INCREASING DIVERSITY & RACIAL EQUITY IN SUPPLIER NETWORKS

WASHINGTON EMPLOYERS FOR RACIAL EQUITY

In December 2020, a coalition of CEOs and senior private sector leaders came together to launch **Washington Employers for Racial Equity** (WERE), a statewide coalition committed to building a racially equitable future.

All WERE members start by signing the **Commitment to Progress**, committing their company or institution to collective goals and the work necessary to advance racial equity in their workplaces and communities. This work begins with a focus on equity for Black Washingtonians, with the ultimate goal of equity for all.

WERE members work to examine the impacts—positive or negative, intended and unforeseen—of company and institutional processes, policies, and systems that influence the development and advancement of Black talent and Black businesses in Washington state. WERE seeks to learn from Black-owned businesses and Black workers about the intentional actions that employers can take to accelerate equity and share examples of best and promising practices.

SPOTLIGHT: EQUITABLE CONTRACTING PRACTICES

ALTHOUGH BLACK RESIDENTS COMPRISE MORE THAN 4% OF THE WASHINGTON STATE POPULATION (AND UP TO 6% OF THE POPULATION IN THE CENTRAL PUGET SOUND REGION), BLACK-OWNED BUSINESSES MAKE UP ONLY 0.2% OF WASHINGTON'S TOTAL BUSINESS REVENUE. WERE MEMBER COMPANIES AND INSTITUTIONS HAVE COMMITTED TO INCREASE DIVERSITY AND RACIAL EQUITY AMONG CONTRACTORS, VENDORS, AND SUPPLIER NETWORKS AND INCREASE INVESTMENT IN BLACK-OWNED BUSINESSES.

IN ITS FIRST REPORT, WERE HIGHLIGHTED HOW PURCHASING FIRMS CAN USE NEW CERTIFICATION PRACTICES TO INCREASE RELATIONSHIPS WITH BLACK-OWNED SUPPLIERS. IN THIS REPORT, WERE SHARES FEEDBACK RECEIVED FROM BLACK BUSINESS OWNERS REGARDING INEQUITIES AND CHALLENGES THEY FACE AS THEY PURSUE CONTRACTS AND SEEK TO GROW THEIR BUSINESSES IN WASHINGTON STATE. THIS REPORT ALSO OFFERS POTENTIAL SOLUTIONS, INFORMED BY BLACK BUSINESS OWNERS, THAT EMPLOYERS OF ALL SIZES CAN EXPLORE TO INCREASE EQUITY THROUGHOUT THE CONTRACTING PROCESS AND SUPPORT INCREASED INVESTMENT WITH BLACK-OWNED BUSINESSES.

THE TRADITIONAL CONTRACTING LIFECYCLE CAN INTRODUCE BIAS AND CREATE BARRIERS

A study of public sector contracting in Washington from FY 2012 to 2016 found that white-owned businesses were awarded contracts five times as much as minority business enterprises (MBEs), while Black-owned businesses were selected only 1.2% of the time.* The study also showed that wages and business earnings were lower for MBEs, credit discrimination barriers remain high, and human capital constraints continue to impede the success of minority-owned firms. Data analyzing potential contracting disparities between white- and minority-owned businesses isn't widely available. Even so, WERE sought to hear directly from Black-owned businesses about interventions and solutions that employers could pursue throughout the contracting process to support supplier diversity and increase investment with Black-owned firms. There are many steps in the contracting process that, for simplicity's sake, can be segmented into four stages. Our focus group research sought to identify potential interventions across all four to uncover strategies that, when deployed, could create greater equity in contracting and supplier relationships.

1. REQUEST FOR PROPOSAL

Details contract requirements, budget amount, application process, applicant expectations, timeline, etc. and the extent to which each is clear and transparent.

2. CONTRACT MARKETING

The means by which prospective suppliers learn about contract opportunities and are able to develop interpersonal relationships with procurement managers, etc.

3. CONTRACT EVALUATION

How a contracting firm determines if prospective suppliers are fit to perform tasks outlined in the proposal, including evaluation criteria, decision-making process, and feedback loops.

4. CONTRACT TERMS

The legal agreement signed by both parties that details when the contractor is paid, insurance requirements, and other non-negotiable components.

