

City of Austin Disparity Study 2022

Colette Holt & Associates

Adisa Communications

Cultural Strategies, Inc.

Pink Consulting

Disparity Study Legal Standards

- In 1989, US Supreme Court held race- and gender-conscious programs are subject to “strict scrutiny”, the highest level of judicial review
- M/W/DBE programs must meet two tests
 - Agency must prove it has a “compelling interest” based on “strong” statistical and anecdotal evidence of current discrimination or the effects of past discrimination in using race or gender in decision-making
 - Any remedies must be “narrowly tailored” to the evidence relied upon and regularly reviewed

Recent Legal Developments

- USDA “socially and economically disadvantaged” farmers program under American Rescue Plan struck down by three trial courts and class status granted
- Priority for grants to small restaurants owned by “socially and economically disadvantaged” persons, women and veterans struck down
- Oregon’s COVID relief fund for Blacks and Colorado’s fund for MBEs challenged and enjoined

Disparity Study Objectives

- Provide a legal defense for a government program if the program is challenged
- Meet constitutional requirements
- Provide policy and program recommendations
- Educate policy makers and stakeholders about the legal and economic issues to build consensus

Disparity Study Data and Methods

- Quantitative data sources
 - City contract and vendor records
 - Contract information from prime vendors
 - M/W/DBE/HUB Directories
 - Hoovers/Dun & Bradstreet
 - U.S. Census Bureau
 - Scholarly research
- Qualitative data sources
 - Business owner and stakeholder interviews
 - Electronic survey
 - City staff

Disparity Study Elements

- Legal review and analysis
- MBE/WBE Program review
- Utilization, availability and disparity analyses
 - Determination of City's geographic and industry markets
 - Determination of MBE/WBE utilization in these markets
 - Estimation of MBE/WBE availability in these markets
 - Calculation of disparity ratios
- Economy-wide disparity analysis
- Anecdotal data collection and analysis
- Recommendations

Disparity Study Findings: Utilization

- Study analyzed FYs 2013-2018 contracts \$50,000 or greater
 - Final Contract Data File
 - 1,002 prime contracts totaling \$826,453,073.73
 - 842 subcontracts totaling \$249,783,337.28
- Geographic market
 - 19 counties with Austin, San Antonio, Dallas-Fort Worth and Houston metro areas captured 82.9% of the Final Contract Data File
- Product market
 - 204 NAICS codes in Final Contract Data File

Disparity Study Findings: Utilization

- City's utilization of M/WBEs
 - MBEs: 9.6%
 - Blacks: 1.7%
 - Hispanics: 5.8%
 - Asians: 2.0%
 - Native Americans: 0.1%
 - White women: 6.8%
 - M/WBEs: 16.4%
 - Non-M/WBEs: 83.6%

Disparity Study Findings: Availability

- Weighted availability in City's marketplace
 - MBEs: 8.0%
 - Blacks: 1.5%
 - Hispanics: 4.7%
 - Asians: 1.4%
 - Native Americans: 0.4%
 - White women: 6.5 %
 - M/WBEs: 14.5%
 - Non-M/WBEs: 85.5%

Disparity Study Findings:

Disparity Ratios

- Disparity ratio = M/WBE utilization ÷ availability
 - MBEs: 119.5%
 - Blacks: 118.0%
 - Hispanics: 122.1%
 - Asians: 142.5%
 - Native Americans: 20.0%‡
 - White Women: 104.4%
 - M/WBEs: 112.7%
 - Non-M/WBEs: 97.9%

‡ Indicates substantive significance

Disparity Study Findings: NAICS Code Importance- M/WBEs and Non-M/WBEs

- Contract dollars received by M/WBEs are much more concentrated in a small subset of codes than non-M/WBEs
- If there was parity:
 - The share of contract dollars that any NAICS code contributes to a M/WBE group would be approximately the same as the share of contract dollars contributed to non-M/WBEs.
 - The subsequent ratio of the two shares would be approximately 1:1
- Ratios ranged from 2.0:1 for Hispanic firms to 25.3:1 for Black firms

Disparity Study Findings: Economy-Wide Analyses

- Useful to evaluate the effectiveness of race-neutral measures
- American Community Survey
 - Minorities and White women earned less from their businesses and formed fewer businesses than comparable White males
- Annual Business Survey
 - Very large disparities in firm sales receipts between comparable M/WBEs and non-M/WBEs
- Credit discrimination barriers remain high
- Human capital constraints continue to impede success

Disparity Study Findings: Anecdotal Findings

- Interviewed 199 business owners and stakeholders and received 198 survey responses
 - M/WBEs suffer from biases, stereotypes and negative assumptions about their qualifications and competency
 - Being MBE or WBE certified can carry a stigma
 - Many M/WBEs experienced barriers to industry networks
 - Several women reported continuing gender bias and hostile environments; opportunities were sometime explicitly denied on the basis of gender

Disparity Study Findings: Anecdotal Findings

- Systemic racial barriers remain for many MBEs
- M/WBEs were not often solicited for contracts without goals
- Many MBEs and WBEs reported difficulties obtaining financing and bonding
- Some MBEs and WBEs said they were charged higher pricing because of race or gender

Recommendations

- Augment race- and gender-neutral measures
 - Develop an annual procurement forecast
 - Centralize the Program data collection and reporting
 - Increase interdepartmental communication
 - Develop virtual training tools for City staff and vendors
 - Increase awareness of existing City programs and resources
 - Conduct targeted outreach
 - Enhance opportunities on professional services projects

Recommendations

- Continue to implement narrowly tailored race- and gender-conscious measures
 - Use the study data to set the overall annual aspirational MBE and WBE goals
 - Use the study data to set MBE and WBE contract goals
 - Update Program administration policies and procedures
 - Implement a comprehensive supportive services program
 - Adopt a mentor-protégé program

DRAFT- PRIVILEGED AND CONFIDENTIAL

Recommendations

- Develop additional performance measures for Program success
- Continue to conduct regular Program reviews



16 Carriage Hills • San Antonio, Texas 78257

773.255.6844 • colette.holt@mwbelaw.com

www.mwbelaw.com • Twitter: [@mwbelaw](https://twitter.com/mwbelaw)