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Table of Contents

I.	Disparity Study Overview	1
A.	Study Team	1
B.	Study Team	1
C.	Study Methodology.....	1
D.	Industries Studied.....	2
E.	Ethnic and Gender Groups Studied.....	2
F.	Prime Contract Data Sources	3
G.	Subcontract Data Sources	4
H.	Contract Thresholds	4
II.	Notable Findings	5
A.	Utilization Analysis	5
B.	Market Area Analysis	6
C.	Prime Contract and Subcontract Availability Analysis	7
D.	Disparity Analysis.....	8
E.	Anecdotal Analysis	11
F.	Regression Analysis.....	12
G.	Assessment of the City’s Small Business Enterprise Program.....	12
H.	Recommendations.....	13



List of Tables

Table 1: Business Ethnic and Gender Groups	3
Table 2: Informal Contract Threshold by Industry	4
Table 3: Formal Contract Threshold by Industry	5
Table 4: Prime Contractor Utilization Summary by Industry.....	6
Table 5: Construction Subcontractor Utilization Summary.....	6
Table 6: Prime Contractor Availability Analysis.....	8
Table 7: Subcontractor Availability Analysis.....	8
Table 8: Disparity Summary: Construction Prime Contract Dollars October 1, 2014 to September 30, 2018	9
Table 9: Disparity Summary: Professional Services Prime Contract Dollars October 1, 2014 to September 30, 2018	9
Table 10: Disparity Summary: Goods and Services Prime Contract Dollars October 1, 2014 to September 30, 2018	10
Table 11: Subcontract Disparity Summary.....	11



Executive Summary

I. Disparity Study Overview

A. Study Team

Mason Tillman Associates, Ltd., a public policy consulting firm in Oakland, California, performed the 2021 Disparity Study for the City of St. Petersburg, Florida. Local subconsultant All Administrative Solutions assisted Mason Tillman in the performance of the Study. The subconsultant collected surveys and conducted research.

The City of St. Petersburg's Small Business Liaison, Jessica Eilerman, managed the Study. Ms. Eilerman was instrumental in facilitating Mason Tillman's access to the procurement and contract data needed to perform the Study. Under her leadership, Mason Tillman was able to complete the Study in a timely manner.

B. Study Team

The purpose of the Study was to determine if minority and women-owned business enterprises (M/WBEs) were underutilized in the award of the City's prime contracts and subcontracts during the October 1, 2014 to September 30, 2018 study period. Under a fair and equitable system of awarding contracts, the proportion of contract dollars awarded to M/WBEs should be relatively close to the proportion of available M/WBEs in the relevant market area. If either the available M/WBE prime contractors or the available M/WBE subcontractors are underutilized, a statistical test is conducted to calculate the probability of observing the empirical disparity ratio or any event that is less probable. Thus, the test performed determines if a finding of underutilization is statistically significant.

C. Study Methodology

Mason Tillman's disparity study methodology is grounded in a thorough legal review. Its constitutionality has been upheld in two federal circuit courts without a legal challenge.¹

1. Legal Framework

The United States Supreme Court ruling in *City of Richmond v. J.A. Croson Co.*² (*Croson*) and related case law provide the legal framework for conducting the disparity study. Specifically, *Croson* set the standard by which federal courts review both local and state government minority business enterprise programs. The Court affirmed the longstanding legal precedent that programs employing racial classification would be subject to "strict scrutiny," which is the highest legal



¹ *Kossman Contr. Co. v. City of Houston*, 128 Fed. Appx. 376 (2005), *Midwest Fence Corp. v. United States Dep't of Transp.*, 84 F. Supp. 3d 705 (2015).

² *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989).

standard. Under *Croson*, government agencies, such as the City of St. Petersburg, may adopt race-conscious programs only as a remedy for discrimination identified as statistically significant, and the remedy must impose a minimal burden upon unprotected classes. The Court held that an inference of discrimination can be made *prima facie* if the disparity is statistically significant.³ For this Disparity Study, this analysis was applied to M/WBEs by ethnicity and gender within the three industries.