CONTRACTING EQUITY CHALLENGES

THIRTY BLACK AND MINORITY BUSINESS OWNERS IN INDUSTRIES RANGING FROM CONSULTING TO CONSTRUCTION PARTICIPATED IN FOCUS GROUPS HOSTED BY THE WERE COALITION DURING THE SUMMER OF 2022. THESE BUSINESS OWNERS SHARED MORE ABOUT THEIR EXPERIENCES WITH PRIVATE-SECTOR CONTRACTING, THE BARRIERS THEY FACE, AND THE SOLUTIONS THEY FEEL WOULD BENEFIT ALL BLACK- AND MINORITY-OWNED BUSINESSES. THIS RESEARCH UNCOVERED CHALLENGES FACED IN EACH STAGE OF THE CONTRACTING PROCESS WITH POTENTIAL SOLUTIONS HIGHLIGHTED IN THIS REPORT.

* Washington State Office of Minority & Women's Business Enterprises. State of Washington 2019 Disparity Study (2019)

CHALLENGES IN STAGE 1:
REQUEST FOR PROPOSAL (RFP)

Contract Size

Black and minority business owners expressed concern that procurement teams continue to shift toward seeking vendors for larger and more consolidated contracts rather than breaking work into smaller pieces and potentially engaging a larger supplier network. This approach is easier for procurement officers to manage, particularly as their job expectations are tied to efficiency (time-to-completion) and a desire to reduce the potential risk associated with contract completion wherever possible. However, the push for larger contracts presents a roadblock for many Black- and minority-owned businesses, which are often smaller and lack the labor, equipment, capital, and other resources of larger suppliers.

Budget Transparency

Responding to an RFP or bidding on a contract can be time and resource intensive for any company, particularly smaller companies or suppliers looking to form new contracting relationships. Black business owners shared that if RFPs do not list a budget minimum, maximum, or estimated range, it hinders their ability to assess potential financial value that could come from the contract if awarded.

Process Clarity

The contracting process can be long and difficult to navigate. There are often internal timelines, stage gates, and protocols that are not transparent to suppliers (particularly new suppliers) or those outside the procurement office. Black business owners said that lack of process clarity discourages them from bidding and can create a screening barrier that keeps out newer, less well-resourced applicants. A lack of process clarity also favors those suppliers already in the system and supports the status quo.

Excess Competition Costs

Contract proposals can require a significant investment upfront of time and money in order to submit a quality application, participate in multiple interviews, and cover pre-contract costs (e.g., insurance, staff, capital, MBE certification). Unpaid labor and pre-contract costs disproportionately burden MBEs that have historically lacked the advanced financial infrastructure, professional networks, and legal support that can help offset excess competition costs.

> **“[PROCUREMENT TEAMS] ARE SO PRESSED TO DELIVER, SO INSTEAD OF BREAKING THINGS DOWN INTO THINGS THAT A SMALLER FIRM CAN HANDLE, THEY’RE BUNDLING THINGS UP SO THEY ONLY HAVE TO GO THROUGH ONE PROCUREMENT PROCESS AND THEN HAVE A NATIONAL/MULTI-NATIONAL FIRM MANAGE THE PROJECT.”**

> **“IF YOU PUT IT INTO A HUGE CONTRACT, NO ONE IS GOING TO BE ABLE TO DO IT EXCEPT FOR LIKE FIVE FIRMS.”**

> **“[THE CRITERIA FOR REVIEW ON THE RFP NEEDS TO BE VERY FAIR AND OBJECTIVE] … THEY NEED TO STOP BLAMING THE RESPONDENTS AND SAYING THAT BLACK FOLKS JUST DON’T KNOW HOW TO WRITE PROPOSALS.”**

CHALLENGES IN STAGE 2: CONTRACT MARKETING

Contract Awareness

There is no easy way for small or newer firms to learn about contracting opportunities or connect with decision-makers. The public sector offers numerous contracting listservs and websites, which are often difficult to navigate, and few repositories, if any, exist for private contracts. This makes it extremely challenging for new players to learn about opportunities. Black- and minority-owned businesses need a better way to understand what and when contracts are available and assess if they are qualified candidates.

