

City of Charlotte Disparity Study 2022

Colette Holt & Associates
Paradigm 360 Coach Training, LLC
Apex Business Group LLC
Viridian Marketing



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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



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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

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Disparity Study Objectives

- Provide a legal defense for a government program if the new 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

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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
 - City staff

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Disparity Study Elements

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

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Disparity Study Findings: CBI Program

- Interviewed 93 individuals and obtained 490 survey responses
 - Generally, the Program works well and creates opportunities
 - Contract goals remain necessary to ensure equal opportunities
 - Prime vendors usually were able to meet goals
 - Some scopes were more difficult than others
 - Engineering firms faced challenges
 - Credit limited to CSA restricts the pool

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Disparity Study Findings: CBI Program

- Unbundling contracts would increase opportunities
- More technical support is needed
- M/WBEs want to be prime vendors
- Electronic system is effective, but more monitoring is needed
- M/WBEs requested additional networking events with City staff and large vendors
- Mentor-protégé program received strong support
- Assistance with obtaining capital, bonding and insurance was suggested

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Disparity Study Findings: Utilization

- Study analyzed FYs 2015-2020 contracts \$50,000 or greater
 - Final Contract Data File
 - 751 prime contracts totaling \$1,344,064,359
 - 1,105 subcontracts totaling \$322,929,868
- Geographic market
 - State of North Carolina and York County, South Carolina captured 74.0% Final Contract Data File
- Product market
 - 137 NAICS codes in Final Contract Data File

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Disparity Study Findings: Utilization

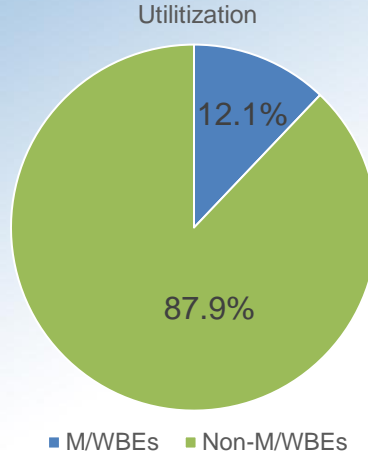
- City's utilization of M/WBEs
 - M/WBEs: 12.1%
 - Blacks: 2.4%
 - Hispanics: 0.9%
 - Asians: 1.9%
 - Native Americans: 1.1%
 - White women: 5.8%
 - Non-M/WBEs: 87.9%

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Disparity Study Findings: Utilization

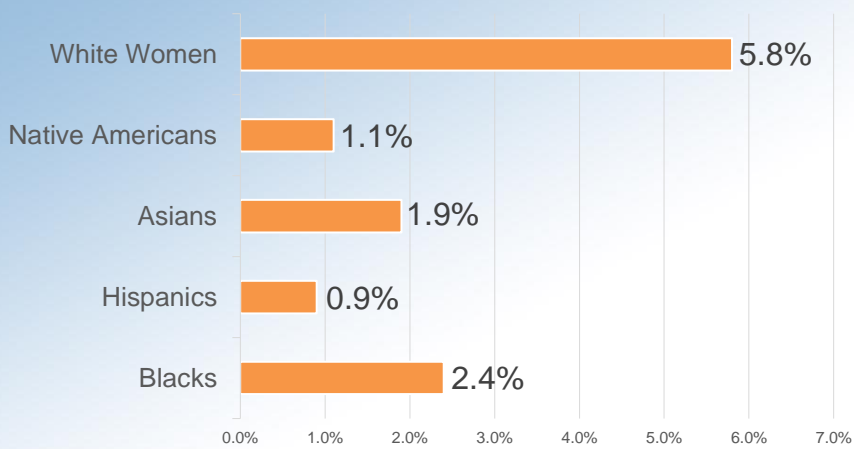


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Disparity Study Findings: Utilization



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Disparity Study Findings: Availability

