# Review of Equity in Contracting at Communities of Opportunity

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**Authors and Acknowledgements**

# EXECUTIVE SUMMARY

## Introduction

Communities of Opportunity (COO) is a public-private-community initiative of King County's Best Starts for Kids (BSK) and the Seattle Foundation. COO believes that policy and systems changes, centering racial equity, are critical to creating healthy and thriving communities. The intent of this review is to provide COO and institutional funding partners with a grounding on what has worked and where there are areas for improvement to make contracting and funding systems and practices fairer, more equitable and therefore more effective in moving King County closer to its equity goals and commitments.

> **Definition of equitable contracting**
>
> For the purposes of this review, equitable contracting is a system in which no matter the size of an organization, the communities served, the language spoken, or the level of education, anyone has the same access and opportunity to public resources. Equitable contracting creates the environment for organizations whose needs are greatest and whose access has historically been limited to participate in the public contracting. It is considered a policy, a practice, and an institutional culture.

From September 2021 to February 2022, COO worked with Contacto Consulting to document where and how COO has been successful in creating more equitable contracting processes, and what gaps continue to exist. The assessment relied on a literature review, an examination of similar efforts of other public entities, a review of internal COO, BSK and King County documents, and in-depth qualitative interviews and listening sessions with 24 key internal and external constituents. Participants included King County procurement and contracting staff, BSK and COO staff, as well as community-based organization staff and community consultants who have partnered with COO. We ensured that interviewees were representative of the types of contracts that COO develops and the strategies under which it funds.

The following questions guided the review:

1. How is equitable contracting defined by experts in the field? What are the best practices, processes, and values in equitable contracting?
2. Where and how has COO been successful in creating more equitable contracting processes? What have been the impacts of those changes?
3. Where have COO and community partners run into challenges? How has the initiative responded and adapted? How have the system(s) in which COO exists responded, adapted or changed?
4. How is equitable contracting demonstrated or measured?
5. What contracting processes should COO continue? Which ones should COO examine further?

This review was conducted as other similar efforts related to equitable contracting are simultaneously occurring within King County, including the following: Executive Dow Constantine signed the Pro-Equity Contracting Executive Order in April 2021. The county has formed an interdepartmental steering committee to guide best practices in procurement and contracting; is exploring conducting a disparity study; and is identifying innovative methods to contract minority- and women-owned business enterprises. Through a CDC COVID-19 health disparities grant, Public Health is analyzing ways to make the department's contracting more accessible to small organizations. Additionally, BSK is strengthening its systems and creating equitable and effective structures for all aspects of BSK work, including RFP release, finance, contracting, and monitoring.

## Equitable Contracting within Communities of Opportunity

Where and how has COO been successful in creating more equitable contracting processes? What have been the impacts of changes made by COO? Where have COO and community partners run into challenges? The following infographic summarizes the findings about these questions.

| TRUST | ROOTED | APPLICATION | CAPACITY | CONTRACTS | SUBCONTRACTS | DELIVERABLES | REPORTING | LEARNING COMMUNITY | BUDGET | SYSTEMWIDE |
|---|---|---|---|---|---|---|---|---|---|---|
| representation | investments | approach | | steps for setting up a contract go smoothly | | goals and approach of COO | | shift in mindset re: approach to learning | long-term funding commitment | |
| advocate for systems change | involvement of community members | technical assistance | | intentional effort to try to make contracting as easy as possible | | built flexibility and understanding | | resources accompany efforts | contract extensions | |
| built trust with partners | walk the talk | evaluation criteria | intentional investment | liaison between PMs/ procurement | | performance-based/ cost-reimbursable | access to evaluation technical assistance | staff and partners collaborate on offerings | King County and Seattle Foundation partnership provides flexibility | |
| program managers | continued feedback | encourage content over form for RFP responses | throughout life of contract | internal contract workflow system | | co-design with partners | | safe and comfortable spaces to participate | payment options | |
| | | unusual partners | | | | flexibility in amending | | Meeting The Moment | transparency and right-sizing during 2021-2022 transition | |
| | | language access | | | | adjustments to milestones | | | | |

| | power dynamics | opportunity for in-language meetings | more education about reporting and site visits | complex language | "hiccup", "bottleneck" | tension between enough funding / proposal that can be funded | hardest, longest, more time-consuming | time is a barrier | uncertainty about reduced budgets and upcoming application requirements | King County requirements and rules |
| | tension faced by BIPOC staff | broaden access to top three tier languages | equitable contracting education to staff | indemnification requirements | lead agencies carrying all responsibilities for contract | funder/funded power dynamics | Q: repetitive and rigid | online burnout | pressure of competition against peers | room for examining policies vs. practices |
| | | | very small and nascent groups and collectives | overburden for lead agencies | communication issues | pressure to "chase after the will of funders" and fit goals within prescriptive RFPs | tables, spreadsheets add complexity | | partners: difference between COO and Seattle Foundation? | tension between COO staff and King County |
| | | | | insurance requirements | clarity re: contracting and budgeting | | translation of activities within templates | | timeframe given to community partners during 2021-22 transition could have been longer | bureaucracy |
| | | | | intellectual property provision | agreement and roles in plain language | | timing of annual report | | | community partners feel COO staff receive a lot of pushback |
| | | | | disconnect between submitting paperwork to PM and finance team | | | monthly+mid-term/annual: excessive and redundant | | | opportunity for King County to deepen work of being better partners |
| | | | | deliverables added after signed agreement | | | different Q, tables for different awards: complex | | | |
| | | | | limited contract staffing for BSK and COO | | | issue of lack of trust | | | |

## Best Practices and Recommendations

This is a summary of best practices identified by experts in the field and interview participants, contrasted with COO's areas of strength:

| Equitable Contracting Best Practices | COO Areas of Strength |
|---|---|
| **People** • **Share power** among leadership, staff, partners and community. • **Assign staff** for contracting equity. Build their capacity and time. | • **PMs** have the best pulse on what happen in communities. • Community partners **trust** program managers. |
| **Assessment** • Determine **barriers** and **unintended consequences.** • Identify gaps between written **policy and practice**. | • **This review** is a step for evaluating equitable contracting. • Constantly considers **feedback** • Existing **written tools and procedures** • COO has pushed **boundaries** in contracting. |
| **Contract Structure** • Have **goals** for including orgs/small businesses led by BIPOC. • Have **bidding cutoff** for projects below a certain amount. • Evaluate proposals based on **best value** as opposed to low cost | • **Solid foundation** through procedures, relationships • **Approach** embeds goals for including BIPOC-led orgs. • **Co-designed deliverables** with partners • **Commitment** to support specific populations • Use of **best-value** contracts in COO & King County in general. • KC reserves contracts for certified **small contractor** |
| **Capacity Building** • **Train elected officials/staff** about equitable procurement. • **Assign at least 1%** of projects to capacity building of orgs. • Partner with orgs to offer **credit, capital investment, insurance** • Provide TA in **business planning, tax compliance, certification**. | • Many capacity building and TA **opportunities** offered • In BSK, capacity building is a **separate strategy**. • Renewed BSK levy assigns up to $50M in **capital investments**. • Capacity building in **business planning** and tax compliance |
| **Technology and Data** • Use **simple technology** for bidding, signing, submitting contracts. • Use a simple **evaluation platform** with uniform indicators. | • Effective **internal workflow** system to manage contracts |
| **Procurement "Ecosystem"** • **Partner** with private sector, nonprofit anchors, and public agencies. • Use/support **race-conscious policies** and policies that include orgs/small businesses from historically underfunded communities. | • COO: example of a **public-private partnership**, a best practice • Work with nonprofit **anchors** and subcontractors • Willingness to **expand** public-private partnerships in King Co. |
| **Shared Knowledge** • Create equitable contracting **toolkits**. Align across agencies. • Develop **community of practices** to facilitate cross-sector training. | • **Learning Community** is a best practice. • Orgs appear to have **better understanding** of requirements—possible indication of CoP, trainings & TA's success. |

## Measuring Equitable Contracting

Equitable contracting can be measured through several means, including tracking the funding awarded and mapping increases and decreases; and monitoring the percentage of contracts with BIPOC-led organizations, mapping percentages up or down. Disparity studies are the recommended tool for larger agencies such as King County. For specific initiatives such as COO, using a combination of RFX responses, executed awards, payment records, and contract closeout reports provide sufficient information if monitored over time. Tracking race, ethnicity, gender status and geographic spread is required to map disparities. Analyses must be conducted periodically.

To measure and evaluate equitable contracting, COO currently uses solicited and unsolicited anecdotal feedback from communities and staff. The Learning Community indirectly provides some documentation. This assessment is as a move toward evaluating equitable contracting. There is opportunity to capture information in a systematic way.

## Areas of Opportunity and Recommendations

The following set of recommendations for COO to continue advancing equity in contracting are grounded on the above-mentioned best practices. In many cases, these recommendations are intended for the systems in which COO operates (King County and BSK), given the interdependencies that exist. Recommendations identified as high priority/high urgency are marked with a star (★).

**People**

1. ★ *Shift more power to COO staff who are on the ground with the organizations.* Partners would like to see staff closer to being decisionmakers.

**Assessment**

2. ★ *Conduct a systematic equity review of all COO, BSK, Public Health and DCHS policies and practices related to procurement and contracting, as a follow-up to this assessment and within the Pro-Equity Contracting initiative.* Include tools and materials used by staff and community partners.

**Contract structure**

3. ★ *Align more with BSK and within COO strategies around contracts, financial information collected, and invoicing.* Create a more seamless, easier process for community partners to apply and contract, and for how you work with communities through the life of the contract.

4. ★ *Align cross-department policies placing equity at the center of contracting.* Build on the momentum around equitable contracting. Shine light on COO's best practices, influence other entities interested in equitable contracting, and request support for gaps that still exist.

5. ★ *Maintain the lean application and reporting approach used in 2020.* It was possible to reduce the barriers then; it can be maintained now. Consider continuation grants and renewing existing grants with proven partners, with simplified applications.

6. *Aim for trust-based philanthropy as the ideal state in community partnerships.* It is about trusting the partnership, knowing that sometimes when you're building as people of color, you're building out goals and action and may not move at the same speed.

7. *Allow community partners to decide how they would like to receive funding.* Involve both lead agencies and subcontractors in the decision.

8. ★ *Foster better connection and communication between program managers, lead agencies and subcontractors.* Assure that subcontractors have clear understanding of essential information such as contracting and budgeting.

9. *Explore broadening language access to COO contracting opportunities to at least the top three tier languages for King County.* Consider offering in-language meetings and Learning Community opportunities for Spanish speaking community members.

10. ★ *Increase the threshold and reduce requirements for small contracts.* Small grants of a certain value allow for much more flexibility. Contract staff consider that even doubling that limit would greatly benefit small community-based organizations and consultants.

11. ★ *Continue working with Risk Management to reduce or waive insurance requirements for small contractors and low-risk projects.* The acceptance of risk is imperative in moving toward equitable contracting. Staff across departments agree that the county is able to take on risk where historically it's been risk averse. Consider offering learning opportunities in this area before partners sign contracts.

## Capacity building

12. *Train elected officials about implementing inclusive procurement policies.*

13. ★ *Find ways to increase community partners' administrative and financial management capacities.* Consider funding an auditor or accountant when audits are required. Consider offering learning opportunities in this area before partners sign contracts.

14. *Partner with organizations that provide lines of credit.* Include this topic in the education of elected officials. Work closely with contracting and procurement staff to interpret existing county rules and guidelines and to find creative alternatives.

## Technology

15. ★ *Along with BSK and other King County departments, select a single platform to receive applications and review, sign, and submit contracts.* Community partners and consultants would like to see one simple platform used for all King County contracting opportunities.

16. *Select and implement one simple evaluation platform with uniform indicators.*

17. ★ *Simplify community partner reporting.* Partners understand that COO needs to know its impact, and wonder if there may be a different way to gather this information. Consider modeling other funders, including BSK, in simply asking for a narrative.

## Procurement ecosystem

18. *Build an "equitable contracting ecosystem" with other funders and public agencies outside of King County.* Find opportunities to align with anchor institutions, public entities, and systems around shared values, goals, funding, and strategies.

## Shared knowledge

19. *Share your knowledge, experience and expertise about equitable contracting with other departments.* There is opportunity for more formal cross divisional and cross departmental trainings and sharing of knowledge. Work in concert with BSK staff to continue to learn from each other.