> "SO MUCH OF IT IS BASED ON RELATIONSHIPS, SO MUCH IS BASED ON THE PEOPLE YOU KNOW, THAT YOU'VE WORKED WITH IN THE PAST, THE DELIVERY THAT THEY'VE DONE, SO THE PEOPLE COMING IN THAT DON'T HAVE THAT HISTORY...THERE'S ALWAYS THAT INITIAL 'I DON'T KNOW THIS BLACK PERSON, I DON'T KNOW THIS BROWN PERSON, BUT I KNOW THESE OTHER FOLKS OVER HERE."

> "I'M NOT SURE IF CORPORATIONS ARE REALLY OUT LOOKING FOR NEW BUSINESS BECAUSE THEY ALREADY HAVE THEIR OWN PEOPLE."

Lack of Diverse Contractor Network

A common argument procurement leaders make for not receiving proposals from Black- and minority-owned suppliers is that "there aren't any firms out there that can do this work." From the perspective of Black and minority business owners, however, the challenge is more that procurement personnel are not incentivized to search out and create new relationships with them. The "get it done now" culture of corporate and institutional procurement leaves little room for new relationship cultivation, and it often does not promote informal opportunities for Black- and minority-owned businesses to connect with procurement managers.

CHALLENGES IN STAGE 3: CONTRACT EVALUATION

Demonstrated Experience

Black business owners said they often see their proposals rejected because their experience does not precisely match all the evaluation criteria. Requirements to demonstrate that a supplier has previously done the exact project will typically eliminate all but a few suppliers. This can create barriers to developing a broader pipeline of Black- and minority-owned suppliers who have successfully done similar work.

> "OUR DIRECT EXPERIENCE ISN'T VALUED AS MUCH IF IT'S NOT UNDER THE UMBRELLA OF [A LARGER COMPANY] ...THE VALUE OF [OUR] EXPERIENCE AND PERCEIVED CAPACITY IS THE MAIN REASON WE AREN'T BEING SELECTED."

> "WE'RE INVITED TO THESE MEETINGS, BUT WE'RE NOT INVITED TO GET THE BUSINESS. WE'RE QUALIFIED AND CERTIFIED...WE DON'T HAVE A MILLION IN REVENUE, BUT WE ARE READY TO DO THESE JOBS."

> "IF YOU'RE NOT INVITED TO THE TABLE, HOW CAN YOU GET [THE SPECIFIC EXPERIENCE REQUIRED IN THE RFP]? IT'S A SELF-FULFILLING PROPHECY OF NOT HIRING YOU."

Unclear or Hidden Decision Criteria

The lack of a clear rubric for how contractors are evaluated unintentionally gives preference to those who have experience applying for and winning contracts and those who know how corporations prefer that prospective suppliers format their applications and what questions to over-index. In some cases, this includes required proposal sections that aren't counted in scoring but are required for a proposal to be considered. This can also include overvaluing "style points" where proposals are assessed based on how they are designed. Such practices benefit suppliers with resources to support large proposal writing teams.

CHALLENGES IN STAGE 4: CONTRACT TERMS

Defaulting to Boilerplate Terms

To prioritize efficiency, boilerplate contract language is often used, and it is expected that the supplier will take the initiative to negotiate terms if needed. For new suppliers, this can mean signing on to less-than-ideal contract terms that cause problems with payment, timing, ability to talk about the work, etc. Prospective suppliers may not know they have the ability to negotiate or may be reluctant to harm their relationship with a purchaser by asking for alternative terms.

Payment Terms

The overwhelming majority of focus group participants agreed that current payment terms can present an enormous barrier to Black-owned business growth. Not getting paid for 45, 60, or 90 days after completing work is a huge burden to smaller companies or companies that cannot cover the personnel, capital, and expenses associated with a contract up front. Delayed payment not only disincentivizes MBEs from applying but can also hurt them if they win a contract and are stretched financially while awaiting payment, thus putting their business at risk and making it harder to get future capital or win future contracts.

Insurance Requirements

Insurance requirements are a significant challenge. Often millions of dollars in liability insurance is required for a business to be able to apply, but applying is no assurance of getting the contract. The supplier assumes all the risk in this situation or misses out on an opportunity.

Access to Legal Services

Black and minority business owners often do not have access to affordable legal services to negotiate contracts or fight for payments when corporations leverage inequitable practices. Without access to these services, they often must agree to contracts with undesirable terms and risk being left holding all the risk corporations are unwilling to share.

