



Disparity Study Data & Methods, Findings & Conclusions

Prepared for the Travis County Commissioners Court

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Austin, TX
February 2, 2016

Insight in Economics™

Study Team



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Prime Consultant:

- NERA Economic Consulting

Subconsultants:

- Business Resource Consultants
- The Law Firm of Don T. O'Bannon
- D'Moriea Consulting
- CR Dynamics & Associates
- Combat Veteran Voicewriters LLC
- J&D Data Services

Disparity Study Objectives



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- Compile & evaluate evidence necessary to meet Travis County's constitutional & regulatory requirements
- Suggest recommendations to narrowly tailor program elements
- Increase opportunities for full & fair competition by minorities & women in Travis County contracting



- M/WBE or HUB programs must meet “strict constitutional scrutiny”
- Strict scrutiny is the most demanding level of constitutional review
- Two-part test
 - Compelling interest in remedying identified discrimination established by “Strong basis in evidence”
 - Remedies must be “narrowly tailored” to that evidence
- Government has the burden of producing evidence in response to a challenge
- Plaintiff has the burden of persuasion



City of Richmond V. J.A. Croson Co. (1989)

- Strict constitutional scrutiny applies to race-conscious government decision making
- Court struck down Richmond's 30% MBE quota
- Government can use spending powers to remediate private discrimination
- Government must be a “passive participant” in discriminatory market area
- No need to prove agency discriminated
- Motive cannot be racial stereotyping or politics



Strict scrutiny as applied

- Strong basis in evidence of government’s “compelling interest” in remedying discrimination means
 - Statistical evidence of disparities in the market area
 - Anecdotal evidence of barriers to full & fair inclusion
- Remedies must be “narrowly tailored” to that evidence
 - Each group must have some evidence of discrimination
 - Overall goals must reflect the evidence
 - Contract goals must reflect the relevant scopes of work
 - Beneficiaries must be socially & economically disadvantaged
 - Goals must be flexible
 - Race & gender-neutral measures must also be used

Relevant Markets (Chapter II)



CONTRACTING CATEGORY All Funding Sources	NUMBER OF CONTRACTS	DOLLARS AWARDED	DOLLARS PAID
CONSTRUCTION			129,127,658
<i>Prime Contracts</i>	142	139	88,987,491
<i>Subcontracts</i>	553	496	40,140,166
PROFESSIONAL SERVICES			18,989,268
<i>Prime Contracts</i>	71	66	16,314,981
<i>Subcontracts</i>	135	124	2,674,287
NONPROFESSIONAL SERVICES			194,875,850
<i>Prime Contracts</i>	453	449	191,665,333
<i>Subcontracts</i>	110	110	3,210,517
COMMODITIES			133,630,972
<i>Prime Contracts</i>	335	335	133,630,972
<i>Subcontracts</i>	0	0	0
GRAND TOTAL			476,623,748
<i>Prime Contracts</i>	1,001	989	430,598,778
<i>Subcontracts</i>	798	730	46,024,970

Relevant Markets (Chapter II)



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- The Study focused on contracts and purchases above \$50,000—these account for 85% of all County contract activity during the 2009-2013 study period.
- With assistance from County staff, NERA successfully obtained 75% of all contracts sampled and 82% of all awarded prime contract dollars.
- Travis County's geographic market area is determined based on where approximately 75% of overall contract spending occurs.
- Market area was determined to be the Austin-Round Rock, TX Metropolitan Statistical Area, which includes the counties of Travis, Williamson, Hays, Bastrop and Caldwell.

Relevant Markets (Chapter II)



- Overall, 75% of award dollars during the study period went to firms with establishments in the Austin-Round Rock MSA and 88% in the State of Texas.
 - Construction: 90% in Austin, 97% in TX
 - Prof. Svcs: 94% in Austin, 96% in TX
 - Nonprof. Svcs: 81% in Austin, 92% in TX
 - Commodities: 47% in Austin, 72% in TX
 - Overall: 75% in Austin, 88% in TX

- Of dollars awarded in the Austin-Round Rock MSA, 81% went to firms with establishments in Travis County.

Relevant Markets (Chapter II)



- Contract and subcontract awards were distributed among 147 NAICS industry groups and 269 NAICS industries during the study period:
 - Construction, 69 industry groups and 124 industries
 - Professional Services, 27 industry groups and 36 industries
 - Nonprofessional Services, 93 industry groups and 134 industries
 - Commodities, 70 industry groups and 98 industries

- But, spending isn't evenly distributed across industry groups:
 - In Construction, 2 groups account for 50% of award dollars & 12 for 90%
 - In Professional Services, 1 group accounts for 60% of award dollars & 7 for 90%
 - In Nonprofessional Services, 5 groups account for 50% of award dollars & 21 for 90%
 - In Commodities, 5 groups account for 50% of spending & 23 for 90%

M/WBE Availability (Chapter III)



- Used Dun & Bradstreet records to identify establishments (both M/WBE & Non-M/WBE) in the Travis County market area, within the relevant NAICS codes.
- Merged custom M/WBE master directory with Dun & Bradstreet to improve race & sex assignment accuracy.
- Used results from 25k telephone surveys to statistically correct availability numbers for instances of race & gender misclassification.
- Overall M/WBE availability estimates appear in the Executive Summary, Table A1 and Report Table 3.11; more detailed estimates appear in Report Tables 3.12-3.15.

