0.00%	0
Local Economic Development Center	0.00%	0
USDA Resource Center	0.00%	0
Other	0.00%	0
I'm not aware of any of these resources	50.00%	1
Totals	100%	2

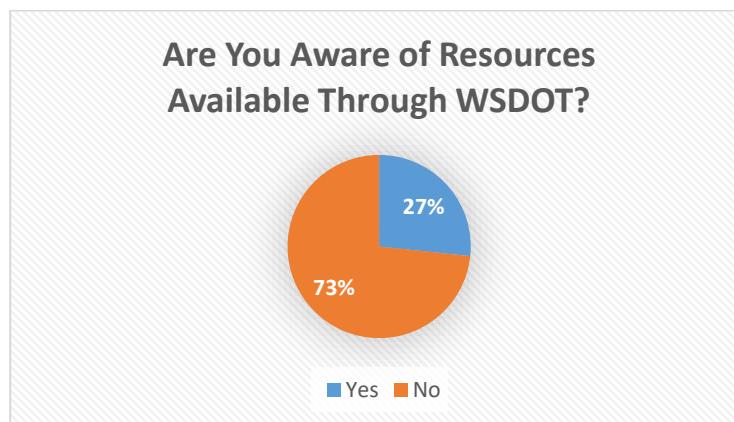
There were very few responses to this question. Of the two responses, one reported being aware of the resources at the Small Business Administration (SBA), and one reported not being aware of any of these resources.

Q27 - Are you currently aware of any bonding, retainage, insurance, and experience resources available at WSDOT? (n = 15)

Answer	Results	Count
Yes	26.67%	4
No	73.33%	11
Totals	100.00%	15

73 percent of respondents reported not being aware of any resources available at WSDOT, while the remaining 27 percent reported being aware of these resources with regards to bonding, retainage, insurance, and experience. These percentages are similar to the group of respondents who had previously worked on a WSDOT project as either a prime or subcontractor, with the majority of them reporting that they were unaware of resources available through WSDOT.

"73% of respondent reported not being aware of any resources available at WSDOT."



Q28 - Have you used these resources before? (n =4)

Answer	Results	Count
Yes	25.00%	1
No	75.00%	3
Totals	100.00%	4

Of the 4 respondents who had reported being aware of the resources available, just one of them reported using them (25 percent). The remaining 75 percent reported not using the resources available to them, despite being aware of them.

Q29 - Do you identify as minority-owned, woman-owned, or veteran-owned? Please select all that apply. (n =2)

Answer	Results	Count
Minority-owned	50.00%	1
Woman-owned	50.00%	1
Veteran-owned	0.00%	0
Totals	100.00%	2

There were very few responses to this question. Of the two responses, one reported being minority-owned, and the other reported being woman-owned. Without the option to choose none of these options, there is a chance that respondents did not have a correct option to choose and therefore did not answer.

[Section III: Non-Partners \(No Bidding\)](#)

The respondents in this section had reported never being a sub or prime contractor for WSDOT and reported never bidding for a WSDOT project in the past. 30 respondents fit this description.

Q30 - Can you please describe the reasons behind why you have chosen not to bid on a WSDOT project in the past? (n = 18)

This was a free response question where people could explain why they chose not to bid on a WSDOT project in their own words. The following summarizes the statements made by the 18 respondents from minority owned firms. See Appendix A for a list of all responses.

Some of the responses indicated that being a small business in general makes it difficult but did not specify why. Other firms said they were not minority owned and therefore could not offer constructive input. Overall, most firms disapprove of the expenses and requirements within bonding, retainage, and insurance.

Q31 - In a brief summary, can you please explain what type of work your firm engages in? (n =21)

This was also a free response question in which the respondents were asked to explain the type of work their firm engages in. 21 respondents took the time to answer.

- Geologic/hydraulic professional services
- Welding
- Aggregate supply and deliveries
- Heavy and Civil Engineering
- Road construction
- Industrial Hygiene
- Excavation
- Shoring and bridge contracting
- Technical services
- Utility relocations
- Cost/contract management
- Rental equipment
- Land surveying

Out of these responses, 4 firms categorized as offering technical services like land surveying, consulting, and renting. The rest identified as some form of construction or engineering firm.

