

EASTERN & CENTRAL WASHINGTON BIPOC ECONOMIC SUMMIT

NOVEMBER 15, 2022

Global Business
Development, LLC



SEATTLE
UNIVERSITY



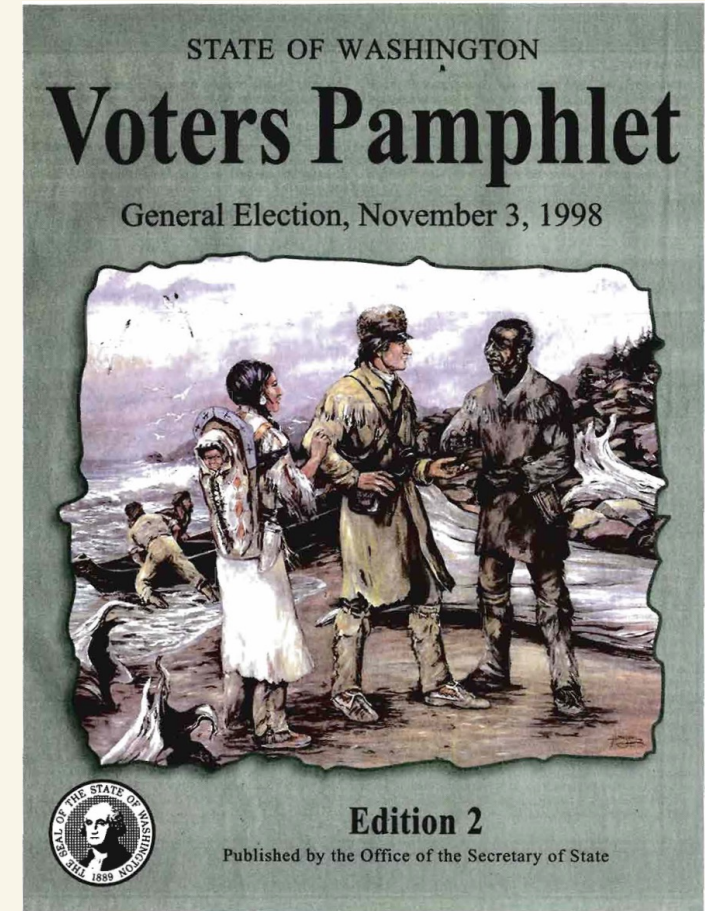


WA STATE SYSTEMIC DISCRIMINATORY BARRIERS TO CONTRACTING WITH BIPOC FIRMS

Affect of I-200

- On November 3, 1998, Washington state voters approved Initiative 200, which said:
- *“The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.”*

RCW [49.60.400](#), Discrimination, preferential treatment prohibited, 1998



Affect of 1998 Governor's Directive 98-01

On December 3, 1998, the Governor issued Directive 98-01 which directed state agencies to implement I-200 per his interpretation of the new law.

I. PUBLIC EMPLOYMENT:

Race, Sex, etc. Shall Not Be Considered in Hiring Decisions.

II. PUBLIC CONTRACTING:

Race, Sex, etc. Shall Not Be Considered in Awarding Construction Contracts or Contracts for the Purchase of Goods and Services.

III. PUBLIC EDUCATION:

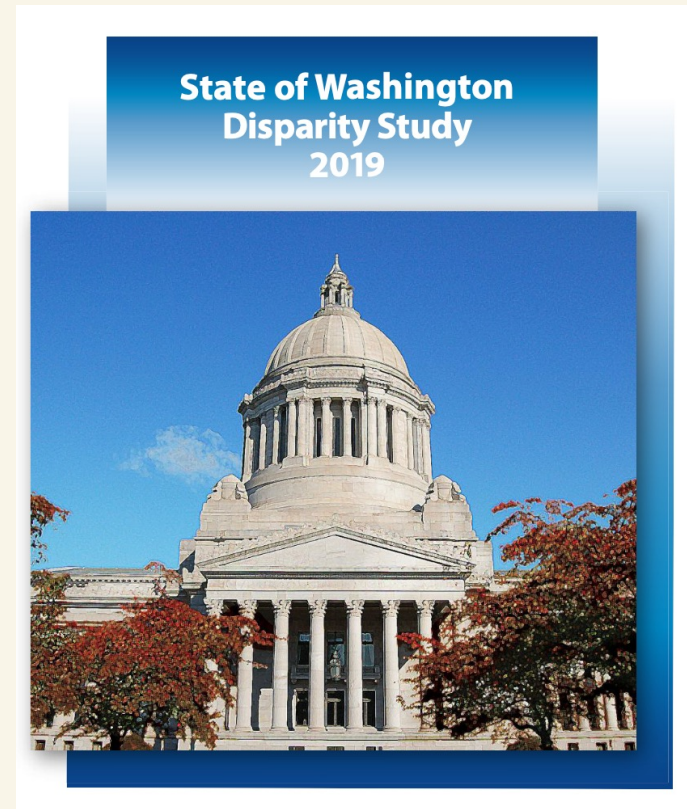
Institutions of higher education... are encouraged to consider this directive to ensure consistency across state government in the application of I-200.

Issue: Systemic Discriminatory Barriers

- For a quarter of a century since December 3, 1998, Black, Indigenous, and People of Color (BIPOC) businesses have been systematically excluded from government contracting opportunities in Washington State.
- A system of institutionalized, discriminatory barriers was created that began depriving BIPOC firms of economic opportunities and fundamental fairness in the award of state contracts.
- This has been accomplished through state agency RFP and RFQ contracting policies, procedures, contract proposal qualifications, evaluation, and selection criteria to determine contract awards

Systemic Discriminatory Contracting Barriers

- This Summit focuses upon WA state's systemic discriminatory RFP and RFQ contracting policies and procedures
- These barriers are well documented in the 2019 Governor's Disparity Study, but only two of the most significant are discussed
- They include bidder qualifications, and the evaluation and selection criteria.
- These two barriers minimize, or prevent, BIPOC contractors from receiving contract awards.