M/WBE Availability (Chapter III)



Table A1. M/WBE Availability in Travis County's Market Area

	African American	Hispanic	Asian/ Pacific Islander	Native American	MBE	Non-minority Female	M/WBE	Non- M/WBE
CONSTRUCTION								
WEIGHTED BY AWARD DOLLARS	1.47	7.68	1.52	0.40	11.08	8.42	19.50	80.50
WEIGHTED BY PAID DOLLARS	1.46	8.08	1.65	0.38	11.57	8.56	20.13	79.87
PROFESSIONAL SERVICES								
WEIGHTED BY AWARD DOLLARS	1.24	5.81	3.43	0.32	10.80	9.47	20.27	79.73
WEIGHTED BY PAID DOLLARS	1.13	5.54	3.50	0.32	10.48	10.10	20.58	79.42
NONPROFESSIONAL SERVICES								
WEIGHTED BY AWARD DOLLARS	1.90	6.84	3.22	0.49	12.45	12.77	25.22	74.78
WEIGHTED BY PAID DOLLARS	1.86	6.67	3.19	0.54	12.25	14.11	26.37	73.63
COMMODITIES								
WEIGHTED BY AWARD DOLLARS	2.59	13.57	2.93	0.31	19.39	8.04	27.43	72.57
WEIGHTED BY PAID DOLLARS	2.59	13.57	2.93	0.31	19.39	8.04	27.43	72.57

Market-Based Disparities (Chapter IV)



- Based on regression analysis using Census data from the most recent *American Community Surveys*. Also includes data from the most recent *Survey of Business Owners*.
- Comparing minorities & women to similarly-situated nonminority males, we:
 - Tested for disparities in (1) wages, (2) business owner earnings, and (3) business formation rates
 - Identified adverse & statistically significant disparities for all M/WBE types in construction, goods & services, & economy-wide

Market-Based Disparities (Chapter IV)



Summary of Chapter IV Regression Results

	Construction			Goods & Services		
	Wages	Business Owner Earnings	Business Formation Rate	Wages	Business Owner Earnings	Business Formation Rate
African American	Adverse	Adverse	Adverse	Adverse	Adverse	Adverse
Hispanic	Adverse	Adverse	Adverse	Adverse	Adverse	Adverse
Asian/Pacific Islander	Adverse	Adverse	Adverse	Adverse	Adverse	Adverse
Native American	Adverse	Adverse	Adverse	Adverse	Adverse	Adverse
Non-minority Female	Adverse	Adverse	Adverse	Adverse	Adverse	Adverse

All results are statistically significant at a 5% or better (1-in-20) probability value

Capital Market Disparities (Chapter V)



- Based on regression analysis using data from Federal Reserve Board & NERA's own surveys.
- Loan applications of minority-owned firms, esp. African Americans, were substantially more likely to be denied than other groups, *even after accounting for differences in balance sheets and creditworthiness.*
- Minority-owned firms (specifically African Americans) when they did receive credit, paid higher interest rates, on average, for their loans.
- Results were not significantly different in the WSC (which includes the Travis County Market Area) than in the nation as a whole.
- The results from NERA's own past credit surveys and more recent research from Dr. Alicia Robb are entirely consistent with the Federal Reserve results.

Disparities in County Contracting (Chapter VI)



- Significant disparities were observed between availability & utilization in many County contracting activities, despite the presence of voluntary HUB goals on many contract opportunities.
- Measure of disparity is the Disparity Ratio:
$$= (\text{Utilization \%} \div \text{Availability \%}) \times 100$$
- Statistical significance is indicated by asterisks:
 - * significant at 15% or better (1-in-7)
 - ** significant at 10% or better (1-in-10)
 - *** significant at 5% or better (1-in-20)
 - **** significant at 1% or better (1-in-100)

Disparities in County Contracting (Chapter VI)



Construction Contracts

M/WBE Type	Utilization (%)	Availability (%)	Disparity Ratio (if Adverse)	
Dollars Paid				
African American	0.77	1.46	52.9	
Hispanic	7.84	8.08	97.1	
Asian	0.44	1.65	26.6	****
Native American	0.04	0.38	11.5	***
Minority-owned	9.10	11.57	78.6	
White female	9.98	8.56		
M/WBE total	19.08	20.13	94.8	

Disparities in County Contracting (Chapter VI)