Q32 - In the past, have you done a job that required a similar level of bonding, retainage, insurance, and/or experience for someone other than WSDOT? (n = 25)

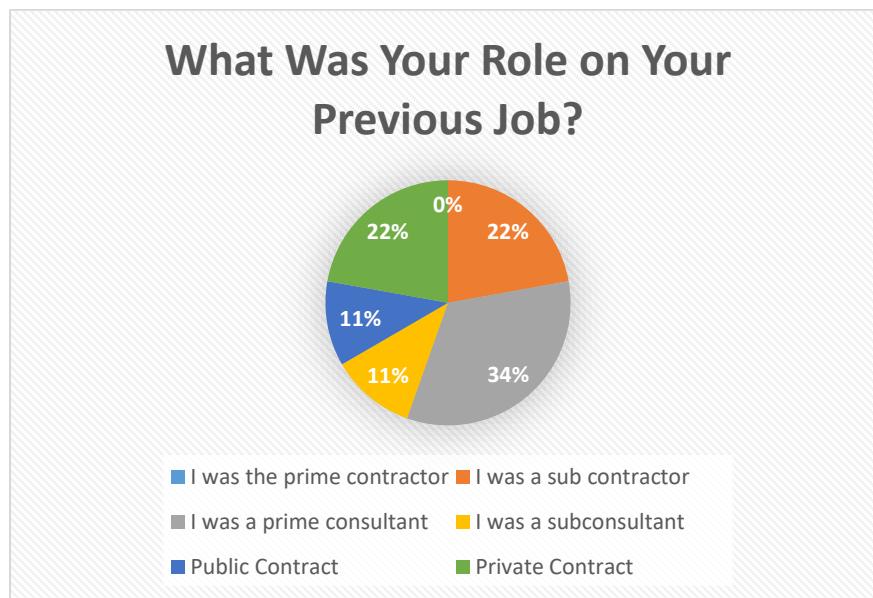
Answer	Results	Count
Yes	60.00%	15
No	40.00%	10
Totals	100%	6

The majority of 25 respondents answered that they had done a job of similar requirements of bonding, retainage, insurance, and/or experience for someone other than WSDOT. 40% said they had not.

Q33 - Was your previous work as a prime contractor/consultant or a subcontractor/sub-consultant, and was this a public or private contract? Please select all that apply. (n =9)

Answer	Results	Count
I was the prime contractor	0.00%	0
I was a subcontractor	22.22%	2
I was a prime consultant	33.33%	3
I was a sub-consultant	11.11%	1
Public contract	11.11%	1
Private contract	22.22%	2
Totals	100%	9

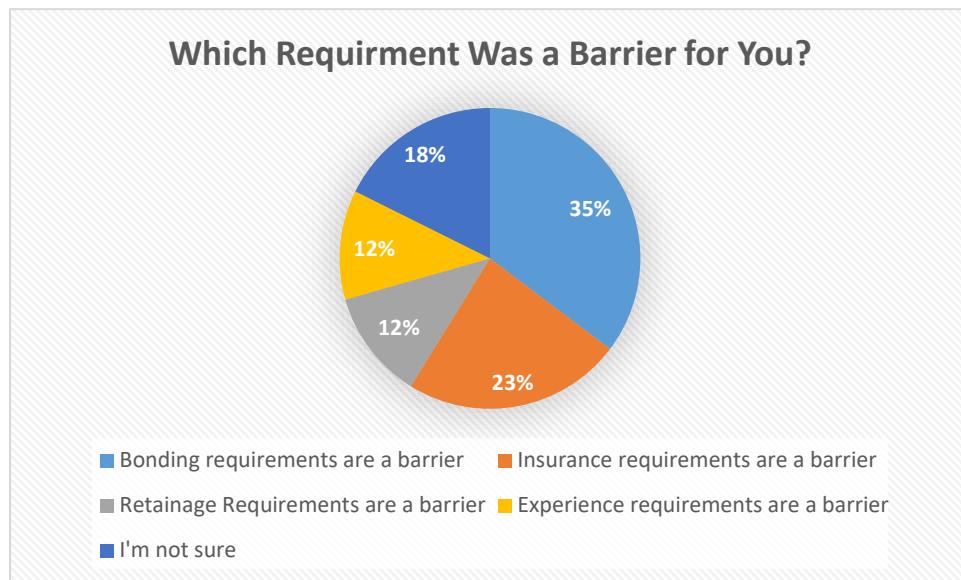
Responders were asked to select all the apply between working as a prime contractor, consultant or a subcontractor, or sub-consultant and whether these contracts were private or public, so there is some crossover as a result. Out of 9 responses, 33.33% of people were prime consultants, 22.22% were subcontractors, and 11.11% were sub-consultants. The difference between private and public was 11.11% more private contracts.