“MOST TIMES CONTRACTS THAT WE GET, OUR NEGOTIATING POWER IS NONEXISTENT.”

“TO GET PAYMENT EARLY IS IDEAL, WE DON’T HAVE A LOT OF MONEY IN THE BANK, A LOT OF CAPITAL FLOW THAT ALLOWS US TO PAY OUR EMPLOYEES AND OUR LOANS IF WE’RE GETTING PAID LATE. A LOT OF THIS COMES DOWN TO GENERATIONAL WEALTH AS WELL – IF YOU HAVE FAMILY WEALTH OR BUSINESS WEALTH YOU CAN PAY.”

“WHAT MAKES IT HARD IS THE INSURANCE POLICIES—YOU NEED MILLIONS OF DOLLARS [IN LIABILITY] AS A SMALL BUSINESS, HOW DO YOU LIVE UP TO THAT AMOUNT OF AN INSURANCE POLICY? IF I PAY MONEY TO THE INSURANCE COMPANY TO QUALIFY, THERE’S STILL NO GUARANTEE [I’LL GET THE CONTRACT].”

“STRUCTURALLY, CONTRACTS COME OUT WITH EVERY TYPE OF INSURANCE REQUIREMENT YOU CAN IMAGINE. I’M REQUIRED BY THE CONTRACT TO HAVE ALL THESE OTHER INSURANCE TYPES, BUT THERE’S NO PRACTICAL NEED FOR THEM.”

“WE DON’T HAVE AFFORDABLE PROFESSIONAL SERVICES TO HELP US ENSURE THAT THE CONTRACTS WE’RE GOING TO SIGN ARE IN OUR FAVOR. WE NEED LEGAL SUPPORT THAT IS AFFORDABLE AND CAN HELP US REVIEW THESE CONTRACTS, ENSURE WE’RE NOT GETTING INTO HOT WATER.”

CONTRACTING EQUITY SOLUTIONS TO EXPLORE

BLACK BUSINESS OWNERS PARTICIPATING IN WERE'S FOCUS GROUPS PRESENTED A BROAD RANGE OF SOLUTIONS AND INNOVATIONS THAT COMPANIES AND INSTITUTIONS IN WASHINGTON STATE CAN EXPLORE AS THEY SEEK TO BRING EQUITY TO THEIR CONTRACTING PROCESSES, INCREASE SUPPLIER DIVERSITY, AND INCREASE INVESTMENT WITH BLACK-OWNED BUSINESSES.

SOME OF THE PROPOSED SOLUTIONS ARE ALREADY BEING LEVERAGED BY EMPLOYERS ACROSS WASHINGTON STATE, AND DIFFERENT SOLUTIONS OR INNOVATIONS WILL APPEAL TO DIFFERENT PURCHASERS BASED ON THE SIZE AND MATURITY OF THEIR SUPPLIER DIVERSITY EFFORTS AS WELL AS THE LOCALIZED NEEDS OF THEIR SUPPLY CHAIN. NO MATTER THE SOLUTIONS CHOSEN BY ANY PARTICULAR PURCHASER, MORE CAN BE DONE TO MAKE SURE ALL SUPPLIERS, PARTICULARLY MORE BLACK- AND MINORITY-OWNED BUSINESSES, ARE INCREASINGLY ABLE TO ACCESS AND WIN CONTRACTING OPPORTUNITIES.

REQUEST FOR PROPOSAL

Contract Carve-Outs

If large contracts are the default, then contract carve-outs for Black- and minority-owned businesses could be included as part of the agreement. This means ensuring a percentage of the total contract goes to Black- and minority-owned businesses and requiring the prime contractor to report on this agreement to ensure accountability. Several Black business owners participating in WERE's research said that even when "[prime contractors] are required to have people of color, they get the job and then they never call you to actually do the work." This is a loophole that must be closed.

Simplified and Transparent Process

A process that is inherently difficult to navigate is also inherently exclusive and eliminates qualified people before they apply. Procurement departments should evaluate their processes with current suppliers—as well as with unsuccessful contract applicants—to understand where barriers exist. A simplified process should also include more transparency, particularly as it relates to project budget (e.g. max budget range, expected payment timeline, etc.) and timeline (e.g. specifying when suppliers can expect to hear back, when materials will be reviewed, etc.). A more transparent process will encourage more applications from a more diverse and qualified pool.

