

Armstead Consulting:

← *Helping Organizations and People Achieve New Futures* →

August 7, 2014

Nancy Locke
Department of Finance and Administrative Services
City of Seattle
Seattle, Washington

Dear Nancy:

Armstead Consulting is responding to your email of August 5 which included City Comments to the Draft Report on FAS 2013-080.

1. The DRAFT report CANNOT be considered a final report. It was presented in draft format with placeholders for documentation that supported some of the findings. In our emails and in-person meeting on the draft it was always recognized that the document was a draft. The supporting document exists.
2. Funding remains in the contract to finalize the document by providing the supporting documentation. It would be unprofessional of our firm to submit a draft without reserving adequate funding to complete the document as agreed in the contract.
3. As we met together, you and your staff requested that our firm research and compile specific language, strategies and checklists that would assist you and your staff in implementing a PLA that might help offset the recognized negative impacts to WMBE firms. You stated that an Ordinance would occur and that the recommended exclusions would not be part of it. Therefore you asked for further assistance.
4. We indicated to you at that time that there was not funding left in the budget to complete this ADDITIONAL and time-consuming task. That is when you offered to identify possible funding to pay for this work.
5. You are correct that the existing data in agencies does not adequately or easily demonstrate the impacts of PLAs/Community Workforce Agreements on WMBE firms. However, you also acknowledged in that meeting that your own staff, in working with specific WMBE firms, had recorded data on impacts. The statements that were provided in our draft, that you term “positioning” are supported by interviews with WMBE firms. The interviews and meetings were part of the scope of work in the contract. In addition, WMBE firms have met with staff of the city council members to relay their own experiences. The information exists. It may not support the decision to proceed with an Ordinance, but it exists. It is incorrect to say that data-driven research is not available. It is not compiled into a statistical format at this point,

www.armsteadconsulting.com

P.O. Box 6668 • Bellevue, WA 98008 • (425) 444-2618

6. We entered this contract work somewhat informed on the impacts of PLAs on WMBE firms. Information gained from our research stunned us. We attempted to alert you and your staff and the City about the future outcomes of moving ahead with an Ordinance without adequate exclusions. We also attempted to inform you and your staff about how the process that was implemented regarding the Ordinance is not viewed by the WMBE community as open and fair. These apparently are regarded as “positioning statements.”

We recognize that the City can stop work on a contract at any point in the process. Stopping work and calling a document final are two very distinct outcomes. However, our responses to your city comments document need to be included within your .pdf file if you plan to make it available as a report on the contract.

Please provide back to me a new .pdf contract file that includes these comments as part of this document or any other report that you plan to make public.

I look forward to receiving the revised file for my records.

Sincerely,

Karen W. Armstead

Karen W. Armstead, Ph.D.
President



City of Seattle

Edward B. Murray, Mayor

Finance and Administrative Services

Fred Podesta, Director

Aug. 5, 2014

City Comments:

The City (Anna Pavlik, Daniel Villao, Nancy Locke) met with Armstead Consulting to discuss this draft report. We respect the work Armstead Consulting did to seek and research women- and minority-owned business (WMBE) utilization data in public records, and we understand that the research revealed scant data was available to fully complete the assignment as it was intended. The research was performed as requested; Armstead was compensated for the research.

The contract scope was intended to give the Department of Finance and Administrative Services (FAS) information that would help FAS in the actual implementation phases of a priority hire/Project Labor Agreement (PLA) program. FAS sought to unravel anecdotal perceptions from actual disparity impacts as evidenced by changes in utilization data, so FAS could include such proven solutions that worked for other public agencies in our program. The research was intended to be neutral to whatever solution was recommended by the Construction Careers Advisory Committee (i.e., PLA or ordinance).

The contract scope commissioned was:

1. Research WMBE utilization by local agencies that have PLA and/or Target Hire ordinances, to
2. Gather WMBE utilization rates before and after implementation of such programs, and
3. Study the approaches that therefore mitigated harm and increased WMBE utilization.

Upon reading the draft report, we realized the lack of concrete data meant the findings and recommendations could not be based upon data-driven conclusions.

Should Armstead wish to refine the report to extract out the positioning statements principally within the drafted findings and recommendations pages, the City would welcome that revised draft for consideration. However, the allocated funding was largely expended and Armstead's research indicates the underlying data that was to drive the report is unavailable. Acknowledging that the research has been completed to its fullest extent, we have chosen to accept the report in its current form and will not expend additional funds to finalize the report.

Draft Report

City of Seattle, Department of Finance
And Administrative Services

FAS 2013-080- WMBE Utilization in Target Hire

Armstead Consulting, Inc.

May 13, 2014

Armstead Consulting:
← Helping Organizations and People Achieve New Futures →

May 13, 2014

Nancy Locke
Department of Finance and Administrative Services
City of Seattle
P.O. Box 94687
Seattle, WA 98124-4687

Dear Ms. Locke,

Armstead Consulting is submitting this draft report as part of FAS 2013-080, a contract to study WMBE Utilization in Target Hire. This topic is of vital concern to all stakeholders; we approached the work with awareness of the impact of the data and with a desire to find as much available information as possible to bear upon our findings and recommendations.

The project involved a selected number of WMBE firms provided to us by the City and Sound Transit. There are other WMBE firms also working on the Seawall project whose perspectives would expand and enhance the work produced by our firm. Their experiences should be also be factored into any final usage of this information by the City.

There are some requested informational materials that have not yet been provided to us. We anticipate including these in our final report. The sub-contractor, Northwest Enterprises, plans to complete his second training workshop and will be updating his report to reflect completion of the contracted tasks.

We look forward to conversations with you about this report and to submitting the final report.

Sincerely,

Karen W. Armstead, Ph.D.
President

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The City finds that minority and women businesses are significantly underrepresented and have been underutilized in City Contracts. Additionally, the City does not want to enter into agreements with businesses that discriminate in employment and provision of services...and to ensure that City contracting practices do not support discrimination in employment and services when the City procures public works, goods, and services from the private sector.

-Seattle Municipal Code, Chapter 20.42- Equality in Contracting

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 - b.** Questionnaire for WMBEs
 - c.** List of Interviewees
 - d.** Research
 - e.** Report from Northwest Enterprises

Executive Summary

Brief overview of purpose for research

Process used

Statement about findings

Recommendations summary

Approach to the Work: Scope of Work and Methodology

Approach to the Work

The City of Seattle currently has and anticipates having major construction projects over the next decade. As part of its preparation for determining the best management practices for the delivery of those projects, the City has a Community Workforce Agreement(CWA) in place for its largest current project, the Elliott Bay Seawall Project, and is considering utilizing Project Labor Agreements(PLAs)/Community Workforce Agreements(CWAs) on future projects. The City has utilized PLAs/CWAs in the past but there was a ten (10) year lapse of time between their last PLA and the current Seawall CWA. Several public agencies in King, Pierce, and Snohomish counties have PLA/CWA agreements on their construction projects. Those agreements differ in many aspects primarily based on the agency.

The City as part of its deliberations to determine if and how it will utilize PLAs/CWAs is researching and analyzing the impacts of PLAs/CWAs on target communities and WMBE companies. The City has an Executive Order and Municipal Code provision that promote and protect WMBE companies and is desirous of ensuring that no future agreements violate the commitments made in both the Executive Order and Municipal Code. The City is also desirous of ensuring the inclusion of local communities in the workforces that will be employed during the construction of its projects.

The City engaged the UCLA Labor Center to research and prepare a report titled *Exploring Targeted Hire-An Assessment of Best Practices in the Construction Industry*. The UCLA report was released in March, 2014 and included an analysis of several Target Hire programs from agencies throughout the country. Their report stated “Many public agencies have used targeted hire to leverage their investment in construction into good jobs for those who need an economic boost. For communities that experience historic disinvestment and chronic un- and underemployment, such work can create lasting stability for families and are a pathway to revitalize the local economy” (Executive Summary). The report also identified and described several types of Targeted Hire tools that could be utilized to develop a program for the City.

The UCLA report also had a chapter titled “Impact of Targeted Hire on Women-and-Minority-Owned Businesses”. This chapter discussed some of the challenges faced by WMBE companies in Seattle. It described the City of Seattle Inclusion Plan and many of its features. The Inclusion Plan has increased opportunities and contracts for WMBE firms and the WMBE community is looking forward to the continued implementation and strengthening of the Plan. Any policy, practice, or legislation that would weaken or reduce the positive impact of the Inclusion Plan would reduce the opportunity for WMBE firms to rebound from

the effects of I-200. The report also briefly described Washington State Initiative 200 (I-200) and in a chart demonstrated the effects it had on WMBE construction contracting.

The UCLA report is primarily based on a comparative study of targeted hire initiatives to determine their efficacy and to examine the experiences of public agencies in developing and implementing them. The City of Seattle Department of Finance and Administrative Services (FAS) retained Armstead Consulting, Inc. to research WMBE utilization in other jurisdictions that have PLA and/or Target Hire ordinances; gather utilization rates before and after implementation of such programs; study approaches used to mitigate harm and increase WMBE utilization in those programs; and provide a report of findings to City Purchasing and Contracting Services (CPCS).

The City identified local and out-of-state public agencies to be included in this project. Some of the agencies had PLAs; others had both PLAs and target hire programs. In an attempt to receive similar information from each of the public agencies, a questionnaire was prepared and forwarded to each agency. The City and Sound Transit also identified the WMBE firms to be included in the research and report and requested that the public agencies participating in this project also provide the names of WMBE firms that have participated in their PLAs or target hire programs. A separate questionnaire was prepared for the selected WMBE firms to provide an opportunity for them to describe any impacts or possible impact to them from PLAs or target hire programs.

The questionnaire and interview responses from the public agencies were very direct and focused. The individuals responding were directly involved in the management and/or operation of a PLA or target hire program. Their responses and those of the WMBE firms are the basis for the recommendations in this report. Although their experiences, programs, and recommendations differed in some respects, they all identified uniformity of PLA WMBE program design as a desired goal for the outcome of this project.

A sub-contractor was used to develop training materials and conduct WMBE community training workshops. Those documents are included as appendices.

The purpose of this contract was to gather information and study approaches used to mitigate harm and increase WMBE utilization by local Agencies that have PLA and/or Target Hire ordinances. In addition to other research, the UCLA Labor Center “Exploring Targeted Hire” report was utilized as one basis for information on out of state Agencies. Agencies interviewed included:

- City of Seattle
- Sound Transit
- Port of Seattle

Comment [AP1]: Purposes were (1) research WMBE utilization rates by local agencies with PLA and/or Target Hire ordinances; (2) gather WMBE rates before/after such programs; and then conclude the specific strategies that (3) mitigated harm and increased WMBE utilization.

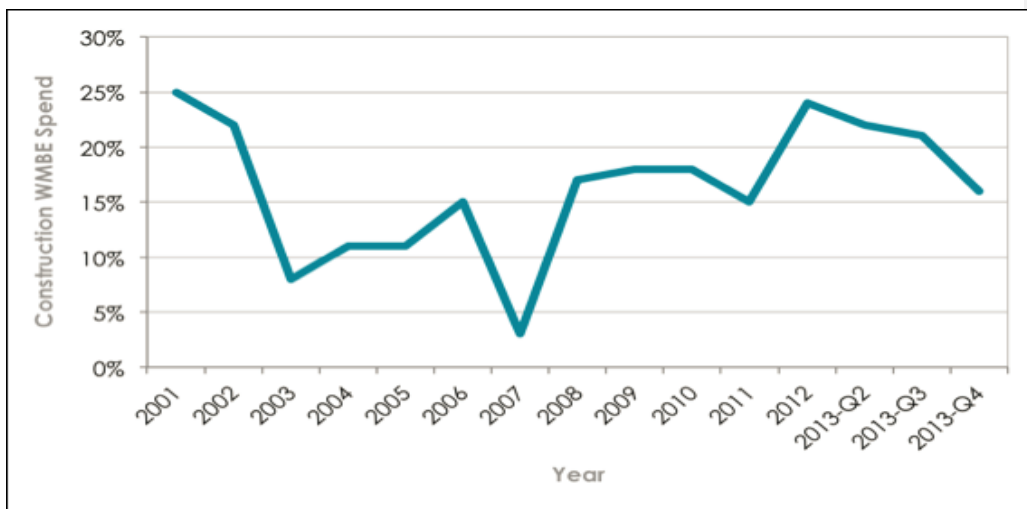
- WSDOT
- King County
- Los Angeles Unified School District
- San Diego Unified School District
- City of Oakland,
- City and County of San Francisco
- City of Portland

Additional Tasks in Scope of Work included facilitating meetings and discussions among minority contractors and stakeholders; contracting with a sub-contractor to join in interviews and research, develop training materials and conduct workshops in the WMBE community. These activities were to discuss the impacts on WMBEs working under PLAs, and identify solutions and/or mitigating alternatives to such impacts.

Work on these additional tasks included a presentation to the Community Contracting Advisory Committee (CCAC) as well as extensive meetings and conversations with stakeholders in the contracting community. The information gained in these meetings and in the preparations for the CCAC presentation are reflected in the Findings and Recommendations.

Data demonstrates the Need for Increased WMBE Participation in Public Contracting Opportunities.

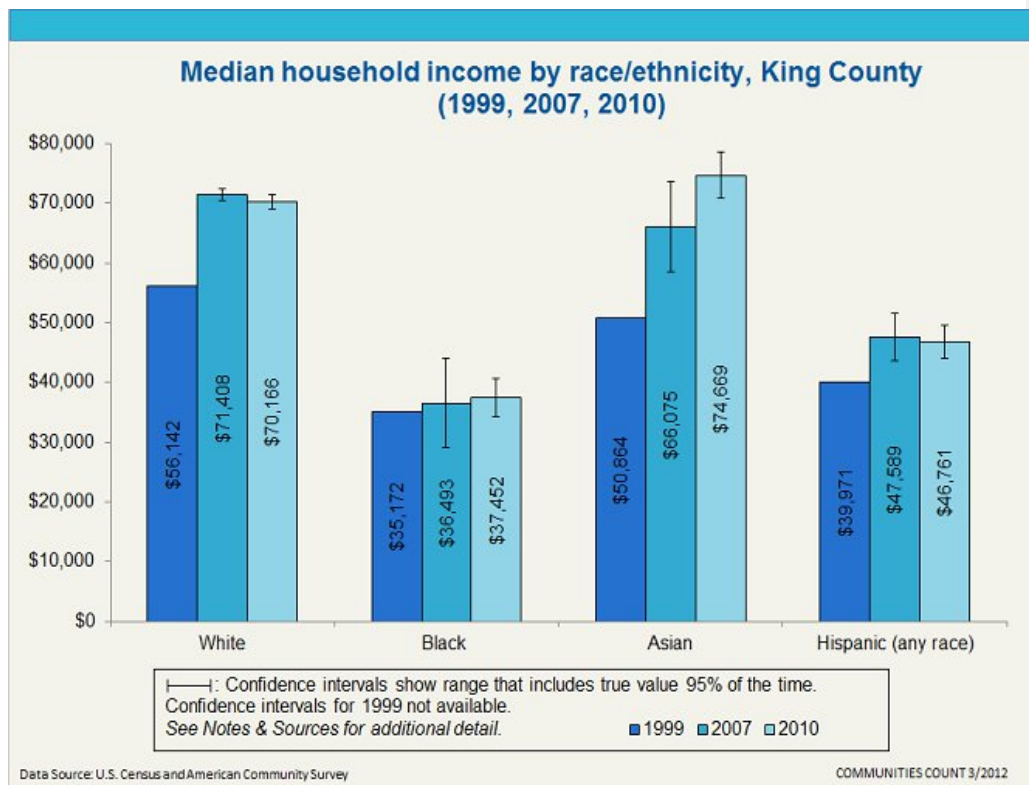
Figure 13: Construction WMBE Utilization in City of Seattle Public Works Projects 2001-2013¹⁶⁸

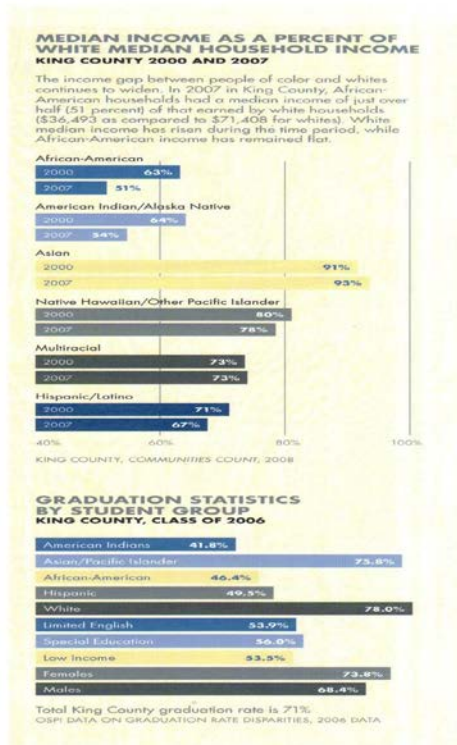


Source: City of Seattle, Construction Completed Projects WMBE Spend.
UCLA LABOR CENTER | MARCH 2014, p. 56

This chart, which was included in the March, 2014 Study prepared by the Labor Center at UCLA, demonstrates the need for aggressive inclusion practices by the City of Seattle. It was important to have this chart placed first in this section of the report because it corresponds to the information on the charts that follow. Our focus in this chart and the successive ones is the year 2007 which is the low point of WMBE utilization.