Q34 - Do you consider bonding, retainage, insurance, and/or experience a barrier to engaging with WSDOT projects? Please select all that apply. (n = 17)

Answer	Results	Count
Bonding requirements are a barrier	35.29%	6
Insurance requirements are a barrier	23.53%	4
Retainage requirements are a barrier	11.76%	2
Experience requirements are a barrier	0.00%	0
The bonding, retainage, and insurance requirements are not a barrier for my firm to work with WSDOT	11.76%	2
I'm not sure	17.65%	3
Totals	100%	17

Out of 17 respondents, 35.29% selected bonding as a barrier for engaging with WSDOT projects which received the highest number of votes. Insurance was expressed as the second most significant barrier with 23.53% of recorded responses. 29.41% of respondents said that neither of the options were barriers or they were not sure.



Q35 - Please help us understand your experience by briefly explaining the barriers you've experienced with bonding, retainage, insurance, and experience. (n = 9)

This was the last free response question which looked for barriers within WSDOT's legal framework and generated work their firm engages in and generated 9 responses. See Appendix A for a list of all responses. Only one firm replied with "no barriers", but the rest all agreed that the process of retainage and costs of insurance are too long and too high.

Q36 - Are you aware of any bonding, retainage, insurance, or experience resources available at the following resource centers? Please select all that apply. (n = 6)

Answer	Results	Count
Small Business Administration (SBA)	0.00%	0
Local Chamber of Commerce	0.00%	0
Local Economic Development Center	0.00%	0
USDA Resource Center	0.00%	0
Other	0.00%	0
I'm not aware of any of these resources	100.00%	6
Totals	100%	6

Out of 6 responses of people who had never worked with WSDOT, 100% of them responded to this question as not being aware of the resources listed.

Q37 - Are you aware of any bonding, retainage, insurance, and experience resources available at WSDOT? (n =24)

Answer	Results	Count
Yes	12.50%	3
No	87.50%	21
Totals	100%	24

A high percentage of 87.5, out of the 24 respondents, said they were not aware of the resources that WSDOT provides for bonding, retainage, insurance, and experience purposes. This is similar to the responses to the last question about awareness provided by other agencies.

Q38 - Have you used these resources before? (n =1)

Answer	Results	Count
Yes	0.00%	0
No	100.00%	1
Totals	100%	1

This question only generated one response. Although a small percentage of people were aware of the resources WSDOT provides for bonding, retainage, insurance, and experience, they were not actually used.

Q39 - Do you identify as minority-owned, woman-owned, or veteran-owned? Please select all that apply. (n = 5)

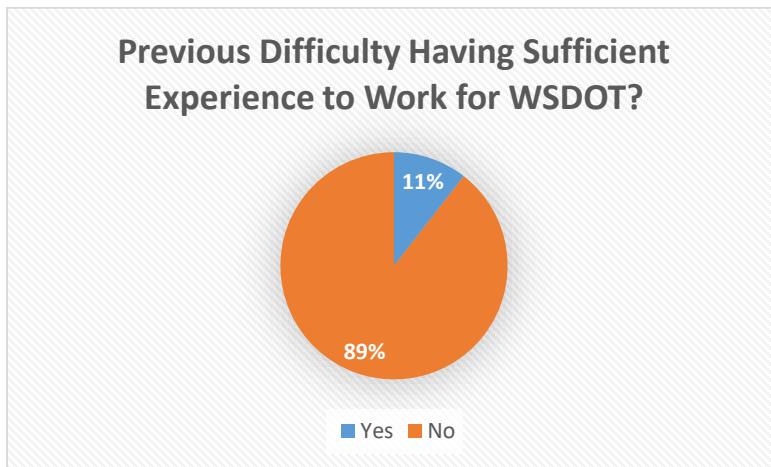
Answer	Results	Count
Minority-owned	20.00%	1
Woman-owned	80.00%	4
Veteran-owned	0.00%	0
Totals	100%	5

Woman-owned was selected by 4 respondents, minority-owned was selected by one, and zero respondents identified as veteran-owned. Without the option to choose none of these options, there is a chance that respondents did not have a correct option to choose and therefore did not answer.