2. Critical Components

Eight critical components were performed for the City's Disparity Study:

- Legal review to define the evidentiary standard.
- Review of procurement policies to determine the contracting processes employed during the study period.
- Collection of contract records to determine the extent to which the City and its prime contractors procured construction, professional services, and goods and services from M/WBEs and non-M/WBEs.
- Identification of the market area in which the City spent its dollars.
- Availability analysis to identify businesses in the market area that were willing and able to provide construction, professional services, and goods and services procured by the City and its prime contractors.
- Disparity analysis to determine if a statistically significant underutilization of M/WBEs existed within each of the industries.
- Anecdotal analysis to describe the contemporary experiences of business owners in the market area.
- Recommendations to enhance current business practices and strategies to remedy any identified disparity.

D. Industries Studied

The analyzed contracts were classified into three industries:

- Construction
- Professional Services (including Architecture and Engineering)
- Goods and Services

E. Ethnic and Gender Groups Studied

The data in the Study are disaggregated into eight ethnic and gender groups, which are listed in Table 1.



³ *Id.*

Table 1: Business Ethnic and Gender Groups

Ethnicity and Gender Category	Definition
African Americans	Businesses owned by African American males and females with origins in Africa; not including Hispanic origin
Asian Americans	Businesses owned by persons having origins from the Far East, Southeast Asia or the Pacific Islands and the Indian subcontinent
Hispanic Americans	Businesses owned by Hispanic males and females with origins in Puerto Rico, Mexico, Dominican Republic, Cuba, and Central or Southern America, regardless of race
Native Americans	Businesses owned by Indigenous Native American and Alaska Native males and females
Caucasian Females	Businesses owned by Caucasian females
Non-minority Male-owned Businesses	Businesses owned by non-minority males, and businesses that could not be identified as minority or Caucasian female-owned ⁴
Minority-owned Business	Businesses owned by male and female African Americans, Asian Pacific Americans, Asian Indian Americans, Hispanic Americans, and Native Americans
Woman-owned Business	Businesses owned by females

F. Prime Contract Data Sources

The prime contract data consist of contract records extracted from the City’s financial system. The purchase orders were issued during the October 1, 2014 to September 30, 2018 study period. The City’s prime contract data were normalized to conform into a consistent standard and combined to create a single prime contract dataset. Prime contracts were analyzed by contract number or purchase order number.

The dataset was scrubbed to remove duplicates and prime contracts awarded outside the study period. To assign industry, the records received from the City were analyzed by supplier name, purchase order item description, category description, or prime contract descriptions. Each prime contract was classified into one of the three industries—construction, professional services (including architecture and engineering), and goods and services. Excluded from the disparity study analysis are prime contracts with not-for-profit entities, state and other local government entities, claims/reimbursements, and utility companies.⁵ Purchases of proprietary commodities, as



⁴ See Section II: Prime Contract Data Sources for the methodology employed to identify the ethnicity and gender of the City’s utilized prime contractors.

⁵ FULL LIST OF EXCLUSIONS: The exclusions also included: Contract Expired with no Payments Made, Contract was canceled prior to work beginning, Contributions/Donations/Sponsorship, Credit, Depositions and Expert Witness Testimony, Disbursement, Duplicate contract,

well as maintenance and service of these proprietary commodities, were also excluded. The assignment of industry classifications was reviewed and approved by the City.

G. Subcontract Data Sources

The City did not maintain comprehensive data on the subcontracts awarded by its prime contractors. Consequently, research was required to reconstruct the subcontracts awarded by the City’s prime contractors. The reconstruction involved collaboration with the City and its prime contractors to identify the utilized subcontractors. The research compiled the payments made to the subcontractors utilized on construction prime contracts valued at \$250,000 and greater and professional service contracts (including architecture and engineering) valued at \$200,000 and greater. Data were collected from the prime contractors over seven months, from February to September 2020.

H. Contract Thresholds

The City’s prime contracts awarded in each industry are analyzed at three size thresholds: (1) all prime contracts, (2) informal prime contracts, as defined by the City’s Procurement code, the St. Petersburg City Code of Ordinances Chapter 2, and Article V, Divisions 2-4, 5, and 7, and (3) formal prime contracts, with the upper limits determined by a statistical calculation. While formal prime contracts are defined by the City’s Procurement code, an upper limit was set for each industry to exclude outliers and ensure the integrity of the disparity analysis. Outliers are atypical contract amounts that are notably different from the other contract amounts in the dataset. Excluding outliers increases the reliability of the statistical findings.

Tables 2 and 3 present the informal and formal contract thresholds by industry.