The chart below, whose data source is the US Census and the American Community Survey, depicts median household income by race/ethnicity in King County for the years 1999, 2007 and 2010. Our report focuses on the year 2007 and relates the information in this chart to that from the previous chart from the UCLA Report. 2007 is illustrated in the chart below by the mid-blue coloring or the center column for each ethnic group identified on the chart. It was a year for substantial White and Asian gain in household income. It was a year for minimal gain in Black median household income and moderate gain in Hispanic household income.





Seattle Foundation, *Healthy Communities*, 2009

This chart is from a report prepared by the Seattle Foundation for its Healthy Communities series, using data from the King County Communities Count, 2008. It illustrates the differences in median income as a percentage of White median household income. Note that it shows that African American median household income in 2007 dropped from 63% of White median household income in 2000 to 51% of White median household income in 2007.

City of Seattle
Department of Finance and Administrative Services
FAS 2013-080 TWMBE Utilization in Target Hire
Armstead Consulting, Inc.
Draft Report

The University of Washington Business Diversity Program produces a status report of the University's WMBE contracting activity, entitled *Operational Performance Dashboard*. For the year 2013, the Financial Perspectives Section showed 0% dollars spent with MBEs and WBEs. This chart is for FY2014, 1st Quarter (July-Sept 2013).

University of Washington - Business Diversity Program - Operational Performance Dashboard

FY 2014 1st Quarter (July - Sept 2013)

Customer Supplier Perspective FY13 Q3					Financial Perspective FY13 Q3				
Process	Measure	Output	Target	Gap	Process	Measure	Output	Target	Gap
Outreach	1) Number of campus/business community meetings and presentations	13	10	↑ 3	M/WBE Utilization	9) Percent of goods & services dollars spent with MBE firms	0.00%	3.00%	↑ -3.00%
	2) Number of 1-on-1 meetings with M/WBEs	30	8	↑ 22		10) Percent of goods & services dollars spent with WBE firms	0.00%	3.00%	↑ -3.00%
	3) Number of business opportunity fairs and networking events attended	4	5	↑ -1		11) Percent of public works contracts with MBE firms awarded	0.00%	10.00%	↑ -10.00%
	4) Percent of active Federal small business plans meeting goals (Q2 & Q4)	0%	50%	↑ -50%		12) Percent of public works contracts with WBE firms awarded	0.00%	6.00%	↑ -6.00%
M/WBE Suppliers	5) Number of suppliers in BDP database	455	500	↑ -45		13) Percent of construction dollars spent with MBE firms	0.00%	3.00%	↑ -3.00%
						14) Percent of construction dollars spent with WBE firms	0.00%	3.00%	↑ -3.00%
						15) Percent of A/E contracts with MBE firms awarded	2.30%	10.00%	↑ -7.70%
						16) Percent of A/E contracts with WBE firms awarded	7.00%	6.00%	↑ 1.00%
						17) Percent of A/E dollars spent with MBE firms	1.65%	3.00%	↑ -1.35%
						18) Percent of A/E dollars spent with WBE firms	4.52%	3.00%	↑ 1.52%
Internal Business Process Perspective FY13 Q3					Learning & Growth Perspective FY13 Q3				
Process	Measure	Output	Target	Gap	Process	Measure	Output	Target	Gap
Pay Bills	6) Percent of M/WBE invoices paid within 45 days of invoice date	82%	85%	↑ -3%	Develop Staff	19) Percent of BDP staff with a completed Employee Development Plan (EDP)	50%	100%	↑ -50%
M/WBE Suppliers	7) Number of M/WBE goods & services transactions	998	800	↑ 198		20) Number of training and development hours earned	7	48	↑ -41
M/WBE Suppliers	8) Dollar of M/WBE goods & services transactions	2,074,317	TBD	↑ TBD	Develop Suppliers	21) Number of businesses receiving assistance from the CBDC (Q4)	230	200	↑ 30
						22) Value of new revenues + reduced costs for CBDC assisted companies (Q4)	4,000,000	3,000,000	↑ 33.3%

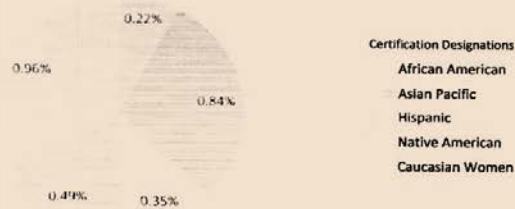
Legend		
BDP Metrics	MBE = WA certified Minority Business Enterprise	FAS = Purchasing and Accounts Payable Online System
MBE or WBE/DBS/DBV	WBE = WA certified Women Business Enterprise	eCommerce = eProcurement, ProCard, and Travel card transactions
BDP not listed goal	SBA = US Small Business Administration	eProcurement = The online ordering system for the UW
Tracked semi-annually	BECC = UW Business & Economic Development Center	ProCard = UW Visa purchasing option for small dollar transactions
Tracked annually		

FY10 STATE EXPENDITURES WITH OMWBE CERTIFIED & NON-CERTIFIED FIRMS

FY10 TOTAL EXPENDITURES WITH CERTIFIED AND NON-CERTIFIED FIRMS		
	DOLLAR SPEND	PERCENTAGE SPEND
Certified Firms	\$67,235,282	2.87%
Non-Certified Firms	\$2,279,045,155	97.13%
Total	\$2,346,280,437	100%

FY10 EXPENDITURES WITH OMWBE CERTIFIED FIRMS				
OMWBE CERTIFICATION DESIGNATION	# OF CERTIFIED FIRMS USED	M/WBE DOLLAR SPEND ¹	M/WBE PERCENTAGE SPEND ²	TOTAL PERCENTAGE SPEND ³
African American	53	\$5,179,441	7.7%	.22%
Asian Pacific	114	\$19,781,978	29.4%	.84%
Hispanic	46	\$8,185,763	12.1%	.35%
Native American	34	\$11,607,455	17.2%	.49%
Caucasian Women	297	\$22,480,138	33.4%	.96%

Expenditures with Certified Firms



¹Agency spend with OMWBE certified firms

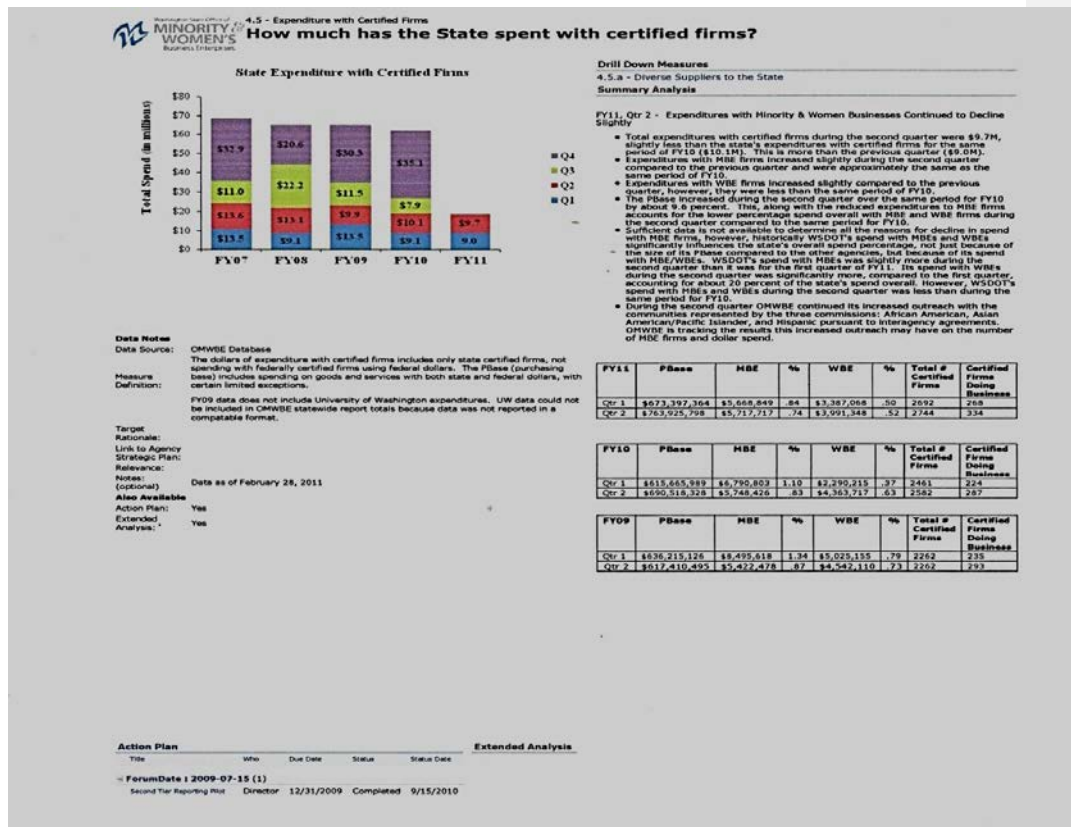
²Percentage of each minority group compared to the total spend with certified firms

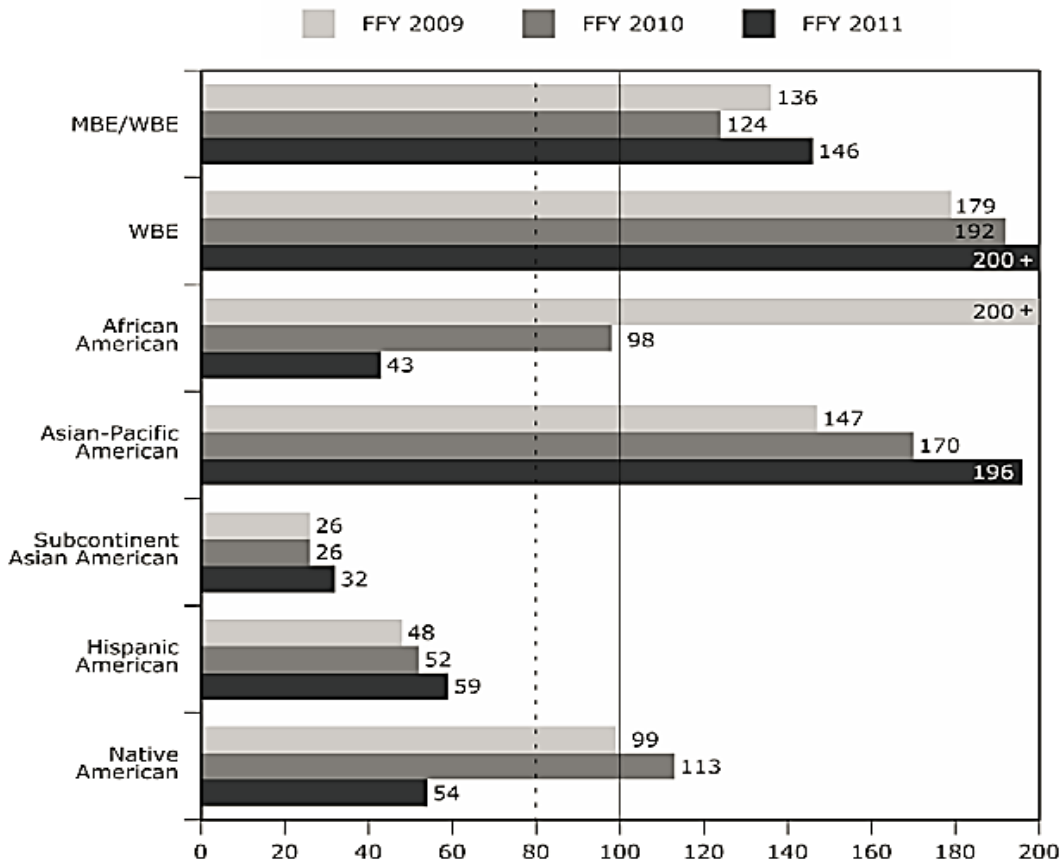
³Percentage of each minority groups compared to the state's total spend with OMWBE certified and non-certified firms

This is a chart of Washington State Expenditures with Office of Minority and Women Business Enterprise (OMWBE) certified and non-certified firms for FY 2010. This chart, the 2011 chart, and those for preceeding years were removed from the OMWBE website because of questions regarding the validity of the numbers, specifically the percentage and

dollars spent with certified firms. This chart shows the state spent only 2.8% of its dollars with certified firms.

The State has completed its review and assessment of the information on this chart and the percentage and dollars spent has been reduced. The chart below is a representation of the new format that the State is using to report dollars spent with certified firms. The information in this chart (the result of a review and analysis of the data in the former reports) shows that the amount of state dollars spent with certified firms in FY 2010 was reduced from 2.8% to .84%.





WSDOT 2012 Disparity Study, Executive Summary, p. 6

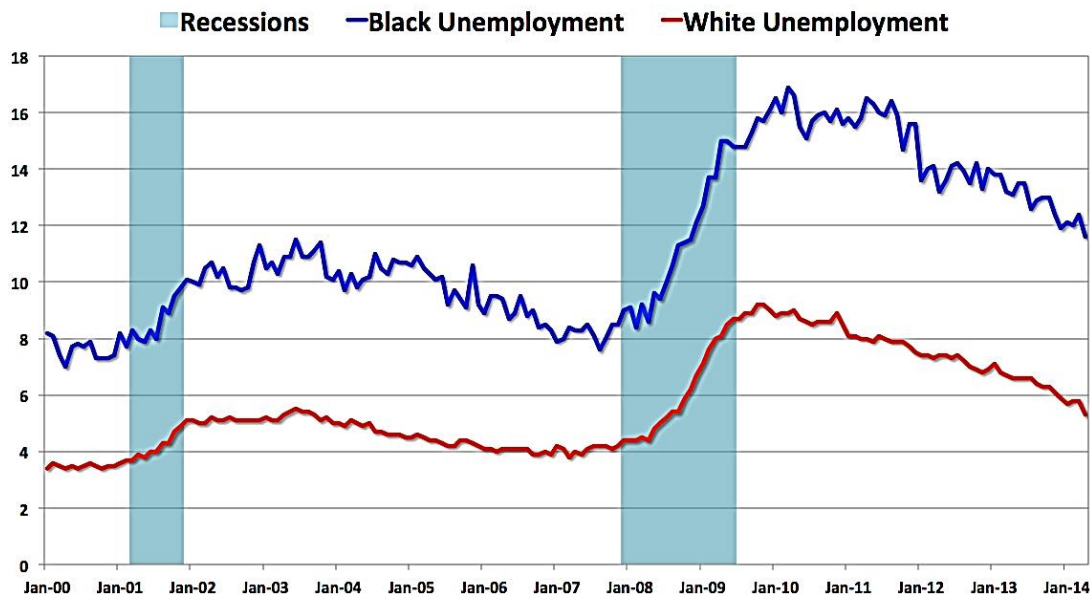
Figure ES-2.
 Disparity indices for WSDOT and local agency transportation contracts (FHWA- and state-funded) by study period year

7 Although African American-owned businesses did not show substantial disparities in FFYs 2009 or 2010, most of the dollars that went to African American-owned businesses in FFYs 2009 (approximately \$53 million of \$57 million) and 2010 (approximately \$15 million of \$18 million) went to a single African American-owned electrical contracting firm that was not DBE certified...

