

Administrative Policy No. 13.27

Subject: Implementing Measures for the Improvement of Equity in Public Contracting

Information Contact: [Central Contracts and Legal Services](#), MS-45811

Authorizing Source: [Executive Order 22-01](#)
[RCW 39.26.180 Contract Management](#)
[DES Policy POL-DES-090-06](#)

Effective Date: August 16, 2023

Revised: New

Approved By: Original signed by Pearlette Ramos
Senior Director, Office of Justice, and Civil Rights

Purpose

This policy implements measures to ensure equitable contracting and supplier opportunities for small, minority, women, and veteran-owned businesses when contracting with the Department of Social and Health Services (DSHS). This policy, and any procedures or guidelines referenced, are intended for internal use only. This policy is not intended, nor can it be relied upon, to create any substantive or procedural rights enforceable by any party involved in matters with DSHS.

Background

Since 2015, the state has worked to address low levels of participation by diverse businesses in public contracting opportunities. A statewide disparity study identified several areas for improvement, which are incorporated in Washington State Executive Order 22-01 requiring state agencies to take action to improve public contracting and procurement processes. The Department of Enterprise Services also adopted DES policy 090-06 which requires state agencies to use strategies that encourage and facilitate the purchase of goods and services from small, diverse, and veteran-owned businesses to the maximum extent possible.

Scope

This policy applies to all organizational units of DSHS in the drafting, negotiation, signing, and monitoring of contracts, and purchase orders of the following types:

- Professional and operational goods and services
- IT goods and services
- Client services type 1

This policy does not apply to the following types of contracts:

- Zero-dollar contracts
- Contracts under which DSHS is to be paid and does not incur any payment obligation
- Memoranda of understanding
- Interlocal agreements
- Client services type 2
- Data sharing agreements
- Federal funds
- Emergency purchases

Definitions

Access Equity means a centralized database of diverse vendors administered by the Office of Minority and Women's Business Enterprises (OMWBE).

Administration means the responsible DSHS administration, division, office, program, or similar organizational entity.

Central contracts and legal services (CCLS) means the statewide DSHS headquarters contracting office in the facilities, finance, and analytics administration. DSHS [administrative policy 13.10](#) charges CCLS with the responsibility for establishing and maintaining statewide department policies and procedures governing all contracts for the agency.

Central purchasing unit (CPU) means the organizational unit within the facilities, finance, and analytics administration that delegates limited purchasing authority, owns the DSHS TRACKS system, sets policy and procedures, manages competitive goods and operational service procurements, and provides consultation to DSHS HQ, administrations and consolidated business services (CBS) regarding the procurement of operational goods and services.

Client service type 1 means contracts where DSHS has discretion to choose the client service contractor.

Client service type 2 means contracts where DSHS does not have discretion to choose the client

service contractor.

Diverse business enterprise for purposes of this policy, means a business that is either a minority-owned, women-owned, veteran-owned, or small business.

Inclusion plan means a detailed plan showing a bidder's planned actions toward meeting small and diverse business goals on a specific competitive procurement.

Memorandum of understanding means an agreement that is strictly between different administrations or divisions that are entirely within and part of DSHS.

Minority and women business enterprises (MWBEs) means businesses certified by the Office of Minority and Women's Business Enterprises (OMWBE) in the state of Washington.

Operational goods and services means the products, materials, supplies, equipment, and services necessary to accomplish routine, continuing, and necessary day-to-day business operations.

Outreach is the act of communicating and building relationships. This can occur while attending conferences and sharing information with vendors, as well as targeting specific industries to find small, diverse, or veteran businesses to meet the agency's needs, or to notify these vendors of available opportunities.

Pre-bid conference means a meeting held by DSHS with potential bidders/proposers prior to the opening of bids submitted in response to the solicitation, in order to answer questions, clarify any ambiguities, and respond to general issues to establish a common basis for understanding all of the requirements of the solicitation. A pre-bid conference may include the potential bidders/proposer conducting a site visit at the DSHS facility where services will be performed. The pre-bid conference may result in issuing an addendum to all potential providers. The pre-bid conference may be optional or mandatory for bidders to attend.