CONTRACTING EQUITY SOLUTIONS TO EXPLORE

CONTRACT MARKETING

Prequalified Vendor or Direct Awards

Procurement departments can work with vendors ahead of time to create a list of Black- and other minority-owned businesses that are set up to be quickly hired without having to go through lengthy approval processes ahead of each contract. This could be either as a prime or subcontract. Such a prequalification process would allow the corporation and supplier to agree to billing rates, payment terms, and other terms in advance and minimize the time needed to start work.

Incentives for Procurement Staff to Build Diverse Supplier Relationships

Corporations do not always incentivize staff who make direct contract award decisions to create relationships with suppliers or to spend time identifying Black- and other minority-owned businesses that can successfully do the work. These relationships are more frequently held by the DEI or supplier diversity teams, which can support contract award teams but are not responsible for award decisions. Incentivizing procurement officers to connect directly with Black- and other minority-owned businesses, either themselves or in partnership with a robust supplier diversity team, can create more durable relationships and help contract officers directly understand the value Black- and other minority-owned businesses can bring to their supply chains. This may in turn shift the perception that there aren't enough Black- and other minority-owned businesses that are qualified for the contract services in demand.

CONTRACT EVALUATION

Post-Award Feedback

Once a contract applicant is selected, post-award feedback is critical for all businesses, particularly those that did not win the contract. However, the pathway to request and receive feedback can be opaque or even nonexistent. Creating clear, specific, and publicly available processes for post-award debriefs can help businesses better understand how they could improve their chances of winning future contracts. Purchasing companies should clearly outline their post-award procedures and supplier diversity programs should actively connect applicants to the post-award debrief process.

CONTRACT TERMS

Expedited Payment Terms

The current standard for employers is to pay suppliers within 30 days of receiving an invoice although processing varies by employer and contract size. Payment processes should be reviewed to ensure timely payment within 30 days or less while examining the feasibility of expedited payment with the goal of paying MBE-certified suppliers and those enrolled in supplier diversity programs within 15 days of receipt of an invoice. This will better allow Black-owned suppliers of all sizes to apply for and perform contracts.

Mobilization Payments

Similar to the practice of reimbursing expenses upon project completion, larger firms or small businesses with available cash flow should consider using "mobilization payments" where appropriate as a means to advance funds to MBE-certified suppliers and those within a supplier diversity program to help cover initial cash flow needs associated with contract start-up. This will help smaller firms or firms with less access to lines of credit to compete for and complete contracts on time.

Timing of Insurance Requirements

Pre-award insurance requirements can be burdensome and expensive, particularly for contract applicants who are ultimately not selected. A more equitable approach would require the successful applicant to obtain the necessary insurance within 30 days of the contract being awarded. Purchasers and procurement teams should be transparent during the onboarding process about what is required versus what is recommended for suppliers.

Transparency in Contract Flexibility

Procurement departments should review what terms are necessary in a contract and what terms have become default but could place an undue burden on suppliers and could be eliminated. Additionally, if there is an opportunity for suppliers to negotiate contract terms, particularly for first-time suppliers or Black- and minority-owned suppliers, proactively explaining the options early in the process can ensure that the final contract is equitable for all involved.

THESE SOLUTIONS ARE BUILT IN COLLABORATION WITH SUPPLIERS AND EMPLOYERS.

This report was built from direct feedback provided by Black suppliers about the experiences they currently face in contracting with employers across Washington state. Purchasing firms were also a key part of ensuring the solutions presented are aspirational, but also realistic. Several WERE members are already implementing some of the solutions highlighted and more are hoping to introduce and operationalize more equitable contracting approaches into their organizations. These practices will support further investment in Washington Black-owned businesses.

WASHINGTON EMPLOYERS FOR RACIAL EQUITY

WERE focuses its pursuit of racial equity in the area where we can have the most impact—the workplace. Follow our efforts & download additional policy and practice resources at **EMPLOYERS4EQUITY.ORG/RESOURCES**.

This report was built in partnership with social impact consulting firm **Kinetic West**.

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