The Washington State Department of Transportation (WSDOT) contracted with BBC Research and Consulting to conduct a Disparity Study. The study was conducted in 2012 and a report was released in 2013. Among the findings included in the study was that there was disparity and substantial disparity in WSDOT contracting with Disadvantaged Business Enterprise (DBE) firms. This chart from the Disparity Report identifies by ethnicity and gender whether there was disparity or substantial disparity for 2009, 2010 and 2011. The

report concluded that there was substantial disparity for four of the six groups included in the study.

The Don Sterling Job Market



Mark Gongoloff, Huffington Post, May 3, 2014

"We've spent endless hours this past week exploring the boneheaded racism of L.A. Clippers owner Donald Sterling. Too bad we probably won't pay nearly as much attention to the bias of our entire economy.

The black unemployment rate was one of the bleakest features of an otherwise strong April jobs report on Friday, clocking in at 11.6 percent, compared with overall unemployment of 6.3 percent and more than twice the white unemployment rate of 5.3 percent. Hispanic or Latino unemployment was 7.3 percent.

There has been a persistent gap between black and white workers since at least 1954, when the Bureau of Labor Statistics started keeping track. But it has widened since the end of the Great Recession, part of what National Urban League president Marc Morial recently called 'an economic crisis in Black America.'"

Mark Gongoloff, Huffington Post, May 3, 2014

The final chart below demonstrates the community-wide economic impact of increased WMBE participation because WMBE firms hire a higher percentage of people of color and women in their workforce.

Data Compiled by City of Seattle on Seawall Project

Produced 4/29/14	HOURS (11/18/13-3/31/14)					
	Overall Performance (39,133.0 hours)		Workforce of WMBE firms on the Seawall Project (24,809.0 hours)		Workforce of Non WMBE firms on the Seawall Project (14,324.0 hours)	
	NUMBER	PERCENT AGE	NUMBER	PERCENTAGE*	NUMBER	PERCENTAGE**
ECONOMICALLY DISTRESSED ZIP CODES	8,165.0	20.9%	5,827.5	23.5%	2,337.5	16.2%
APPRENTICES	5,408.0	13.8%	3,624.3	14.6%	1,783.7	12.5%
WOMEN	5,818.5	14.9%	5,058.5	20.4%	760.0	5.3%
PEOPLE OF COLOR	9,932.8	25.4%	6,804.9	27.4%	3,127.9	21.8%

*Percentages calculated by WMBE category number of hours/total WMBE hours.

**Percentages calculated by Non-WMBE category hours/total Non-WMBE hours.

Findings from the Study

These findings all relate to impacts on WMBE utilization:

1. Findings in this study are derived from research and extensive interviews. Since the WMBE firms interviewed were selected by the local agencies, they do not represent the entire population of WMBEs contracted under PLAs/CWAs. A more comprehensive survey would produce additional and/or different findings
2. Provisions in the City of Seattle Seawall project are less supportive of WMBEs than those in PLAs/CWAs of other local agencies
3. WMBEs lack the resources and organization to intercede with agencies on their own behalf in the same manner as prime contractors and unions.
4. Differences in local agency core employee requirements add increased burden on WMBEs for maintaining employee teams
5. WMBEs that have suffered significant financial losses due to PLA/CWA requirements continue to struggle, and in some instances, are now viewed by agencies as “lacking contracting capacity to perform on WMBE contracts” without adequate understanding of the sources of the problem that came from the provisions of the PLAs/CWAs rather than lack of managerial skill of the WMBE owners.
6. WMBEs are limited in the number of projects bid and executed due to core employee requirements; these limit the number of core employees with background and experience in working with companies’ processes and procedures
7. WMBE firms have a higher percentage of target hire persons in their workforce (City of Seattle report 4/29/14 and UCLA Study on Public Works Hiring). Even so, there is insufficient effort to increase WMBE participation
8. The number of core employees allowed on PLA/CWA agreements ranges from 10 to 2. The City of Seattle Seawall project is the lowest number of 2 (UCLA Study on Public Works Hiring, p. 61).
9. Agencies have not tracked WMBE utilization rates before and after PLAs/CWAs in any manner that can be readily accessed and utilized
10. Local agencies are seeking more consistent requirements and implementation processes.
11. PLAs and CWAs have been extremely costly and detrimental to WMBEs in the areas of dual benefits payments and core employee requirements
12. Multiple software programs used by local agencies for contract administration and certified payrolls impact WMBEs financially
13. WMBEs are significantly impacted by multiple union agreements within PLAs/CWAs
14. Training is inadequate or non-existent for WMBEs

Comment [NFL2]: In general, our scope was to find data that would evidence certain practices as increasing WMBE utilization in the PLA environment with a direct correlation through evidence-based data. The findings are instead reflective of position statements.

Comment [AP3]: The reader would benefit from findings grouped by subject area.

Comment [AP4]: The City provided a list of all WMBE firms that worked under the Seawall PLA without a preference as to whom should be contacted

Comment [AP5]: This is a position statement

Comment [NFL6]: WSDOT CWA has no reference to WMBE; King County likewise, and there is no data. Either need data to make this evidence or else it appears to be intended to persuade as a position statement.

Comment [NFL7]: Position statement that lacks evidence and factual detail. It appears meant to state a position. We would need fact-based, evidenced data. Sound Transit, for example, provides dual benefit compensation, which would offset all known financial losses. No source or evidence for “firms lack contracting capacity”.

Comment [NFL8]: Position statement

Comment [AP9]: Just a note that some studies and stakeholders argue otherwise; substantiation necessary.

Comment [AP10]: Please be more specific on agencies report providing training to WMBE firms

15. Relationships between WMBEs and unions are adversarial at times, impacting WMBE operating and financial stability
16. Some WMBEs decide not to bid on work within PLAs/CWAs due to the union requirements and concern about union retaliation
17. Target hire programs and WMBEs need defined and enforceable goals
18. Many WMBEs and other community leaders are misinformed that target hire programs exist only within PLAs when they exist in some locales where PLAs are not used
19. Local agencies use pre-apprenticeship programs rather than target hire programs. Programs at King County and Sound Transit have produced noteworthy results in terms of supporting entry into the workforce for some groups
20. Pre-apprentice programs and support systems need improvement and processes to ensure success of their mission
21. WMBEs feel that they are at “the mercy” of well-organized unions whose priorities do not include the viability of non-union WMBE firms. These unions have access and ability to influence policy development with staff within the agencies that WMBEs do not have.
22. Agencies operate in a highly politicized environment with regard to PLAs/CWAs, which may skew their ability to determine the most viable provisions of PLAs/CWAs. Or, in some cases, whether PLA/CWA provisions are beneficial to WMBEs
23. There is a “pro PLA bias” held by city staff.
24. Public funds have been utilized to structure public processes to support PLA/CWA adoption rather than consideration of all available options. Selected initial findings and recommendations from this contract, as presented to the City in an advance copy of the CCAC presentation, have been utilized to “mitigate the impacts” of an already pre-determined decision.

Comment [NFL11]: Do we have any statistical evidence that shows a disparity between the number of bids within a PLA environment compared to outside of a PLA environment? We need to understand the statistical and fact-based evidence. The City currently does not have evidence to make a fact-based decision. The Seawall PLA for example does not show a decline in WMBE utilization compared to typical roadway projects.

Comment [AP12]: Appears to be a position statement.

Comment [NFL13]: Appears to be a position statement

Recommendations Based on the Study

1. Exemption from PLA requirements for WMBE firms
2. If a PLA is adopted, it should have a minimum of the \$25 million threshold and case by case basis of the February 2009 Executive Order of President Obama.
3. Regional consistency of PLA provisions
4. Project only PLAs
5. Reimbursement for WMBE firms when paying union benefits and also into a bona fide benefits program
6. Core employees 5 per project
7. Regionally based training and technical assistance for WMBE firms. Training to include PLA requirements, processes and dispute resolution
8. Creation of an independent board to address complaints
9. Utilization of an independent third party to oversee PLAs/CWAs
10. Standardized agreement with union that covers all participating unions
11. Development of target hire requirements based on best practices that address specific community needs.
12. Create pipelines for training and employment of target hires
13. Target hire and WMBE representation at all stages of the establishment and implementation of any agreement that involves them
14. Adequate time for target hire and WMBE firms to participate in the development of all proposed agreements that involve them
15. Established processes for getting more feedback from WMBE firms
16. A standardized, easy access reporting system
17. Agency staff neutrality when policies are being developed and implemented that will impact various sectors, including WMBEs
18. A more comprehensive study on WMBE utilization and the impacts to WMBEs through the use of PLAs/CWAs should be conducted in order to address remedies.

Comment [AP14]: The reader would benefit from the grouping of recommendations by subject area.

Comment [NFL15]: Many of these recommendations are position statements, not data-evidenced results.

Appendices

- a.** Questionnaire for agencies
- b.** Questionnaire for WMBEs
- c.** List of Interviewees
- d.** Research Sources
- e.** Report from Northwest Enterprises

City of Seattle
Department of Finance and Administrative Services
FAS 2013-080 TWMBE Utilization in Target Hire
Armstead Consulting, Inc.
Draft Report

The City of Seattle has retained Armstead Consulting, Inc. to conduct research and do an analysis of potential effects to minority and women-owned businesses resulting from PLAs/CWAs. Your organization was identified as one that has experience in this area. We request your assistance in helping us to obtain the information necessary for this analysis. I would very much appreciate having a phone conversation with you to discuss the questions listed below and look forward to talking with you personally. Thank you in advance for your assistance.

Bob Armstead
bob@armsteadconsulting.com
425 444 2706

Questionnaire for Seattle Target Hire Research

Name of Organization

Name of Person

Title

Date of Interview

Phone Number

1. Does your organization have a Project Labor Agreement (PLA)?
If so what year was the PLA established?
2. Does your organization have a Target Hire Policy, initiative or strategy for the hiring of local residents/hiring from specific geographic areas/hiring based on zip codes/based on an inclusion plan? If so what year was the policy, initiative or strategy established?
3. What experiences did you have with the implementation of your policy, initiative or strategy?
4. Did you record MWBE utilization rates prior to the implementation?
If so were they higher, lower, or did not change after your program was implemented?

5. Are you recording the impacts of your PLA in areas such as:

Employment of target individuals

Effects of your PLA on small businesses (if you have a target hire initiative or strategy please define small business)

Effects of your target hire policy on medium/large businesses (if you have a target hire initiative or strategy please define medium/large business)

6. Have you found that the impacts vary based on the size of the WMBE companies?

7. Are you recording the impacts of your target hire policy, initiative or strategy in areas such as:

Employment of target hires

Effects of your target policy on small businesses

Effects of your target hire policy on medium/large businesses

8. What barriers do you see to the inclusion of target hires in your PLA and what would you recommend to overcoming those barriers?

9. What barriers do you see to inclusion of MWBE firms in your PLA and what would you recommend to overcome those barriers?
10. Do you have WMBE firms that I can interview that can provide information about the impacts and solutions that best helped them?
11. Do you have any other comments, suggestions or recommendations that I should include in my report?

The City of Seattle has retained Armstead Consulting, Inc to research and analyze the impact on minority and women-owned businesses resulting from PLAs/CWAs. We request your assistance in helping us obtain the information necessary for this analysis. Please complete the questionnaire below and if you have questions or comments please contact Bob Armstead at bob@armsteadconsulting.com or 425 444 2706

Questionnaire for Seattle Target Hire Research

Name of Organization _____
Name of Person Interviewed _____
Title _____
Date of Interview _____ Phone Number _____
e-mail address: _____

1. Has your firm provided any products or services to a public agency with a Project Labor Agreement (PLA)/ Community Workforce Agreement(CWA)?
2. Has your firm provided any products or services to a public agency with target hire/community based employment requirements?
3. Were there any differences between how you normally procure work and how you normally perform on contracts compared with how you procured and performed on PLA/CWA and or target hire projects?
4. Were there any differences in your ability to successfully bid projects that did not have PLA/CWA requirements versus projects that have PLA/CWA requirements?
5. Have you found that there are effects of PLAs on small businesses? Please describe whether these effects were positive or negative and why.

6. Have you found that there are effects, positively or negatively, of target hire policies on small businesses?
7. Do you think there are barriers to inclusion of MWBE firms on PLA/CWA projects? If so, what recommendations would you make to overcome those barriers?
8. Do you have any other comments, suggestions or recommendations that I should include in my report?

List of Interviewees

Agencies

City of Seattle
Sound Transit
Port of Seattle
King County
WSDOT
City and County of South San Francisco (for Target Hire Program)
Los Angeles Unified School District,
San Diego Unified School District,
City of Oakland
City of Portland

WMBE Firms

1-Alliance Geomatics
Marshbank Construction
A & D Quality Construction
WE Coates Surveying
Pro USA
Madd Construction
Allied Fuel
Seatac Sweeping Services
Metro Painting
Wright Electric
Elcon Corporation
RJ Richards
Maroni Construction

Others

Mark Johnson, LLC
Kiewit Construction
Jerry Dinndorf, AGC

Research Sources

Northwest Enterprises Sub-contractor Report and Attachments

May 12, 2014

Client: Contractor
Project: Training for WMBE firms on PLA
Subject: Intermediate Project Report

Developed written summaries for each of the reference materials the City of Seattle provided to Construction Careers Advisory Committee members (See attached reference summaries):

- San Francisco Local Hire Ordinance
- Los Angeles Local Hire Program Ordinance
- King County Project Labor Agreement
- Project Labor Agreement Info Graphic – UCLA
- Construction Careers Study – Working Partnerships
- Sound Transit Project Labor Agreement Study
- LA USD Analysis – UCLA
- Project Labor Agreement Analysis – Cornell
- 21st Century Apprenticeship – Department of Labor

Tasks in the Scope of Work:

- Developed and submitted a draft PLA Training Workshop outline to Karen Armstead for review and comment;
- Met with Nancy Locke for the purpose of seeking her insights regarding the impacts of a blanket ordinance versus one that allowed the City to utilize PLAs on a project-by project basis;
- Coordinated a PLA Training Workshop with WMBE leaders;
- Held a PLA Training Workshop with WMBE leaders on May 1, 2014 (See attached PLA Training Workshop Report;
- Performed follow up contact with PLA Training Workshop attendees to confirm and/or clarify their comments and recommendations;
- Developed and submitted an Intermediate Project Report.

May 12, 2014

Client: Contractor
Project: PLA Training Workshop Report
Date: May 1, 2014

On May 1, 2014, WMBE leaders met to participate in a PLA Training Workshop. The purpose of the workshop was to share information and discuss strategies for mitigating the impacts to WMBE firms if the City of Seattle passed an Ordinance that required it to execute a Blanket Project Labor Agreement (PLA) to include all public works construction projects – that met threshold criteria.

WMBE leaders present at the PLA Training Workshop were: Eric Alozie, acting as the workshop facilitator, Marilyn Moch, Frank Lemos and Robert Armstead.

The group was provided with the following definition of a Project Labor Agreement:

A Project Labor Agreement (PLA) is a comprehensive contract between a consortium of labor unions and the owner or managing entity of a construction project. It operates as a “job-site constitution,” establishing safe working conditions and rules, project execution and accountability on the job, and protocols for resolving labor disputes without resorting to strikes and lockouts.

Contractors and subcontractors on the project must abide by the policies contained within it. Because they are specifically tailored to the needs of particular projects, PLAs give project owners, building contractors, and trade unions standardized expectations while creating a unique opportunity to anticipate and avoid potential problems that might otherwise arise and possibly impede project progress.

