

# **City of Austin Disparity Study 2022**

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# Disparity Study Legal Standards

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- 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

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- 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

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- 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

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- 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

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- 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

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- 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

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- 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

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- 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

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- 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

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- 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

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- 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

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- 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

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- 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

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- 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

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- 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



# Recommendations

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



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