Table 2: Informal Contract Threshold by Industry

Industry	Informal Contract Threshold
Construction	Less than \$100,000
Professional Services	Less than \$100,000
Goods and Services	Less than \$100,000



Educational Institutions and Services, Employees Benefits, Fees and Licenses, Financial Institutions/ Investment Company/Insurance, Food Purveyors, Government, Grant, Hotel, Individual/Reimbursements/Judgments, Mail/Courier Services, Manufacturer, Media (Radio, TV, Newspaper), Medical Supplies/Equipment, Medical/Healthcare/Rehabilitation/Custodial Care, Mega Store, Missing or Zero Amount, No releases for Master Agreement, Non-Profit, On-Line Database Service, Periodical Subscriptions, Membership, Personal Services, Public Utilities and Fuel, Publishing, Real Estate, Recreation, Redevelopment/Residential, Refund, Discount, Badge Deposit, Deductibles, Rebates, Registration and Tuition, Reimbursement, Staffing/Employment, Telecommunication, Transportation/Travel Related, Vehicle Dealerships, Out of Study Period.

Table 3: Formal Contract Threshold by Industry

Industry	Formal Contract Threshold
Construction	Between \$100,000 and \$2,790,000
Professional Services	Between \$100,000 and \$1,400,000
Goods and Services	Between \$100,000 and \$1,150,000

II. Notable Findings

A. Utilization Analysis

Mason Tillman documented the City’s utilization of Minority and Woman Business Enterprise (M/WBEs) and non-minority male-owned business enterprises (non-M/WBEs) by ethnicity, gender, and industry during the October 1, 2014 to September 30, 2018 study period at both the prime contractor and subcontractor levels. The contracts were classified into three industries— construction, professional services (including architecture and engineering), and goods and services. Disparity was found in the industries at both the prime and subcontract levels.

1. Prime Contractor Utilization Analysis

The prime contract utilization analysis examined 7,896 prime contracts awarded by the City during the October 1, 2014 to September 30, 2018 study period. The \$684,925,107 expended included \$410,663,577 for construction, \$67,274,605 for professional services, and \$206,986,925 for goods and services. A total of 7,896 prime contracts were analyzed, which included 555 for construction, 1,106 for professional services, and 6,235 for goods and services.

The utilization analysis was performed for prime contracts in the three industries at three-dollar thresholds: (1) all prime contracts regardless of award amount; (2) all informal prime contracts valued less than \$100,000 for construction, less than \$100,000 for professional services, and less than \$100,000 for goods and services, as defined by the City’s Procurement code, the St. Petersburg City Code of Ordinances Chapter 2, Article V, Divisions 2-4, 5, and 7; and (3) formal prime contracts, with thresholds set for each industry to eliminate outliers. Given the application of the thresholds, the formal prime contracts analyzed were valued between \$100,000 and \$2,970,000 for construction, between \$100,000 and \$1,400,000 for professional services, and between \$100,000 and \$1,150,000 for goods and services.

Table 4 presents a summary of prime contractor utilization by industry and percent of dollars awarded by ethnicity and gender.



Table 4: Prime Contractor Utilization Summary by Industry

All Prime Contracts by Industry and Percent of Dollars Awarded by Ethnicity and Gender			
Ethnicity	Construction	Professional Services	Goods and Services
African Americans	0.04%	0.66%	1.21%
Asian Americans	0.23%	3.41%	0.94%
Hispanic Americans	1.87%	2.67%	0.28%
Native Americans	0.00%	0.00%	0.34%
Caucasian Females	0.69%	8.65%	3.56%
Non-minority Males	97.17%	84.61%	93.67%

2. Subcontractor Utilization Analysis

The construction and professional services subcontracts awarded by the City’s prime contractors had to be reconstructed because the City did not maintain subcontract records. The subcontract utilization analysis was therefore limited to the subcontract records that could be reconstructed through the prime contractor expenditure survey. The reconstructed subcontracts examined were awarded by the City’s prime contractors from October 1, 2014 to September 30, 2018 study period. The reconstructed construction and professional services subcontracts were valued at \$111,725,420, which included \$102,644,758 for construction and \$9,080,662 for professional services. A total of 609 subcontracts were analyzed, which included 499 for construction and 110 for professional services.

Table 5 presents a summary of construction subcontractor utilization.