PLAs can vary in scope; they can cover an individual project, multiple related projects or an entire construction program. Project-specific PLAs are uniform agreements covering all the crafts on a project, and lasting only as long as the project. Agency-wide PLAs apply to multiple projects undertaken by a public agency. A citywide or master PLA can require that PLAs are negotiated and set in place for all public works projects within a municipality or based on a threshold project size.

Next, information regarding how a blanket Project Labor Agreement between public agencies and labor unions impact WMBE firms was provided. Also, specific examples of impacts that WMBE firms have faced on local projects was shared with the group.

Third, for purposes of expanding understanding of the issue, handouts were distributed that provided examples of Project Labor Agreements and targeted hiring initiatives in other jurisdictions:

- San Francisco Local Hire Ordinance
- Los Angeles Local Hire Program Ordinance
- King County Project Labor Agreement
- Project Labor Agreement Info Graphic – UCLA
- Construction Careers Study – Working Partnerships
- Sound Transit Project Labor Agreement Study
- LA USD Analysis – UCLA
- Project Labor Agreement Analysis – Cornell
- 21st Century Apprenticeship – Department of Labor

Finally, to initiate discussion the group was provided with the following list of suggested provisions to mitigate the impacts and barriers to WMBE firms with the passage of an Ordinance that involved the development of a blanket PLA:

- Waiver of union dues;
- Waiver of union representation and/or initiation fees;
- Option to renegotiate the blanket PLA after two (2) years, if the data establishes that WMBEs firms have been negatively impacted;
- Exception from the blanket PLA, if a WMBE subcontract supports the achievement of the City of Seattle's WMBE goal;
- Inclusion of a WMBE representative on the Labor Equity Committee

21st Century Registered Apprenticeship: A Shared Vision – Department of Labor

Summary

The Advisory Committee on Apprenticeship (ACA) is composed of approximately 30 individuals appointed by the Secretary of Labor for one-or two-year terms. The membership includes representatives from private employers, public entities and the labor sector.

The U.S. Department of Labor commissioned the ACA to submit a set of recommendations for advancing Registered Apprenticeship into the 21st century. More specifically, the ACA was charged with providing advice and recommendations to the Secretary of Labor in five strategic areas:

1. The development and implementation of policy, legislation, and regulations affecting the national Registered Apprenticeship system;
2. Strategies to expand the use of the Registered Apprenticeship model in demand occupations in industries such as, but not limited to, clean and renewable energy sectors, and healthcare;
3. Ways to more effectively partner with the public workforce system, educational institutions, and communities to leverage Registered Apprenticeship as a valued post-secondary credential;
4. The development of career pathways that can lead to good jobs for everyone and sustained employment for new and incumbent workers, youth, and under-utilized and disadvantaged populations; and
5. Efforts to improve the performance, quality and oversight, and recognition and utilization of the national Registered Apprenticeship system, which will foster quality workplaces that are safe, healthy, and fair.

The ACA report offered the following set of recommendations for advancing Registered Apprenticeship into the 21st century:

EDUCATE:

- **Educate Employers & Support Industry Engagement.** Support and expand existing world-class industry efforts and conduct additional extensive outreach campaigns to increase further industry engagement.
- **Educate Stakeholders, Policymakers and the Public on Benefits of Apprenticeship.** Conduct research and disseminate promising program and partnership models, particularly from existing programs such as the recently recognized Innovators and Trailblazers.
- **Apprenticeship is Post-Secondary Education.** Work closely with education (secondary and post-secondary) to promote apprenticeship as post-secondary education with industry recognized credentials, while pursuing continued articulation of Registered Apprenticeship to college credit and degrees.

BUILD:

- **Build Greater Utilization from Strength.** Support strategies that increase demand for high quality programs with strong industry investment.
- **Build Federal and State Partnerships.** Promote coordinated workforce and economic development efforts across federal and state agencies that can increase the demand for Registered Apprenticeship.
- **Build Pipelines and Pathways through Strategic Partnerships.** Promote strategic partnerships with workforce, secondary and post-secondary education, and community-based organizations, to build a pipeline to feed into sustainable career pathways that prepare more workers for the 21st century economy.

INNOVATE:

- **Invest and Innovate.** Invest in pilot programs, demonstration projects, and strategies that increase the capacity of the national Registered Apprenticeship system at the federal, state, and local levels, particularly building on existing successful programs and strategies.
- **Scaling Innovation.** Scale continuing innovation in America's Registered Apprenticeship system that recognizes the proven strategies of existing programs with a long history of demonstrated results and the innovative efforts led by states.
- **21st Century Registered Apprenticeship is Innovation at Work.** Continue the efforts to modernize the regulatory frameworks governing America's Registered Apprenticeship system to support the ongoing innovation led by apprenticeship sponsors and states and communities across the USA.

Key Information and/or WMBE Impact

One of the Advisory Committee on Apprenticeship's long-term goals for 21st century Registered Apprenticeship is to increase the number of businesses and industries that use and reap the advantages of quality Registered Apprenticeship programs.

A review of this study summary will provide WMBE firms with a comprehensive understanding of the national Registered Apprenticeship system and how it can benefit their firms by providing a pipeline of skilled workers with industry-specific training and hands-on experience.

The Construction Careers Handbook – Partnership for Working Families

Summary

The purpose of the handbook was to provide insight into the three elements of an effective construction careers approach policy model. It listed those elements as follows:

- An understanding of the industry;
- A commitment to a policy model that can work in your region;
- Strong relationships between building trades and community leaders, who work together to win new allies and champion effective public policy.

The introduction provided a basic description of a construction careers approach model. It defined a construction careers approach as a policy model that uses policies, programs and private agreements to create a higher quality construction market while also increasing access to construction careers for low-income workers, women, veterans, and workers of color.

Chapter two explained the mechanisms of job quality and job access in the construction industry and discussed how they work together. Chapter two also provided background information regarding the standards and curricula for apprenticeship programs.

Chapter three focused on community workforce agreements, an innovative approach to project labor agreements that fully integrates targeted hiring with the strongest job quality provisions.

Chapter four addressed other mechanisms that can combine job quality and targeted hiring in innovative and effective ways.

Chapter five laid out the key elements of a good targeted hire program, and provided tools to illustrate what makes a targeted hire program effective.

Chapter six outlined the unique tools developed to address equity and access to all the benefits of residential energy efficiency programs.

Finally, chapter seven addressed the critical importance of developing relationships among building trades and community leaders. This vital and intangible resource is both a strategy and a tactic. Positive relationships are essential to winning good policy; they are the anchor for long-term and effective implementation.

Key Information and/or WMBE Impact

While acknowledging the handbook does make any direct references to WMBE inclusion, it provides valuable insight into the hiring and employment processes of the construction industry, as well as an excellent case profile of Andre Johnson, a San Diego based minority electrical contractor that began his apprenticeship with IBEW in 1995 and after working as a journey level electrician, and started Johnson Electric in 2006.

King County Project Labor Agreement (PLA) Executive Order – Fact Sheet

On April 30, 2013, the King County Executive Office issued Executive Order PER 13-1(AEO) Establishing Procedures and Criteria for the Appropriate Use of a Project Labor Agreement (PLA) on Major King County Capital Construction and Alternative Delivery Projects

Basis/Rationale for Executive Order

- On July 14, 2010, the Metropolitan King County Council Labor Policy Committee adopted King County labor policy LP 2010-031, which directed the county to explore the use of a PLA for county projects when appropriate; and
- King County plans, develops, constructs and manages capital projects to support a wide range of county operations and important public services, including but not limited to wastewater treatment, solid waste disposal, building development and redevelopment, airport operations, surface water management, flood hazard reduction, habitat restoration, park and trail development, and transportation;
- King County has a compelling interest in awarding public works contracts that yield the lowest reasonable costs and the highest standard of quality and efficiency in implementing the construction of county projects.
- Significant cost increases and schedule impacts can occur on capital projects due to labor disputes, difficulties in predicting labor costs and potential interruptions in labor supply, lack of coordination between labor and public owners and uncertainty about the terms and conditions of employment of workers.
- In order to mitigate the risk of increased costs and schedule delays caused by labor disputes and uncertainties, and thereby better ensure the timely and cost effective completion of construction projects, King County has successfully used PLAs for some of its largest construction projects, and other public agencies in the State of Washington and in other states have used PLAs in the construction of large public facilities, including the Washington State Department of Transportation, City of Seattle, Port of Seattle, Washington State Major League Baseball Stadium Public Facilities District, Sound Transit, City and County Housing Authorities, and the Seattle School District; and
- King County recognizes the value of PLAs that meet appropriate criteria consistent with statutory competitive procurement requirements.
- PLAs are considered appropriate for major, time sensitive county capital projects that will involve a substantial number of contractors, subcontractors, and trades and craft workers, and have a substantial construction dollar value.
- PLAs can be used to secure a skilled labor supply to mitigate the risk of labor shortages and other potential labor disruption on county public works and public-private construction projects on County property by establishing mutually agreed labor rates and priority access to skilled labor and other labor related conditions specific to the project.
- The use of PLAs by King County and other public entities in the Puget Sound region demonstrates that non-union or open shop contractors do successfully bid and compete and have participated on contracts using a PLA.
- Participation goals for Small Contractors and Suppliers (SCS), women- and minority-owned businesses and apprenticeship have been met on public works projects using PLAs by the county as well as other agencies in this region and nationally.

- The potential benefits of any proposed PLA must be carefully considered with respect to the effect such an agreement may have on competitive procurement, project costs and King County's policy to advance the participation of SCS firms and women- and minority-owned businesses.
- The use of PLAs should be considered only in those limited circumstances when such an agreement clearly benefits the interests of King County from a cost, efficiency, quality, safety and timeliness standpoint.

Department Agencies – Procedure & Criteria

- The effective date of the Order is April 30, 2013. All contracts advertised for bids on or after April 30, 2013 are covered by the Order.
- The Order applies to contracts for public work or improvement projects in excess of \$25 million.
- The decision to use a PLA shall be considered in light of the important public policies favoring fair, open competitive procurements and advancing the participation of SCS and women- and minority-owned businesses.
- The decision to use a PLA shall be made on a project-by-project basis, and only when such an agreement will promote labor stability and advance King County's interest in cost, efficiency, quality, safety, and timeliness.
- The project schedule encompasses multiple years wherein labor rate agreements must be negotiated or wherein the potential for labor disruptions, such as strikes, lockouts, or slowdowns could affect completion of the project and/or ongoing operations and services.
- Whether the project is expected to involve a substantial number of trades and crafts.
- Whether the need and urgency of the project is such that there could be harm to the public if completion of the project is delayed due to labor disruptions.
- Whether the use of a PLA is otherwise expected to provide cost, efficiency, quality, safety, and/or schedule benefits to the project.

Key Information and/or WMBE Impact

While the primary function of Executive Order PER 13-1(AEO) was to establish the procedures and criteria for use of a PLA on public work or improvement projects in excess of \$25 million – it also clearly stated that the decision to use a PLA shall be considered in light of the important public policies favoring fair, open competitive procurements and advancing the participation of SCS and women- and minority-owned businesses.

Project Labor Agreements: Pathways to Business Ownership and Workforce Development in Los Angeles – [UCLA](#)

Summary

This study evaluated to what extent the Los Angeles Unified School District succeeded in meeting the small, local, emerging, and disabled veteran business enterprise goals, and local hire goals established in the Project Stabilization Agreement (PSA).

The introduction section provided an overview of the research, including methodology and structure.

Next, the background section laid out the context and background information for the sections that followed, including a definition of project stabilization agreements (PSAs), otherwise known as project labor agreements (PLAs), and a brief history of PLAs. The section defined and provided context on local hire policies. The background section also provided a brief history of the LAUSD PSA as well as a summary of its small/disadvantaged business targets and local hire goals.

Third, the “Program Outcomes” section analyzed data and provided interviews regarding the small business outcomes and local hire outcomes for the LAUSD PSA. The section also included analysis on different strategies that were used to improve outcomes and ensure compliance on these PSAs.

Finally, the conclusion provided a summary of outcomes and strategies and offered future research and analysis areas to better evaluate and learn from the LAUSD project stabilization agreements.

Among the study's key findings and conclusions:

- After evaluating the Los Angeles Unified School District PSA and the Los Angeles Community District PLA program outcomes, the researcher found that both programs have either exceeded their targeted business participation and targeted hiring goals.
- The program managers for both LAUSD and LACCD interviewed worked closely with multiple union signatory and non-union signatory contractors. Some non-signatory contractors decided to become signatory after being exposed to the high quality workers that come out of joint labor-management apprenticeship training programs, while others decide to not become signatory but still choose to bid on future PSA/PLA contracts.
- The LAUSD and LACCD PSA/PLA created additional opportunities for these businesses to win public contracts that did not exist in the past. The two programs awarded over \$5.32 billion in contracts to small, local, emerging, and disabled veteran business enterprises just in the last 8 years, and have created opportunities for thousands of small, local, emerging, and disabled veteran business enterprises.

- The hiring of a 3rd party monitor to ensure transparency and project compliance is very important to meet the goals of PLAs. And that PLAs work best when resources, time, and leadership are committed to successful implementation.

Key Information and/or WMBE Impact

The “Program Outcomes” section of the study provided information that since the Board of Education adopted a Small Business participation goal of 25% in 2003, according to the PSA’s third-party monitor, Parsons Construction, Inc.’s (PCI) data, as of September 2011, LAUSD has spent over \$8.68 billion on construction, and approximately 48% of that amount was awarded to small and disadvantaged business enterprises.

City of Los Angeles

Department of Public Works PLA / Public Works Infrastructure Stabilization Policy - Q&A

I) General

What is the Department of Public Works Project Labor Agreement (DPW-PLA)?

The DPW-PLA is an agreement entered into between the City of Los Angeles Department of Public Works and the Los Angeles/Orange County Building Trades Council in order to establish the labor terms and conditions on a covered construction project. The DPW-PLA is included as a condition to the contract for a covered project. It includes terms that would ensure a peaceable manner of settling labor disputes and grievances without strikes, work stoppages, or lockouts. It has been proven to be a helpful mechanism in ensuring the delivery of an on time and on budget project.

The DPW-PLA also includes in its terms a local hire requirement, which affects all the contractors on the project. The local hire requirements (in terms of construction hours worked) include the goals of 30% local hiring, 10% disadvantaged worker (formerly 'at-risk') hiring, and 50% of all apprentice hours shall be performed by local apprentices.

Does the project benefit from having a DPW-PLA?

A DPW-PLA ensures that contractors will have a large pool of highly skilled and well trained labor, thus delivering a project that is more likely to be on time and on budget. Also to this end, the DPW-PLA provides a forum to address and resolve worker grievances or any other issues that arise. Because labor issues are negotiated in advance, the DPW-PLA also guarantees there will be no strikes, work stoppages, or lockouts on this particular project, with no undue delays.

Why does local hiring necessitate a DPW-PLA?

Typically, construction unions are bound by their "first in, first out" dispatch rules. However, as a condition to this agreement, the signatory unions are able to prioritize targeted workers when dispatching its members for covered project work.

The construction unions have also agreed to open up their Joint Apprenticeship Programs which offer the training necessary to begin a career in construction. The resources and support available to these new workers will assist in providing them with career job opportunities that offer sustainable wages and benefits.

Will this policy delay my project?

This policy should not delay your project.

As a contractor, are there any benefits to me for working on a project with a DPW-PLA?

In addition to the reasons explained above, the DPW-PLA stabilizes working conditions, drug testing, grievance/jurisdictional disputes.

A Jobs Coordinator will be one of your resources for finding workers at various skill levels who satisfy the DPW-PLA requirements across different crafts. These workers are pre-screened and ready to work and may prove to be of value to you on your other non-DPW-PLA projects.

Finally, since the construction unions are opening up their Joint Apprenticeship Programs to non-union contractors, you may take advantage of the lower wages for state registered apprentices while still being able to complete the work necessary.

II) Contracting

Does this policy reduce the pool of qualified bidders for a project?

Our data does not show that this policy reduces the pool of qualified bidders for a covered project- if anything, it will make

for a more even playing field so that you have a larger pool of qualified bidders for a project. Labor costs should be no

different from that of any other Public Works project with the City of Los Angeles, since prevailing wage has always been

required on public works projects as dictated by the Los Angeles City Charter and the California State Labor Code.

