



# WSDOT Disadvantaged Business Enterprise Program Disparity Study

## FREQUENTLY ASKED QUESTIONS

### What is a disparity study?

WSDOT's recently completed disparity study includes statistical analysis to determine whether disparities exist between the availability of minority- and women-business enterprises and their utilization on Federal Highways Administration (FHWA), Federal Transit Administration (FTA) contracts, state-funded contracts and related subcontracts. A disparity study examines whether certain populations are under-represented as contractors and subcontractors working on Washington State Department of Transportation contracts. Among the policy choices that a disparity study informs, is assisting to determine if WSDOT has a sufficient basis for implementing race- and gender-conscious contracting goals. It also assists WSDOT in narrowly tailoring any race- and gender-conscious remedies it may implement. The WSDOT Disparity Study also:

- Examined factors necessary for entrepreneurial success, such as access to business capital, bonding, networks, suppliers, etc.
- Gathered anecdotal evidence of any continuing effects of past or present race and sex discrimination and the impact and effectiveness of WSDOT's Disadvantaged Business Enterprise (DBE) program.
- Reviewed WSDOT's DBE program and activities and recommended future initiatives and enhancements.

All WSDOT construction and consultant contracts awarded between Oct. 1, 2017, and Sept. 30, 2021, (Federal Fiscal Years 2018 through 2021) were evaluated to determine the availability versus utilization of minority- and women-owned firms on these projects – also known as the disparity ratio.

### Why did WSDOT complete a disparity study?

Disparity studies are a legal requirement for WSDOT's DBE program. The federal regulations governing the DBE program and the United States Constitution require WSDOT to implement a narrowly tailored DBE program. A narrowly tailored program is a program applied only to those minority groups who in fact are underrepresented in the contracting environment. To ensure legal compliance, WSDOT must have both qualitative and quantitative evidence of current discrimination, and a disparity study is one way to gather such evidence.

### Are there additional benefits to a disparity study?

The benefits of a disparity study include providing WSDOT and the contracting community with anecdotal and statistical evidence to show whether and to what extent discrimination exists in the agency's public contracting. This evidence informs how and to what extent education, training, policies and business development support are provided to the contracting and subcontracting communities.

A disparity study also provides an independent review of WSDOT's race-neutral efforts, including personal experience and numerical data.

Additional benefits include identifying best practices to improve the agency's contracting process, increasing the number of bidders on agency contracts and lowering the agency's procurement costs.

## What were the results of the WSDOT Disparity Study, and how will this impact future decisions?

Based on [WSDOT's 2017 Disparity Study](#) findings regarding the availability of ready and willing minority and women-owned firms, the agency set an overall DBE goal of 19 percent of Federal Highway Administration-funded projects. The overall goal must be met using race-neutral measures to the extent possible, with race or gender-conscious contract goals being used only as a last resort. Findings of the 2023 Disparity Study show that during the study period, there was a slight over-utilization of DBE-owned firms compared to availability resulting in a disparity ratio of 102.2 percent. A disparity ratio is the difference between the proportion of contract dollars awarded to a group and the proportion of that group that is ready, willing and able to work on WSDOT contracts. To maintain a narrowly tailored program, WSDOT must maintain an evidence-based program where neither DBEs nor non-DBEs are significantly under-utilized or over-utilized compared to their availability. To ensure our DBE program remains narrowly tailored, WSDOT will seek to establish a new overall goal of 17.9 percent based on the most recent availability data.

**Utilization** – the percentage of contracted dollars awarded. In the chart below, out of 100 percent, 18.3 percent of the contracted dollars were awarded to a DBE.

**Weighted Availability** - the total number of firms ready, willing, and able to bid on and perform on federally assisted contracts. In the chart below, available DBEs accounted for 17.9 percent.

**Disparity Ratio** - the difference between contracted dollars awarded and the Weighted Availability. A 100 percent disparity ratio means each group received an equitable part of the awarded contracts. The chart below shows that DBEs in the aggregate received more than their availability, so the ratio was 102.2 percent.

**Data Significance**—a “statistically significant” disparity means that an outcome is unlikely to have occurred due to random chance alone. A “substantively significant” disparity means utilization equal to or less than 80 percent of the availability measure, which supports the conclusion that discrimination may cause the result.

### FHWA Funded Contracts

	Black	Hispanic	Asian	Native American	White Woman	DBE	Non-DBE
Utilization	1.3%	5.3%	3.1%	2.7%	5.8%	18.3%	81.7%
Weighted Availability	2.0%	3.2%	2.1%	3.5%	7.1%	17.9%	82.1%
Disparity Ratio	68.2%‡***	163.6%***	146.8%***	77.9‡***	81.7%***	102.2%***	99.5%***

Source: CHA analysis of WSDOT data  
 ‡ Indicates substantive significance  
 \*\*\* Statistically significant at the 0.001 level

On federal transit-funded projects, WSDOT has a disparity ratio of 73.8 percent. Moving forward, WSDOT will emphasize its race-conscious and race-neutral Federal Transit Administration-funded projects.