Qualification Barriers

- Bidders are required to have very specific experience (for as much as 5 years) to qualify for an RFP or RFQ
- Many if not all BIPOC firms would fall short of this requirement

[see the following example]

Example 1 of 12 qualification barriers from one RFP:

The candidate must have demonstrated experience providing technical assistance and support services to businesses in the following areas:

- 5 years' experience providing
 - *bookkeeping assistance, including the understanding of Washington State's Indirect Cost Rate*
 - *pricing*
 - *audit preparation*
 - *tax advice*
 - *reporting*
 - *applying best practices*
 - *knowledge of the Safe Harbor program, and administering certified payroll*
 - *Also including schedule of values,*
 - *liens insurance,*
 - *intent to pay prevailing wages,*
 - *sales tax requirements,*
 - *payment terms billing for materials on hand, and deposits.*

Subjective Evaluation Criteria Barriers

2 of 6 evaluation criteria from a Master Contract RFP

Firms would have to pass subjective evaluation criteria before becoming eligible for a master contract bid:

1. Quality Assurance (Mandatory, Scored 150 points)

Describe your approach to assure Quality Assurance regarding the services you provide. Describe staff qualifications including, but not limited to, training documentation, certifications, education, and other information that will provide the state agency with information to evaluate staff qualifications...

2. Qualifications Essay (Mandatory, Scored 200 points)

Bidder's essay must be no more than eight (8) pages in length. No marketing material will be accepted.

Subjective Evaluation Process Barrier

After bidders have responded to the **subjective evaluation criteria**, they undergo a subjective evaluation process. For example:

- Staff do not have objective criteria to conduct the evaluations
- Staff may be operating with different understandings of what different criterion mean, e.g., what Quality Assurance means
- Each bidder's **qualifications essay** narrative will vary, and multiple evaluators **will not interpret individual essays** in the same manner

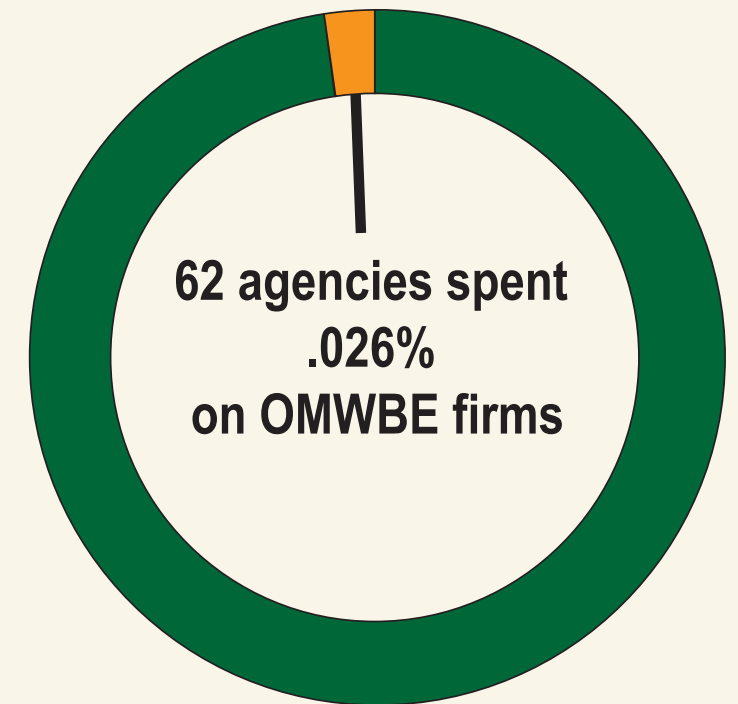
Once the evaluations are completed agency managers then select their apparent successful bidders.

The Effect of Systemic Discrimination On BIPOC Contractors

The 2021 OMWBE Diversity Participation Report showed the spending of 190 state agencies.

- \$5.2 billion was spent in public works and procurement by the 62 agencies reporting
- Only \$136 million was awarded to OMWBE firms by 54 of the 62 reporting agencies
- 8 of the 62 agencies awarded \$0 to OMWBE firms
- 128 failed to report

2021 spend by
62 agencies reporting



Conclusion

- It took a quarter of a century for the barriers to BIPOC firms to be created.
- Without legislative intervention, it is unrealistic to expect that these barriers will be eliminated in 1 year, 3 years, 5 years, or 10 years for that matter.
- We need legislative leadership working in partnership with the BIPOC community to overcome the 24 years of systemic discrimination

Where Do We Go From Here? Next Steps:

Establish a Public Private Partnership Legislative Task Force comprised of Senate, House, and BIPOC business leaders (non-profit & for profit) who would perform the following:

1. Review the Findings and Recommendations of the 2019 Governor's Disparity Study;
2. Identify alternative models for engaging BIPOC firms under contract with state agencies;
3. Develop a legislative action plan that would establish a preferred approach to achieving substantial and measurable results for removing barriers and increasing contracts to BIPOC firms;

Next Steps (continued)

4. Establish a permanent annual legislative review and oversight mechanism of state agency performance and BIPOC contract award outcomes;
5. The legislature should provide funding support for the proposed task force to cover per diem and travel expenses by task force members, and to hire and pay for necessary staff and consultant support;
6. It is recommended that the timeline for the Task Force to complete its work and recommendations to the legislature by the start of the 2024 legislative session.