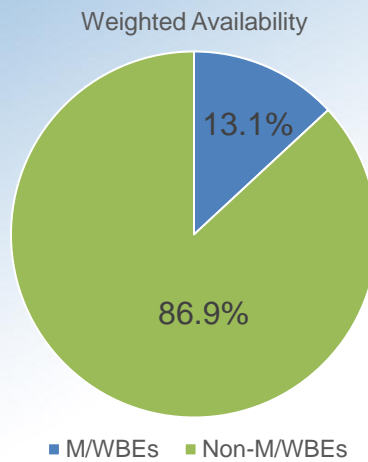
- Weighted availability in City's marketplace
 - M/WBEs: 13.1%
 - Blacks: 3.8%
 - Hispanics: 0.9%
 - Asians: 0.4%
 - Native Americans: 0.8%
 - White women: 7.2 %
 - Non-M/WBEs: 86.9%

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Disparity Study Findings: Weighted Availability

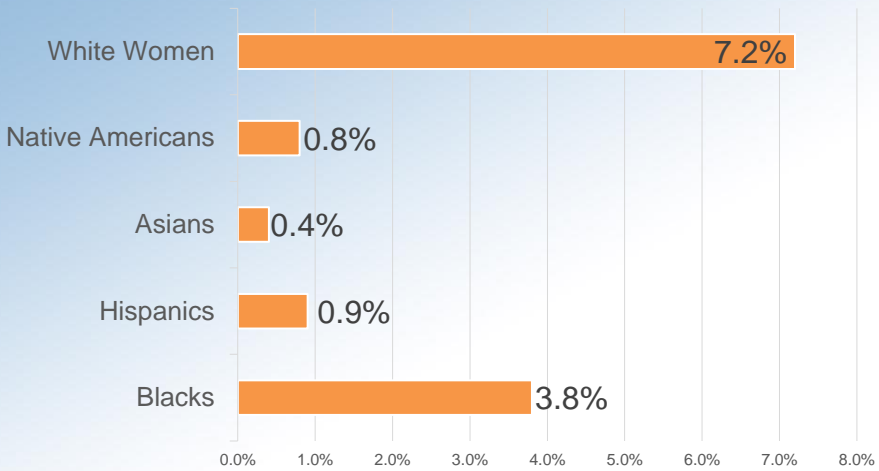


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Disparity Study Findings: Weighted Availability



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Disparity Study Findings: Disparity Ratios

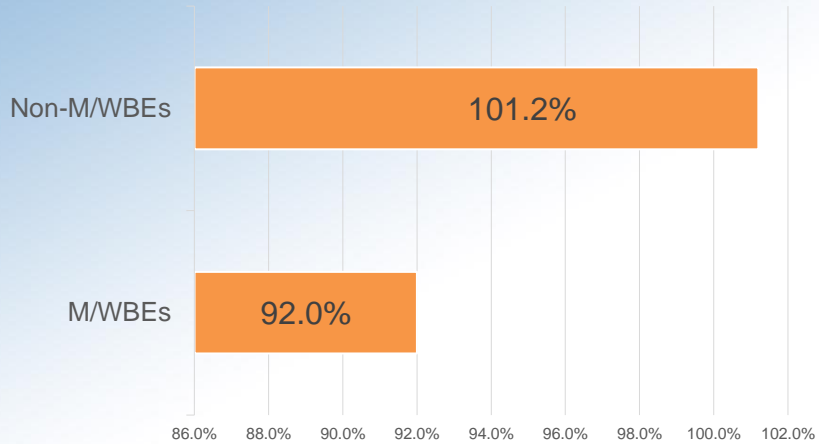
- Disparity ratio = M/WBE utilization ÷ availability
 - M/WBEs: 92.0%
 - Blacks: 61.9%‡
 - Hispanics: 100.8%
 - Asians: 521.5%
 - Native Americans: 135.8%
 - White Women: 80.5%
 - Non-M/WBEs: 101.2%
 - ‡ Indicates substantive significance

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Disparity Study Findings: Disparity Ratios - Everyone