Q44 - Was having sufficient experience to work on a WSDOT project something you have had difficulty with before? (n = 95)

Answer	Results	Count
Yes	10.53%	10
No	89.47%	85
Totals	100%	95

Almost all the respondents to this question reported not having any difficulty having sufficient experience to work on a WSDOT project in the past, with the remaining 10 percent reporting they have had some difficulty gathering the sufficient experience necessary.



Legal Framework and Issues

As part of this study WSDOT requested an evaluation of the legal framework and issues (e.g., statutory, regulatory and case law context) surrounding requirements placed on subcontractors regarding bonding, insurance, and retainage requirements, and whether/how legal constraints might create barriers to participation by under-represented firms. The Center engaged Hugh Spitzer, a recognized expert in this area to address two topics:

1. Practical Challenges for Small/New Contractors and Subcontractors in Navigating the Requirements of the Federal Longshore & Harbor Workers Compensation Act (LHWCA) in Washington State
2. Practical Challenges for Small/New Contractors and Subcontractors in Obtaining Payment & Performance Bonds

Topic 1: Navigating the Requirements of the Federal Longshore & Harbor Workers Compensation Act (LHWCA) in Washington State

Background of the LHWCA

The Longshore and Harbor Workers Compensation Act (LHWCA) is a federal statute (33 U.S.C. §§901-950) that requires certain “employers” to provide a workers compensation program for specified types of “employees” engaged in longshore, shipbuilding and ship repair work. 33 U.S.C. §902(4) provides:

The term “employer” means an employer any of whose employees are employed in maritime employment, in whole or in part, upon the navigable waters of the United States (including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel).

33 U.S.C. §902(3) defines “employee” broadly:

The term “employee” means any person engaged in maritime employment, including any longshoreman or other person engaged in longshoring operations, and any harbor-worker including a ship repairman, shipbuilder, and shipbreaker....

These are broad definitions, covering not just longshore workers but a wide variety of employees who build and repair ships and who perform many other tasks related to shipbuilding and repair. The definition of “employee” excludes several workers if they are covered by state worker compensation systems. These include, among others: clerical workers; club, camp and marina employees; workers on recreational watercraft under 65 feet; and aquaculture workers. 33 U.S.C. §902(3). The statute also excludes masters and members of crews on vessels, who received workers compensation under a separate federal statute. But the definitions of employers and employees subject to the LHWCA are broad, and it is not uncommon for employers and employees to be unaware of the statute’s application to them.

Nationwide, employers obtain workers compensation coverage meeting the LHWCA’s requirements from private sector insurance companies. Coverage as required by the LHWCA is not provided by state-run workers compensation systems such as Washington’s. All states except Texas require some type of workers compensation coverage, but in the vast majority of jurisdictions the coverage is underwritten

by private insurance companies. Only six states or territories have state-run systems (North Dakota, Ohio, Puerto Rico, U.S. Virgin Islands, Washington, and Wyoming).¹ This is relevant because in the many states that rely on private insurance companies to provide workers compensation coverage, those insurance companies will typically provide LHWCA coverage at modest extra cost.² Washington has always maintained a state-operated workers compensation system under Title 51 RCW rather than using private insurance providers, and our system does not include LHWCA-type coverage. Consequently, employers in Washington shipbuilding, repair, and related industries must comply with the LHWCA by obtaining LHWCA-conforming insurance policies on the private insurance market. Because Washington employers do not already have workers compensation policies from the private sector, they are unable to “piggyback” their LHWCA coverage onto their general works compensation policies.³ The minimum annual premium for a stand-alone LHWCA liability policy from a private insurer is \$10,000, and that can be prohibitively expensive for a small contractor that is engaged in a limited piece of work on a ship building or ship repair contract.