### Summary of Findings: FTA Funded Contracts

	Black	Hispanic	Asian	Native American	White Woman	DBE	Non-DBE
Utilization	1.0%	0.2%	3.8%	0.01%	5.4%	10.5%	89.5%
Weighted Availability	1.8%	1.4%	2.0%	2.3%	6.7%	14.2%	85.8%
Disparity Ratio	58.3%‡***	12.4%‡	191.3%	0.4% ‡	80.5%***	73.8%‡***	104.3%***

Source: CHA analysis of WSDOT data  
 ‡ Indicates substantive significance  
 \*\*\* Statistically significant at the 0.001 level

The state-funded projects show an 85.8 percent aggregate disparity ratio. This means that at this time, WSDOT will not be moving to an enforceable Minority, Veteran, and Women’s Business Enterprise Program. It should be noted that the WSDOT Disparity Study used data collected before the full implementation of mandatory Small and Veteran-Owned Business (SVBE) goals, which are expected to further increase minority and women’s business utilization. WSDOT will conduct an updated study within the next five years to measure the effect of the SVBE program and other measures on the utilization of minority and women’s businesses.

**Summary of Findings: State-Funded Contracts**

	Black	Hispanic	Asian	Native American	White Woman	DBE	Non-DBE
Utilization	0.2%	2.4%	1.7%	3.0%	7.6%	14.9%	85.1%
Weighted Availability	1.9%	3.1%	2.2%	3.2%	7.1%	17.4%	82.6%
Disparity Ratio	10.1%‡***	79.6%‡***	74.9%‡***	94.4%***	107.9%***	85.8%***	103.0%***

Source: CHA analysis of WSDOT data  
 ‡ Indicates substantive significance  
 \*\*\* Statistically significant at the 0.001 level

The study also recommended various policy or program changes to enhance the WSDOT DBE program and race-neutral participation. These include:

- Expand opportunities for smaller contracts.
- Permit prime consultants to markup subcontractor costs.
- Expand the Capacity Building Mentorship Program to promote stronger prime-subcontractor relationships.
- Increase resources to assist small firms with bonding.
- Target additional technical support for Black-owned businesses.
- Allow prime contractors to “bank” project goal participation to make up for shortfalls on other projects.
- Develop new performance measures to evaluate DBE program changes for success in increasing participation.

WSDOT will carefully consider the above, taking into account economic and administrative feasibility, the likelihood of increasing DBE participation, and the likelihood of causing over-utilization of DBE firms.

**Why will WSDOT not move to an enforceable Minority, Veteran, and Women’s Business Enterprise Program on state-funded projects?**

To provide a quantitative metric for determining if WSDOT would move to mandatory Minority, Veteran, and Women’s Business Enterprises programs for state-funded projects, WSDOT stated in a communication prior to the completion of its Disparity Study that:

Should the study find disparity ratios of 80 or less on state-funded contracts and a strong basis in evidence for concluding that race-conscious remedies are necessary to avoid liability for disparate impact, WSDOT will implement enforceable Minority, Veteran, and Women’s Business Enterprises goals on state-funded construction projects.

During the Summer of 2023, the above disparity ratio of 80 or less was established per input received for the minority and women’s business community. After the criteria were finalized, they were shared with interested parties for comment. The Disparity Study found a disparity ratio of 85.8 percent on state-funded projects, which is above the statistical threshold where discrimination can reasonably be inferred. WSDOT does note that certain subcategories of minority businesses had lower disparity ratios and has implemented mandatory small and veteran-owned business goals on state-funded contracts in an attempt to address those disparities.

Therefore, WSDOT is not moving forward with an enforceable Minority, Veteran, and Women's Business Enterprise Program at this time.

## Why do you have enforceable preferences for minority-owned businesses under the DBE program but not on state-funded projects?

Long-standing state law sets a higher standard for the use of any kind of race or gender-based preference in state employment, education, or contracting. See [Attorney General Opinion 2017 No. 2](#) for more information.

## What are your next steps?

WSDOT will continue to review its Disparity Study and work with internal and external partners to ensure equity in our public works construction and consulting projects. We will also continue evaluating the recommendations for enhancing our DBE and state-funded projects. We will conduct an updated disparity study in under five years to ensure the continued success of our current race-neutral and voluntary efforts. Lastly, we will work with our internal and external partners to continue enhancing our prompt payment efforts.

## Who should I contact with questions?

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