

2017 MWDBE Disparity Study

Information for City Council Consideration

What is a Disparity Study? Why is it necessary?

A Disparity Study gathers evidence to determine whether the City has a strong basis for implementing race and sex based preference contracting programs to remedy the effects of past or continuing discrimination. This includes statistical evidence of disparities between MBE/WBE availability and their utilization on City contracts and subcontracts, as well as anecdotal evidence of discrimination from business owners regarding their experiences in doing business with the City. Additionally, the Study will evaluate the City's current council adopted M/WBE Program and related policies and make recommendations for future initiatives and enhancements to ensure that the M/WBE program is narrowly tailored to remedy the effects of any prior and/or ongoing discrimination identified in the Study.

How was the consultant selected?

The recommended firm was selected through a competitive Request for Proposal process, using a selection committee/evaluation panel consisting of M/WBE, City Manager's Office and Water Resources staff with assistance from the City Attorney's Office and a minority business owner (member of the M/WBE Coordinating Committee). The firm selected by the Committee was determined to be the best qualified to provide the new study.

What would the 2017 disparity study provide?

Deliverables

- An up-to-date and legally defensible disparity study that recommends why the City of Greensboro should or should not continue to operate an M/WBE program
- Collection and Analysis of Quantitative data from existing program
 - Utilization and Availability Analysis (review of all city contracts from 2011-2015 and M/WBE firm availability/capacity/actual utilization)
 - Disparity analysis
- Private sector analysis of minority and women business utilization
- Policy Analysis
- Anecdotal analysis (focus groups, interactive website, surveys, etc)
- Recommendations for programmatic remedies to address any identified underutilization and reduce or eliminate current barriers that adversely impact the contract participation of M/WBE firms
- Post Study consultation (ongoing advice for one year)

Why now?

- Federal law requires Disparity Studies be conducted every five years to support a government's "compelling interest" under the 14th Amendment's Equal Protection Clause to continue to operate M/WBE programs.
- Previous study (completed in June 2012) analyzed minority and women business utilization during the period 2005 – 2010.
 - Existing council adopted M/WBE Program Plan (and proposed remedies) was created based on disparity during 2005 – 2010 and may no longer be relevant.
 - Updates to the M/WBE Program Plan will significantly lessen the City's risk exposure in the event of a lawsuit.
- To ensure that the council adopted M/WBE Program Plan accurately addresses any current disparities that may continue to exist.

Qualifications of the team

- Members of the team have participated in over 150 disparity studies
- Extensive program development experience
- Project principal, Rodney Strong, is recognized as an expert in small business and entrepreneurship and testified before the US Senate Committee on that topic
- Dr. J. Vincent Eagan, has been a successful expert witness in six cases involving M/WBE programs. He was the NCDOT's expert witness in the case of H. B. Rowe Co., Inc. v. Tippet, which is the case that governs Disparity Studies in NC.

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- Consultant team includes:
 - Five attorneys
 - Statisticians (PHD)
 - Two Economists (PHD)
 - Policy Analyst

What is the cost?

The cost of the Study is \$299,320. This includes approximately 2,004 consultant man hours plus hours of work that will be performed by the sub-consultants. The cost also includes one year of post study consultation to answer questions and provide guidance on how to implement the best practice recommendations of the Study.

What was cost of previous study?

2012 Disparity Study

| Vendor Name | Service | Contract Amount |
|--------------------------------|--|------------------------|
| MGT of America Inc. | Disparity Study | \$206,000 |
| Tydings & Rosenberg LLP | M/WBE Program Development and Legal Consultation | \$135,000 |
| Empulse Energy Conversation | M/WBE Program Development and Support | \$72,000 |
| Sustainable Community Resource | Community Outreach | \$86,000 |
| McCants Communications | Community Outreach, Engagement and Reporting | \$21,000 |
| | Total Cost | \$520,000 |

How much have other similarly sized cities paid for disparity studies?

This is a professional services contract with costs based on the individual scope of work being performed and bids submitted by consultants, so staff is unable to totally determine why there are differences in costs between one jurisdiction and another. For example, the referenced Tampa Bay Disparity Study was conducted in 2006, and unlike our current Disparity Study, the Tampa Bay Study did not include review all of their contracts. Tampa Bay's Study only reviewed prime contracts under \$500,000. Other similarly sized jurisdictions have paid similar costs for more recent Studies. The City of Asheville has budgeted \$320,000 for its 2016 Disparity Study and the City of Charlotte budgeted \$345,000 for its Disparity Study that is currently underway.

Why are African American and women the only minority groups eligible to participate in the City's M/WBE Program?

The City's council adopted M/WBE Program is a remedial program. The Program was adopted to address the underutilization of minority group members and women identified by the 2012 Disparity Study for each business category: Construction, Professional Services, Goods and Other Services. The study found women-owned businesses were underutilized in all business categories and therefore eligible to be counted towards the WBE goals for all business categories. The study found that not all minority-owned businesses were underutilized in all business categories. For example, the study found that there was an overutilization of Hispanic American-owned businesses in the Construction business category, and therefore, they were ineligible to be counted towards the City's MBE goal on construction contracts. By contrast, Hispanic-American owned businesses were found to be underutilized in City Professional Services, Goods and Other Services contracts and therefore eligible to be counted towards the City MBE goals in those business categories.