Because of the relatively high cost of obtaining LHWCA policies in Washington State, the legislature in 1992 established a risk pool program for employers unable to afford policies purchased on the LHWCA insurance market. RCW 48.22.070 was enacted “to ensure that workers’ compensation coverage as required by the [LHWCA] is available to those unable to purchase it through the normal insurance market.” The Washington USL&H Assigned Risk Plan (WARP) requires certain insurers to undertake the responsibility for providing a certain amount of LHWCA policies at low rates to employers. WARP is governed by a committee comprised primarily of insurer representatives. Losses are divided equally between the state’s industrial insurance (workers compensation) fund and the authorized insurers. RCW 48.22.070(2) permits the Washington State Industrial Insurance Fund to obtain or provide reinsurance coverage for the policies provided by WARP.

Implications for Small Contractors in Washington

Although LHWCA policies are available to small contractors at reasonable cost through WARP, there is considerable confusion about *who* is required to obtain those policies. The federal statute is intricate and is supplemented by federal regulations and court rulings. A small contractor who does not regularly engage in maritime work may not realize they are subject to LHWCA for a specific job, and incorrectly assume that their employees are covered by state workers compensation.

Sources of potential confusion include, for example, uncertainty about whether a boat being repaired is a “recreational vessel” under federal law. Or, for example, fishing boat crews doing repair work at a shipyard suddenly come under LHWCA for tasks that would not be under that statute when performed at sea. Another example would be a vendor or supplier whose employee drives a truck to a Washington State Ferry repair job to deliver goods, and then gets out of the truck to help unload the materials. Simply by “working” on the pier adjacent to the vessel, that driver becomes an “employee” subject to the LHWCA.

Another issue is that many small contractors who wish to bid on Washington State Ferry subcontracts—cabinet making and installation, for example—do not recognize that while the employees building the cabinets at the employer’s workshop are under the state workers compensation program, as soon as

¹ NAIC Center for Insurance Policy and Research, Workers Compensation Insurance, March 10, 2022, available at: <https://content.naic.org/cipr-topics/workers-compensation-insurance>.

² Interview with Kathryn Noonan, currently Executive Director of Washington State’s U. S. Longshore & Harbor workers Assigned Risk Plan (WARP), Nov. 4, 2022.

³ *Id.*

those workers step onto a vessel to install the cabinets the employer and the employees are subject to the LHWCA. This is primarily an education and information issue, although the Executive Director of the state's WARP program states that a significant number of employer's "don't want to know" that they are required to obtain LHWCA coverage. She states that in other instances, governments that put vessel or longshore contracts out to bid, provide inaccurate information about LHWCA requirements to the contractors and subcontractors bidding on the job.⁴ If a worker is injured while installing cabinets or plumbing fixtures for example, and the employer does not have LHWCA-compliant insurance, that employer can be exposed to significant financial liability.

Potential Solutions

There are several things that the State of Washington could consider to increase the likelihood that small contractors who bid on state maritime-related work will comply with LHWCA requirements. These include:

- Education sessions provided by WARP staff and insurance company staff for WSDOT and other relevant agencies on the basic requirements and definitional intricacies of the LHWCA.
- On medium and large sized jobs where the state wishes to encourage small contractors to participate as subcontractors, agency staff can ask WARP staff to review bid documents for clarity on LHWCA. WARP staff might also be able to help prepare simple information sheets about the types of work subject to the LHWCA and the availability of low-cost insurance through WARP; these information sheets could be distributed to potential bidders.
- Translating informational materials, or providing translators, to help explain the LHWCA requirements and options to contractors with limited English skills.
- Work with non-profit organizations that assist minority contractors and small contractors generally so that those organizations can provide contractors with useful information about the LHWCA and WARP insurance.

⁴ *Id.*

Topic 2: Obtaining Payment & Performance Bonds

There appear to be several practical challenges that small contractors (including subcontractors) face with obtaining payment and performance bonds at reasonable premium levels. This is particularly true for new small contractors bidding on public works projects, and the issues are accentuated for small contractors with limited English skills.

Payment bonds and performance bonds (P&P bonds) are typically obtained either directly from large surety companies, or through national or local brokers. These bonds are typically provided as a package, and frequently the coverage includes a bid bond guaranteeing that the contractor will take up a successfully-bid contract, sign that contract, and commence work.