What is required in order to obtain approval to work on the project?

In addition to the regular subcontractor approval process through the BCA's Special Research and Investigation (SRI) section, each C/S/E must also submit a Letter of Assent, Core Workforce List, and Employment Hiring Plan. Each of these documents must be approved by the Office of Contract Compliance prior to a C/S/E's start of work on the covered project.

By signing a Letter of Assent and agreeing to the terms of the DPW-PLA, do I become a union contractor for all current and future City of Los Angeles projects?

No. By signing a Letter of Assent, you are agreeing to abide by the terms and conditions of the DPW-PLA for this project only, and only until the completion of the covered project.

As a prime contractor, am I only allowed to bring on union subcontractors?

No, you determine which subcontractors you submit for approval to work on the covered project. Data indicates that non-signatory contractors make up a good portion of contractors working on projects with similar agreements.

Has anyone had success in meeting their local hiring percentages?

The City of Los Angeles Department of Public Works has had several projects that included a PLA. Of these, the majority of contractors have met their local hiring goals. The most successful contractors made sure that their entire staff, from the payroll administrators to the project administrators, had a good understanding and willingness to do what was necessary to meet their local hiring goals. It was also important that they made use

of the resources available to them such as the Jobs Coordinator, the unions, and the Department of Public Works, Bureau of Contract Administration.

What if I don't meet the local hiring percentages?

If a project has not met the local hiring percentages, the prime contractor may still be deemed in compliance by demonstrating both (a) that it and each of its C/S/Es have complied with all other requirements of the DPW-PLA and the Policy, and (b) that it and its C/S/Es have maintained documentation that shows they have exerted their best efforts to comply with the targeted hiring requirements. These efforts by each C/S/E include: a) adhering to their Employment Hiring Plan, b) showing proof of requests to unions, through Craft Request Forms, of sufficient numbers of workers needed to meet the local hiring percentages, c) documentation of contact with the Jobs Coordinator d) other accurate records documenting compliance efforts.

Can I be penalized monetarily for failing to meet the local hiring percentages?

Yes. Liquidated Damages may be assessed if you are not determined to be in compliance. (See "What if I don't meet the local hiring percentages?") Throughout the project, you will be apprised of your current local hiring percentages. If you are falling short of the local hiring goals at a given reporting period, you will have an opportunity to correct the local hiring goals at the next reporting period. If you are not able to do that, then liquidated damages will be withheld from your retention payment as disputed funds pending a decision on assessment by the Board. You will have an opportunity to appear before the Board of Public Works to appeal the assessment.

If a contractor's work is assigned to a union not signatory to the DPW-PLA, are they still bound by the terms of the DPW-PLA?

In this scenario, the contractor would not be bound by the union security, referral, or benefits provisions of the policy. It is up to the contractor to decide whether they would like to obtain workers from that union. However, by having signed a Letter of Assent, the contractor is still responsible for complying with the DPW-PLA requirements which include hiring of workers from targeted areas and payment of prevailing wage.

III) Hiring

What is a Jobs Coordinator?

A Jobs Coordinator will assist the C/S/E's in meeting their targeted hiring percentages. The Prime Contractor is responsible for securing the Jobs Coordinator. Duties of a Jobs Coordinator may include coordinating the local hire referral process with the C/S/Es, Unions, City Work Source Centers, and Faith and Community Based Organizations. The Jobs Coordinator will also be responsible for certifying Disadvantaged Worker candidates and maintaining a database of pre-qualified local residents for referral to work on a project. The Jobs Coordinator will play an important role in helping to resolve workforce problems as necessary.

Am I required to use a Jobs Coordinator?

The use of a jobs coordinator is not required. If you are able to meet each of those targeted hiring goals, then you would be deemed in compliance. However, if you do not meet one or more of the targeted hiring goals, hiring and documenting utilization of a jobs coordinator is one of the elements of being deemed to be in compliance.

Am I allowed to use my existing workforce?

Yes. A C/S/E is allowed up to ten (10) "Core Workers" which is defined as a worker whose name appears on the C/S/E's active payroll for 60 of the 100 working days prior to the award of the construction contract and meets all standards required by applicable local, state or federal regulation. The employer may select one core worker, and then they must hire one worker from the unions, if available, and thereafter alternately for the first ten core workers.

Am I only allowed to use union workers?

No. (See "Am I allowed to use my existing workforce?")

Additionally, if the unions cannot provide a local resident and/or disadvantaged worker within 24 hours, the C/S/E shall be free to obtain Local Residents from any source. This does not, however, release the C/S/E from the obligation to meet the targeted hiring percentages set forth in the DPW-PLA.

Am I obligated to hire the workers sent by the union or jobs coordinator?

No. The DPW-PLA explicitly states that the employer retains authority in making individual hiring decisions. However, C/S/Es should document their compliance efforts and address reasons for not hiring a particular worker. The C/S/Es must still abide by the proper core worker ratios as set forth in the DPW-PLA's referral process.

Also, if the C/S/E requests a local resident and/or disadvantaged worker from the unions, and is referred a non-targeted worker, they are under no obligation to hire the referred worker.

What if the union sends workers who do not meet my workforce standards, e.g. proper skill levels, productivity?

You are not obligated to employ that worker. (See "Am I obligated to hire the workers sent by the union or jobs coordinator?")

Can I bring in union workers from other locals who are not signatory to the DPW-PLA?

1) If a C/S/E is signatory to a union collective bargaining agreement that is not signatory to the DPW-PLA, the C/S/E may continue to use workers from that union. However, the C/S/E is still responsible for complying with the targeted hiring requirements.

2) If a C/S/E is not signatory to a union collective bargaining agreement, and the work in question is legitimately assigned to that union not signatory to the DPW-PLA, the C/S/E may still obtain workers from that union. However, the C/S/E is not required to use workers from that union and they are still responsible for complying with the targeted hiring requirements of the DPW-PLA.

Will the unions send me apprentices even if I am a non-union contractor?

The unions signatory to the DPW-PLA shall be the primary source of all craft labor employed in DPW-PLA covered projects. Article 7.4 (in part) of the DPW-PLA states that the "...Unions will exert their best efforts to **refer/recruit** (emphasis added) sufficient number of skilled craft Local Residents and Disadvantaged Workers to fulfill the requirements

of the C/S/E(s). In recognition of the fact that the communities within the boundaries of the City will be impacted by the construction of the Project, the Parties agree to support the development and graduation of disadvantaged construction apprentices and workers from residents within Tiers 1 or 2 zip code areas.”

How do I meet the Disadvantaged Worker percentage goal?

Disadvantaged workers may be referred to you through community based organizations and/or your Jobs Coordinator. The Jobs Coordinator can also conduct interviews with your employees and potentially certify your current employees as being “disadvantaged” if they meet one of the criteria listed in the DPW-PLA that defines Disadvantaged Workers. C/S/Es, if they choose to do so, may certify workers as being “disadvantaged” if they are aware that they meet one of the

criteria listed in the DPW-PLA that defines Disadvantaged Workers. However, the C/S/E must maintain documentation showing proof of the worker’s disadvantaged status in the event that the BCA requests this information

.IV) Labor Costs

Am I responsible for worker initiation fees and dues as dictated by the union?

C/S/Es and their employees shall be required to comply with Union security provisions for the period during which they are performing on-site project work to the extent, as permitted by law, of rendering payment of the applicable monthly and working dues only. There should be no additional costs in comparison to current dues paying members.

What wages and benefits are non-signatory C/S/Es’ responsible for?

All workers covered by the DPW-PLA shall be classified in accordance to the work performed and paid the hourly wage rates for those classifications in compliance with the applicable prevailing wage rate determination established pursuant to the California Labor Code by the Department of Industrial Relations or as established by the US Department of Labor if applicable.

C/S/Es not signatory to the established Labor/Management Trust Fund agreements, as specified in the Schedule A

Agreements for the craft workers in their employ, shall sign a subscription agreement with the appropriate

Labor/Management Trust Fund covering the work performed under the DPW-PLA. The C/S/E shall pay contributions to the established employee benefit funds in the amounts designated in the appropriate Schedule A Agreement and make all employee-authorized deductions in the amounts designated in the appropriate Schedule A Agreement; provided, however, that the C/S/E and Union agree that only such bona fide employee benefits as accrue to the direct benefit of the employees (such as pension and annuity, health and welfare, vacation, apprenticeship, training funds, etc.) shall be included in the

requirements and required to be paid by the C/S/E on the DPW-PLA covered project; and provided further, however, such contributions shall not exceed the contribution amounts set forth in the applicable prevailing wage determination.

V) Workers

Once a C/S/E signs a subscription agreement, do they become union members for all projects they work on?

No. By signing a subscription agreement, the C/S/Es agree to have their benefits paid into the appropriate trust fund for the covered project only and only until the completion of that covered project.

Can non-union workers take advantage of the benefits offered by the various trust funds?

Core employees on the project may take advantage of the benefits once they become vested, or reach a given number of hours as determined by each union's Labor/Management Benefits Trusts.

Key Information and/or WMBE Impact

While this Q&A document should not be used as a replacement to reviewing and understanding the specific terms of the DPW-PLA, it is meant to be a guide for WMBE firms - as it answers questions and outlines commitments of contractors and their prospective employees.

A guide that is relevant for assisting us with identifying and articulating WMBE concerns, as the City of Seattle develops its process for a Targeted Hiring policy.

Community Workforce Provisions in Project Labor Agreements – Cornell ILR

Summary

This study focused on the community development impacts of PLAs and CWAs by exploring the following key research and policy questions:

- Can PLAs or CWAs be a tool for helping create middle-class careers in the U.S. construction industry?
- To what extent have PLAs across the country incorporated the key elements of CWAs (targeted hiring and other social investment provisions)?
- What are key contributing factors for the effective implementation of CWAs?

It presented results of a national study of PLAs, consisting of content analysis of more than 185 agreements and a survey of Building Trades Councils from across the U.S. This study found that PLAs and CWAs can constitute an effective overarching framework for enforcing laws and regulations that promote equal employment and career opportunities for residents of low income communities, women, minorities, and disadvantaged or at risk populations. In the absence of PLAs/CWAs, enforcement of the labor rights of these groups, as well as those of all other workers, is challenged by the lack of structured monitoring mechanisms and systems that are currently only offered by collective bargaining and union representation.

Among the study's key findings:

- More than 100 PLAs implemented during the last 14 years have incorporated various types of community workforce provisions. The most widely used provisions involved the hiring of local area residents and apprentice utilization levels. 139 PLAs included Helmets-to-Hardhats provisions to promote the entry of veterans into the construction industry.
- 45 PLAs included provisions for employment and career opportunities for economically disadvantaged populations.
- 103 PLAs contained provisions for preferential hiring of women and minorities. 50 of these PLAs required compliance with ratios specified in local codes, owner/agency bid provisions, and other binding agreements related to the PLAs.
- There is significant variation in the number and type of community workforce provisions included in the agreements across geographic regions and over time. PLAs in the Mid-Atlantic region were likely to have more community workforce provisions than any other region.
- Local hire provisions were far more predominant in the West and Northeast than elsewhere, and provisions related to the economically disadvantaged and implementation processes were disproportionately found in Mid-Atlantic PLAs.
- Agreements during recent years tended to have more community workforce provisions than those signed prior to 2004.

- Helmets-to-Hardhats provisions have become far more widespread during recent years than prior to 2004, and minority and women hiring provisions also appear to be on the rise.
- Three case examples of PLAs/CWAs included in this report reveal that the implementation of community workforce or targeted hiring provisions have increased job and career path opportunities in the construction industry to workers from low income communities and minorities in Washington, DC, New York City, and Cleveland. While most of the existing studies have focused on PLAs/CWAs in the West Region, this present study's contribution is to examine specific experiences in the Midwest and Mid-Atlantic states.
- In Cleveland, the PLA/CWA implemented for the construction and expansion of the Cleveland University Hospital offers an interesting example of a large private sector project (\$500 million in value, generating 5,200 jobs) with mechanisms to involve the community through the City Council and to utilize a pre-apprenticeship program at a vocational high school. The Washington Nationals Stadium PLA in D.C. covered a \$611 million project, with outcomes that exceeded the goals and targets set in the agreement. A Memorandum of Understanding signed between the Building and Construction Trades of Greater New York and the New York City government has established a direct access system for women, minorities and low-income individuals to access apprenticeship training and employment opportunities under several city agency projects covered by PLAs.

Conclusions the study authors were able to reach based on their research and findings were as follows:

No "one size fits all" for community workforce provisions. The analysis presented in the report revealed significant variations in the characteristics of the PLAs/CWAs indicating that stakeholders approach the crafting and implementation of the agreement in varying ways to fit the specific needs of the communities in which the construction projects take place.

The experience with the Cleveland, Washington, DC, and New York City PLAs indicate that pre-apprenticeship programs are key contributing factors to successful implementation, and that unions can play an essential role in utilizing their own structures to assist community-based pre-apprenticeship programs when these lack the capacity to meet targets. This was clearly apparent in the cases of the Washington Nationals Stadium and the Cleveland University Hospital PLAs.

Flexibility of the stakeholders in adjusting processes is critical for addressing unanticipated challenges. As the New York City PLA's case illustrates, flexibility is also key for formulating goals and targets that fit the characteristics of the construction markets and the specific needs of the communities. For markets with a significantly diverse workforce, detailed targets tied to specific criteria (e.g. residency by zip-code) might limit, rather than expand, employment opportunities for minorities and women. The

implementation of off-site credits for contractors who hire target populations in non-covered projects might be helpful for meeting goals in these cases.

The three case examples presented in this report as well as previous studies, demonstrate that the real test of the effectiveness of community workforce provisions is in the implementation. Recognizing the need for further research on outcomes, this study finds that PLAs with community workforce provisions can be effective tools for promoting employment and career paths for communities that have been traditionally underrepresented in this industry.

Key Information and/or WMBE Impact

While acknowledging the study did not make any direct references to WMBEs in the PLAs studied, one aspect of the statistical analysis performed that WMBEs can utilize for further review – is that when including geographic region alone, it was found that the area of the country in which the PLA was signed was highly influential on the number of CWA provisions.

Using the Mid-Atlantic region as the reference point, the regression analysis indicated that PLAs signed in the West, Southeast, and Midwest were all significantly less likely to have higher numbers of CWA provisions. The Southeast, in particular, was the least likely to have these provisions.

San Francisco Mandatory Local Hiring Ordinance – Fact Sheet

General

- The effective date of the Local Hiring Ordinance is March 25, 2011. Contracts advertised for bids on or after March 25, 2011 are covered by the ordinance.
- For the initial year, the mandatory participation level is 20% of all project hours within each trade performed by local residents, with no less than 10% of all project work hours within each trade performed by disadvantaged workers.
- The mandatory participation level will increase annually over seven years up to a mandatory participation level of 50% of project work hours within each trade performed by local residents, with no less than 25% of all project hours within each trade performed by disadvantaged workers. The table below indicates the participation level for each year:

Year Local Hiring %

- | | |
|---|-----|
| 1 | 20% |
| 2 | 25% |
| 3 | 30% |
| 4 | 35% |
| 5 | 40% |
| 6 | 45% |
| 7 | 50% |

- At least 50% of the project work hours performed by apprentices within each trade shall be performed by local residents, with no less than 25% of project work hours performed by apprentices within each trade to be performed by disadvantaged workers.

Department Agencies

- The local hiring ordinance applies to contracts for public work or improvement projects in excess of \$400,000.
- Local hiring ordinance applies to contracts utilizing federal or state funds. However, the administration will segregate federal/state funds or provide contract provisions if the policy would violate federal or state law.
- Work hours performed by out of state workers shall not be included in the calculation of the number of project work hours to which the local hiring policy applies.