Procurement means the acquisition of goods or services, including the leasing or renting of goods.

Procurement staff means DSHS personnel responsible for managing and conducting competitive procurements, which may include CCLS, CPU staff, and key contract coordinators, depending on the specific goods or services being procured.

Program staff means DSHS personnel requesting or supporting the acquisition of goods and services, usually located within one of the DSHS administrations outside of CCLS and CPU.

Purchase order means a form generated by the TRACKS electronic purchasing module, or other similar system, to procure operational goods or services. A purchase order is a legally binding contract once the vendor has delivered the goods or services.

Reserved award means one or more contracts that are designated for Washington small/veteran-owned business(es) under a multiple-award competitive solicitation.

Services mean labor, work, analysis, or similar activities a contractor provides to accomplish a specific scope of work.

Small business means an in-state business, including a sole proprietorship, corporation, partnership, or other legal entity, that certifies under penalty of perjury that they are small business as defined in [RCW 39.26.010\(22\)](#).

Statewide contracts (formerly “master contracts”) means a contract for specific goods or services, or both, that is solicited or established by the Department of Enterprise Services (DES) in accordance with procurement laws and rules on behalf of and for general use by agencies as specified by DES.

Veteran-owned Business means a business that is certified by the Department of Veterans Affairs (DVA) in the state of Washington as defined in [RCW 43.60A.010](#).

Zero-dollar contract means a contract that does not contain any monetary compensation between the parties.

Policy requirements

DSHS implementation of tools for equity in public spending: As a supplement to [administrative policy 13.12](#), DSHS adopts and incorporates the requirements of Washington State Executive Order 22-01 that all DSHS staff utilize available equitable public contracting resources when entering into contracts for all goods and services within the scope of this policy.

- A. Prior to entering into any contracts issued to acquire goods or services, program and procurement staff must:**
1. Search available directories such as the Office of Minority and Women’s Business Enterprise website ([OMWBE](#)) and the Department of Enterprise Services’ Washington Electronic Business Solution ([WEBS](#)) for diverse business enterprises able to provide the goods or services the agency seeks;
 2. Conduct outreach to ensure diverse business enterprises are notified of any opportunities to compete for the award of such contracts;
 3. Ensure that, as appropriate, inclusion plans are discussed at pre-bid conferences; and
 4. Ensure that inclusion plans are utilized when subcontracting opportunities may be

part of the contract.

B. Contracting and purchasing program and procurement staff must review the [tools for equity in public spending](#) and determine and implement the most applicable resources from the tools when acquiring goods or services, which includes:

1. Planning and forecasting:

- a. DSHS must annually forecast anticipated expenditures for all purchases estimated at \$20,000 and above and make the forecast available to the public to encourage diverse business enterprise participation.
- b. Program and procurement staff must discuss the benefit of holding pre-bid conferences on each competitive solicitation.

2. Statewide contracts:

- a. Prior to procuring goods or services using a direct buy, or other acquisition method, program staff must check statewide contracts for available diverse business enterprises.
- b. Program staff must either use diverse business enterprises if available on a statewide contract or present a reason why the diverse business option was not used.
- c. If no diverse business enterprises are available under a statewide contract, program staff are strongly encouraged to consider other procurement options to meet diverse spending goals.

3. Internal processes:

- a. Procurement staff must add language to each solicitation encouraging bidders to utilize diverse businesses enterprises as subcontractors for each project.
- b. Procurement staff must add language to each solicitation clearly explaining DSHS's commitment to diversity and inclusion generally, and in contracting and procurement specifically.
- c. Procurement staff must add language to each solicitation requiring timely, prompt payment of subcontractors and the process for the release of any retainage.
- d. Procurement and program staff must consider whether it is appropriate to adjust insurance requirements based on the contract risk and the type of work being performed to increase diverse business enterprises' participation.
- e. Procurement and program staff must seek to remove barriers to diverse business enterprises' participation, including simplifying contract language and removing unnecessary vendor requirements.
- f. Procurement and program staff must conduct an unbundling analysis for every competitive solicitation. When possible, procurement and program

staff must unbundle contracts by dividing larger contracts into smaller pieces, if it is likely to increase diverse business enterprises' participation.