For a small contractor, and particularly for a new contractor, obtaining bonds directly from a large national surety company can be daunting, notwithstanding the websites by which some surety companies invite applications. Brokers, whether local or national, compile relevant information from contractor applicants and then, based on the size and type of job, negotiate with surety companies for coverage for the applicants. The application process is complicated because the surety companies (and thus the brokers) need to compile substantial information about a contractor's general business experience, experience in the relevant contracting field, financial resources, credit history, and other relevant information.

P&P bonds are required by most public agencies on public works projects, and occasionally by large private sector companies or developers. On large projects, whether the subcontractors (or sometimes just the larger subcontractors) must obtain P&P bonds depends on the specific job and bid documents. In some instances, and depending on the size of the general contract, prime contractors will require their subcontractors (or larger subcontractors) to obtain separate P&P bonds although it is not required by the relevant government's bid documents. In other situations, insurance companies might require that contractors on large projects require that their subcontractors (or larger subcontractors) to obtain subcontractor P&P bonds. In other words, the lack of consistency in P&P bonding requirements for smaller contractors or subcontractors presents challenges, particularly if those smaller contractors lack established relationships and experience maneuvering through the P&P bonding process.

One confusing aspect of bonding for many small and new contractors is the substantial variation in the amounts of coverage required by different types of governments for bid bonds and for payment and performance bonds. This variation is driven by noticeable differences in statutory requirements for different state and local governmental entities. (See, Surety Bonding Accessibility Study, Oct. 2020, at 52-54).

The surety companies that provide P&P bonds are typically insulated from both the "owner" that has put a job out to bid, and from the contractors required to obtain bonds. While in theory contractors can obtain P&P bonds directly from a surety, this is uncommon with respect to smaller contractors. Those contractors must rely on the broker to maintain the relationship with the surety provider. New contractors are often at a disadvantage because they do not have an established relationship with a broker, because they may have little credit history or a complicated credit history, and because they have fewer jobs (or fewer domestic jobs) on which to provide reference information to the broker and ultimately to the surety company. Consequently, matching a new, small contractor with an appropriate broker is important so that the contractor can build a trusted relationship with individuals in a brokerage firm on whom that contractor will depend for navigating the process with surety providers.

Limited English skills and cultural differences can present special issues for some small contractors who desire to bid on government contracts or participate as subcontractors on government projects. According to one informant, contractors with limited English often have challenges understanding the relevant bid documents and, specifically, the bid bond and P&P bond requirements. If the small or new contractors come from another country or cultural group, those contractors may have some hesitancy working with brokers, most of whom belong to dominant ethnic/cultural groups. The informant described taking extra time working with two contractors, one of whom had limited English and thus had to rely on his colleague to translate concepts and terms. This informant said that with "extra handholding" he was able to gather the needed financial, credit, and experience information from these contractors and successfully structured a P&P bond for a bid on a Puget Sound area community college project. He said that additional translation resources would be extremely helpful to both brokers and contractors who are more comfortable using languages other than English.

Mentoring programs can be quite successful in order to help new contractors compile and present their experience and financial information in formats that will assist them in obtaining P&P bonds through brokers. The federal Small Business Administration's SCORE program has often provided effective mentors for new businesses, and it may be possible to work with SCORE or other groups (including broker groups) in developing a mentoring program tailored to the bonding process. (See Surety Bonding Accessibility Study, Oct. 2020, at 15-17).

Potential solutions to the challenges of small and new contractors negotiating the P&P bond brokerage process include the following (some already recommended in the Surety Bonding Accessibility Study):

- Minimizing the differences between statutory bonding requirements for different Washington governmental entities. This requires statutory amendments.
- Reducing the levels of required P&P bonds for small contracts and subcontracts.
- Working directly with the P&P bond brokers, as a group through trade associations, both to develop a mentoring program and a broker matching program for small and new contractors.
- Develop a State-provided translator program for the most common non-English languages in various regions of the state (*e.g.*, Spanish, Vietnamese, Russian, Chinese, and Korean in King County).

https://kingcounty.gov/~/media/operations/policies/documents/inf142aeo_appxc.ashx?la=en

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Appendix A: Verbatim Free Responses