- City funded projects within 70 miles from the City and County of San Francisco shall be governed by the new Local Hiring Ordinance. The local hire requirements shall apply in proportion to actual San Francisco costs and will not include non-City funding sources.
- City funded projects constructed 70 miles or beyond the City and County of San Francisco shall be governed by the new Local Hiring Ordinance. However the local hire requirement will include San Francisco residents, workers local to the area, and workers residing within the region.
- Policy shall not apply to existing Project Labor Agreements effective prior to the date of the policy or to projects advertised for bid after the effective date of policy that are covered with existing PLA's.
- Authorize financial and non-financial incentives for contractors and subcontractors who exceed local hiring requirements, including financial incentives that comply with applicable law and do not exceed one percent of the estimated cost of the contract and non-financial incentives by OEWD regulation.
- Establish various consequences of noncompliance with the policy, including the authority of assessment of penalties against contractors that do not meet the local hiring requirements.
- Penalty amount equal to the journeyman or apprentice prevailing wage rate for the primary trade used by the contractor for each hour the contractor fell short of the local hiring requirement.
- Establish pipeline and retention compliance mechanisms which contractors and subcontractors may use to receive a conditional waiver from local hiring requirements on a project specific basis, including "specialized trades, a process of receiving credit for local hiring on non-covered projects, a process for sponsoring apprentices, and a process for direct entry agreements with apprenticeship programs.

Contractors

- Core employee or existing worker is defined as an apprentice or journey level employee who appears on the contractor's certified payroll 60 of the previous 100 calendar days prior to date of award of city contract.
- Contractor is required to submit a Local Hiring Plan for covered projects in excess of \$1 million.
- Subcontractors of all tiers shall agree to comply with the Local Hiring requirements.
- Contractors are required to keep records of the requirements related to the Local Hiring ordinance. OEWD shall establish reporting procedures for the contractor.
- Requires a contractor to use the CityBuild referral program if their preferred method of hiring does not enable them to meet the local hiring requirements of the policy.
- The policy does not limit a contractor's ability to assess qualifications of prospective workers or to make final hiring and retention decisions.
- A contractor who wishes to contest the assessment of penalties may request a hearing.

Community

- Local resident is defined as an individual who is domiciled within the City of San Francisco 7 days prior to commencing work on the project.

- Disadvantage worker is defined as a local resident who (i) resides in a census tract within the City with a rate of unemployment in excess of 150% of the City unemployment rate; or (ii) at the time of commencing work has a household income of less than 80% of the AMI, or (iii) faces or has overcome at least one of the following barriers to employment; being homeless; being a custodial single parent; receiving public assistance; lacking a GED or high school diploma; participation in a vocational English as a second language program; or having a criminal record or other involvement with the criminal justice system.

- OEWD shall be authorized to engage its community based organizations in the City's workforce development system to assist with the recruitment and retention of targeted workers. Through the existing Workforce Investment Board, OEWD shall provide a forum for community members, CBO's, and representatives of all stakeholders affected by or interested in the policy.

OEWD

- Authorize OEWD to enforce the policy and require awarding departments to work cooperatively with OEWD.
- Establish various reporting and monitoring requirements for the policy.
- Periodic review conducted by the OEWD and Controller's Office every 3 years from the effective date of the policy. The review will determine whether there is a sufficient supply of local workers to meet the increase in mandatory participation level, assess the length of time to develop a pool of workers per trade, and if necessary propose amendments to the policy.
- OEWD is authorized to enter into contracts for investigative monitoring services for the purpose of the policy.
- Required penalties collected for violations of the policy be distributed to a special account, and the funds deposited into that account be used to support enforcement of the policy and workforce development initiatives.
- Required the Director of OEWD to submit an annual written report to the Board documenting the compliance of each awarding department's contractors with the requirements of the policy.

Key Information and/or WMBE Impact

While this Q&A document should not be used as a replacement to reviewing and understanding the specific terms of the San Francisco Local Hiring Policy for Construction, it is meant to be a guide for WMBE firms - as it answers questions and outlines commitments of contractors.

A guide that is relevant for assisting us with identifying and articulating WMBE concerns, as the City of Seattle develops its process for a Targeted Hiring policy.

Sound Transit PLA Study

Summary

Sound Transit commissioned a study to objectively review the performance of its Project Labor Agreement (PLA) for Sound Move and provide suggestions for improvement, based on information obtained from Sound Transit and project stakeholders.

The study began with an introduction that provided a brief description of a PLA, why PLAs are utilized and listed the typically-cited advantages and disadvantages for utilizing a PLA.

The study then sought to assess whether the PLA had been working according to the Board's objectives – by analyzing readily available data and seeking out the views and experiences of those stakeholders who were involved and/or impacted by the PLA's performance on the following nine (9) study questions:

- Study Question 2 – From readily available Sound Transit data, are there specific areas of cost savings as a result of the PLAS?
- Study Question 3 – What major issues (including those not anticipated when the PLA was entered in) and/or major formal grievances occurred during the Sound Transit PLA that were related to PLA provisions?
- Study Question 4 – How did the use of a PLA impact non-union contractors (including small-businesses and minority and women-owned contractors)?
- Study Question 5 – Did Sound Transit's PLA no strike provision remain in effect during the area strikes affecting unions that were signatories to the PLA?
- Study Question 6 – Since the PLA was executed between Sound Transit and Labor, some Trade Unions signatory to the PLA are no longer a part of the National Building and Construction Trades Department. Has this change in circumstances impacted the PLA and in what way?
- Study Question 7 – How well did the Sound Transit PLA's Prevailing Wage Escalation provision and wage reimbursement policy work for Sound Transit, Labor, Prime contractors and Subcontractors (including small, minority and women-owned firms and Disadvantage Business Enterprises)?
- Study Question 8 – The Sound Transit PLA included a unique component regarding community representation. How did this component work from the perspective of Sound Transit and stakeholders (labor, contractors and community)?
- Study Question 9 – Compare the Sound Transit PLA with the Port of Seattle Airport PLA, Brightwater Conveyance PLA and WSDOT's SR-520 Pontoon Construction Project to identify similarities, differences and unique provisions.
- Study Question 10 – If a PLA were used in the future for Sound Transit construction contracts, what suggestions have been identified for improvements? Include what lessons should be learned from the use of Sound Transit's PLA?

For purposes of brevity, Study Question 4 – How did the use of a PLA impact non-union contractors (including small-businesses and minority and women-owned contractors)? has the most relevance to WMBE firms.

PLA Article 6 required non-union contractors to hire union employees and operate nearly the same as union contractors on Sound Transit projects. More specifically, PLA Article 6.3 allowed contractors to bring up to five "core employees" to a Sound Transit Project jobsite

Based on input from non-union subcontractors (including small-businesses and minority and women-owned contractors) the majority of them generally viewed the PLA negatively due to union dispatch and workforce requirements, union dues/fees, trust fund payments and related fines, concerns about union organizing and lack of information about PLA elements prior to bidding. Some anecdotal comments are as follows:

- Working on the Project meant interfacing with a new "bureaucracy" union dispatch rules, dues requirement and union trust fund payments. If some of the rules were violated it could be potentially costly.
- Multiple contractors commented on the financial squeeze resulting from late payments to the union trust fund.
- Some contractors were concerned about the quality of manpower being dispatched from the union hall. "To have to turn manpower around is a waste of time and money".
- Non-union employee who came to a Sound Transit jobsite paid initiation fees and monthly dues. Some subcontractors expressed concerned because often the jobs were not long enough for their employees to become vested union members and qualify for benefits.

Key Information and/or WMBE Impact

The Sound Transit PLA required non-union contractors to operate nearly the same as union contractors. They were expected to hire employees from the union signatory to the PLA, to pay wages and benefits commensurate with prevailing wage rates, to adjust those rates twice a year, to pay union trust funds and to operate within a set of rules determined by the PLA.

From the subcontractors interviewed and surveyed, it appeared to that most non-union contractors (including small-businesses and minority and women-owned contractors) felt that a PLA was a disincentive to bid Sound Transit projects.

This information is important for WMBE firms, as moving forward it heightens the awareness of their need for additional education and training around what it means to work on a PLA project.



City of Seattle

Consultant Contract Cover Page

Place this cover page on top of the contract package, and post package into Summit.

Transmit an original Contract with this Cover page to City Clerk.

Seattle City Clerk MS: CH-03-10 3rd Floor City Hall

Agreement # FAS2013-080 / Amendment # 1 / P.O. # DCFS13080	
Consultant Legal Business Name	Armstead Consulting, Inc.,
Consultant Doing Business As Name	Armstead Consulting, Inc.,
Contract Title	WMBE Utilization in Target Hire
Execution Date (last signature)	4/22/2014
Contract Expiration	<input type="checkbox"/> When work is done <input checked="" type="checkbox"/> Specified Date: 12/31/2014
Department / Division	FAS/CPCS
Department Contact/Phone	Anna Pavlik/ (206) 386-1122
Contract Type (check one)	<input type="checkbox"/> Standard (Non-Roster) <input checked="" type="checkbox"/> Roster Agreement
Solicitation Type check one	<input type="checkbox"/> Advertisement <input checked="" type="checkbox"/> Roster (Informal Solicitation or Direct Selection from Roster) <input type="checkbox"/> Sole Source <input type="checkbox"/> Emergency <input type="checkbox"/> Adverse Effect <input type="checkbox"/> Direct Appointment (under \$44,000)
Amendment Reason check all that apply	<input type="checkbox"/> Time Extension <input type="checkbox"/> Revised Scope of Work <input checked="" type="checkbox"/> Revised Payment <input type="checkbox"/> Other:

Original Contract Amount	\$ 20,000
Total for this Amendment	\$ 20,000
Amended Amounts to date	\$ 20,000
TOTAL CONTRACT AMOUNT	\$40,000

The City of Seattle

Department of Finance and Administrative Services

CONSULTANT ROSTER AGREEMENT

TWMBE Utilization in Target Hire

AGREEMENT NUMBER: FAS 2013-080

This Agreement is made and entered into by and between the City of Seattle ("the City"), a Washington municipal corporation, through its Department of Finance and Administrative Services (FAS), as represented by the Director of FAS as represented by the Director of FAS; and Armstead Consulting, Inc., PO Box 6668, Bellevue, WA 98008 ("Consultant"), a corporation of the State of Washington and authorized to do business in the State of Washington.

Recitals:

WHEREAS, the purpose of this contract is to research impacts from Target Hire programs (PLA and Ordinance requirements in particular) on WMBE utilization, and solutions or factors that mitigate the risk of negative impacts.

WHEREAS, the Consultant was selected from Consultant Roster for Category 88.

1. TERM OF AGREEMENT.

The term of this Agreement begins when fully executed by all parties, and ends on December 31, 2014, unless amended by written agreement or terminated earlier under the provisions.

2. TIME OF BEGINNING AND COMPLETION.

The Consultant shall begin the work outlined in the "Scope of Work" section (the "Work") upon receipt of written notice to proceed from the City. The City will acknowledge in writing when the Work is complete. Time limits established under this Agreement shall not be extended because of delays for which the Consultant is responsible, but may be extended by the City, in writing, for the City's convenience or conditions beyond the Consultant's control.

3. SCOPE OF WORK.

The Consultant shall perform the following, and may be asked to do additional related tasks:

- 1) Research WMBE utilization in other jurisdictions that have PLA and/or Target Hire ordinances,
- 2) Gather WMBE utilization rates before and after implementation of such programs,
- 3) Study approaches used to mitigate harm and increase WMBE utilization in those programs, and
- 4) Provide a report of findings to City Purchasing and Contracting Services (CPCS)

The research will examine if impacts vary based on size of the WMBE companies.

The research will:

Obtain data about WMBE utilization rates, interview WMBE firms about impacts and solutions that best helped them, review any published reports, and find other useful informative materials to draw from. The following agencies will be included in the research:

- Los Angeles Unified School District,

- San Diego Unified School District,
- City of Oakland,
- City of San Francisco
- Sound Transit,
- Port of Seattle,
- WSDOT (520 and Viaduct Project used PLA Agreements)
- King County which has used PLA agreements
- Seawall PLA. The Seawall PLA is specifically included because it is a pilot specifically executed with the purpose of instructing the city on the impacts of a PLA on WMBE.

Deliverables:

Research will culminate in a written report and a presentation to CPCS outlining the findings.

The report will include:

- 1) An Executive Summary that includes key findings and recommended approaches to mitigate impacts.
- 2) A Section to identify both risks and opportunities from a PLA, for WMBE firms and recommended approaches to mitigate negative impacts and take advantage of the opportunities;
- 3) A Section to identify risks and opportunities from an Ordinance, and recommended approaches to mitigate negative impacts and take advantage of opportunities.

An additional presentation may be requested and paid on an hourly basis, depending on the interest of other advisory groups.

Schedule & Budget:

- An 80% complete draft report is due to CPCS on April 9, 2014 or as otherwise agreed;
- Final report is due to CPCS on April 23, 2014 or as otherwise agreed.

The Work is subject to the City's review and approval. The Consultant shall confer with the City periodically during the Work progress, and prepare and present information and materials (e.g. detailed outline of completed Work) requested by the City to determine the adequacy of the Work or Consultant's progress.

4. PAYMENT.

The Consultant will be reimbursed at an hourly billing rate of \$225. Total compensation under this Agreement is anticipated to be Twenty Thousand dollars (\$20,000) - although total cost will be determined based on hours of work performed. The parties agree that the hourly rate includes all direct, indirect, and fixed fees for the project.

5. PROMPT PAYMENT TO SMALL SUBCONSULTANTS.

The Consultant and every subconsultant performing the Scope of Work at any sub-level shall pay all Small Subconsultants (defined below) within 30 days for all work completed by the Small Subconsultant, regardless of City payment. The Consultant may withhold only the portion of amounts due that is for work in dispute. A Small Subconsultant is defined as:

- those registered with the city of Seattle as a WMBE
<http://www.seattle.gov/contracting/registration.htm>
- certified by the King County Small Contractors and Suppliers (SCS) Program
<https://info.kingcounty.gov/EXEC/contractreporting/Public/SCS/default.aspx>

- certified by the State of Washington as a Disadvantaged Business Enterprise (DBE) or as a Woman or Minority Owned Business Enterprise (WMBE)
<http://www.omwbe.wa.gov/directory-of-certified-firms/>

6. CONTRACT PAYMENTS REPORTING REQUIREMENTS.

When submitting each invoice to the City for payment, the Consultant must complete an on-line Subconsultant Payment Report to record all payments to subconsultants at <http://web6.seattle.gov/FAS/CIDCC>. A unique Purchase Order number is required, which may be obtained from the City Project Manager or from <http://web6.seattle.gov/fas/summitpan/R297/R297.aspx>. Contact Steven Larson (206) 684-4529 or Miguel Beltran (206) 684-4525 for assistance.

The Consultant shall ensure that all subconsultants are registered to the City's Online Business Directory prior to completing the online report, at <http://www.seattle.gov/contracting/registration.htm>.

7. PAYMENT PROCEDURES.

Payment shall be made by the City to the Consultant upon City's receipt of an invoice itemizing the number of hours worked and the Work elements performed for the period covered by the invoice.

8. TAXES, FEES AND LICENSES.

- A. Consultant shall pay and maintain in current status, all necessary license fees, assessments, permit charges, etc. It is the Consultant's sole responsibility to monitor and determine changes or the enactment of any subsequent requirements for said fees, assessments, or changes and to immediately comply.
- B. Where required by state statute, ordinance or regulation, Consultant shall pay and maintain in current status all taxes necessary for performance. Consultant shall not charge the City for federal excise taxes. The City will furnish Consultant an exemption certificate where appropriate.
- C. As authorized by SMC, the Director of Finance and Administrative Services may withhold payment pending satisfactory resolution of unpaid taxes and fees due the City.

9. ADDRESSES FOR NOTICES AND DELIVERABLE MATERIALS.

Deliver all official notices under this Agreement to:

If to the City: Anna Pavlik
City of Seattle
P.O. Box 94687
Seattle, WA 98124-4687
(206) 386-1122
anna.pavlik@seattle.gov

If to the Consultant: Karen Armstead
PO Box 6668
Bellevue, WA 98008
(425) 444-2618
karen@armsteadconsulting.com

10. FINAL CONSULTANT CONTRACT PAYMENTS REPORTING REQUIREMENTS.

Within 30 calendar days after final payment has been made to the Consultant for the Work, the Consultant shall submit to the City a completed "[Final Consultant Contract Payments Reporting Form](#)" in the form attached to this Agreement or as revised by the City.