20. *Sustain the Learning Community model, co-creating it with community partners and deciding goals as a collective.* Build TA capacity through consultants or by balancing staff responsibilities. Partners ask that COO continues to elevate existing learning efforts occurring in the community, as opposed to creating new and separate work. Use short videos, infographics, and other quick and easy tools.

# INTRODUCTION

Communities of Opportunity (COO) is a public-private-community initiative of King County's Best Starts for Kids (BSK) and the Seattle Foundation. COO believes that policy and systems changes, centering racial equity, are critical to creating healthy and thriving communities.

The intent of this review is to provide COO and institutional funding partners with a grounding on what has worked and where there are areas for improvement to make contracting and funding systems and practices fairer, more equitable and therefore more effective in moving King County closer to its equity goals and commitments. From September 2021 to February 2022, COO worked with Contacto Consulting to document where and how COO has been successful in creating more equitable procurement processes, particularly in the area of contracting, and what gaps continue to exist. The review also looked to identify opportunities that exist to strengthen relationships between COO staff, contracting staff, and community, as well as to name any barriers that prevent these relationships from occurring or moments when challenges are being reinforced.

**Assessment Questions**

King County COO staff and Contacto Consulting identified the following questions for the review:

1.  How is equitable contracting defined by experts in the field?  What are the best practices, processes, and values in equitable contracting?
2.  Where and how has COO been successful in creating more equitable contracting processes? What have been the impacts of these changes?
3.  Where have COO and community partners run into challenges? How has the initiative responded and adapted? How has the system(s) in which COO exists responded and adapted or changed?
4.  How is equitable contracting demonstrated or measured?
5.  What contracting processes should COO continue? What contracting processes should COO examine further?

It is important to note that this review was conducted as other similar efforts related to equitable contracting are simultaneously occurring within King County. Following the Pro-Equity Contracting Executive Order signed by Executive Dow Constantine in April of 2021, the Finance and Business Operations Division (FBOD) formed an interdepartmental steering committee to guide best practices in procurement and contracting. Along with Business Development and Contract Compliance (BDCC), FBOD is exploring the feasibility of conducting a disparity study, a recommended best practice to determine disparities in procurement and how best to address them. BDCC and Procurement and Payables (P&P) are identifying innovative methods to promote contracting with minority and women owned business enterprise contractors.

Through a CDC COVID-19 health disparities grant (OT21-2103), which funds all 50 states and at least 40 large local health departments to reduce health disparities, Public Health – Seattle & King County is analyzing ways to make the health department's contracting more accessible to small organizations. The reviewers hope that this analysis contributes to these and other efforts to facilitate institutional shifts in policies and practices with the purpose to advance equity in contracting and procurement in King County.

Additionally, BSK is strengthening its systems by creating equitable and effective structures for all aspects of BSK work, including RFP release, finance, contracting, and monitoring, so that BSK staff and community partners have a more equitable, consistent, and streamlined experience with BSK and King County.

**Methods**

From September 2021 to February 2022, COO worked with Contacto Consulting to document where and how COO has been successful in creating more equitable procurement processes, particularly in the area of contracting, and what gaps continue to exist. The assessment also identified opportunities that exist to strengthen relationships between COO staff, contracting staff, and community.

Contacto conducted a literature review of research papers, articles, and toolkits authored by equity experts of addressing equitable contracting and procurement. The reviewers recorded how each document answered 13 questions related to the assessment goals. (See Appendix A). We also examined how other government entities have worked to remove barriers and increase access to equitable opportunities in public contracting. In addition, we considered 47 internal documents from COO, BSK and King County related to their contracting and procurement processes, including Community Service Agreements, consultant contracts, and previous evaluations related to contracting. (See Appendix B for a list of internal documents).

A major component of this review was conducting in-depth qualitative interviews and listening sessions with key internal and external constituents to better understand if and how equitable contracting best practices are applied within COO; which other innovative practices are surfacing from the intentional focus on equity in COO's relationships with community partners and consultants; and what gaps continue to exist to achieve equitable contracting at COO. Participants (a total of 24 individuals) included King County procurement and contracting staff, BSK and COO staff, as well as community-based organization staff and community consultants who have partnered and contracted with COO. We ensured that interviewees were representative of the types of contracts that COO develops and the strategies under which it funds. (See Appendix C for a list of interview and listening session participants).

Each participant was asked to answer questions from their perspective, based on their experience and expertise. As such, not all respondents answered all questions and not all questions were asked of all respondents. Interviews and listening session were approximately 45 minutes. Completed interviews were transcribed, coded for themes, analyzed in aggregate, and summarized in the following sections. Interviews were edited for length and clarity. (See Appendix D for focus group and interview protocols).


**Limitations**

Competing priorities within the timeframe in which this review was conducted limited access to a few key informants. While this review intended to paint a complete picture of the current and ideal state of equity in contracting at COO, additional details may be missing due to missing/incomplete information gathered. Caution should be exercised in interpretation of results. Small sample sizes limit the reliability of the conclusions, and there may be a variety of factors contributing to the patterns observed. Power dynamics can influence what partners and staff may choose to share about COO, BSK and King County systems. The qualitative coding process reflects biases from how the interviews were structured. All data collection tools were provided in English.

## CONTEXT OF EQUITABLE CONTRACTING

This section explores the first question of the assessment: "How is equitable contracting defined by experts in the field? What are the best practices, benefits, challenges, and values in equitable contracting?" It also gives a brief historical recount that contextualizes how equitable contracting has arrived to where it is today in King County.

### Definitions of Contracting and Procurement

Not everyone defines procurement and contracting in the same way. Many distinguish procurement as a one-time transaction and contracting as a continual relationship. Others define procurement in the narrower sense of issuing purchase orders and making payments. Others still, contracting is folded into the larger procurement process. Some consider that procurement ends when a contract is awarded; the management of the contract is another step all together. Definitions of procurement and contracting also depend on what is being procured: pencils, buses or, in the case of Communities of Opportunity (COO), equitable community conditions.

In general, *procurement* is understood as the process of soliciting, finding and acquiring goods and services by government agencies from an external source, often via a competitive bidding process. *Contracting* is defined as the act of engaging in a legally binding agreement between two parties. For the purpose of this project, these—on the surface very transactional activities— take a different meaning within the context of COO due to the very nature of the initiative.

COO believes the most meaningful, just, and sustainable solutions are generated in partnership with communities, who know what they need to be healthy and thrive. In recognition of the strengths that reside in communities, COO supports community partnerships as they build connections that promote equity in health, housing, and economic opportunities for their communities.[1]

The process of contracting within COO is, thus, highly relational. Promoting equity is built in COO's contract management. In fact, for the purpose of this project, when we speak about "process", we are talking about the ways in which COO sees, engages, and connects with applicants and awardees or partners.

### Definition of Equitable Contracting

The literature defines equitable contracting, or inclusive contracting as it is also known, as contracting that promotes more equitable access to government procurement (Government Alliance on Race and Equity, 2015). Specifically, equitable contracting funnels public spending in the direction of people of color (POC) communities through POC businesses and nonprofits (All-In Cities, 2022) and creates the environment for these organizations to participate in the process (Government Alliance on Race and Equity, 2015).

Equitable contracting is a system in which no matter the size of an organization, the communities served, the language spoken, or the level of education, anyone can have the same opportunity to access public resources. It begins before the contracting process starts, when a

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[1] https://www.coopartnerships.org/about-coo

government entity and the appropriate people who will ultimately contribute to the desired impact come together to achieve a mutual agreement about a scope of work with the resources needed to achieve the outcomes.

Equitable contracting exists within a system rooted in a white dominant, white supremacist culture that includes legal requirements that are associated with contract law as well as the governmental systems of being accountable for tax dollars.

*"It's almost an oxymoron to have an equitable system in our current system. But there are things that can be done to make it a little more less oppressive and more accessible and a little easier for people who don't come from that system. Things like using plain English language in the contracts, for example."* —Community-based organization leader

Even within these limitations, taking an equitable contracting approach makes social and economic sense.

> *"One of the goals of procurement is to maximize competition while at the same time making sure not to artificially reduce competition. That allows for a more diverse supply base and overall benefit to not only the community itself, of course, but the organization that's actually contracting. For King County, it's definitely beneficial to look at equitable contracting to avoid having these big players that dominate a marketplace, and then you're not really getting the innovation and you're not really allowing for those smaller players to eventually grow and become major competitors within the marketplace."* —King County staff member

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**Scarcity vs. abundance in equitable contracting**

Top of mind for internal staff was the shift to what is known as "BSK 2.0" and the changes that this may bring to COO and its contracting model. These are a few comments shared during the interviews:

*"I feel some tension coming up in how we are discussing equitable contracting – In particular with BSK defining equitable contracting as access for everybody. BSK is going to have shorter contract periods of 1-3 years, which stands in contrast with how COO and our partners have defined equitable contracting: that long term, multi-year funding to communities who have been disinvested is what creates sustainable capacity for our visions. That to me feels contradictory to what BSK is saying. How do we reconcile that?"*

*"How do you balance ensuring that everyone has access. If you funded someone for all of the levy, then you don't have opportunities to fund someone else, unless another organization comes in. That tension is real. How do we go into abundance, how do we do both, to make sure that we have opportunities for new funding and offer long term funding?"*

*"Hopefully moving away from the scarcity means moving away from seeing that BSK is the only option for this kind of funding. Going back to that internal change, because there is always new funding coming out from King County, how much can we push the county to fund in the ways that BSK is funded rather than moving BSK and COO into the traditional structure of King County funding?"*

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Equitable contracting is considered a policy, a practice, and an institutional culture (Living Cities, 2019).

As a policy, equitable contracting expresses the commitment of elected officials to "addressing past and present institutional barriers in business development and the governmental procurement process" (GARE, 2015) either through ordinances or executive orders. Executive orders provide greater ownership and investment in the process and are more likely to administrate for success. Seattle uses a city council ordinance for a broad statement and specific executive orders for program strategies.

The practice of equitable contracting includes race and gender-conscious strategies; race and gender- neutral strategies, which generally involve attempts to influence contracting behavior regarding race/gender (for prime and sub-contractors) without mandating it; activities to promote small business enterprises (SBEs); and actions to favor local over non-local businesses.

Using a racial equity tool to analyze specific practices and regulations and actively integrate racial equity into policies and practices allows entities to integrate equitable contracting in the institutional culture (Ibid.).

Implemented at all three levels, or building blocks, equitable contracting can rectify some of the inequities that have historically excluded people of color from participating in government contracting and has largely benefitted white and male owned businesses. "All components of the program should have the goal of building trust with the community and key-stakeholders" (Ibid.).

## A Brief Historical Context of Equitable Contracting

The systemic economic inequity is built on a foundation of racism that created housing segregation and stripped Black, Indigenous and people of color from access to community services, voting rights, safe healthcare and quality education. Access to economic opportunities and wealth has been undermined since slavery, colonization, and the erasure and disregard for native tribal sovereignty.

There have been attempts and crucial successes at evolving government contracting in the last fifty years. The Small Business Act §8(a) was created in 1958 to support "socially and economically disadvantaged" small businesses. Then in the 1960s, affirmative action policies, the Civil Rights Act, and the Philadelphia Plan established non-discrimination and inclusion of minority individuals in federal jobs and contracting opportunities.

In the 1970s, the formation of the Office of Minority Business Enterprises resulted in the designation of "Minority Business Enterprises" (MBE). Other amendments encouraged the use of disadvantaged subcontractors and the creation of the Federal Disadvantaged Business Enterprise ("DBE") program. State and local governments began to model the federal programs.

Yet opposition to the attempts to create equitable opportunities for people of color to participate in contracting has continued. State, county and city policies have had to refrain from using race as a decision factor in contract awards. In the J.A. Croson Company v. The City of Richmond, VA (1989), Supreme Court ruled that the program in Richmond, Virginia that gave preference to MBEs in municipal contracts was unconstitutional. At the time, Richmond's Black population was over 50 percent. The city set a goal of 30 percent of construction contracts set-aside for MBEs to open access to construction contracting opportunities that had been prohibited because of discrimination. According to the Court, the city didn't adequately identify the need for remedial action and that the program was "necessary" to remedy the effects of discrimination in the marketplace.