Q8 - To better understand your experiences with the bonding, retainage, insurance, and/or experience requirements, please provide a brief description of those barriers. (n = 25)

Minority, Veteran, or Woman-Owned Businesses Responses:

- Getting a high enough bond.
- Hard for small company's when WSDOT does not reimburse for higher-than-normal requirements.
- Was quoted \$55K for insurance coverage that should cost \$6K. They clearly didn't want to do business with me.
- WSDOT Terms that Prime Contractors (with additional terms) pass onto Designers and Smaller Firms
- Project lasted to long 4years
- hard to bond with one truck and meet a couple million-dollar bond
- Working capital
- We do not bond for any project, it's too difficult and expensive
- I own a veteran-owned small business. Retainage removes profit margin, forcing small businesses to finance these jobs for the GC. Revenue required for bonding nearly kicks us out of small business status.
- In order to be paid retainage. Our company had to pay the sales tax on invoices we had NOT been paid in full for.
- The higher amount of liability insurance required can be a barrier because of the additional cost added to our small business
- Our insurance carrier needed a lot of bonding specifics in order to secure the bond
- Experience bonding or completing bonding paperwork for these larger contracts over 2 M
- being a small company it's difficult to get insurance and bonding to the levels need to WSDOT. Lots of company's do not offer coverage or affordable coverage.

Non-Minority, Veteran, or Woman Owned Businesses Responses:

- Retainage is held far too long after job close, trying to setup a retainage savings account was confusing & difficult to do. Not worth it.
- It took almost a year (10.5 months) to get retainage after the project was complete. My subcontractors were not happy.
- Was hard to get our insurance rep to understand what we needed for this work
- We only had difficulty with one project where we are the subconsultant. The Prime required coverage and language on the certificates that was difficult to accommodate compared to what WSDOT requires of us directly.
- We have never needed to purchase bonding for our work. Retainage (if required) is burdensome and not appropriate for consultant work. That said, I do not believe our WSDOT projects had required retainage.
- Small Companies have more challenges acquiring bonding
- The USL&H is not typical for the work we do on project considering we do not work on water typically.
- We were subcontracted so this survey does not pertain to us

- We didn't have to supply a bond; the GC did.
- Bonding is hard for new small businesses.
- Through Covid our projects have been slow to release retainage

Q30 - Can you please describe the reasons behind why you have chosen not to bid on a WSDOT project in the past? (n = 18)

Non-partner Responses

- N/A. We do bid for WSDOT. They are getting more difficult to do business with though.
- not minority owned
- I was unaware of the bidding opportunities.
- rental equipment
- We always bid on project, both as a Prime & Subcontractor.
- Because of the prequalification process is far to stringent
- They are terrible owners. The majority of people who have left WSDOT to work for consultants are also horrible to deal with. There is a reason why WSDOT gets the highest prices in the state on their projects.
- We are a small construction company.
- Too much red tape. The forms and requirements take too much time. As a small business I don't have extra staff to do this work.
- We work for KLB Construction on WSDOT projects as an owner/operator.
- Never Have Received advertisement
- I am a micro-business (sole proprietor LLC). Establishing an ICR for a business of my size is a significant expense. My hourly rates are significantly less than larger firms doing business with WSDOT, and yet I can't compete.
- I typically work for the contractors who work for WSDOT, and have enough business to keep me busy
- Large liabilities, slow paying.
- we are not Minority
- ICR audit requirements
- All we have done is provide trucking for Lakeside Industries. Which we will no longer take part of. The prevailing wage, certified payroll, and fees for filing intents and affidavits are so stupid and pointless. I as a third party should not lose money just to collect money for completing the job I was hired to do. Should be illegal.
- I am not a contractor, I am a consulting engineer

Q35 - Please help us understand your experience by briefly explaining the barriers you've experienced with bonding, retainage, insurance, and experience. (n = 9)

- To many steps and office work
- I have not personally been required to provide bonding had retainage as a contract requirement, however, both would be barriers due to the cost associated with each of them.
- none
- Retainage - takes to long for it to be released.
- The prequal process is a huge waste of time to work for such a bad owner.
- It is a lot of paperwork.
- Sometimes insurance requirements through public agencies is prohibitive.
- The insurance requirements are so expensive.