

# Washington State Department of Transportation 2017 Disparity Study

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# DBE Program Standards & Objectives

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- Program must be narrowly tailored to WSDOT's geographic & industry markets
- WSDOT must comply with *Western States & USDOT* guidance for 9<sup>th</sup> Circuit recipients
- DBE program's objectives for recipients
  - Ensure nondiscrimination in USDOT contracts
  - Create a level playing field
  - Remove barriers to DBE participation
  - Promote the use of DBEs
  - Assist the development of firms to compete outside the program

# Disparity Study Objectives

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- Provide a legal defense if the program is challenged
- Meet constitutional, federal regulatory requirements & WSDOT policy objectives
- Educate policy makers & stakeholders about the legal, regulatory & economic issues to build consensus

# Disparity Study Findings

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- WSDOT's DBE Program
  - Program is in conformance with 49 C.F.R. Part 26
    - FHWA- & FTA-approved DBE Program Plans
    - Goals are set contract-by-contract
    - Bidders are provided detailed compliance instructions
    - WSDOT reviews DBEs' "commercially useful functions"
    - Subrecipients must comply with the DBE program regulations
  - Employees must meet performance metrics
  - DBE certification is performed by OMWBE
  - WSDOT employs many race-neutral measures
  - WSDOT implements a DBE Supportive Services program

# Disparity Study Findings

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- Experiences with WSDOT's DBE Program
  - Interviewed 202 individuals; 78 survey responses
  - DBE goals remain necessary to level the playing field
  - Contract size & complexity were barriers
  - Payments are often slow
  - Greater monitoring of contract performance was requested
  - Experience requirements advantage incumbent firms
  - Financial statements are burdensome; the Safe Harbor program is ineffective because of low rate
  - Certification was generally fair, but OMWBE staff are not sufficiently versed in the highway construction industry

# Disparity Study Findings

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- Bonding & financial assistance are needed
- Race-neutral small business set-asides for small primes are needed
- Mentor- protégé initiatives might be helpful
- Most prime contractors were able to meet DBE goals
- Goal attainment issues
  - DBEs often lack capacity to perform a particular contract
  - Meeting goals in Eastern Washington was difficult
  - “On call” contracts are challenging
  - WSDOT’s narrower work codes are a barrier to DBEs

# Disparity Study Findings

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- Submitting Good Faith Efforts is difficult
- Change orders complicate goal attainment
- DBEs often cost more
- DBE substitutions are challenging
- DBEs often overstretch themselves
- Some general contractors use DBEs on non-goals job
- Some non-DBEs had been passed over for DBEs
- Some prime firm owners believed that the program is unnecessary

# Disparity Study Findings

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- Study analyzed FFY 2012-2015 contracts
  - Final Contract Data File of \$2.3B
    - 417 prime contracts
    - 5,475 subcontracts
  - Disaggregated into FHWA-, FTA- & state-funded contracts
- Geographic markets
  - FHWA-funded contracts: Washington State
  - FTA-funded contracts: Washington State & Multnomah County, OR
  - State-funded contracts: Washington State



# Disparity Study Findings

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- WSDOT's utilization of DBEs (all sectors)
  - FHWA-funded contracts
    - DBEs 17.6%
      - Blacks 0.2%
      - Hispanics 2.5%
      - Asians 1.8%
      - Native Americans 4.0%
      - White women 9.0%
    - FTA-funded contracts
      - DBEs 1.5%
        - Blacks 0.0%
        - Hispanics 1,3%
        - Asians 0.0%
        - Native Americans 0.0%
        - White women 0.2%

# Disparity Study Findings

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- State-funded contracts
  - DBEs 6.4%
    - Blacks 0.0%
    - Hispanics 1.8%
    - Asians 0.3%
    - Native Americans 0.3%
    - White women 3.4%

# Disparity Study Findings

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- DBE Aggregated *Weighted* Availability (all sectors)
  - FHWA-funded contracts
    - DBEs 19.0 %
      - Blacks 1.0%
      - Hispanics 2.6%
      - Asians 2.1%
      - Native American 3.0%
      - White females 10.3 %

# Disparity Study Findings

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- FTA-funded contracts
  - DBEs 11.0 %
    - Blacks 1.1%
    - Hispanics 2.1%
    - Asians 1.8%
    - Native American 1.7%
    - White females 4.5 %
- State-funded contracts
  - DBEs 19.0 %
    - Blacks 1.1%
    - Hispanics 2.5%
    - Asians 2.3%
    - Native American 3.1%
    - White females 10.0 %

# Disparity Study Findings

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- Disparity Study Ratios (all sectors)
  - FHWA-funded contracts
    - DBEs 92.5%\*
      - Black 22.2\*+
      - Hispanic 95.9%
      - Asian 87.4%
      - Native American 135.4%
      - White female 87.3\*

+ The result is substantively significant

\* The result is statistically significant

# Disparity Study Findings

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- FTA-funded contracts
  - DBEs 13.4%\*+
    - Black 0.0%+
    - Hispanic 62.0%+
    - Asian 0.0%+
    - Native American 0.0%+
    - White female 4.4%+
- State-funded contracts
  - DBEs 33.5%\*+
    - Black 1.3%\*+
    - Hispanic 71.0%+
    - Asian 15.2%\*+
    - Native American 26.5%\*+
    - White female 34.3%\*+

# Disparity Study Findings

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- Economy-Wide Availability Analysis
  - Survey of Business Owners
    - Very large disparities in firm sales receipts between M/WBEs & Non-M/WBE firms
  - American Community Survey
    - Minorities & White women earned lower wages, earned less from their businesses & formed fewer businesses than White males
  - Credit discrimination barriers remain high
  - Human capital constraints continue to impede success

# Disparity Study Findings

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- Qualitative Evidence of Disparities in WSDOT's Markets
  - Stereotypes, discriminatory attitudes & negative perceptions
  - Exclusion from industry networks
  - Workplace harassment, especially for women
  - Inability to obtain public sector work on an equal basis
    - No goals would vastly reduce opportunities
    - Very few opportunities for DBEs to engage in private sector work
    - Prime contracts are especially difficult to obtain



# Disparity Study Recommendations

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- Race- and gender-neutral measures
  - Increase certification outreach & expertise
  - Monitor prompt payment to subcontractors
  - Increase contract unbundling
  - Ensure bidder non-discrimination & fairly priced subcontractor quotes
  - Review insurance & experience requirements
  - Review DBE policies for consulting contracts
  - Provide information & training to bidders on program compliance

# Disparity Study Recommendations

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- Enhance the small business element
- Enhance supportive services & business development programs
- Develop a bonding & financing program for SBEs
- Adopt a DBE mentor-protégé program
- Provide information & training to WSDOT staff & subrecipients regarding program
- Increase program resources

# Disparity Study Recommendations

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- Race- and Gender Conscious Measures
  - Use the study to set narrowly tailored triennial DBE goals
    - Weighted DBE availability estimates for step 1
    - Consider other study evidence
  - Use the study to set narrowly tailored DBE contract goals
- Develop Performance Measures for Program Success



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