Table 5: Construction Subcontractor Utilization Summary

Ethnicity	Construction
African Americans	1.06%
Asian-Pacific Americans	0.19%
Hispanic Americans	10.16%
Native Americans	0.00%
Caucasian Females	3.21%
Non-minority Males	85.38%

B. Market Area Analysis



Although Croson and its progeny do not provide a bright line rule for the delineation of the local market area, when taken collectively, the case law supports a definition of the market area as the geographical boundaries of the government entity. The market area analysis revealed the City spent the majority of its dollars during the study period in Pinellas County. As a result, the Study’s market area is determined to be the geographical boundaries of Pinellas County.

During the study period, the City awarded 7,896 construction, professional services, and goods and services prime contracts, valued at \$684,925,107. The City awarded 58.23% of prime contracts and 36.17% of dollars to businesses domiciled within the market area.

Construction Prime Contracts: 320, or 57.66%, of construction prime contracts were awarded to market area businesses. Construction prime contracts in the market area accounted for \$129,697,565, or 31.58%, of the total construction prime contract dollars.

Professional Services Prime Contracts: 636, or 57.50%, of professional services prime contracts were awarded to market area businesses. Professional services prime contracts in the market area accounted for \$25,315,068, or 37.63%, of the total professional services prime contract dollars.

Goods and Services Prime Contracts: 3,642, or 58.41%, of goods and services prime contracts were awarded to market area businesses. Goods and services prime contracts in the market area accounted for \$92,746,989, or 44.81%, of the total goods and services prime contract dollars.

C. Prime Contract and Subcontract Availability Analysis

The prime contract and subcontract availability analysis presents the enumeration of willing and able market area businesses by ethnicity, gender, and industry. The capacity of the enumerated businesses was assessed using four methods: (1) a review of the distribution of contracts to determine the size of the contracts that the City awarded, (2) the identification of the largest contracts awarded to minority and woman-owned businesses, (3) an analysis of the frequency distribution of the City's contracts awarded to minority and woman-owned businesses and non-minority male-owned businesses, and (4) calculating a threshold for the disparity analysis that eliminated outliers and limited the range of the formal prime contracts analyzed.

The findings from these analyses illustrate that M/WBEs have a socioeconomic profile comparable to similarly situated Caucasian male-owned businesses and the capacity to perform large City contracts. Willing and able minority-owned businesses account for 17.08% of construction, professional services, and goods and services prime contractors; woman business enterprises account for 29.61%; and non-minority male-owned business account for 58.95%. Minority-owned businesses account for 18.51% of construction subcontractors; woman business enterprises account for 28.98%; and non-minority male-owned businesses account for 59.03%. Minority-owned businesses account for 24.33% of professional services subcontractors; woman business enterprises account for 30.42%; and non-minority male-owned businesses account for 52.47%.

Table 6 presents prime contractor availability according to ethnicity, gender, and industry. The prime contractor availability analysis is based on the 1,101 willing market area businesses enumerated from three availability sources: City records, government certification lists, and business and trade association membership lists.



Table 6: Prime Contractor Availability Analysis

Ethnicity	Construction	Professional Services	Goods and Services
African Americans	11.11%	6.84%	3.71%
Asian Americans	0.00%	3.80%	2.02%
Hispanic Americans	6.94%	7.59%	6.24%
Native Americans	1.85%	2.78%	0.34%
Caucasian Females	13.83%	30.89%	22.09%
Non-minority Males	66.67%	48.10%	65.60%

Table 7 presents subcontractor availability according to ethnicity, gender, and industry. Subcontractor availability was not calculated for goods and other services, as the subcontracting activity in that industry was limited.

Table 7: Subcontractor Availability Analysis

Ethnicity	Construction	Professional Services
African Americans	6.53%	8.37%
Asian Americans	2.28%	3.80%
Hispanic Americans	8.50%	11.03%
Native Americans	1.21%	1.14%
Caucasian Females	22.46%	23.19%
Non-minority Males	59.03%	52.47%

D. Disparity Analysis

A disparity analysis was performed on all prime contracts and subcontracts awarded during the study period. Disparity was found at both the prime contract and subcontract levels for several ethnic and gender groups.

1. Prime Contracts

a. Construction Prime Contracts

As indicated in Table 8, disparity was found for African American, Native American, Caucasian female, minority-owned business, and woman-owned business prime contractors on construction contracts valued less than \$100,000. Disparity was also found for African American, Hispanic American, Caucasian female, minority-owned business, and woman-owned business prime contractors on construction contracts valued between \$100,000 and \$2,790,000.