Croson is a seminal case in equitable contracting because, among other things, it provides the basis for distinguishing between race-neutral and race-conscious programs. In race-conscious programs, contracting based on race, participation goals, Good Faith Efforts (GFE) processes, and some joint ventures may be subject to strict scrutiny. (PolicyLink, 2018; Living Cities, 2019)

Despite these challenges, "inclusive procurement programs have continued to grow and evolve, with cities finding creative ways to lower barriers to inclusion by amending restrictive policies and processes, developing legally defensible contracting programs designed to remediate contracting disparities, and employing contract compliance tools to create and ensure a culture of accountability" (Living Cities, 2019). Adhering to research, law and creativity, local governments can equitably procure goods and services. They are in a unique position to implement innovative and transformative practices—including equitable contracting— that can drive better outcomes for their communities (Ibid.).

Washington state has race- and gender-neutral procurement policies, where explicit contracting preferences based on race or gender are not allowed. However, on January 7, 2022, Governor Jay Inslee signed the Executive Order for Equity in Public Contracting (Executive Order 22-01) instructing agencies to adopt more inclusive practices in contracting and procurement. This order was directed after commissioning a disparity study in 2019 that determined that minority-, women-, and veteran-owned businesses account for a disproportionately lower percentage of the state expenditure. In addition, Governor Inslee signed Executive Order 22-02 to replace Directive 98-01 that instructed state agencies to implement Initiative 200 (RCW 49.60.400) which reads that "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." Initiative 200 does not categorically prohibit all uses of race- or sex-conscious measures in state contracting. Washington State must follow a prescriptive legal path to use a race or gender conscious measure to remedy discrimination. The state must demonstrate that race and gender-neutral measures have not resolved the discrimination before it can use race and gender-conscious measures.

Since the adoption of I-200 in 1998, King County's Contracting and Opportunities Program is designed as a race and gender-neutral program. Yet minority- and women-owned businesses (MWBEs) continue to face barriers in accessing contracting opportunities with the county. As a response, King County Executive Dow Constantine issued the Pro-Equity Contracting Executive Order (CON-7-28-EO) on April 27, 2021 to remove barriers, implement innovative contracting methods, and take other actions to make it easier for MWBEs participate in contracting with King County.

## Values of Equitable Contracting

We have identified the following principles or values, which were highlighted in the literature and emphasized by the interview participants as essential elements that make contracting equitable.

*It shares power.* Equitable contracting policies should state the intent to fix historical and current racism. It involves co-creating with community members and community partners to address disparities and discrepancies in power that lie within our current structures. Equitable contracting is less one sided and actually listens to what community partners say they would like included in the contract.

> *"Equitable contracting is a solution for addressing or attempting to fix a system that has long impacted communities in a negative way, addressing and working towards long-term sustainable actions for people with no or limited access to the resources that King County has created. It creates opportunity and access for communities that have historically faced barriers, challenges, and disinvestment from government." —COO staff member*

*It is grounded on relationships.* Relationships are an essential component in equitable contracting. Given some of the barriers faced by small organizations, many of which don't have 501(c)3 status and are fiscally sponsored by other larger organizations, equitable contracting requires a government entity that understands the relationship between the CBO and its fiscal sponsor. It also involves trust. As one CBO staff said, "it's hard to contract with an organization that is just beginning. We've appreciated that COO had that understanding to begin with."

An interview participant highlighted King County United Way's participatory grantmaking as an example of a funding model that transfers decision making to the communities impacted by funding decisions.

> *"It's trust making and relationship building. Using that model, there's no grant application. There's no final report. We're checking in as we're building out the plan. That's it." —Community leader*

*It builds capacity both ways.* Meeting people where they are while strengthening existing skills of community-based organizations and small businesses owned by people of color are required values for advancing toward equity in contracting. This involves understanding that not a lot of organizations have the same internal capacity to contract with the government, tapping into their existing expertise and leadership, co-creating solutions to bridge that gap, and recognizing that the input and growth is not one way. Equitable contracting must be a space where concerns and feedback can serve to change the government entity's processes.

> *"It is just contracting where, essentially, all organizations are given not only an equal opportunity, but also the resources or the platform in which they can reasonably compete with larger competitors or those who have been in the marketplace longer." —King County staff*
>
> *"As contractors we are responsive to organizations that we are contracting with, not just in assisting them in meeting deliverable and building capacity but also in creating space for bi-directional change." —King County staff*

*It removes barriers.* Equitable contracting eliminates unnecessary barriers for small firms and organizations led by people of color. Having equal opportunity to be able to contract with an entity, whether it is public or private, should be the baseline of any procurement process. Equitable contracting goes a step further: it removes barriers and provides resources to increase the ability of those with less capabilities or resources to be able to apply and fulfill the requirements of a contract.

> *"Contracting itself is a very challenging thing. It takes a lot of resources to be able to apply for grants and win them, and then follow up with all the reporting requirements. Equitable takes into account both the size and the resources and the amount of pressure or work that an organization has to do to tend to a grant. But I also think it's about who gets funded in the first place." —King County staff*

*It is simple.* It strives for simplicity in both how contracting occurs throughout the contract lifecycle, from how a solicitation is written to the ease for organizations to submit invoices and receive payment. It understands the reality of nonprofits and their limited administrative capacity.

> *"Equitable contracting is making it as easy and less complicated as possible, finding where there might be confusion. We all know that people in this work have very limited time. It's also making sure people actually understand what they are getting into." — CBO staff*
>
> *"We've seen such a shift towards supporting BIPOC-led and BIPOC-serving organizations, especially during COVID. Some of the barriers to this whole process of contracting have been removed. I see some funders are really trying to make it a simpler or shorter process, or minimize how much you have to do to apply. It seems like some of those like requirements are coming back. I thought one of the major lessons of 2020 was showing us how much bureaucracy could be let go in the spirit of moving expediently to support communities. I hope things continue to move more in that direction." —Community-based organization leader*

*It is creative and flexible.* Equitable contracting strategies push the boundaries of current laws and is flexible with the approaches (GARE, 2015).

> *" [It offers] flexibility in allowing community to do the work that they need to do and not necessarily always conforming to a certain way of doing the administrative tasks or the reporting." —Community-based organization leader*

## Challenges and Barriers to Equity in Contracting

The following table summarizes the challenges of contracting with government faced by small businesses, consultants, and organizations from communities whose access has historically been limited.

| | |
|---|---|
| **Racism and discrimination** | - Discrimination in the private marketplace limits their ability to contract outside of government<br>- Legacy of discrimination in lending and contracting has produced a wealth gap that puts BIPOC-led firms in disadvantage |
| **Cumbersome processes** | - Different and complex certifications result in time wasted by BIPOC orgs and small firms<br>- Non-standardized bidding processes across government entities create an inefficient infrastructure |
| **Risk-averse culture** | - Favors contractors that have worked with the government before<br>- Transfers the burden on small organizations and firms, and increase their vulnerability |
| **Disconnection with BIPOC networks** | - Favors large, white-led firms with more connections<br>- Limited communication about upcoming procurement opportunities to BIPOC networks<br>- Fewer connections with large, established, white-led prime contractors limits opportunities of BIPOC organizations to serve as sub-contractors |
| **Limited capacity** | - Lack of access to capital and other built capacities needed to meet government requirements<br>- Limited resources to devote to writing proposal and bidding<br>- Smaller firms and organizations may need coaching and technical assistance to compete<br>- Public-sector agencies operate in silos making requests for proposals duplicative and inefficient<br>- Requirements to demonstrate past experience and performance to qualify<br>- Limited access to insurance/bonding at required levels<br>- Fewer assets and more debt<br>- Limiting or difficult policies to form collectives and cooperatives |
| **Inability to compete** | - Legacy of racism and discrimination in education<br>- Less availability to contract (fewer human resources, less time)<br>- Less likely to grow up in households where someone owned large businesses that contracted with public entities |
| **Larger firms, more resources** | - Allows more favorable pricing<br>- Places small and diverse organizations at a disadvantage |
| **Race "neutral" policies** | - Legal contexts that impede race-conscious approaches<br>- Disconnection between equitable contracting policies and practices<br>- Adoption of best policies does not guarantee that the policies will be enforced or effectively implemented. |
| **Under resourced procurement offices** | - Underdeveloped tools and processes to increase equity and inclusion in contracting<br>- Limited staffing to research, improve and implement tools and processes |
| **Growth and scaling up** | - Large-scale, standardized projects with greater scopes of work and one-size-fits-all approaches<br>- Project scopes that exceed most CBOs and small firms' capacity as primes or subcontractors<br>- Lesser chances of CBOs and small contractors to co-design, bid and be awarded. |

## Benefits of Inclusive Contracting

Living Cities lists the following as the main benefits of equitable contracting:

- It fulfills the government mandate to promote equal treatment.

- It facilitates inclusive community economic growth that a) yields stronger communities, b) contributes to the overall growth of the middle class and, c) creates a more robust taxpayer base.

- It provides stable revenue and helps firms to gain the experience necessary to grow. The growth of businesses owned by people of color helps to address the racial income and wealth gaps because they are more likely to hire staff of color or from underserved communities.

- It makes the system more efficient because there is the opportunity for increased competition.

- It attracts and assists talented new businesses to become potential partners, which may result in higher quality contractors.

## EQUITABLE CONTRACTING WITHIN COMMUNITIES OF OPPORTUNITY

This section responds to the main goal of the review, which is to document COO's successes in creating more equitable procurement processes, particularly in the area of contracting, and gaps that continue to exist. In most cases, the themes that surfaced from the interviews contained both successes that have created constructive impacts *and* challenges that continue to exist. This section of the review explores the questions: "Where and how has COO been successful in creating more equitable contracting processes? What have been the impacts of changes made by COO?" *and* "Where have COO and community partners run into challenges? How has the initiative responded and adapted? How has the system(s) in which COO exists responded and adapted or changed?" It is important to note that some of these changes have occurred overtime because of the community's feedback and the advocacy of COO staff.

### Trust

Both staff and community partners agreed that part of equitable contracting is hiring staff who represent the communities served. They feel that staff who are from the priority communities of COO understand some of the inequities that the communities face and can relate to partners.

> *"Hiring people of color to serve as our programming officers or managers, and their human approach to really working with us… I think that's the biggest asset that I've seen in King County: hiring diverse people to work with diverse people." —Community-based organization staff*

**Key King County Procurement and Contracting Partners**

- *Finance and Business Operations Division (FBOD)* is a centralized procurement unit that serves most of the county's departments. FBOD establishes the policies and procedures for conducting procurement transactions—those involved when divisions and departments are buying goods and services for the benefit of the county. It is in charge of leading the Pro-Equity transformation of the county's existing contracting program.

- *Business Development and Contract Compliance (BDCC)* is located within FBOD. It works to increase the participation of small contractors and suppliers, Small Business Enterprises (SBE) and Disadvantaged Business Enterprises (DBE), Minority and Women owned Business Enterprises in the county's contracting opportunities. It is in charge of diversifying the workforce of contractors through its Apprenticeship and Priority Hire programs. It is responsible of assisting departments with setting equity goals for contracting and conducting a disparity study feasibility analysis

- *Procurement and Payables (P&P)* within FBOD has a number of teams that support procurement and contracting activities to acquire goods and services (from bus parts to IT equipment to consulting services) that occur within county departments. P&P provides check and balance reviews to the contracting activities at Public Health and DCHS. They also offer technical assistance to smaller grant recipients on how they can best apply for grants.

- *Finance and Administrative Services Division (FASD)* serves as the contract unit for Public Health and the Department of Community and Human Services (DCHS) as their contracting primarily involves community service agreements occurring in the community and delivered to the community. FASD runs independently from FBOD and is able to shape its own processes. In fact, there hasn't been a lot of county guidance on how to conduct solicitations until the recent Pro-Equity Executive Order and the forming of the interdepartmental steering committee and Equity and Social Justice Innovation Plan.

- *Procurement and Real Estate Services (CPRES)*, which operates under FASD, is focused on supporting contracting within Public Health and DCHS. CPRES runs the solicitation process and works closely with the Prosecuting Attorney's Office and Risk Management to create and apply templates developed with input from programs.

Interview participants admitted that COO and Best Starts for Kids (BSK) have been a major influence in creating that change in the county. Representation matters, and so does the role that COO staff has played in advocating within King County for systems change. Public Health has acknowledged that racism is a public health issue, and many interview participants feel that this recognition is thanks to layers of advocacy and support by community members and staff from COO and BSK.