11. EQUAL BENEFITS.

The Consultant shall comply with SMC Ch 20.45 and Equal Benefit Program Rules, which require the Consultant to provide the same or equivalent benefits ("equal benefits") to domestic partner of employees as the Consultant provides to spouses of employees. At City's request, the Consultant shall provide information and verification of the Consultant's compliance. Any violation of this Section is material breach, for which the City may exercise enforcement actions or remedies defined in SMC Chapter 20.45.

12. SOCIAL EQUITY REQUIREMENTS.

- A. Consultant shall not discriminate against any employee or applicant for employment because of race, color, age, sex, marital status, sexual orientation, gender identity, political ideology, creed, religion, ancestry, national origin, or any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. The Consultant shall affirmatively try to ensure applicants are employed, and employees are treated during employment, without regard to race, color, age, sex, marital status, sexual orientation, gender identity, political ideology, creed, religion, ancestry, national origin, or any sensory, mental or physical handicap. Such efforts include, but are not limited to: employment, upgrading, demotion, transfer, recruitment, layoff, termination, rates of pay or other compensation, and training.
- B. Consultant shall seek inclusion of woman and minority business for subcontracting. A woman or minority business is one that self-identifies to be at least 51% owned by a woman and/or minority. Such firms do not have to be certified by the State of Washington but must be registered in the City Online Business Directory.
- C. Inclusion responsibilities include using solicitation lists, advertisements in publications directed to minority communities, breaking work to smaller tasks or quantities, making schedule or requirement modifications that assist WMBE businesses to compete, targeted recruitment, mentorships, using consultants or minority community organizations for outreach, and selection strategies such as direct awards.

13. INDEMNIFICATION.

The Consultant does release and shall defend, indemnify, and hold the City and its employees and agents harmless from all losses, liabilities, claims (including claims arising under federal, state or local environmental laws), costs (including attorneys' fees), actions or damages of any sort arising out of the Consultant's performance of the services contemplated by this Agreement to the extent attributable to the negligent acts or omissions, willful misconduct or breach of this Agreement by the Consultant, its servants, agents and employees. In furtherance of these obligations, and only regarding the City, its employees and agents, the Consultant waives any immunity it may have or limitation on the amount or type of damages imposed under any industrial insurance, workers compensation, disability, employee benefit or similar laws. The Consultant acknowledges the foregoing waiver of immunity was mutually negotiated and agrees that the indemnification provided for in this section shall survive any termination or expiration of this Agreement.

14. INSURANCE.

- ☒ No insurance certification is required. Consultant will maintain premises and vehicle liability insurance in force with coverage's and limits of liability generally maintained by

similarly situated consultants and workers compensation insurance as required by Washington State statutes.

15. AUDIT.

Upon request, the Consultant shall permit the City and any other governmental agency ("Agency") involved in the funding of the Work, to inspect and audit all pertinent books and records. This includes work of the Consultant, any subconsultant, or any other person or entity that performed connected or related Work. Such books and records shall be made available at any and all times deemed necessary by the Agency, including up to six years after final payment or release of withheld amounts. Such inspection and audit shall occur in King County, Washington, or other reasonable locations that the Agency selects. The Consultant shall supply or permit the Agency to copy such books and records. The Consultant shall ensure that inspection, audit and copying rights of the Agency is a condition of any subcontract, agreement or other arrangement under which any other persons or entity may perform Work under this Agreement.

16. INDEPENDENT CONSULTANT.

- A. The Consultant is an independent Consultant. This Agreement does not intend the Consultant to act as a City employee. The City has neither direct nor immediate control over the Consultant nor the right to control the manner or means by which the Consultant works. Neither the Consultant nor any Consultant employee shall be an employee of the City. This Agreement prohibits the Consultant to act as an agent or legal representative of the City. The Consultant is not granted express or implied rights or authority to assume or create any obligation or responsibility for or in the name of the City, or to bind the City. The City is not liable for or obligated to pay sick leave, vacation pay, or any other benefit of employment, nor to pay social security or other tax that may arise from employment. The Consultant shall pay all income and other taxes as due. The Consultant may perform work for other parties; the City is not the exclusive user of the services that the Consultant provides.
- B. If the City needs the Consultant to Work on City premises and/or with City equipment, the City may provide the necessary premises and equipment. Such premises and equipment are exclusively for the Work and not to be used for any other purpose.
- C. If the Consultant works on the City premises using City equipment, the Consultant remains an independent Consultant and does not as a City employee. The Consultant will notify the City Project Manager if s/he or any other Workers are within 90 days of a consecutive 36-month placement on City property. If the City determines using City premises or equipment is unnecessary to complete the Work, the Consultant will be required to work from its own office space or in the field. The City may negotiate a reduction in Consultant fees or charge a rental fee based on the actual costs to the City, for City premises or equipment.

17. KEY PERSONS.

The Consultant shall not transfer or reassign any individual designated in this Agreement as essential to the Work, without the express written consent of the City, which shall not be unreasonably withheld. If any such individual leaves the Consultant's employment, the Consultant shall present to the City one or more individuals with greater or equal qualifications as a replacement, subject to the City's approval, which shall not be unreasonably withheld. The City's approval does not release the Consultant from its obligations under this Agreement.

18. ASSIGNMENT AND SUBCONTRACTING.

The Consultant shall not assign or subcontract its obligations under this Agreement without the City's written consent, which may be granted or withheld in the City's sole discretion. Any subcontract made by the Consultant shall incorporate by reference this Agreement, except as otherwise provided. The Consultant shall ensure that all subconsultants comply with the obligations and requirements of the subcontract. The City's consent to any assignment or subcontract does not release the consultant from liability or any obligation within this Agreement, whether before or after City consent, assignment or subcontract.

19. FEDERAL DEBARMENT.

The Consultant shall immediately notify the City of any suspension or debarment or other action that excludes the Consultant or any subconsultant from participation in Federal contracts. Consultant shall verify all subconsultants intended and/or used by the Consultant for performance of City Work are in good standing and are not debarred, suspended or otherwise ineligible by the Federal Government. Debarment shall be verified at <https://www.epls.gov>. Consultant shall keep proof of such verification within the Consultant records.

20. CITY ETHICS CODE (SMC 4.16.010 TO .105).

- A. Consultant shall promptly notify the City in writing of any person expected to be a Consultant Worker (including any Consultant employee, subconsultant, principal, or owner) and was a former City officer or employee within the past twelve (12) months.
- B. Consultant shall ensure compliance with the City Ethics Code by any Consultant Worker when the Work or matter related to the Work is performed by a Consultant Worker who has been a City officer or employee within the past two years.
- C. Consultant shall provide written notice to the City of any Consultant worker who shall or is expected to perform, over 1,000 hours of contract work for the city within a rolling 12-month period. Such hours include those performed for the Consultant and other hours that the worker performed for the City under any other contract. Such workers are subject to the City Ethics Code, SMC 4.16. The Consultant shall advise their Consultant Workers.
- D. Consultant shall not directly or indirectly offer anything of value (such as retainers, loans, entertainment, favors, gifts, tickets, trips, favors, bonuses, donations, special discounts, work or meals) to any City employee, volunteer or official that is intended, or may appear to a reasonable person to be intended, to obtain or give special consideration to the Consultant. Promotional items worth less than \$25 may be distributed by the Consultant to City employees if the Consultant uses the items as routine and standard promotional materials. Any violation of this provision may cause termination of this Agreement. Nothing in this Agreement prohibits donations to campaigns for election to City office, so long as the donation is disclosed as required by the election campaign disclosure laws of the City and of the State.

21. NO CONFLICT OF INTEREST.

Consultant confirms that the Consultant or workers have no business interest or a close family relationship with any City officer or employee who was or will be involved in the consultant selection, negotiation, drafting, signing, administration or evaluation of the Consultant's work. As used in this Section, the term Consultant includes any worker of the Consultant who was, is, or will be, involved in negotiation, drafting, signing, administration or performance of the Agreement. The term "close family relationship" refers to: spouse or domestic partner, any dependent parent, parent-in-law, child, son-in-law, daughter-in-law; or any parent, parent in-law, sibling, uncle, aunt, cousin, niece or nephew residing in the household of a City officer or employee described above.

22. ERRORS AND OMISSIONS, CORRECTIONS.

Consultant is responsible for professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by or on the behalf of the Consultant under this Agreement. Consultant, without additional compensation, shall correct or revise errors or mistakes in designs, drawings, specifications, and/or other consultant services immediately upon notification by the City. The obligation provided for in this Section regarding acts or omissions resulting from this Agreement survives Agreement termination or expiration.

23. INTELLECTUAL PROPERTY RIGHTS.

- A. Copyrights. The Consultant shall retain the copyright (including the right of reuse) to all materials and documents prepared by the Consultant for the Work, whether or not the Work is completed. The Consultant grants to the City a non-exclusive, irrevocable, unlimited, royalty-free license to use copy and distribute every document and all the materials prepared by the Consultant for the City under this Agreement. If requested by the City, a copy of all drawings, prints, plans, field notes, reports, documents, files, input materials, output materials, the media upon which they are located (including cards, tapes, discs, and other storage facilities), software program or packages (including source code or codes, object codes, upgrades, revisions, modifications, and any related materials and/or any other related documents or materials developed solely for and paid for by the City for the performance of the Work, shall be promptly delivered to the City.
- B. Patents: The Consultant assigns to the City all rights in any invention, improvement, or discovery, with all related information, including but not limited to designs, specifications, data, patent rights and findings developed with the performance of the Agreement or any subcontract. Notwithstanding the above, the Consultant does not convey to the City, nor does the City obtain, any right to any document or material utilized by the Consultant created or produced separate from the Agreement or was pre-existing material (not already owned by the City), provided that the Consultant has identified in writing such material as pre-existing prior to commencement of the Work. If pre-existing materials are incorporated in the work, the Consultant grants the City an irrevocable, non-exclusive right and/or license to use, execute, reproduce, display and transfer the pre-existing material, but only as an inseparable part of the work.
- C. The City may make and retain copies of such documents for its information and reference with their use on the project. The Consultant does not represent or warrant that such documents are suitable for reuse by the City or others, on extensions of the project or on any other project.

24. CONFIDENTIALITY.

- A. Consultant understands that any records (including but not limited to bid or proposal submittals, the Agreement, and any other contract materials) it submits to the City, or that are used by the City even if the Consultant possesses the records, are public records under Washington State law, [RCW Chapter 42.56](#). The City must promptly disclose public records upon a request to the City, unless a statute exempts them from disclosure. The Consultant also understands that even if part of a record is exempt from disclosure, the rest of that record must be disclosed.
- B. If the City receives a public disclosure request made under [RCW Chapter 42.56](#), the City will not assert an exemption from disclosure for the Consultant. For materials that the Consultant has properly and marked to be confidential, the City may notify the Consultant of the request and postpone the release of documents for ten business days to allow the Consultant to seek an injunction preventing the release of the documents under [RCW 42.56.540](#). Any notification by the City to the Consultant is provided as a

courtesy and not a City obligation. Unless the Consultant obtains and serves an injunction upon the City before the close of business on the tenth business day after the notification, the City may release the documents. It is the Consultant's discretionary decision whether to sue.

- C. To request that material be withheld until receipt of notification of a public disclosure request, the Consultant must identify the materials and citations clearly, following City instructions. The City will not withhold material for notification if the Consultant marked "confidential" on the document header, footer, stamped on all pages, or offered a generic statement that the entire document is protected. Only material listed and properly cited to the City will be temporarily withheld until the City provides notification of a public disclosure request.
- D. If the Consultant submits no request following the instructions and forms that the City requires for such purpose, the Consultant is deemed to have authorized releasing any and all information submitted to the City.
- E. Notwithstanding the above, the Consultant must take no action that would affect the City's ability to use services under this Agreement, or the Consultant's obligations under this agreement.
- F. The Consultant will fully cooperate with the City in identifying and assembling records that may be in the possession of the Consultant in case of any public disclosure request.
- G. The Consultant will possess, or have access to, information (both materials and information provided by the City or prepared for the City. This information is likewise to be treated by the Consultant as confidential. The Consultant will not permit the duplication or disclosure of such information to any persons (other than its own employee, agent or representative who requires such information for the direct performance of the Consultant obligations), unless such duplication, use or disclosure is authorized in writing by the City. Such information does not include ideas, concepts, expertise or techniques related to information that, at the time of disclosure, is in the public domain unless the entry of that information into the public domain results from any breach of this Agreement. Likewise, information does not include that which has been independently developed, already possessed without obligation of confidentiality, or rightfully obtained from a third party without an obligation of confidentiality.

25. DISPUTES.

Any dispute or misunderstanding that may arise under this Agreement, concerning the Consultant's performance, shall first be through negotiations, if possible, between the Consultant's Project Manager and the City's Project Manager. It shall be referred to the Director and the Consultant's senior executive(s). If such officials do not agree upon a decision within a reasonable period of time, either party may decline or discontinue such discussions and may then pursue the legal means to resolve such disputes, including but not limited to alternative dispute resolution processes. Nothing in this dispute process shall mitigate the rights of the City to terminate the contract. Notwithstanding all of the above, if the City believes in good faith that some portion of the Work has not been completed satisfactorily, the City may require the Consultant to correct such work prior to the City payment. The City will provide to the Consultant an explanation of the concern and the remedy that the City expects. The City may withhold from any payment otherwise due, an amount that the City in good faith finds to be under dispute, or if the Consultant provides no sufficient remedy, the City may retain the amount equal to the cost to the City for otherwise correcting or remedying the work not properly completed.

26. TERMINATION.

- A. For Cause: The City may terminate the Agreement if the Consultant is in material breach of this Agreement, and such breach has not been corrected to the City's reasonable satisfaction in a timely manner.
- B. For Reasons Beyond Control of Parties: Either party may terminate this Agreement without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such party's reasonable control, such as, but not limited to, an act of nature, war or warlike operation, civil commotion, riot, labor dispute including strike, walkout or lockout, except labor disputes involving the Consultant's own employees, sabotage, or superior governmental regulation or control.
- C. For City's Convenience: The City may terminate this Agreement without cause and including the City's convenience, upon written notice to the Consultant.
- D. Notice: Notice of termination under this Section shall be given by the party terminating this Agreement to the other, not fewer than five (5) business days prior to the effective date of termination.
- E. Actions upon Termination: if termination occurs not the fault of the Consultant, the Consultant shall be paid for the services properly performed prior to termination, with any reimbursable expenses then due, but such compensation shall not exceed the maximum compensation to be paid under the Agreement. The Consultant agrees this payment shall fully and adequately compensate the Consultant and all subconsultants for all profits, costs, expenses, losses, liabilities, damages, taxes and charges of any kind (whether foreseen or unforeseen) attributable to the termination of this Agreement.
- F. Upon termination, the Consultant shall provide the City with the most current design documents, contract documents, writings and other products the Consultant has produced to termination, along with copies of all project-related correspondence and similar items. The City shall have the same rights to use these materials as if termination had not occurred; provided however, that the City shall indemnify and hold the Consultant harmless from any claims, losses, or damages to the extent caused by modifications made by the City to the Consultant's work product.

27. CONSULTANT PERFORMANCE EVALUATION.

The Consultant's performance will be evaluated by the City at the conclusion of the contract. The Evaluation template can be viewed <http://www.seattle.gov/contracting/docs/ccPE.doc> .

28. DEBARMENT.

Under SMC Chapter 20.70, the Director of Finance and Administrative Services or designee may debar a and prevent a Consultant from contracting or subconsultant with the City for up to five years after determining the Consultant:

- a. Received overall performance evaluations of deficient, inadequate, or substandard performance on three or more City contracts;
- b. Failed to comply with City ordinances or contract terms, including but not limited to, ordinance or contract terms related to woman and minority business utilization, discrimination, equal benefits, or other state, local or federal non-discrimination laws;
- c. Abandoned, surrendered, or failed to complete or to perform work on or for a City contract;
- d. Failed to comply with contract provisions, including but not limited to quality of workmanship, timeliness of performance, and safety standards;
- e. Submitted false or intentionally misleading documents, reports, invoices, or other statements to the City in connection with a contract;
- f. Colluded with another firm to restrain competition;

- g. Committed fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a contract for the City or any other government entity;
- h. Failed to cooperate in a City debarment investigation.