**Table 8: Disparity Summary: Construction Prime Contract Dollars
October 1, 2014 to September 30, 2018**

Ethnicity/Gender	Construction	
	Contracts Valued under \$100,000	Contracts Valued between \$100,000 and \$2,790,000
African Americans	<i>Disparity</i>	<i>Disparity</i>
Asian Americans	----	No Disparity
Hispanic Americans	No Disparity	<i>Disparity</i>
Native Americans	<i>Disparity</i>	----
Caucasian Females	<i>Disparity</i>	<i>Disparity</i>
Minority-owned Businesses	<i>Disparity</i>	<i>Disparity</i>
Woman-owned Businesses	<i>Disparity</i>	<i>Disparity</i>

(----) the statistical test could not detect the disparity because there were no contracts awarded, too few contracts awarded, or too few available businesses.

b. Professional Services Prime Contracts

As indicated in Table 9, disparity was found for African American, Hispanic American, Native American, Caucasian female, minority-owned business, and woman-owned business prime contractors on professional services contracts valued less than \$100,000. Disparity was also found for African American, Native American, Caucasian female, minority-owned business, and woman-owned business prime contractors on professional services contracts valued between \$100,000 and \$1,400,000.

**Table 9: Disparity Summary: Professional Services Prime Contract Dollars
October 1, 2014 to September 30, 2018**

Ethnicity/Gender	Professional Services	
	Contracts Valued under \$100,000	Contracts Valued between \$100,000 and \$1,400,000
African Americans	<i>Disparity</i>	<i>Disparity</i>
Asian Americans	No Disparity	No Disparity
Hispanic Americans	<i>Disparity</i>	No Disparity
Native Americans	<i>Disparity</i>	<i>Disparity</i>



Ethnicity/Gender	Professional Services	
	Contracts Valued under \$100,000	Contracts Valued between \$100,000 and \$1,400,000
Caucasian Females	<i>Disparity</i>	<i>Disparity</i>
Minority-owned Businesses	<i>Disparity</i>	<i>Disparity</i>
Woman-owned Businesses	<i>Disparity</i>	<i>Disparity</i>

c. Goods and Services Prime Contracts

As indicated in Table 10, disparity was found for African American, Hispanic American, Caucasian female, minority-owned business, and woman-owned business prime contractors on goods and services contracts valued less than \$100,000. Disparity was also found for Hispanic American, Caucasian female, minority-owned business, and woman-owned business prime contractors on goods and services contracts valued between \$100,000 and \$1,150,000.

**Table 10: Disparity Summary: Goods and Services Prime Contract Dollars
October 1, 2014 to September 30, 2018**

Ethnicity/Gender	Goods and Services	
	Contracts Valued under \$100,000	Contracts Valued between \$100,000 and \$1,150,000
African Americans	<i>Disparity</i>	No Disparity
Asian Americans	No Disparity	No Disparity
Hispanic Americans	<i>Disparity</i>	<i>Disparity</i>
Native Americans	----	No Disparity
Caucasian Females	<i>Disparity</i>	<i>Disparity</i>
Minority-owned Businesses	<i>Disparity</i>	<i>Disparity</i>
Woman-owned Businesses	<i>Disparity</i>	<i>Disparity</i>

(----) the statistical test could not detect the disparity because there were no contracts awarded, too few contracts awarded, or too few available businesses.



2. Subcontracts

As indicated in Table 11, disparity was found for African American, Asian American, Native American, Caucasian female, minority-owned business, and woman-owned business subcontractors on construction contracts. Disparity was also found for African American, Hispanic American, Caucasian female, minority-owned business, and woman-owned business subcontractors on professional services contracts.

**Table 11: Subcontract Disparity Summary,
October 1, 2014 to September 30, 2018**

Ethnicity/Gender	Construction	Professional Services
African Americans	<i>Disparity</i>	<i>Disparity</i>
Asian Americans	<i>Disparity</i>	No Disparity
Hispanic Americans	No Disparity	<i>Disparity</i>
Native Americans	<i>Disparity</i>	----
Caucasian Females	<i>Disparity</i>	<i>Disparity</i>
Minority Business Enterprises	<i>Disparity</i>	<i>Disparity</i>
Woman Business Enterprises	<i>Disparity</i>	<i>Disparity</i>

(----) the statistical test could not detect the disparity because there were no contracts awarded, too few contracts awarded, or too few available businesses.