> *"They've worked hard, advocating for changes in King County Public Health processes and practices when it comes to the solicitations; really thinking about what things are necessary to collect at the application process, what can be done after award, and what are reasonable reporting requirements." —King County staff*

Community partners expressed that a key strength of COO is how staff have intentionally built trust with community partners.

> *"In comparison to other funding that we've received, what's special I think is the relationship with COO and the staff, especially with the contract monitor and working with contract monitor very closely. They relate closely with our work and know what we're doing and support us in that kind of way rather than a typical contract monitor." —Community-based organization staff*

> *"We've developed a pretty trustworthy relationship with our program manager where we try to be very honest and try to really ask a lot of questions. We're always worried about whether we are doing the right thing and so and it is helpful to have that relationship." —Community-based organization staff*

Community partners named the various program managers with whom they work as being supportive, understanding, and flexible, particularly as it relates to deliverables and timelines. Several participants spotlighted Kalayaan Domingo as a "really awesome leader."

> *"Working with Kai is really great. She's real clear about what she needs. She does a really good job of saying 'this is not required by the county', 'this is what would be meaningful for me and this is what's meaningful for you'. I feel like she has enough agency and is very good at cutting to the chase and not being a paper pusher." —Community-based organization staff*

## Rooted

That COO is highly rooted in community was mentioned by many interview participants. This translates into the groups in which COO invests and how community members are part of solicitation development, review, and recommendation of selection of partners.

> *"When we talk about the front end of even before we select the agencies we're going to partner with, Communities of Opportunity can help us create a set of selection criteria that is going to meet those goals." —Community-based organization staff*

Community partners feel that COO "walks the talk." They appreciate how COO staff continually ask for feedback and input, and how they look at how every aspect of their practice can be more equitable—including this assessment about contracting. "It gives more credibility to the commitment to Equity and Social Justice and changing business as usual," one person shared.

At the same time, interview participants recognize that power dynamics continue to exist, both within COO, between COO and the systems in which it lives, and between COO and community partners.

*"When we disagree about a decision made within the COO system—really, the county and Seattle Foundation. Being able to sit in the space with the folks who are having the issue and creating the environment where we can work things out without judgment has been really difficult. It's brought a lot of pain to some of the relationships that we've had. It is a real a real lesson in who has the power and who's unable to find their voice even within the power dynamics so I hope this hasn't impacted COO."*
*—Community-based organization leader*

*"We refer to the organizations that work with us as partners. But there is always going to be a power dynamic as we do hold the money. And while we worked with community to create the outcomes and the implementation plan and all that, we still decided what we want them to do." —King County staff*

*"The power dynamics between funder and funded are inherently unequal. How honest can you really be when you depend on this person for $1,000. Not everybody even acknowledges that. COO, they're successful in calling out the weaknesses of this relationship and trying to really make it different." —Community-based organization leader*

Staff who are people of color feel caught up in the tension of being in government and seeing the bureaucratic side of what they have to do, while understanding a lot of the history with BIPOC communities, where there's not a lot of trust in it as it is. They know that complex and inequitable contracting definitely affects the organizations and the county's relationships with them. Some staff perceive that there has been a change in how King County used to "serve a better purpose than the system that we currently have now." They feel that a lot of decisions are made and then implemented without consideration for unintended consequences.

*"In the end, it's the public that ends up suffering, because staff can take six months to do something and it will still be OK. We still have our jobs. We still get paid. Every two weeks. And no one cares at that point. But the problem is, if it affects our contractors and the communities that we serve." —King County staff*

## Application

There was agreement among the interview participants that COO's approach to application creation, outreach and support, and review and selection is a set of best practices, one that other funding entities can replicate or adapt.

King County staff and community partners all agree that COO has made deliberate efforts in designing more equitable RFPs, from the paperwork ("which has been more streamlined than in previous years") to the review.

Other areas of strength include:

- offering technical assistance providers to help organizations apply for funds and understand the sometimes-inaccessible processes that the county has in place;

- creating a set of evaluation criteria that allows agencies who are going to apply for a grant how they will be evaluated;

- welcoming more options than a written proposal as an important part of the decision-making criteria.

- inviting new and unusual partners into the conversation that aligned with the long-term sustainability strategy of the project

*"You may have an organization that does really great work and maybe their strength isn't necessarily in writing proposals. Maybe they don't have a team of people that do nothing but write grants for a living. Maybe they're more about accessing people in the community and providing services and I bet they could do a really great job of telling us about it through an interview." —King County staff*

A few interview participants mentioned the RFP process for commercial affordability as one that was particularly inclusive; they specifically highlighted the workgroup and development processes.

*"Bringing in folks who have not been a traditional part of the design, review and selection process, it created an opportunity for folks to see the contract role out, in a way they maybe hadn't before. Other funders were a part of that and they had good feedback. I don't know that it created a nexus that "we should all be doing it", but they could see into the COO way, for the most part, it's a unique and different approach to the work that we had been doing." —COO staff*

Another highpoint in COO's contracting was language access improvements during the COVID stories cohort contract. Several of the interview participants spoke about the steps that COO has taken to offer language interpretation and translation—specifically in Spanish— and closed captions and sometimes live captions throughout the contracting process.

*"We had a request for accessibility in Spanish. We decided that if we were providing Spanish language access during the application, that we needed to provide it for the life of the contract. We found a technical assistance provider who worked with folks to write an application in English. We have translated every piece of material related to contracts, including scope of work, reporting documents, invoice templates, etc. We have been able to do interpretation on Zoom. It hasn't been the greatest, but we have received some feedback that it has been a more positive experience for this particular group around Spanish language need than in the past." —COO staff*

Staff points out that it does take more staff time to coordinate those efforts and participate in meetings, but it is worthwhile. They also identified that there is still an opportunity to do in-language meetings and broaden access to at least the top three tier languages for King County.

## Capacity

There was strong agreement among interview participants that placing an intentional investment in building capacity has been one of the significant factors that distinguishes COO from other initiatives and funding partners.

Community partners and county procurement staff spoke highly of how COO accompanies organizations closely throughout the life of the contract. These supports go from providing technical assistance on the front end of proposals; to supporting organizations and consultants applying and navigating the county systems; to answering questions about how they can be successful in fulfilling the deliverables of the contract. This assistance is unlike other government contracts in which they have participated.

*"Acknowledging that our partners have room to grow and King County has room to grow – and we're on this journey together, and there is an investment in supporting our partners and disrupting white supremacy culture and 'perfectionism'." —King County staff*

*"I do think about the initial parts of the RFP because when we're talking about small organizations, does an organization even know how to apply for a grant? Do they have the capacity to write an application?" —Community-based organization staff*

A gap that continues to exist, according to interview participants, is offering more education to partners upfront and throughout the life of the contract about the expectations related to reporting. This includes quarterly financial reporting, evaluation reporting, and program and finance site visits (which have created a lot of consternation for many partners).

> *"Thinking about how to work with communities in between award and contracting to make sure that they fully understand what it means to contract with the county because it is different than contacting with a private foundation or private money." —King County staff*

> *"One of the agreements when you sign a contract is that you have to go through a fiscal audit. We did not know that. We got the grant, then we signed the contract and we saw that. We hired someone to do the fiscal audit and it cost I think $12,000. We didn't have that money so our program manager said we could take out of the grant contract. So that was a huge deficit for us to take $12,000. We did not know that was the consequence of being with COO. It was also very time consuming." —Community-based organization staff*

More education for staff is also needed. This concern aligns with the finding of the 2021 King County Audit which identified that King County has not provided training to contracting staff on unconscious bias in contracting (King County Auditor's Office, 2021).

> *"I feel like I personally have not really been trained on ways to specifically identify the unequitable issues. In the world of procurement, we have focused just naturally on maximizing competition and not artificially reducing that. But I think that there are probably concrete steps that we could take to ensure that we don't bundle scopes of work together and then don't allow for those to be split out amongst multiple companies. I think those are some strategies right off the bat that we can employ. —King County staff*

There is also much to be shifted within King County processes to remove the structural barriers and strengthen the relationships with small and nascent groups and collectives, especially those without 501(c)3 status, and those that are volunteer-run, those where English is not the primary language spoken.

> *"One of the things about the funding world is how you have to have connections to be able to get in, to have credit to say you are a legit organization, and to apply for the funding. That's a continuous barrier for small organizations that may not have those relationships or may not have the backing from other organizations. I always wonder how do we make it equitable for small or start up organizations who don't have the capacity to continue to keep going out and looking for fundings and don't have those relationships."*
> *—Community-based organization leader*

## Contracts

Interview participants agree that, in general, the steps related to setting up a contract with COO go smoothly.

Procurement staff recognize that there has been an intentional effort from COO staff to try to find solutions together to make contracting as easy as possible for partners, while still following the guidelines and rules that the county has in place. While they recognize that it sometimes takes more time to understand what COO and the community partners are trying to accomplish, they consider that they have forged a path of working together with CPRES, where communication and the entire process have significantly improved.

Procurement staff attribute the successes in this area to having a liaison —Cristina Gonzalez—with the COO program managers to help them understand what the county requires from them as it relates to contracting. They also praised the process documents that Cristina has put in place to help program managers and partners navigate the contracting process. Having all the needed information about an organization on the front end and holding pre-award meetings where partners are informed what they need to do has been very helpful. It has also ease payment once the contract is in place.

> *"A lot of people will say that there are some things that are really redundant. But at the same time, I will say those people have never been in a public disclosure. They have never been in a point where somebody is looking for something or someone is trying to shift blame or find where we went wrong, and then we have meetings to no end. I'm always like, it takes five minutes, but it's going to save us an hour and we have created process." —King County staff*

There were areas of concerns about several aspects of the contracts, starting with the language used.

> *"King County has a long way to go on having contracts written in plain English. It's super complex. The contracts require people to follow links to somewhere else and the definitions here and there, and it's really hard going back and forth. To even think that a community organization would even be able to take a simple path set for contractors is really not reasonable and unrealistic."*
>   *—Community-based organization leader*

In fact, a COO Community Service Agreement used as an example scored as "difficult to read" on seven readability formulas. The contract is written at a grade level 12, meaning a student in 12th grade or first year of college can read and understand the text.

There are also issues with some of the requirements put into their contracts, particularly around indemnification. While everyone would like to assume that it is unlikely that any harm would occur, having to sign contracts makes community partners feel very vulnerable.

> *"In terms of equitable contracting, if we're putting the organization in the center and making them our customer for the most part, which is how I try to sort of frame this work, we want to take the burden off of the organizations. The county should be assuming more of the risk." —King County staff*

Some backbone organizations have had to act as translators as subcontractors didn't understand a lot of the provisions in the contract. They were able to find agreement with King County on some of the provisions, and in that sense, they felt they made it a little more equitable for those organizations. Yet they feel it was a big burden for them to carry that role.

Changes and flexibility in insurance requirements were also mentioned. Generally, a $2 million dollar insurance coverage seemed too high for many small community-based organizations. COO and the King County Risk department have waived or negotiated different insurance levels on a case-by-case basis.

> *"Where do you even get that kind of insurance? If you're gonna require this insurance at least give them some resources of here's some insurance carrier and do some research about how much it costs for folks so you know what you're asking from them. Then weigh the risk and the value of the contract. It could be 20% of their contract to pay for this insurance that they don't need for anybody else but for us."*
>   *—Community based organization leader*

The intellectual property provision was also noted as a concerning issue.

> "Learning Community has been a strategy co-developed with consultants but there is not an opportunity within our contracting to describe that process and our shared commitment to each other. We may have to go out for a Request for Offer, which means it should be open to anybody. That feels really challenging. How is it equitable to take work they have developed and potentially ask another contractor to lead that work? That feels particularly at odds with our co-design and collaboration mentality." —COO staff

> "There's this big movement at the community level around intellectual property and not owning content and monetizing it. Just making it available to people; putting it out there and letting everybody use it. King County, in fact, was going to put everything on the website. So, community partners wondered then why they had to sign away all their rights if it was going to be available to everyone anyway. In intellectual property, there's lots more nitty gritty legal concepts and legal requirements that maybe don't have to be that complex. Maybe King County could say, we're not going to own it all. Let them own it." —Community-based organization staff

> "We bring in consultants to provide services and develop things but there is language in the contracts that say that these are products of King County, which is really challenging when you have consultants and their work. In a previous contract, we worked with CPRESS to document changes and to make sure that we are really transparent about what King County and Learning Community wants to use things for, and where consultants still have access to their intellectual property." —COO staff

At least one community partner pointed out that there definitely is a disconnect between submitting the project components to the program officer and setting up and submitting the elements that go to the finance team, while not really knowing who these people are. For some community consultants, there are long delays between the notice of award and the signed contract, and between the execution of the contract and payment.