The Director or designee may issue an Order of Debarment under the SMC 20.70.050. Rights and remedies of the City under these provisions are besides other rights and remedies provided by law or under the Agreement.

29. RESERVED.

30. EXPANSION FOR NEW WORK.

This Agreement scope may be expanded for new work. Any expansion for New Work (work not specified within the original Scope of Work Section of this Agreement, and/or not specified in the original RFP as intended work for the Agreement) must comply with all the following limitations and requirements: (a) the New Work is not reasonable to solicit separately; (b) the New Work is for reasonable purpose; (c) the New Work was not reasonably known either the City or Consultant at time of contract or else was mentioned as a possibility in the solicitation (such as future phases of work, or a change in law); (d) the New Work is not significant enough to be reasonably regarded as an independent body of work; (e) the New Work would not have attracted a different field of competition; and (f) the change does not vary the essential identified or main purposes of the Agreement. The City may make exceptions for immaterial changes, emergency or sole source conditions, or other situations required in City opinion. Certain changes are not New Work subject to these limitations, such as additional phases of Work anticipated at the time of solicitation, time extensions, Work Orders issued on an On-Call contract, and similar. New Work must be mutually agreed and issued by the City through written Addenda. New Work performed before an authorizing Amendment may not be eligible for payment.

31. MISCELLANEOUS PROVISIONS.

- A. Amendments: No modification of this Agreement shall be effective unless in writing and signed by an authorized representative of each of the parties hereto.
- B. Binding Agreement: This Agreement shall not be binding until signed by both parties. The provisions, covenants and conditions in this Agreement shall bind the parties, their legal heirs, representatives, successors and assigns.
- C. RESERVED
- D. The Consultant, at no expense to the City, shall comply with all laws of the United States and Washington, the Charter and ordinances of the City of Seattle; and rules, regulations, orders and directives of their administrative agencies and officers. Without limiting the generality of this paragraph, the Consultant shall comply with the requirements of this Section.
- E. This Agreement shall be construed and interpreted under the laws of Washington. The venue of any action brought shall be in the Superior Court of King County.
- F. Remedies Cumulative: Rights under this Agreement are cumulative and nonexclusive of any other remedy of law or in equity.
- G. Captions: The titles of sections or subsections are for convenience only and do not define or limit the contents.
- H. Severability: If any term or provision is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected, and each term and provision shall be valid and enforceable to the fullest extent permitted by law.
- I. Waiver: No covenant, term or condition or the breach shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of

the breach of any covenant, term or condition shall not be deemed a waiver of any preceding or succeeding breach of the same or any other covenant, term of condition. Neither the acceptance by the City of any performance by the Consultant after the time the same shall have become due nor payment to the Consultant for any portion of the Work shall constitute a waiver by the City of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by the City in writing.

- J. Entire Agreement: This document along with any exhibits and all attachments, and subsequently issued addenda, comprises the entire agreement between the City and the Consultant. The solicitation (Request for Proposal or Solicitation for Qualifications), Addenda, Consultants Proposal, and Consultants WMBE Inclusion Plan, are each explicitly included as Attachments material to the Agreement. Where there are conflicts between these documents, the controlling document will first be this Agreement as amended, the WMBE Inclusion Plan as adopted, the Consultant's Proposal, then the City Solicitation documents. If conflict occurs between contract documents and applicable laws, codes, ordinances or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this contract to afford the City the maximum benefits.
- K. Negotiated Agreement: The parties acknowledge this is a negotiated agreement, that they have had this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship.
- L. No personal liability: No officer, agent or authorized employee of the City shall be personally responsible for any liability arising under this Contract, whether expressed or implied, nor for any statement or representation made or in any connection with this Agreement.

IN WITNESS WHEREOF, in consideration of the terms, conditions and covenants contained, or attached and incorporated and made a part, the parties have executed this Agreement by having legally-binding representatives affix their signatures below.

CONSULTANT

By Karen W. Armstead 2-13-2014
Signature Date

Karen W. Armstead
Type or Print Name

President
Title

CITY OF SEATTLE

By [Signature] 2/24/14
Signature Date

Fred Podesta
Type or Print Name

Director, Department of FAS
Title

City of Seattle Business License Number: 746244

Washington State Unified Business Identifier Number (UBI): 602951288

Consultant's Name: Armstead Consulting, Inc.

City of Seattle Consultant Questionnaire

INSTRUCTIONS: This is a mandatory form. Submit this form with your response. Provide information to the extent information available. If response is incomplete or requires further description, the City may request additional information within a specified deadline, or may determine the missing information is immaterial to award.

Consultant Information	
Consultant's Legal Name	Armstead Consulting, Inc.
"Doing Business Name" (dba) if applicable	
Mailing Address	PO Box 6668 Bellevue WA 98008
Contact Person and Title	Dr. Karen W. Armstead, President
Contact Person's Phone Number	(425) 444-2618
Contact Person's Fax Number	(425) 644-7764
Contact Person's E-Mail Address	karen@armsteadconsulting.com
Dun & Bradstreet number (if available)	832824572
Identify the City and State of your company headquarters	Bellevue, WA

Consultant Registration with City of Seattle	
Did your firm register on to the City's Registration System at http://www2.ci.seattle.wa.us/Consultantregistration/default.asp ? For assistance, call 206-684-0444.	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Most companies must hold a Seattle Business License (if you have a facility/office in Seattle, conduct sales visits to Seattle, deliver products in your own trucks, or perform on-site consulting, repairs, installation, etc). If you fall within that category, will you immediately seek a Business License upon award and ensure all taxes are paid current?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <input type="checkbox"/> Have Seattle "Business license-0746244

Ownership	
Is your firm a sole proprietorship, partnership, corporation, limited liability company, subsidiary, parent, holding company, or affiliate of another firm? If yes, identify firm type and name of principal	Corporation, Karen W. Armstead, President
What year was your firm, under the present ownership configuration, founded?	2009
How many years has your firm been in continuous operation without interruption?	4
What year did your firm begin providing, on a continuous basis, the types of services or products that are required from this solicitation?	2009

Financial Resources and Responsibility	Specify yes or no. If yes, explain.
Within the previous five years has your firm been the debtor in a bankruptcy?	No
Is your firm in the process of or in negotiations toward being sold?	No
Within the previous five years has your firm been debarred from contracting with any local, state, or federal governmental agency?	No
Within the previous five years has your firm been determined to be a non-responsible for any government contract?	No
Within the previous five years has a governmental or private entity terminated your firm's contract prior to contract completion?	No
Within the previous five years has your firm used any Subconsultant to perform work on a government contract when that Subconsultant had been debarred by a governmental agency?	No

Affirmative Contracting – SMC 20.42	Specify yes or no.
Within the previous ten years has your firm been found to have violated any anti-discrimination laws or regulations, whether they be local, state, or federal?	No If yes, explain.

Consultant's Name: Armstead Consulting, Inc.

Disputes	Specify yes or no. If yes, explain.
Within the previous five years has your firm been the defendant in court on a matter related to payment to subconsultants or contract work performance?	No
Does your firm have outstanding judgments pending against it?	No
Within the previous five years, was your firm assessed liquidated damages on a contract?	No
Is your firm presently involved in a dispute (including litigation) regarding its right to provide the product or service being requested by the City for this contract, including but not limited to notice of and/or in litigation about patent infringement for the product and/or service that your firm is offering to the City?	No

Compliance	Specify yes or no. If yes, explain.
Within the previous five years, has your firm or any of its owners, partners, or officers, been assessed penalties or found to have violated any laws, rules, or regulations of a government entity? This does not include owners of stock in your firm if your firm is a publicly traded corporation.	No
Within the past ten years, has any principal, officer or employee who will perform any of the work for the City been convicted of a crime ?	No
If a license is required to perform the services sought by this solicitation, within the previous ten years has your firm or any principal, officer or employee who will perform work for the City had a license suspended by a licensing agency or been found to have violated licensing laws?	No
If Hazardous Materials are an element of the scope of work to be performed for the City, has any principal, officer or employee who will perform work for the City had any violations of improper disposal of such materials or any violation of associated laws, rules or regulations in the previous five years?	NO
Is there any other information that the City should be aware of regarding your history with financial, criminal or legal history, that has bearing on the work that the City is considering you to perform?	No

Involvement by Current and Former City Employees	Specify yes or no.
Are any of your company's principals, officers or employees who will perform work for the City, a current or former City of Seattle employee or volunteer? If yes, identify the employee name. Advise them of the duty to comply with City of Seattle's Code of Ethics, Seattle Municipal Code Chapter 4.16.	No
Will any of your principals, officers or employees who will perform work for the City work more than 1,000 hours (per rolling 12 months) within a City contract, combining the hours for work under this contract and any other? If so, identify the worker by name, and if the work pertains to an existing City contract, identify the contracting department and name of City contact. Advise the worker of their duty to comply with the City of Seattle's Code of Ethics, Seattle Municipal Code Chapter 4.16	No
Does any principal, officer or employee who will perform work for the City of your firm, have a business interest or a close family or domestic relationship with any City official, officer or employee who was, is, or will be involved in selection, negotiation, drafting, signing, administration or evaluation of the Consultant performance?	No

Consultant's Name: Armstead Consulting, Inc.

Business History	Specify yes or no.
In the last five years, has your firm held contracts with any other public agency to provide services similar in size and scope to that required by the City of Seattle in this solicitation?	Yes
Provide and/or attach a list contracts your local firm held in the past five years, with sufficient detail for the City to understand the depth and breadth of your experience, with a particular emphasis on contracts with public agencies. The City may use this to assess your capability and experience at this particular type of product provision or service work. Specify the name/contact that can serve as a reference for each. <ul style="list-style-type: none"> If you have many such contracts, you can provide a brief list. If you are a subsidiary of a national firm, summarize the contracts that represent your local office. <p>Washington State Department of Transportation, Office of Equal Opportunity (WDOT OEO), DBE Needs Survey. Brenda Nnambi, WSDOT OEO Director, is the contact person.</p>	

This form is submitted to the City of Seattle by an officer or person eligible to represent the Consultant firm, and the submittal certifies:
Consultant is not debarred, suspended, proposed for debarment, or declared ineligible for award of contracts by any state, local, federal or other public agency.
During the most recent three years, the Consultant has not been convicted of or had a civil judgment rendering against the firm for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state or local government contract or subcontract; violation of federal or state antitrust or similar statutes, relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property, and my firm is not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses.
Consultant has not paid, nor will pay, federal appropriated funds (including profit or fee received under a covered federal transaction), to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the Offeror shall notify the City of Seattle and complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities.
Consultant has not had a governmental or private entity contract terminated prior to contract completion or debarred from submitting a contract proposal, within the last five years.
Within the previous five years, Consultant has not used any subconsultant to perform work on a government contract when that Subconsultant had been debarred by a governmental agency.
Consultant's Offer is valid until the date the City awards a Consultant Contract or rejects all offers;
Consultant has not, directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of competitive pricing in the preparation and submission of its Offer;
Consultant shall provide immediate written notice to the City of Seattle if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
Submittal of this Consultant Questionnaire with your proposal provides authority and certification for your entire submittal, and is an attestation that the information in this Consultant Questionnaire and within your submittal proposal documents are true and valid

Consultant's Name: Armstead Consulting, Inc.

City Non-Disclosure Request

If you believe any statements or items you submit to the City as part of this submittal/response are exempt from public disclosure under the Washington Public Records Act (PRA), you must identify and list them below. You must very clearly and specifically identify each statement or item, and the specific exemption that applies. If awarded a City contract, the same exemption status will carry forward to the contract records.

The City will **not** exempt materials from disclosure simply because you mark them with a document header or footer, page stamp, or a generic statement that a document is non-disclosable, exempt, confidential, proprietary, or protected. You may not identify the entire page, unless the entire page is within the exemption scope. Only records properly listed on this Form will be protected and withheld for notice. All other records will be considered fully disclosable upon request.

☒ I do not request any information be withheld.

☐ I request the following specific information be withheld. I understand that all other information will be considered public information. For each statement or item you intend to withhold, you must fill out every box below. You should not require an entire page withheld; only request the specific portion subject to the exemption.

Document Page: Specify the page number on which the material is located within your submittal package (page number)	Statement: Repeat the text you request to be held as confidential, or attach a redacted version.	RCW Exemption: Specify the RCW exemption including the subheading

For this request to be valid, you must specify the RCW provision or other State or Federal law that designates the documents as exempt from disclosure. For example, potential RCW exemptions include the following:

1. RCW 42.56.230.3 – Personal information - taxpayer
2. RCW 42.56.230.4 – Personal information – Credit card numbers and related
3. RCW 42.56.240 - Investigative, law enforcement and crime victims
4. RCW 42.56.250 – Employment and licensing – specify the applicable subheading
5. RCW 42.56.260 - Real estate appraisals
6. RCW 42.56.270 (Items 1 through 17) – specify which subheading.
7. RCW 42.56.270 (items 1 through 17) – specify applicable subheading
8. RCW 42.56.420 - Security

Consultant's Name: Armstead Consulting, Inc.

Equal Benefits Compliance Declaration

Please declare *one (1)* option from the list below that describes the Contractor's intent to comply with Seattle Municipal Code Chapter 20.45 should you win the contract.

Equal Benefits applies to any contractor location in the United States where substantive contract work is being performed (work directly related in a substantial way to the contract scope and deliverables).

- ☐ **Option A** The Contractor makes, or intends to make by the contract award date, **all benefits available on an equal basis** to its employees with spouses and its employees with domestic partners, and to the spouses and the domestic partners of employees, in every location within the United States where substantial work on contract will be performed.
- ☐ **Option B** The Contractor **does not make benefits available** to either the spouses or the domestic partners of its employees.
- ☒ **Option C** The Contractor **has no employees**.
- ☐ **Option D Collective Bargaining Delay.** Benefits are available on an equal basis to non-union workers, but union workers are subject to a collective bargaining agreement that does not provide equal benefits.
- ☐ **Option E Open Enrollment Delay.** The first open enrollment period for implementing Equal Benefits is not available until after contract execution
- ☐ **Option F Cash Equivalent Payment.** The Contractor intends to provide a cash equivalent payment to eligible employees in lieu of making benefits available.
- ☐ **No United States Presence** The Contractor does not perform substantial work for the contract in any United State location.
- ☐ **Non-Compliant** The Contractor does not comply and does not intend to comply, and refuses all options provided above.
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Equal Benefits Instructions

Seattle Municipal Code Chapter 20.45 (SMC 20.45) requires companies executing a City contract to provide health and benefits that are the same or equivalent to domestic partners of employees as to spouses of employees, and of their dependents and family members.

1. Carefully fill out the Equal Benefits Declaration. It is essential to your standing in the evaluation process, so it is important to understand and complete the declaration properly.
2. The Buyer or Coordinator for the solicitation can answer any questions about this requirement or you may call the general office at 206-684-0444. Call before you submit your bid to ensure you've filled out the form correctly.
3. "Domestic Partner" is any person who is party to a same-sex marriage that is legally recognized in the place of jurisdiction of the marriage, or as a Domestic Partner with the employer or with a government registry established by state or local law. If the employer does not have a registration system and does not intend to implement one, the City of Seattle has a registration system as an option: <http://www.seattle.gov/leg/clerk/dpr.htm>

The City will review your responses and make a final determination. If the information you supply is conflicting or not clearly supported by the documentation that the City receives, the City may reject your entire submittal (bid or proposal) or may seek clarification to ensure the City properly classifies your compliance.

Companies that select "Non Compliant" will be rejected, unless there is no competitor that is compliant, responsive and responsible. The City may also find a Bidder "Non Compliant" upon inspection of their program. Be prepared with documentation to support your declaration. All contracts awarded by the City may be audited for equal benefits compliance. Non-compliance may result in the rejection of a bid or proposal, or termination of the contract.

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