E. Anecdotal Analysis

The importance of anecdotal evidence in assessing the presence of discrimination in a geographic market area was identified in the landmark Croson case. The Court held that a pattern of individual discriminatory acts can explain the statistical disparity findings. However, such acts cannot be used to determine the presence of discrimination in a government’s contracting process. The anecdotal testimonies collected from business owners describing their perceptions of barriers in the market area were used to define best management practices to improve M/WBEs’ access to the City’s contracts.

An eSurvey was distributed to the dataset of 2,756 available businesses compiled for the statistical analysis. Respondents represented the ethnic and gender distribution of the businesses surveyed. The eSurvey included 37 questions yielding either a yes-or-no, multiple-choice, or rating-scale response and eight open-ended questions. The majority of respondents to the eSurvey were



Caucasian American, representing 47.50% of respondents, and African American, representing 38.60% of respondents. In addition, male-owned businesses accounted for 55.70% of respondents and woman-owned businesses accounted for 38.60%. The findings revealed that 37.10% of businesses had an M/WBE certification, 42.90% had no certifications, 15.70% had other certifications, and 40.00% had small business enterprise certifications.

When describing issues businesses have had in dealing with the City, 25.70% of respondents have experienced insufficient time for submitting bids on City contracts. When bids were rejected by the City, 15.71% of respondents who pursued a debriefing meeting found the meeting with the City to be helpful, while 8.57% of respondents did not find debriefings with the City to be helpful. Respondents also detailed the types of preferential treatment highly used contractors receive: 32.90% of respondents reported advance bid or proposal notifications, 18.60% of respondents reported the City's approval of multiple change orders or amendments, and 34.30% of respondents reported that there are bid or proposal requirements that favor large businesses. The findings revealed that 44.30% reported that the City shows preference to highly used prime contractors.

While 38.60% of respondents were SBEs, only 22.90% of respondents found the program to be helpful. Information gathered from the eSurvey was used to draft the race and gender-neutral recommendations.

F. Regression Analysis

The analyses of the two outcome variables document disparities that could adversely affect the formation and growth of M/WBEs within the construction, professional services, and goods and services industries. In the absence of a race and gender-neutral explanation for the disparities, the regression findings point to racial and gender discrimination that depressed business ownership and business earnings. Such discrimination is a manifestation of economic conditions in the private sector that impede minorities and Caucasian females' efforts to own, expand, and sustain businesses. It can reasonably be inferred that these private sector conditions are manifested in the current M/WBEs' experiences and likely contributed to lower levels of willing and able M/WBEs.

It is important to note that there are limitations to using the regression findings in order to assess disparity between the utilization and availability of businesses. No matter how discriminatory the private sector may be, the findings cannot be used as the factual basis for a government-sponsored, race-conscious M/WBE program. Therefore, caution must be exercised in the interpretation and application of the regression findings in a disparity study. Nevertheless, the findings can be used to enhance the race-neutral recommendations to eliminate identified statistically significant disparities in the City's use of available M/WBEs.

G. Assessment of the City's Small Business Enterprise Program

The Disparity Study documented a statistical disparity in both the City's prime contracts and subcontracts awarded during the study period. Race and gender-specific and race and gender-neutral recommendations are offered to remedy the documented statistically significant disparity in the utilization of the available Minority and Women Business Enterprises (M/WBEs). Also



offered are guidelines to establish an M/WBE Program. The chapter also assessed the Small Business Program's efficacy in achieving equitable award of City contracts.

The efficacy of the City's Small Business Enterprise (SBE) Program was assessed to determine if the program had achieved parity in the award of prime contracts and subcontracts to available M/WBEs.

The utilization of certified SBEs on the City's prime contracts awarded during the October 1, 2014 to September 30, 2018 study period was reviewed. The certified SBE prime contract utilization analysis for all industries combined revealed that non-minority males received most of the dollars awarded to SBE prime contractors. When the utilization of certified SBEs was compared to the percentages of each ethnic group on the City's list of certified SBEs, Hispanic Americans, Caucasian females, woman business enterprises, and minority business enterprises were underutilized at a statistically significant level.

