



## MEMORANDUM

**TO:** Whatcom County Council  
**THROUGH:** Satpal S. Sidhu, County Executive  
**FROM:** STV  
**CC:** Sheriff Donnell "Tank" Tanksley  
Finance and Facility Advisory Board  
**RE:** Reinforcing community priorities through the procurement process  
**DATE:** March 10, 2025

---

As Whatcom County embarks on next steps with the Jail and Behavioral Care Center project, there are active discussions around integration of community values into the procurement process. The goal of this memo is to provide clarity on opportunities to achieve policy goals through a qualifications-based procurement process and to request feedback from the Council prior to our release of an RFQ.

### **Approach to promoting community priorities:**

Qualifications-based procurement (QBP) inherently promotes County goals by allowing us to select teams that have already demonstrated success in achieving them—without requiring additional policy changes. This approach provides flexibility while securing the best expertise to deliver a justice facility and behavioral care center that reflects community needs and values.

### **1. Workforce & Economic Development**

- **Goal:** Enforce prevailing wage.  
**Approach:** Selecting a team with demonstrated expertise and track record in labor compliance ensures prevailing wage enforcement. Firms with strong compliance histories can implement best practices from previous projects.
- **Goal:** Enhance apprenticeship utilization requirements to expand workforce opportunities  
**Approach:** Firms with a proven record of exceeding apprenticeship goals can be prioritized.
- **Goal:** Expand opportunities for local, small, woman-, minority-, and veteran-owned businesses to succeed in construction.  
**Approach:** By requiring teams to demonstrate prior success in Priority Hire and workforce diversity initiatives, QBP secures contractors who can proactively implement these programs without additional mandates.
- **Goal:** Support local jobs for local workers.  
**Approach:** Require teams to submit a plan for how they will achieve the project's goals around priority hires. We can also include priority hire goals in the contract documents to make this a requirement of the design-builder.

### **2. Worker & Community Well-Being**

- **Goal:** Promote workplace safety and protect workers from discrimination, harassment, and retaliation.



**Approach:** Teams can be evaluated on their proven track record in maintaining safe, inclusive, and harassment-free workplaces, including participation in independent oversight programs.

### 3. Sustainability & Community Impact

- **Goal:** Implement sustainable building techniques in alignment with Facilities Management's goals to reduce energy consumption, conserve water, and promote responsible waste management and the use of green supplies

**Approach:** Firms with a history of delivering high-performance, sustainable projects can be prioritized, ensuring compliance with climate commitments without additional policy requirements.

### 4. Streamlining Processes & Strengthening Collaboration

- **Goal:** Prompt payment to reduce barriers for small, women-, minority-, and veteran-owned businesses

**Approach:** By selecting a team with a history of equitable subcontractor payments and financial inclusion strategies, the County can support small businesses without introducing new regulatory burdens.

- **Goal:** Improve communication and coordination between the County, contractors, labor, and community

**Approach:** Firms with strong engagement and collaboration models will facilitate transparent communication and proactive issue resolution throughout the project.

### For qualifications-based selection we turn to the framework of RCW R39.10 which outlines requirements for ALTERNATIVE PUBLIC WORKS CONTRACTING PROCEDURES:

- RCW 39.10.320 requires us to ask the design builder to "*submit plans for inclusion of underutilized firms as subcontractors and suppliers including, but not limited to, the office of minority and women's business enterprises certified businesses, veteran certified businesses, and small businesses as allowed by law.*"
- We are required by RCW 39.10.330 to evaluate the proposers based on "*the proposer's past performance in utilization of business entities certified with the office of minority and women's business enterprises, including small businesses and business entities certified with the department of veterans affairs, to the extent permitted by law*" - among other factors.
- We are also required by RCW 39.10.330 to evaluate the proposers "*inclusion plan for business entities certified with the office of minority and women's business enterprises, including small businesses and business entities certified with the department of veterans affairs as subconsultants, subcontractors, and suppliers for the project, to the extent permitted by law.*"



Here are examples of what we **can** ask during the Request for Qualifications stage as it applies to local businesses:

- "Please describe your experience in developing outreach plans to local, small, women/minority/veteran owned businesses, and provide examples of past success with participation of these types of businesses."



- "Please provide examples of utilizing local, small, women/minority/veteran owned businesses to increase the project's value during preconstruction."
- "Please provide examples of your team's experience in mentoring local, small, women/minority/veteran owned businesses and how you made these firms more successful."



Here are examples of what we **can** ask for during the Request for Proposal stage:

- "Please provide your plan to conduct outreach to local, small, women/minority/veteran owned businesses for this project."
- "Please describe how you plan to mentor local, small, women/minority/veteran owned businesses during this project."
- "Please provide your plan that details how you will meet the priority hire goals for this project, especially as it pertains to local workers."



Here are examples of what we **cannot** do during a qualifications-based selection process:

- We cannot give points or award percentages during the selection based on where a contractor is located. This is not a qualification required for doing the work.

In a letter from the State's Attorney General ([AGO 61-62 No. 41](#)) clear guidance is provided as to the question of [can a municipality establish a policy of giving local bidders preferential treatment with such municipalities]? That answer was a no. The reasons given include:

*No scheme or device promotive of favoritism or unfairness or which imposes limitations, not applicable to all bidders alike, will be tolerated. . .*

*As a broad general principle, it may be said that the inclusion in specifications for the construction of a public work of terms or conditions such as to prevent or restrict full and free competition, or to increase the cost of the work for the benefit of a favored class at the expense of the taxpayers, or, when the work is to be paid for by special assessment, of conditions which add an element to the cost of the work which cannot lawfully be met by special assessment, should not be countenanced.*

Further, including a local preference may jeopardize any federal funding for this project, as federal regulations prohibit the granting of federal funds to entities that have local preference policies used in bidding procedures.

We look forward to receiving the Council's feedback on this approach to meeting the Council's policy priorities.