Having only one contract specialist/manager within Public Health supporting BSK and COO contracts is a limiting factor which reduces the opportunities for COO to shift and improve. Having one staff person as the primary contact for such a large body of work means that there are often slower responses, longer wait times for contract execution, and limited capacity to work with COO staff and collaborate as they develop contracts.

> "It also means that if this one person is out or leaves, work slows even more or stops until a backup or replacement person is found. There is also a gap in the institutional knowledge if the person leaves and the approach is not integrated into the department." —COO staff

Lastly, some partners spoke about how COO has added deliverables and reporting requirements after there has been agreement about the scope of work.

> "It's kind of like you start the game and you know the rules, and then there are more rules once you're already playing the game." —Community-based organization staff

## Subcontracts

Participants used words such as *hiccup* and *bottleneck* to describe the relationships related to COO subcontracts. Many subcontractors are still trying to find the best way to work with their fiscal sponsors. Some lead agencies feel that their role of signatory, responsible for the contract, and liaison and advocate between COO and the subgrantees is burdensome.

> *"I didn't factor in that we would be having to advocate to King County to change some of their contract provisions or to push back on it. Although we stepped up and we were able to have some success to benefit community organizations, sometimes we didn't or King County said we couldn't make those changes. We didn't realize we were going to really have to read the fine print and explain it to all of the agencies one on one so they understand what they're signing." —Community-based organization leader*

> *"The one thing that's been the most challenging is we feel that we built a responsibility to fulfill our contractual obligations with King County and in doing that our other partners don't have that obligation. We're carrying the weight of that contractual agreement. That was something [another funder] has shifted: we could do as many subcontracts as we would like to do and let the weight be equal on other groups." —Community-based organization leader*

Most of the interview participants agreed there are communication issues between COO (program managers), the lead agency(ies) and the subcontractors—details are lost in translation. They suggested involving the program managers in monthly meetings or having the program manager share high level, important information with the subgrantees and more details with the lead agency. After all, "subgrantees are partner members; there is a level they need to know"

> *"Maybe doing a better job of connecting organizations or fostering that connection between the agency who really creates and has the passion for doing the work. The other agencies were more specializing in doing that, like the financial and internal control side effects." —King County staff*

Subcontractors wish there was more clarity regarding important information, particularly related to contracting and budgeting.

> *"The budgeting process between the lead and other partners feels like being in the dark. How much money is left, when are payments disbursed – I wish it was a little more transparent. It's necessary to build the lead agency's capacity in beefing up budgeting –information like proper documentation and records is rarely available." —Community-based organization staff*

Community partners emphasized that agreement language and contracting roles must be explained in plain language. In one specific instance, a lead agency with more expertise in contracting had to advocate for language change and more specificity. They wondered if other organizations with less legal knowledge would have missed the details and signed the contract as written.

> *"We had to really push back to King County about who is a sub-assignee under the master agreement. We use a lot of vendors that we subcontracted with to do activities. We didn't want them to all fall under the terms of sub-assignee because if they were all sub-assignees as defined, they had to be included in that contract. If they're not considered a sub-assignee but just the vendor that we use to run a training, then we can do a simpler contract. King County heard us and we were able to figure it out." —Community-based organization leader*

## Deliverables

Participants had a lot to say regarding deliverables, starting from valuing the goals and approach of COO.

> *"To see this funder really valuing policy and systems change and of moving into organizing stuff and wanting to highlight that and having us come and present about it, has been helpful for us and helpful for our community at large. I would hope to see more funders moving into that area.  Yes, we need to meet basic needs, but we also need to organize for change that's sustainable for the future so that we're not always dependent on emergency services to meet basic needs. How do we actually shift beyond that?"*
> *—Community-based organization leader*

Both staff and community partners feel that COO has built enough flexibility and understanding around deliverables, from design to implementation to amendments. Staff appreciate having options such as performance-based contracting or cost-reimbursable contracting to most effectively meet the needs of an organization.

> *"Our program manager worked with us to set deliverables that felt were right for us in that time and that felt like a positive shift because in the past we've had some deliverables around work that is important but not totally aligned with our mission and our strategic goals, and that feels like it's separate or takes extra energy to figure out. It seems you're working really for the money, not the money working for you, right? Yeah, the funding being more aligned with the mission." —Community-based organization leader*

Partners called out how they have been able to co-design their deliverables with COO staff, and how staff have even allowed for changes or dropping a deliverable under a contract. They appreciate how COO staff are understanding when "sometimes stuff happens." They particularly commended COO for making adjustments to deliverables and milestones and being very flexible during the thick of the COVID-19 pandemic, when things were beyond everyone's control and impacted their ability to complete anything.

> *"During COVID, letting us readjust our deliverables has been helpful and just knowing that there was that possibility was a relief. Our goal was still to meet all the deliverables, but there at least was that flexibility. So, I think that was also very appreciated.*
> *—Community-based organization leader*

Staff, too, view it as positive having more flexibility in amending contracts. Some shared their experience with other previous efforts in which a payment by either Public Health or the budget of the partner who was receiving the funds was required to amend a contract, making changes cost prohibitive.

In terms of "right-sizing" deliverables and scopes of work within the funding available, the tension of requesting enough to cover all expenses while writing a proposal that will be funded continues to exist. This tension also illustrates issues of power between those who make decisions about what will be funded and those who feel on the receiving end of funding.

> *"[When we hear this feedback, I wonder], did you ask for it? We could only give you what you asked for. So really going for that support at the time of the proposal and then again at the contracting time. Sometimes smaller organizations feel like the lower the bid, the more chances they would be to get funded, and so they underestimate or they under propose how much money they're going to ask for. We are*

*really trying to demystify this. That we're not going for the smallest bid here. And that we want people to be successful and have the funding they need to be successful." —King County staff*

*"Looking back, I think we over committed ourselves and the goals. We try to look like we are going to do a lot of stuff and I think going back on that we're wondering what we have been funded as an organization led by Black, Indigenous or people of color. If we didn't have a lot of goals [would we be funded?], so we came up with some really heavy goals." —Community-based organization leader*

Several community partners still feel the pressure to "chase after the will of the funders" and fit their goals within prescriptive Request for Proposals (RFP):

*"Seattle Foundation is putting out this big request for proposals that is very similar to COO work, but we're gonna have to apply for that. We're going to have to write the application. Rename things. Repackage the work that we do. Some organizations have the capacity to stand against that but others are continuously having to repackage our services or work." —Community-based organization leader*

*"We try to really not hold ourselves to it and say no, this is what we want, and this is how we're going do it. But for us, we're taking a huge risk of not getting funding at some point, because it might not exactly be what they want, and they might already have a very rigid idea of what they want to see." —Community-based organization leader*

## Reporting

Reporting was by far the major concern that community partners identified in COO's contracting. Compared to other reports they present to funders (if reports are asked at all), partners confessed that COO's are probably the hardest, longest, and time-consuming. They shared that they understand there is good intent, but that the impact on small organizations is significant. Despite the attempts at modifying the reporting, it continues to be a challenge. "It just takes a big toll on us."

*"I'm pretty surprised that the report is still that because I've seen funders, especially with COVID, are really trying to break down those barriers of how much time these organizations are spending on just proving that they did what they said they were going to do." —Community-based organization leader*

All community partners identified multiple issues related to reporting:

- Questions feel repetitive and rigid.

   *"Maybe we're totally overdoing it. Maybe everybody else is writing two sentences, so that's the other side of the coin. But there's no feedback on the reports about whether what we do is too much or too little. We have heard comments, this is really appreciated because you tell a full story. We love to share what we do. I think it's just a redundancy and having to formulate it in a way that's answering the many repeated questions." —Community-based organization leader*

- The mid-term and annual reports feel complex, with many different elements, tables, spreadsheets, and attachments—all involving some degree of translation.

*"I always remember that chart where they ask what kind of activities did you do, was it a community building? Was it a political event? Was it all these little specific things. We don't break it down that way, so we're trying to translate what we do into the reports."*
*—Community-based organization leader*

*"We're going to report this stuff. You decide, you figure out from what we're telling you how it is impacting. We try to make them understand, to make them learn about how the community sees this work. And for them to capture that nugget for their big report. Did these outcomes seem disjointed? It's the way that you're looking at these outcomes. That's what's disjointed."*
  *—Community-based organization leader*

- Timing of the annual report occurs at the peak time for many of the partners' programming. Last year felt particularly challenging as the report was due a month earlier, which partners were not anticipating.

- The monthly updates *plus* the mid-term and annual reporting feel excessive and redundant. COO and BSK, as far as they recall, may be the only funders that require monthly meetings with the program officers. (One partner appreciates the monthly check-ins as a more efficient way to document progress throughout the project.)

  *"Is it possible that during our check-in time, when we tell them these things, they can start checking their own boxes? Or that could lend to not needing to do something as intensive at the 6-month and 12-month reports because we've already told them everything along the way? —Community-based organization staff*

- The questions and tables are different for different awards. This adds complexity for those organizations who work on different COO strategies.

  *"It's complicated. The thing with COO is that it funds us very broadly. And so, the reporting is even more challenging because it touches everything that we do—it's systems change. So instead of other reporting for one project or one programming, it's everything. I know that COO has a lot of challenges in reporting because all the partners are doing different kinds of work so how do you tell the story the same way for everyone." —Community-based organization staff*

Community partners do appreciate having access to technical support staff when they don't know how to answer portions of the report.

In summary, reporting somehow feels to many as an issue of lack of trust.

*"Because these are publicly funded grants, we are supposed to be accountable. What does accountability mean? Is it the evaluation? Is it dollars? What do we need to do? We are accountable. We serve our community. Our lived experience has helped us be more accountable. Relationships matter, trust matters. How do we get stuff like that to live into the system? All I'm saying is respect our position and the work that we're trying to do." —Community-based organization leader*

## Learning Community

Most, if not all, the interview participants spoke highly of COO's Learning Community strategy. They recognized that there has been a shift in the mindset of the COO approach to learning, applauded the resources that accompany these efforts and concurred that COO staff have done a great job working with organization partners to facilitate community learning throughout the contracting process.

> *"I've noticed the changes in what the offerings are from the Learning Community. I think those offerings have become more aligned with where our direction is and are definitely of interest." —Community based organization staff*

Many used different community of practice workshops—highlighting Meeting The Moment— as examples of participants having inclusive and equitable involvement, the consultants being people of color, and the facilitators creating a space where people felt comfortable enough to actually give feedback and participate. At least one of the community partners appreciated having been a driver and an inspiration for some of the Learning Community offerings. One of the activities they have conducted and included in their reports has been offered to COO as a whole.

Time is definitely a barrier for more involvement. The pandemic, the "online burn-out" and the impossibility of meeting in person have also made participation difficult.

> *"We're always running around and when there are obligations from contracts to attend meetings or be part of workshops, it can get overwhelming. Or sometimes with COVID, some of these things have been like 'why are we here' or 'we want to have a space to connect with other organizations and it's just been hard to do that online' and once we are able to go back in person that does feel a little bit better." —Community based organization staff*

> *"Just these past couple years of just everyone being so overwhelmed by everything that anything extra that even though it could maybe add to the general knowledge and capacity of the organization, it's just too much. I don't know how to solve that because I know that what happens is maybe one person does it but then, how does that knowledge actually get communicated to everybody else? How does that actually help our community: is the benefit there or is it just to look good?" —Community based organization staff*

## Budget

In general, community partners spoke positively about the long-term commitment of COO funding and its responsiveness to support the community partners' success. They value the contract extensions and not having to go through "a big process to apply."

That being said, both community partners and staff shared that they feel a lot of uncertainty about reduced budgets and the upcoming requirements to submit applications again later this year. Partners also feel pressure about having to be really competitive against "our peers who are all doing incredible work and all serving communities that need it."