The evidence indicates that the SBE Program did not achieve parity in the award of prime contracts to SBE-certified M/WBE firms even when the analysis was limited to certified small businesses. After nearly 31 years in operation, the SBE Program has been ineffective in achieving equitable participation for M/WBE prime contractors based on their availability in the City's market area.

H. Recommendations

1. Race and Gender-Conscious Recommendations

The proposed race and gender-conscious recommendations are predicated on the disparity findings and limited to the ethnic groups that were underutilized at a statistically significant level. Recommendations also include gender-based remedies for the female groups that are underutilized, albeit not at a statistically significant level. Findings of discrimination for WBEs only require statistical evidence of underutilization.

a. Prime Contract Remedies

The following remedies were offered to address the disparity in the award of prime contracts:

- Apply bid discount to construction prime contracts.
- Apply bid discount to goods and services prime contracts.
- Establish evaluation points for professional services prime contracts.



b. Subcontract Remedies

The following remedies were offered to address the disparity in the award of subcontracts:

- Set subcontracting goals for groups with a disparity.
- Implement quantifiable good faith effort criteria.

2. Establish a Minority and Woman-owned Business Enterprise (M/WBE) Program

The City should enact an ordinance to establish a Minority and Woman-owned Business Enterprise (M/WBE) Program to remedy the documented disparity in the award of both prime contracts and subcontracts to M/WBEs. Policy should include certification standards, goal-setting procedures, and monitoring and reporting requirements. Included in the program should be the following:

- Certification eligibility standards
- Subcontract goals
- Bid discounts and evaluation points for prime contracts
- Goal attainment at bid opening
- Quantifiable good faith effort criteria
- Verification of commercially useful function
- Participation counted toward the M/WBE goal
- Substitution standards for M/WBE subcontractors
- Penalties assessed for failing to achieve M/WBE subcontract goals
- M/WBE Program staffing plan
- M/WBE advisory committee
- M/WBE Program training manual
- M/WBE Program City staff training
- M/WBE Program outreach and marketing campaign
- M/WBE business outreach
- Utilization reporting standards
- Tracking and monitoring standards
- Financial assistance to M/WBEs

3. Race and Gender-Neutral Recommendations

Race and gender-neutral recommendations are offered to expand the responsibility of the M/WBE Program Manager to more effectively address the barriers that market area M/WBEs and SBEs encounter while seeking to do business in the City.

a. Pre-Award Recommendations

- Maximize the competitive solicitation process.
- Develop contract unbundling policy.
- Provide debriefing sessions for unsuccessful bidders.



b. Post-Award Recommendations

- Standardize subcontractor substitution requirements.
- Enhance prime contract financial management system.
- Publicize prime contractor payments.
- Establish dispute resolution standards.



Appendix A: Structure of the Report

The Disparity Study findings are presented in 11 chapters as briefly described below.

- *Chapter 1: Legal Review* presents the case law applicable to business affirmative action programs and the required methodology based on the relevant law.
- *Chapter 2: Procurement Practices and Procedures Analysis* summarizes the City's procurement policies and practices.
- *Chapter 3: Prime Contractor Utilization Analysis* presents the distribution of prime contractor purchase orders by industry, ethnicity, and gender.
- *Chapter 4: Subcontractor Utilization Analysis* presents the distribution of subcontracts by industry, ethnicity, and gender.
- *Chapter 5: Market Area Analysis* presents the legal basis for determining the geographic market area and defines the City's market area.
- *Chapter 6: Prime Contractor and Subcontractor Availability Analysis* presents the distribution of available businesses in the City's market area.
- *Chapter 7: Prime Contract Disparity Analysis* presents prime contractor utilization as compared to prime contractor availability by industry, ethnicity, and gender, and evaluates the statistical significance of any underutilization.
- *Chapter 8: Subcontract Disparity Analysis* presents subcontractor utilization compared to subcontractor availability by industry, ethnicity, and gender, and evaluates the statistical significance of any underutilization.
- *Chapter 9: Regression Analysis* examined two outcome variables to determine whether the City is passively participating in ethnic and gender discrimination.
- *Chapter 10: Anecdotal Analysis* presents the business community's perceptions of barriers and exemplary practices encountered in contracting or attempting to contract with the City.
- *Chapter 11: Recommendations* presents race and gender-conscious and race and gender-neutral remedies to enhance the City's procurement policies and procedures, as well as its contracting with M/WBEs and other small businesses.