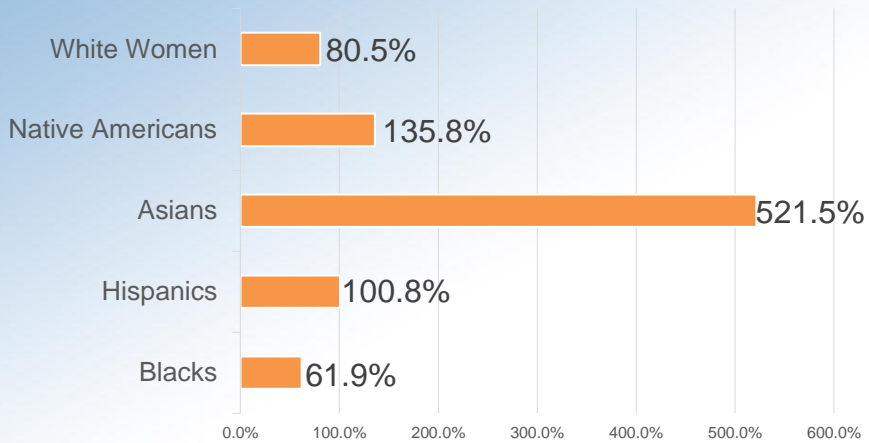


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Disparity Study Findings: Disparity Ratios – M/WBEs



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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 0.5:1 for Asian firms (heavy civil) to 263.3:1 for Black firms (trucking)

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Disparity Study Findings: Economy-Wide Analysis

- 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 White males
- Annual Business Survey
 - Very large disparities in firm sales receipts between M/WBE and non-M/WBE firms
- Credit discrimination barriers remain high
- Human capital constraints continue to impede success

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Disparity Study Findings: Anecdotal Findings

- Business owner interviews of 93 individuals
 - M/WBEs suffer from biased perceptions and negative stereotypes about qualifications and capabilities
 - Some M/WBEs experienced barriers to industry networks
 - Some minority owners encountered blatantly hostile environments
 - Some women experience gender bias

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Disparity Study Findings: Anecdotal Findings

- 490 electronic survey responses
 - Demeaning comments, stereotyping and harassment continue to constrict opportunities to compete
 - Many M/WBEs encounter barriers to contracting and networking opportunities; access to information; and capital, surety bonding and insurance on the basis of race or gender
 - M/WBEs were not often solicited for contracts without goals
 - M/WBEs could perform more work if it became available

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Disparity Study Recommendations

- Implement race- and gender-neutral measures
 - Develop a long-term procurement forecast
 - Extend the Quick Pay Program to firms that meet goals and for all industries and incentivize primes by faster payments from the City
 - Expand supportive services offerings
 - Provide classes on estimating and paperwork
 - Support the needs of mature M/W/SBEs
 - Develop financing programs
 - Implement a technical assistance, capital access and bonding program for construction firms

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Disparity Study Recommendations

- Continue to implement narrowly tailored race- and gender-conscious measures
- Quantitative and qualitative data supports the ability to set annual and contract M/WBE goals
 - Use the study availability results to set annual, overall aspirational goal of 13.1% and contract goals; do not include SBEs
 - Expand the M/WBE pool to State of North Carolina and York County, South Carolina

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Disparity Study Recommendations

- Clarify and update CBI Program administration policies and procedures
 - Use NAICS codes for goal setting and reporting, not NIGP goals
 - Count M/WBEs' self-performance towards goals
 - Only credit participation for work in certified firm's codes
 - Revise the good faith efforts standards
 - Adopt flexible remedies for Program violations
- Adopt a Mentor- Protégé Program

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Disparity Study Recommendations

- Develop CBI Program performance measures
- Continue to conduct regular CBI Program reviews

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16 Carriage Hills • San Antonio, Texas 78257
773.255.6844 • colette.holt@mwbellow.com
www.mwbellow.com • Twitter: @mwbellow