Professional Services Contracts

M/WBE Type	Utilization (%)	Availability (%)	Disparity Ratio (if Adverse)	
Dollars Paid				
African American	1.68	1.13		
Hispanic	4.39	5.54	79.3	
Asian	7.98	3.50		
Native American	0.05	0.32	16.4	**
Minority-owned	14.10	10.48		
White female	11.36	10.10		
M/WBE total	25.46	20.58		

Disparities in County Contracting (Chapter VI)



Nonprofessional Services Contracts

M/WBE Type	Utilization (%)	Availability (%)	Disparity Ratio (if Adverse)	
Dollars Paid				
African American	0.51	1.86	27.7	****
Hispanic	4.86	6.67	72.9	
Asian	3.20	3.19		
Native American	0.15	0.54	28.1	
Minority-owned	8.73	12.25	71.2	*
White female	13.02	14.11	92.2	
M/WBE total	21.74	26.37	82.5	

Disparities in County Contracting (Chapter VI)



Commodities Contracts

M/WBE Type	Utilization (%)	Availability (%)	Disparity Ratio (if Adverse)	
Dollars Paid				
African American	0.30	2.59	11.5	****
Hispanic	0.60	13.57	4.5	****
Asian	0.00	2.93	0.0	****
Native American	1.76	0.31		
Minority-owned	2.67	19.39	13.8	****
White female	10.52	8.04		
M/WBE total	13.18	27.43	48.1	****

Anecdotal Evidence (Chapter VII)



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- Large-scale, statistically randomized, mail survey of M/WBE & non-M/WBE characteristics & experiences doing business found:
 - Statistically significantly more M/WBEs than non-M/WBEs report experiencing disparate treatment, even when capacity-type factors are held constant across firms.
 - Statistically significantly more M/WBEs than non-M/WBEs report that business environment factors make it harder or impossible to obtain contracts, even when capacity-type factors are held constant across firms.

Anecdotal Evidence (Chapter VII)



- Large-scale, statistically randomized, mail survey of M/WBE & non-M/WBE characteristics & experiences doing business found:
 - In the large majority of cases, prime contractors who use M/WBEs on contracts with goals rarely use them—or even solicit them—on contracts without goals.
- At least one court has held that the failure of prime contractors to even solicit qualified minority- and women-owned firms is evidence of a “market failure” that serves to establish a government’s compelling interest in remedying that failure.



- M/WBE interviewees reported discrimination in doing business, including:
 - Discriminatory attitudes and negative perceptions and expectations of minorities' and women's competence
 - Workplace harassment
 - Not being paid on equal terms
 - Exclusion from industry and information networks

Anecdotal Evidence (Chapter VII)



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- M/WBE interviewees reported discrimination in doing business, including (cont'd):
 - Discrimination in access to commercial loans
 - Discrimination in access to surety bonds
 - Discrimination in access to insurance
 - Barriers to obtaining public sector contracts
 - Barriers to obtaining work on private sector contracts
 - Barriers to obtaining work on public sector contracts without goals

M/WBE Program Overview & Feedback Interviews (Chapter VIII)



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- Travis County's HUB Program review covered the following topics:
 - Significance of HUB Policies
 - Building Capacity
 - Certification Standards and Processes
 - Unbundling Contracts
 - Access to Information about Upcoming Contract Opportunities

M/WBE Program Overview & Feedback Interviews (Chapter VIII)



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- Travis County's HUB Program review covered the following topics (cont'd):
 - Meeting HUB Goals
 - Payment
 - Front Companies
 - Preferences for Small and Local Businesses

Recommendations (Chapter IX)



- **Race- & Gender-Neutral Recommendations:**
 - Continue Efforts to Ensure Prompt Payment
 - Ensure Bidder Non-Discrimination
 - Review Surety Bonding, Insurance & Experience Requirements
 - Increase Contract Unbundling
 - Expand Information on Upcoming Contract Opportunities
 - Facilitate Increased Access to Capital
 - Adopt a Mentor-Protégé Program
 - Expand Supportive Services for M/WBEs
 - Implement a Small Local Business Reserve Program

Recommendations (Chapter IX)



- **Race- & Gender-Conscious Recommendations:**
 - Adopt a Formal M/WBE Program and Accompanying Regulations
 - Revise Certification Eligibility Standards at Accepted Certifying Agencies
 - Require a social disadvantage test
 - Require an economic disadvantage test
 - Consider expanded certification opportunities
 - Contract Award Policies and Procedures
 - Enhance Good Faith Efforts waiver requirements and related policies
 - M/WBE Goal-Setting
 - Adopt overall County-wide aspirational M/WBE goals
 - Count lower tier M/WBE participation towards meeting M/WBE goals
 - Begin setting contract-specific goals

Recommendations (Chapter IX)



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- **Race- & Gender-Conscious Recommendations:**
 - Ensure Sufficient Operational Resources
 - Reduce Retainage Requirements Where Feasible
 - Develop Clear Standards for Enforcement and Sanctions
 - Adopt an M/WBE Program Sunset Review Process



Questions & Answers