- g. Procurement and program staff must consider extending the bid response time for competitive solicitations to increase diverse business enterprises' participation.
- h. Procurement staff must award competitively procured contracts with an initial value of less than \$150,000 to the highest-ranked responsive and responsible small or veteran-owned business, unless there was no responsive and responsible bid from a small or veteran-owned business.
- i. Procurement staff must conduct a pre-bid conference for all complex competitive solicitations or those that could result in multiple awarded contracts.
- j. Procurement staff must include evaluation preference points for small and veteran-owned businesses and utilize reserved award contracts for small and veteran-owned businesses when appropriate.

4. Outreach:

- a. CCLS/CPU in collaboration with the administration key contract and purchasing coordinators, the DSHS office of equity, diversity, access, and inclusion (OEDAI), OMWBE, DES, and DVA, will represent DSHS in local and regional outreach activities and one-on-one vendor exchange events, educate diverse business enterprises on how to do business with DSHS, provide agency staff contact information related to their business capability, and encourage vendors to enter into a strategic partnership with other diverse business enterprises.
- b. Procurement and program staff must create an outreach plan for all competitive procurements.
- c. Program staff and key contract coordinators must use the outreach plan to conduct targeted solicitation outreach for every competitive procurement to notify diverse business enterprises that an opportunity will be available.
- d. Procurement staff must have a process to track outreach efforts.

C. Other roles and responsibilities

1. The DSHS secretary has designated the director of the contracts, legal, and background check services division as the agency supplier diversity leader.
2. The DSHS supplier diversity leader is responsible for:
 - a. Completing the DES supplier diversity training within 90 days of assuming their role.
 - b. Posting their contact information on the DSHS agency website.
 - c. Ensuring with DSHS leadership that all procurement and program staff have

- completed the DES supplier diversity training.
 - d. Coordinating with the agency budget office to establish annual forecasted needs for all single purchases over \$20,000.
 - e. Posting the agency forecasted needs report annually on the DSHS website by October 1.
 - f. Coordinating with procurement staff and the DSHS OEDAI to identify which government contracting and procurement outreach events to attend in the upcoming year and post them on the agency website.
 - g. Ensuring that in consultation with OMWBE and the DSHS OEDAI, the appropriate tools and recommended best practices are integrated into DSHS culture and business practices and used to meet DSHS procurement diversity goals.
 - h. Coordinating with the DSHS OEDAI to prepare the OMWBE inclusion plan and participate in the DES agency risk assessment.
3. Key contract coordinators are responsible for the following:
- a. Ensuring that all new DSHS employees, employees assigned new responsibilities or duties, and employees in new positions, who work with contracts or are responsible for all types of procurements complete supplier diversity training within 90 days of assignment.
 - b. Collaborating with the agency budget office, designated supplier diversity leader, and program staff to complete the agency forecasted needs template.
 - c. Collaborating with the agency budget office, designated supplier diversity leader, and program staff to include diverse business spend information, including spend with diverse business subcontractors, in the OMWBE Access Equity system annually.
 - d. Collaborating with program staff to track the outreach efforts after each solicitation by collecting feedback from diverse business enterprises who downloaded the solicitation but did not bid on the solicitation.
4. Purchasing coordinators are responsible for the following:
- a. Collaborating with the agency budget office, designated supplier diversity leader, and program staff to complete the agency forecasted needs template.
5. CCLS and CPU are responsible for the following:
- a. Posting awarded bids and bid award documents for each competitive procurement to the DSHS procurement website and making other bids available by request.

Exceptions:

1. CCLS and CPU may grant exceptions from this policy for individual contracts and purchase orders when necessary to support agency needs and requirements.

DSHS Official