> *"We also know that only such a small percentage of people who applied are actually being funded, and so there's this tension of wanting to fund all these organizations who haven't been funded before and wanting to fund organizations deeply and more long term. That along with what has been happening that there's less and less money every year." —Community-based organization leader*

Related to the current no-cost extension period and transition to "BSK 2.0", community partners had mixed opinions about how COO has handled the changes. Some appreciated the transparency about how there is going to be less funding (though they didn't cherish how "money keeps getting cut") and what that means for right-sizing the deliverables. How the focus should be on closure of the project as opposed to creating new projects, shifting into a next phase or growing or expanding to more people.

> *"[That's helpful as] every year you have to think of how you're going to do your work differently. Even if everybody is going to work harder, it just rings differently when a funder acknowledges that and is OK, if you're giving less money, you can't expect people to be able to keep leveling up on your specific project that you fund because you're giving us less." —Community-based organization leader*

Yet others feel that even though that gradual transition is appreciated, the timeframe given to community partners could have been longer.

> *"I'm not sure what the restrictions and issues are in the back end, but the abrupt changes [about budget cuts for place-based sites and the cultural sites] and putting that on the table for community to decide in such a short time... is a little bit of an issue."*
> *—Community-based organization leader*

Participants commented about the partnership between King County and the Seattle Foundation in relation to COO's budget. The partnership with an outside organization, they shared, it's a way to aim for equity in contracting because of the flexibility a foundation has in terms of contracting in general.

> *"That basic approach is one of the things that I appreciate about COO, acknowledging that they are government and their boundaries, and how they go out and work with philanthropy. That is one of the key steps that many jurisdictions don't actually do."*
> *—Community-based organization leader*

Those with a history with COO explained how the relationship allowed COO to offer a 25-30 percent of the grant upfront, which was a compromise between the county's contracting restrictions with how most funders normally disburse funding, as a lump sum. This is particularly helpful for smaller partners with limited cashflow. Since then, the relationship has also benefited community partners in letting them decide if they prefer receiving funding as a lump sum or splitting it monthly according to the life of the contract.

The partnership, some interview participants shared, also pushed the county to simplify how the grants look.

> *"It's not perfect, but you know it's baby steps towards some kind of transformational change for our local government, which I think the community really needs to take the credit for." —Community-based organization leader*

Still, some community partners don't always understand the difference between COO and Seattle Foundation.

> *"Sometimes the money from COO is easily received and then other times it just feels like there's a lot of hoops to jump through, and I didn't really understand why that was. I just didn't always get where the money is coming from. There's just so many things I don't understand about the funding world. Then I just say to myself, well, I don't need to understand this— it's just money. I don't know if that's a barrier." —Community-based organization leader*

## Systemwide

Interview participants feel that most of the gaps they see for COO to achieve equitable contracting are related to the question, "how have the systems in which COO exists (BSK specifically and King County more broadly) responded, adapted or changed to gaps and challenges faced?"

> *"King County has a lot of, I would say, barriers. They have to fulfill certain requirements, certain rules that we need them to follow. I don't think we make that specifically very easy for a lot of small organizations when we would like them to basically get some money, learn how to contract with the government, and then hopefully be able to support themselves and run their organizations successfully."*
> *—King County staff*

> *"The last two years, a little bit before the pandemic started, King County as a whole has become a lot stricter in terms of how we would do business in contracting and also how we procure services and goods. I feel that with how things are and how our organization as a whole has made rules, it has become a little more difficult, and I think we're going to start seeing that going into the year of 2022 with the new Best Starts for Kids levy."* *—King County staff*

Federal requirements have major impacts on King County systems. The Public Health department, largely funded with federal dollars, and many King County systems must adhere to federal regulations. The Contract, Procurement and Real Estate Services (CPRES) unit has developed best practices on how to conduct solicitations and follow federal rules. Federal grant procurements are governed by 2-CFR-200, which sets administrative, costs, and audit standards.

> *"When it comes to granting county funds, we mirror that in some way but we have a lot more freedom in how to manage those types of things. Best Starts for Kids and Communities of Opportunity (under BSK) are funded by the BSK Levy. As a county-funded activity, we do have a lot more flexibility in how to make these kinds of awards because it's not It's not federally funded."* *—King County staff*

Internal staff consider that there is still room for examining and sorting through the policies ('is this coming from a legal standpoint?') and practices ('are we doing this because we've always done it this way?').

Almost all the community partners interviewed perceived that they "sense a tension and bureaucracy" that is widely shared, and that "everyone knows about it." They observe that COO staff receive a lot of pushback.

> *"We all know it's really hard to change systems. I think there is tension between COO staff and King County. I think COO really understands what they're trying to do when they say equitable contracting, but having the rest of King County aligning with that is extremely challenging. But that is what has to happen for the whole system to really change: trust that BIPOC communities know what they're doing and are going to do the work regardless."* *—Community-based organization leader*

There was widespread agreement among those who spoke with us for this review that King County has an opportunity to deepen its work to be better partners, better members of the community.

> *"I think some people separate out King County from the community, but we are the community. I mean, we are the local government so how can we show up better. How can we really take to heart 'racism as a public health crisis'? How are we transparent about the role that*

*government has played in that in racism over centuries? And where does that still show up in our practices and policies? I frankly think we as a government funded the wrong people for so long. And so really thinking about where does the money need to go? Where can we make the most impact? Who is best suited to make that impact? It's not us, it's the people on the ground who know the struggles of their community and can get the right people doing this work so really trying to figure out how to facilitate that."  —King County staff*

| TRUST | ROOTED | APPLICATION | CAPACITY | CONTRACTS | SUBCONTRACTS | DELIVERABLES | REPORTING | LEARNING COMMUNITY | BUDGET | SYSTEMWIDE |
|---|---|---|---|---|---|---|---|---|---|---|
| representation<br>advocate for systems change<br>built trust with partners<br>program managers | investments<br>involvement of community members<br>walk the talk<br>continued feedback | approach<br>technical assistance<br>evaluation criteria<br>encourage content over form for RFP responses<br>unusual partners<br>language access | intentional investment throughout life of contract | steps for setting up a contract go smoothly<br>intentional effort to try to make contracting as easy as possible<br>liaison between PMs/procurement<br>internal contract workflow system | | goals and approach of COO<br>built flexibility and understanding<br>performance-based/ cost-reimbursable<br>co-design with partners<br>flexibility in amending<br>adjustments to milestones | access to evaluation technical assistance | shift in mindset re: approach to learning<br>resources accompany efforts<br>staff and partners collaborate on offerings<br>safe and comfortable spaces to participate<br>Meeting The Moment | long-term funding commitment<br>contract extensions<br>King County and Seattle Foundation partnership provides flexibility<br>payment options<br>transparency and right-sizing during 2021-2022 transition | |
| | power dynamics<br>tension faced by BIPOC staff | opportunity for in-language meetings<br>broaden access to top three tier languages | more education about reporting and site visits<br>equitable contracting education to staff<br>very small and nascent groups and collectives | complex language<br>indemnification requirements<br>overburden for lead agencies<br>insurance requirements<br>intellectual property provision<br>disconnect between submitting paperwork to PM and finance team<br>deliverables added after signed agreement<br>limited contract staffing for BSK and COO | "hiccup", "bottleneck"<br>lead agencies carrying all responsibilities for contract<br>communication issues<br>clarity re: contracting and budgeting<br>agreement and roles in plain language | tension between enough funding / proposal that can be funded<br>funder/funded power dynamics<br>pressure to "chase after the will of funders" and fit goals within prescriptive RFPs | hardest, longest, more time-consuming<br>Q: repetitive and rigid<br>tables, spreadsheets add complexity<br>translation of activities within templates<br>timing of annual report<br>monthly+mid-term/annual: excessive and redundant<br>different Q, tables for different awards: complex<br>issue of lack of trust | time is a barrier<br>online burnout | uncertainty about reduced budgets and upcoming application requirements<br>pressure of competition against peers<br>partners: difference between COO and Seattle Foundation?<br>timeframe given to community partners during 2021-22 transition could have been longer | King County requirements and rules<br>room for examining policies vs. practices<br>tension between COO staff and King County<br>bureaucracy<br>community partners feel COO staff receive a lot of pushback<br>opportunity for King County to deepen work of being better partners |

**Infographic:** Summary of successes and gaps of equitable contracting with COO

## MEASURING EQUITABLE CONTRACTING

Equitable contracting can be measured through several means. The reviewed literature advised, a) tracking the funding awarded to both prime agencies and subcontractors, and mapping increases and decreases in contracts (GARE, 2015); and b) monitoring the percentage of contracts with Black, Indigenous and people of color led organizations and community consultants, and mapping percentages up or down.

Disparity studies are the recommended tool to measure and demonstrate equitable contracting in larger agencies (such as King County). For specific initiatives or smaller entities (such as COO), using a combination of solicitation responses, awards, payment records, and contract reports provides sufficient information if monitored over time. Tracking race, ethnicity and gender is required to map disparities (Living Cities, 2019). King County staff pointed out that tracking the geographic spread of awards made (whether there is good representation of the county; if rural, urban and suburban areas are covered; whether the initiative is reaching specific populations; if areas with large immigrant or refugee populations are being impacted; and if reaches new and different communities) is another important consideration for COO. These analyses must be conducted periodically to help promote equity.

COO currently measures and evaluates equitable contracting through feedback from communities and staff, both solicited and unsolicited, about how contracting processes are going for them and their partners.

> *"Some of the Learning Community work offers that documentation indirectly. Some things about equitable contracting come through the Community of Practice. In terms of directly capturing that information in a systematic way, I don't think that has happened." —COO staff*

BSK (including COO) conducted an evaluation about whether using technical assistance (TA) at the time of application helped demystify the process of applying for public funding and made it more accessible to a larger variety of organizations within King County. The evaluation explored organizations served and how many had never applied for public funding before; the percentage that successfully secured a contract; and if TA made them feel more confident about applying for other public funds. Staff hope to conduct similar evaluations during "BSK 2.0".

Several people mentioned this assessment as a move in the right direction toward measuring and evaluating equitable contracting.

> *"We share things, anecdotally or in meetings, when we are asked about what we do in terms of our contracting processes, and some of our challenges, but we have not consistently documented them. I am appreciative that we have the resources through Learning Community to do this review. Contracting is important not only for policy and systems change in the community, but also because we have the responsibility to do this within government. We haven't had the capacity to track it the way we would like." —COO staff*

There are opportunities to do more formal evaluation about COO.

> *"Is there more economic development? Are there more opportunities for small business? Is there policy and systems change work happening through COO? Because the theory of change is 'you fund the right people in the community, you can get the right outcomes' so, are we hitting those outcomes?" —King County staff*

Contracting staff shared that number of meetings is an indicator to measure process improvements and finding common ground with COO staff.

*"The less meetings we have and the less frustration that we hear, I think means that we are becoming more successful in understanding and getting things done where everyone is happy being creative and meeting all the requirements that we're supposed to follow." —King County staff*

## BEST PRACTICES AND RECOMMENDATIONS

The following table summarizes a range of best practices that emerged from the review of recommendations by experts in the field, as well as the experiences of interview and focus group participants.

### Equitable Contracting Best Practices

| | |
|---|---|
| **People** | • **Share power** among leadership, staff, partners and community.<br>• **Assign staff** for contracting equity. Build their **capacity and time** to continuously review and improve procurement policies and practices. |
| **Assessment** | • Review the contracting process to determine **barriers** and **unintended consequences.**<br>• Check that **staff understand policies**. Identify gaps between written policy and implementation. |
| **Contract Structure** | • Have **goals** for including organizations/small businesses led by BIPOC.<br>• Have **bidding cutoff** for orgs/small businesses led by BIPOC for projects below a certain amount.<br>• Evaluate proposals based on **best value** as opposed to low cost |
| **Capacity Building** | • **Train elected officials/staff** about implementing inclusive procurement policies.<br>• **Assign at least 1%** of projects to capacity building of organizations/small businesses led by BIPOC.<br>• Partner with organizations that can provide **lines of credit, capital investment, insurance support**.<br>• Provide technical assistance in **business planning, tax compliance, licensing, certification**. |
| **Technology and Data** | • Use **simple technology** for bidding, reviewing, signing, and submitting contracts.<br>• Use a **simple data platform** with uniform data points and tracking. |
| **Procurement "Ecosystem"** | • **Partner** with private sector, nonprofit anchors, and other cities around contracting and purchasing.<br>• Use/support **race-conscious policies** and **policies that include** orgs/small businesses from historically underfunded communities. |
| **Shared Knowledge** | • Develop inclusive procurement policy **toolkits** by sector or agency. Align cross-sector/agency policies.<br>• Develop **community of practices** to facilitate cross-sector training. |

## COO Areas of Strength

COO employs several best practices in their approach to contracting for equity. There are also other best practices associated with King County and Best Starts for Kids that are relevant are worth mentioning as they impact COO. These are some of the key areas identified:

**People**

• COO Program Managers have the best pulse on what is happening for organizations. Community partners have deep trust in them.

**Assessment**

• This review of equitable contracting is an applied best practice.

• COO and BSK have compelled Public Health, DCHS and King County Procurement to really think about contracting processes.

• Staff are constantly taking into consideration feedback from King County departments as well as from suppliers and contractors.

• There are written procedures and desk manuals.

**Contract structure**

• COO Procurement and Operations Manager has established a solid foundation for equitable contracting within the initiative and has built significant relationships with procurement teams. These systems can be replicated by other King County departments and used as best practices during the King County equitable contracting assessment.

• COO's approach embeds the best practice of having goals for including organizations/small businesses led by Black, Indigenous and people of color (BIPOC).

• Community partners feel they have designed deliverables in partnership with COO.

• Community partners feel there is commitment by COO to support BIPOC organizations and businesses and specific geographic areas with higher disparities.

• COO and BSK use best-value contracts for both community-based organizations and consultants. Generally, throughout King County, unless they are for purchasing objects that can be best evaluated by price alone, contracts are best-value oriented. Price is a component, but the goal is more about people's ability to be the best agency to deliver the service within the budget.

• Through the Small Business Accelerator, King County reserves certain contracts for competition among certified Small Contractor and Supplier (SCS) consultants and service providers.

**Capacity building**

• COO offers many capacity building and technical assistance opportunities.

• In BSK 2.0, capacity building is a separate line-item strategy. It used to be 1% of each item. This provides more funding and allows for more flexibility.

- The renewed BSK levy assigns up to $50 million in capital investments.

- BSK and COO have provided capacity building in business planning and tax compliance.

**Technology and data**

- COO uses an effective internal workflow system that helps staff manage contracts as they are signed.

**Procurement ecosystem**

- COO is a good example of a public-private partnership, a best practice.

- COO has worked with different nonprofit anchors and subcontractors that are well established in the community.

- There is opportunity and willingness to expand public-private partnerships to other larger philanthropies and King County strategies.

**Shared knowledge**

- COO's Learning Community is considered a best practice.

- Procurement staff have seen an improvement in organizations' understanding of the rules and requirements. This may be an indication that communities of practice, training and technical assistance efforts are showing positive results.


## COO Areas of Opportunity and Recommendations

This report documented where and how COO has been successful in creating more equitable procurement processes, particularly in the area of contracting, and what gaps continue to exist. The review also identified opportunities to strengthen relationships between COO staff, procurement and contracting staff, and community partners. The following is a set of recommendations for COO to continue advancing toward equity in contracting.

In many cases, these recommendations are intended for the systems in which COO operates (King County and Best Starts for Kids), given the interdependencies that exist. They are grounded on the above-mentioned best practices. Recommendations identified as high priority/ high urgency are marked with a start (★).

**People**

1. ★ *Shift more power to the COO staff who actually are on the ground with the organizations.* COO has hired a valuable and diverse team of people to serve. Community partners do not feel that they have the kind of agency to say what is really important to make the decisions. They would like program managers to be closer to being decisionmakers.

**Assessment**

2. ★ *Conduct a systematic equity review of all policies and practices related to procurement and contracting, including tools and materials used by staff and community partners.* There is very limited capacity among contracting, procurement and COO staff to be introspective—

even less so during the COVID pandemic. Review of contracting policies and practices has been reactionary. During this review, we were made aware of several contracting and procuring toolkits, including a SharePoint site created by CPRES with guidance and materials for Public Health solicitations and site visits; a BSK policy and practices manual; a training for programs on how to review and approve invoices; as well as several user guides for specific tools. As a follow-up to this assessment, and within the Pro-Equity Contracting initiative, assess the contractual agreements, report templates, training materials, contract monitoring templates, and other tools used within COO and across departments.

**Contract structure**

3. ★ *Align more with BSK and within COO strategies around contracts, financial information collected, and invoicing.* Create a more seamless, simpler navigating process for community partners to apply and contract, and for how you work with communities through the life of the contract.

4. ★ *Align cross-department policies placing equity at the center of contracting.* There is momentum in the state and the county to move to incorporating equity into procurement infrastructure. The Pro-Equity initiative creates an opportunity for concentrated and resourced efforts to establish standardized policies and implement a set of best practices moving forward. Shine light on the best practices COO has achieved, influence other public entities who are interested in moving toward equitable contracting, and request support for the gaps that still exist.

5. ★ *Maintain the lean application and reporting approach used in 2020.* Funders, including COO, were able to cut some of the requirements to distribute funding quickly in 2020. The fact that this was achieved then means that fundamentally there is a way to do things differently. Community partners challenge the notion that the pandemic is over – "we're still in multiple pandemics. Disparities have continued to grow throughout this time. The urgency is still needed just as much. It was possible to reduce the barriers then; it can be maintained now." Consider continuation grants and renewing existing grants with proven partners, with simplified applications.

6. *Aim for trust-based philanthropy as the ideal state in community partnerships.* It is about trusting the partnership, knowing that sometimes when you're building as people of color, you're building out your goals and action and may not move at the same speed.

7. *Allow community partners to decide how they would like to receive the funding, including offering a lump sum.* Involve both fiscal sponsors and subcontractors in the decision.

8. ★ *Foster better connection and communication between lead agencies and subcontractors.* Consider increasing the involvement of program managers with subcontractors. Assure that subcontractors have clear understanding of essential information such as contracting and budgeting. Explore modifying provisions in the contract to distribute the responsibility among subcontractors in collaborative agreements.

9. *Explore broadening language access to COO contracting opportunities to at least the top three tier languages for King County.* Consider offering in-language meetings and Learning Community opportunities for Spanish speaking community members.

10. ★ *Increase the threshold and reduce requirements for small contracts.* Small grants of a certain value allow for much more flexibility in selecting partners and lowering or waving requirements (such as indemnification). One of the biggest barriers identified in the areas of

contracting is the limitation of keeping "small contracts" at a $10,000 threshold. Contract staff consider that even doubling that limit would greatly benefit small community-based organizations and community consultants.

11. ★ *Continue working with Risk Management to reduce or waive insurance requirements for small contractors and low-risk projects.* The acceptance of risk is imperative in moving toward equitable contracting. If within the Equity and Social Justice framework community partners are in the center of the relationship, King County would want to take the burden off of the organizations. Staff across departments strongly agree that King County is able to take on risk where historically it's been risk averse, while still using prudence in overseeing public dollars. Also, simplify the indemnification language in master agreements.

## Capacity building

12. *Train elected officials about implementing inclusive procurement policies.*

13. ★ *Find ways to increase community partners' administrative and financial management capacities.* There are many expectations related to requiring organizations to have strong internal controls. Public agencies, including King County, don't always do a good job in funding these functions. There is opportunity to funding nonprofit administrative and overhead rates that more accurately reflect what an organization needs to have strong internal controls. Also consider supporting organizations with funding the services of an auditor or accountant when audits are required. Consider funding an organization(s) who can provide contracting support to current and potential COO partners. Consider offering learning opportunities in this area before partners sign contracts

14. *Partner with organizations that provide lines of credit.* Include this topic in the education of elected officials. Work closely with contracting and procurement staff to interpret existing county rules and guidelines and to find creative alternatives.

## Technology

15. ★ *Along with BSK and other King County departments, select a single platform to receive applications and review, sign, and submit contracts.* Community partners and consultants would like to see one simple platform used for all King County contracting opportunities. There are several online platforms used within the County to apply for funds, including ZoomGrants, eCivis (used by King County Performance, Strategy & County Budget Office) and the e-Procurement system. There have been usability concerns about the e-Procurement and feedback that it is a barrier to doing business with the county, particularly for small consultants with very little if any administrative staff. Despite the training resources offered, including videos, FAQs, phone line, monthly supplier orientation, and pre-bid and pre-proposal conferences to help suppliers navigate the system, suppliers still feel the system is too complex.

16. *Select and implement one simple evaluation platform with uniform indicators.* DCHS has begun using a contracts data platform per King County Council requirement, and Public Health will roll into this platform as well. As the platform collects only individual level data, it does not work for COO's community contracts.

17. ★ *Simplify community partner reporting.* COO uses multiple spreadsheets and tables for reporting. They are inconsistent across strategies. Community partners continue to question the need to "prove what they said". They ask that COO trusts communities and community-based organizations to be doing what they do best. They understand that COO needs to know its impact, and wonder if there may be a different way to gather this information. Consider modeling other funders, including BSK, in simply asking for a narrative.

**Procurement ecosystem**

18. *Build an "equitable contracting ecosystem" with other funders and public agencies outside of King County.* Working in community means building parallel bridges with mind-like partners. There are similar efforts across the county and the state. As a community partner suggested, "work on agreeing on three strategies that everybody could focus on to create this mass impact." Find opportunities to align with anchor institutions, public entities, and systems around shared values, goals, funding, and strategies.

**Shared knowledge**

19. *Share your knowledge, experience and expertise about equitable contracting with other departments.* There is opportunity for more formal cross divisional and cross departmental trainings and sharing of knowledge. Work in concert with BSK staff to continue to learn from each other.

20. ★ *Sustain the Learning Community model, co-creating it with community partners and deciding goals as a collective.* There is growing online training fatigue among community partners. Staff's workload is at capacity. Explore increasing technical assistance consultant support or build capacity into existing roles while removing other responsibilities. Partners ask that COO continues to elevate existing efforts occurring in the community (related to all capacity building supports and learning opportunities), as opposed to creating new and separate work. Offer contract-specific trainings about requirements, budgeting, and changes. Use short videos, tutorials, infographics, and other quick and easy tools that align with community partners' limited capacity to engage.

# REFERENCES

All-In Cities. (2022). Equitable Contracting and Procurement. Retrieved from: https://allincities.org/toolkit/contracting-and-procurement

City Accelerator by Living Cities and Griffin & Strong, P.C. (2019). Culture, Collaboration and Capital: Leveraging Procurement for Economic Equity. Retrieved from: https://www.lisc.org/media/filer_public/4d/fc/4dfcd821-7d1d-4e5b-be8a-40013e8b74df/0812109_resource_implementation_guide_final_32019.pdf

City of Seattle. (2022). Purchasing and Contracting. Retrieved from: https://www.seattle.gov/purchasing-and-contracting

City of Seattle. (2019-2021). Race & Social Justice Initiative. Retrieved from: https://www.seattle.gov/Documents/Departments/RSJI/RSJI_Goals.pdf

City of Seattle, Office of the Mayor. (2014). Executive Order 2014-03: Equity in City Contracting. https://www.seattle.gov/documents/Departments/SPU/WMBEExecutiveOrder.pdf

Colette Holt & Associates. (2019). State of Washington Disparity Study. Retrieved from: ttps://omwbe.wa.gov/sites/default/files/State%20of%20Washington%20Disparity%20Study%202019.pdf

Communities of Opportunity. (2020, June). COO Evaluation Report for 2019 to June 2020

Communities of Opportunity. (2021, May). Executive Summary for 2020 Evaluation Findings.

Communities of Opportunity. (2022). Leading the Transformation of King County. Retrieved from: https://www.coopartnerships.org/

Engaging Local Government Leaders (ELGL). (2019, December 24). Five Local Government Trends for More Equitable Public Purchasing. Retrieved from: https://elgl.org/equitable-purchasing/

Fairchild, D. & Rose, K. for PolicyLink. (2018, February). Inclusive Procurement and Contracting: Building a Field of Policy and Practice. Retrieved from: https://www.policylink.org/sites/default/files/InclusiveProcurement_final-3-5-18.pdf

Holland, R. for Washington Policy Center. (2000, March). Seattle's Contract Equity Program: How Should We Boost Small Disadvantaged Businesses? Retrieved from: https://www.washingtonpolicy.org/publications/detail/seattles-contract-equity-program-how-should-we-boost-small-disadvantaged-businesses

King County Auditor's Office. (2021, June). Contracting Inequities Persist in Race-Neutral Environment.

King County, Public Rules and Regulations. (2015). CON 7-21. Rules Implementing Living Wage Ordinance.

King County. (2021, April). CON-7-28-EO. Pro-Equity Contracting. Retrieved from: https://kingcounty.gov/~/media/operations/policies/documents/ProEquityContractingCON-7-28-EO.ashx?la=en

King County. (2021, February). Equity & Social Justice (ESJ) Innovation Plan. Retrieved from: https://kingcounty.gov/depts/finance-business-operations/business-development-contract-compliance/programs/ESJInnovationPlan.aspx

King County, Business Development and Contract Compliance. (2021, March). Moving Forward with Pro-Equity Contracting. Retrieved from: https://kingcounty.gov/depts/finance-business-operations/business-development-contract-compliance.aspx

King County. (2021, October). Small Contractor and Supplier Certification. Retrieved from: https://kingcounty.gov/depts/finance-business-operations/business-development-contract-compliance/programs/SCSCertification/Certification-Information.aspx

Lohrentz, T. for Government Alliance on Race and Equity. (2015). Contracting for Equity Best Local Government Practices that Advance Racial Equity in Government Contracting and Procurement. Retrieved from: https://racialequityalliance.org/wp-content/uploads/2015/12/GARE-Contract_For_Equity.pdf

Port of Seattle. (2022). Diversity in Contracting - Bid Opportunities. Retrieved from: https://www.portseattle.org/business/bid-opportunities

Results for America. (2018, August). Case Study. King County, Washington Applies an Equity Lens to Design More Accessible, Collaborative, and Outcomes-Focused Contracting Processes. Retrieved from: https://results4america.org/wp-content/uploads/2019/02/KingCountyCaseStudy_FINAL.pdf

Satelly, J. for Social Impact Commons. (2021, April). Equitable Contracting - Patterns of Practice. Retrieved from: https://www.socialimpactcommons.org/ideas-blog/equitable-contracting-patterns-of-practice

State of Washington, Office of Governor Jay Inslee. (2022 January). Executive Order 22-01. Equity in Public Contracting. Retrieved from: https://www.governor.wa.gov/sites/default/files/exe_order/22-01%20-%20Equity%20in%20Public%20Contracting.pdf

State of Washington, Office of Governor Jay Inslee. (2022 January). Executive Order 22-02. Achieving Equity in Washington State Government. Retrieved from: https://www.governor.wa.gov/sites/default/files/exe_order/22-02%20-%20Equity%20in%20State%20Government%20%28tmp%29.pdf

Suzumura, L. for Best Starts for Kids. (2019). Evaluation of Technical Assistance for Best Starts for Kids Funding Applicants

Washington State Department of Enterprise Services. (2022). Business Diversity. Retrieved from: https://des.wa.gov/services/contracting-purchasing/doing-business-state/bid-opportunities/business-diversity

Washington State Department of Enterprise Services. (2019). Roadmap to Contracting Equity. Retrieved from: https://omwbe.wa.gov/sites/default/files/Roadmap-to-Contracting-Equity.pdf

Washington State Office of Minority & Women's Business Enterprises. (2021). Tools for Equity in Public Spending. Retrieved from: https://omwbe.wa.gov/state-supplier-diversity-reporting/tools-equity-public-spending

Washington State Legislature. (1998, November). RCW 49.60.400. Discrimination, preferential treatment prohibited. Retrieved from: https://apps.leg.wa.gov/rcw/default.aspx?cite=49.60.

## APPENDIX

**APPENDIX A: Equitable Contracting and Procurement Literature Review**

**Questions**

1. Title and type of document (i.e., research paper, guide, article, toolkit, blog post)
2. How do they define equitable contracting?
3. Processes and steps of equitable contracting
4. What requirements exist for awarded organizations? Do they say why they exist?
5. Departments or divisions involved in contracting process
6. Values identified in equitable contracting
7. Equitable contracting compared to standard processes
8. Best practices: recommendations for equitable contracting
9. What are the impacts identified when organizations move to equitable contracting?
10. Challenges and barriers in procurement processes and products
11. How can government entities respond and adapt to these challenges?
12. How is equitable contracting measured and demonstrated?

**APPENDIX B: List of Internal Documents Considered**

1. 2019 Fiscal Site Visit Tool (Grantee Copy)
2. 2019 Fiscal Site Visit Tool (Internal Use)
3. 2020 (Fall) Conducting Meaningful Solicitations: A Training Guide. Compiled by Contract, Procurement, and Real Estate Services (CPRES)
4. 2020 Qualitative Data Slides
5. 4108 BSK - Contract Document FEEST
6. 6180 BSK - Contract Document Contacto
7. Agiloft End User Platform How To & Reference Guide, updated 2020
8. Contract Monitoring for Community Partnerships Overview 2020 GRANTEE
9. Contract Monitoring for Community Partnerships Overview 2020 INTERNAL
10. Contracting Steps Time CPRES Finance Procure DRAFT 2019
11. COO 2020 Consultant RFx Feedback
12. COO 2020 Grantee RFx Feedback COVID Stories
13. COO 2020 RFx Feedback Summary
14. COO Budget Quarter Expense Template
15. COO Contract Completion Tracking 2020_2021
16. COO Evaluation Report for 2019 to June 2020
17. COO Executive Summary for 2020 Evaluation Findings
18. COO Org Contact List Template
19. COO Performance Based Documentation Collection Guidelines Draft
20. COO PM Contract Negotiation How To up040720
21. COO Program Operations Site Visit Tool 110619
22. COO RFX Development How To draft 110420
23. COO RFX Process Timeline Template
24. COO Strategy areas summaries for RFx contracting 060921
25. CP2022 Org Budget Template
26. CPRES RFA Workflow & In Process Applications 03062017
27. DPH Sub Monitoring Assessment (Internal Use)
28. First Contract Meeting Checklist DRAFT 112019
29. Free Technical Assistance Language for RFx
30. Grantee Self Assessment

31. How to Manage Funding Workgroup 20201203
32. Instructions for KC-W9
33. KCPH Insurance Requirements
34. King County Substitute W9 022315
35. Living Wage Ordinance FAQ
36. More Info on the TA and CB Support of COO Partners through BSK
37. Proprietary Rights explained per CPRES INTERNAL
38. RFA Template 050619
39. RFP RFA Process for Community Services Solicitations
40. RFx Application Review Process Overview 2021 draft
41. RFx Funding Strategy Folder List Resource Summary 2021
42. RFx Process Timeline Template
43. Solicitations Training Guide 2020-draft
44. TA and Capacity Building RFQ Announcement
45. TA and Capacity Building RFQ Info Session
46. Where to Upload KC-W9
47. Work Plan Template 2Yr

**APPENDIX C: Listening Session and Interview Participants**

**Internal Staff**
- Allen Cantera, Contract Specialist, Contracts, Procurement and Real Estate Services (CPRES)
- Blishda Lacet, Program/Project Manager, Communities of Opportunity (COO) and Healthy and Safe Environments, Public Health
- Chris D'Abreau, former Contract Specialist, Contracts, Procurement and Real Estate Services (CPRES)
- Cristina Gonzalez, Program/Project Manager Procurement & Operations, COO
- Dan Bernard, Program/Project Manager, COO
- Jordan Jungnitz, Supervisor, Finance & Business Operations Division (FBOD)
- Jose Camacho Martinez, Program/Project Manager, COO
- Kalayann (Kai) Domingo, Program/Project Manager, COO
- Megan McJennet, Implementation Manager, Best Starts for Kids
- Mike Vu, Administrator, Chronic Disease Prevention/Healthy Aging, Public Health
- Ninona Boujrada, Program/Project Manager, COO
- Robin Haguewood, Program/Project Manager, COO and Healthy and Safe Environments, Public Health
- Roxana Chen, Assessment, Social Research Scientist, Policy Development and Evaluation Unit (APDE)
- Vanesa Gutierrez, Program Officer, Seattle Foundation
- Whitney Johnson, Program/Project Manager, COO

**Community Partners and Consultants**
- Cynthia Ramos Orozco, Executive Director, Comunidad Latina de Vashon
- Dao Tran, Data & Evaluation Manager, White Center Community Development Association
- Folake Oyegbola, Project Manager, Kent Community Development Collaborative
- Jaimée Marsh, Executive Director, FEEST
- Jodi Nishioka, Executive Director, Communities Rise
- Kali Aguilera Méndez, Operations and Development, Comunidad Latina de Vashon
- Mary Kummer, former Program Manager, Potlatch Fund
- Pat Thompson, Executive Director, YES! Foundation
- Sili Savusa, Executive Director, White Center Community Development Association

**APPENDIX D: Listening Session and Interview Protocols**

**Interview Questions for Community Partners**

COO is working in partnership with Best Starts for Kids, King County, and the Seattle Foundation to promote procurement and grant-making processes that are equitable, responsive and adaptive, and focused on those whose needs are greatest and whose access has historically been limited. I am working with the COO team to document where and how COO has been successful in creating more equitable procurement processes, particularly in the area of contracting, and what gaps continue to exist. We are looking at both, COO Community Service Agreements and Consultant Contracts.

For the purpose of this project, we are looking broadly at the overall RFP procurement process and focusing on the contracting steps. When we speak about "process" we are talking about the ways in which COO sees, engages and connects with applicants and awardees/partners.

Questions

1.  How would you define equitable contracting?

2.  Where and how has COO been successful in creating more equitable contracting?

3.  In which ways has COO contributed to equitable contracting with community-based organizations and awardees? (Processes and tools)

4.  What contracting ways should COO continue?

5.  What gaps or issues continue to exist in the COO contracting process?

6.  Where could those be more efficient/easier/community centered?

7.  Which of the requirements that exist for COO-awarded partners and consultants would you remove or change? Why?

8.  Where have you or other community partners you work with run into challenges? What are some challenges and barriers?

9.  What opportunities exist to strengthen contracting relationships between COO staff, contracting staff, and community?

10. How does COO compare to other funders at it relates to contracting?

11. These are some best practices identified for experts in the field <show list>.

12. Which ones do you see implemented within the COO process?

13. Which ones would you like to see?

14. What have been the impacts of changes made by COO (in terms of contracting)?

15. What questions or suggestions would you like to share with COO if you had the opportunity?

**Listening Session Questions for COO Program Managers**

COO is working in partnership with Best Starts for Kids, King County, and the Seattle Foundation to promote procurement and grant-making processes that are equitable, responsive and adaptive, and focused on those whose needs are greatest and whose access has historically been limited. I am working with the COO team to document where and how COO has been successful in creating more equitable procurement processes, particularly in the area of contracting, and what gaps continue to exist. We are looking at both, COO Community Service Agreements and Consultant Contracts. For the purpose of this project, we are looking broadly at the overall RFP procurement process and focusing on the contracting steps. When we speak about "process" we are talking about the ways in which COO sees, engages and connects with applicants and awardees/partners.

Questions

1.  How would you define equitable contracting?

2.  Where and how has COO been successful in creating more equitable procurement, particularly in the area of contracting? *(Prompt: What has already been achieved to support equitable contracting?)*

3.  In which ways has COO contributed to equitable contracting with community-based organizations and awardees? (Processes and tools)

4.  What contracting ways should COO continue?

5.  Some of you have worked with King County for a while. What changes do you observe from how government practices were conducted and how COO contracts?

6.  What gaps continue to exist in the COO contracting process?

7.  What variations exist, and why? Where could those be more efficient/easier/community centered? *(Prompt: differences between contracts with partners vs. consultants vs. Seattle Foundation)*

8.  Where have COO and community partners run into challenges? (What are re-occurring challenges and barriers?)

9.  What opportunities exist to strengthen relationships between COO staff, contracting staff, and community to identify, understand, and address barriers? *(Prompt: How has COO responded to those challenges and adapted? How has the system in which COO lives responded, adapted or changed?)*

10. What contracting processes/ways/methods should COO examine further?

11. Which of the requirements that exist for COO-awarded partners and consultants would you remove or change? Why?

12. These are some best practices identified for experts in the field <show list>. Which ones do you see implemented within the COO process? Which ones could be further explored?

13. What have been the impacts of changes made by COO (in terms of contracting)?

14. How is the COO team demonstrating and measuring equitable contracting?

15. What would be the best questions to ask partners?