

SHELBY COUNTY LEGAL ANALYSIS AND DISPARITY STUDY



March 28, 2016

PRESENTATION AGENDA

- **Present Study Findings**
- **Discuss Race and Gender-Conscious Remedies**
- **Present Administrative Recommendations**
- **Outline Next Steps**



MARKET AREA

PRIME CONTRACT DOLLARS BY MARKET AREA

Market Area: Shelby County

Total Dollars

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graph TD; A[Total Dollars] --> B[Within Market Area]; A --> C[Outside Market Area];
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Within Market Area

\$85,952,652

45.12%

Outside Market Area

\$104,558,555

54.88%



PRIME CONTRACTOR UTILIZATION

DISTRIBUTION OF ALL PRIME CONTRACT DOLLARS BY VENDOR

Total Dollars	\$190,511,207
Total Utilized Vendors	998
Total Prime Contracts	8,771

Vendor	Total Dollars Awarded	Percent of Dollars	Number of Contracts	Percent of Contracts
14 Vendors Received	\$94,924,886	50%	264	3%
25 Vendors Received	\$114,803,824	60%	550	6%
47 Vendors Received	\$133,217,524	70%	1,644	19%
951 Vendors Received	\$57,293,683	30%	7,127	81%

DISTRIBUTION OF ALL PRIME CONTRACT DOLLARS BY ETHNICITY AND GENDER

Ethnicity/ Gender	Percent Available	Expected Dollars	Dollars Awarded	Dollars Lost	Percent Dollars Awarded	Contracts Awarded
African Americans	26.85%	\$51,143,948	\$11,059,092	-\$40,084,856	5.80%	1,286
Asian Americans	2.18%	\$4,155,446	\$624,960	-\$3,530,486	0.33%	67
Hispanic Americans	1.01%	\$1,917,898	\$44,859	-\$1,873,039	0.02%	21
Native Americans	0.76%	\$1,438,424	\$713,301	-\$725,123	0.37%	34
Caucasian Females	12.92%	\$24,613,025	\$9,809,450	-\$14,803,575	5.15%	797
Non-minority Males	56.29%	\$107,242,466	\$168,259,546	\$61,017,080	88.32%	6,566



PRIME CONTRACT DISPARITY

PRIME CONTRACT DISPARITY: CONSTRUCTION

Ethnicity/ Gender	Percent Available	All Dollars Awarded	Disparity	Dollars Awarded Under \$5,000	Disparity
African Americans	30.54%	5.06%	Yes	25.71%	Yes
Asian Americans	1.08%	0.01%	Yes	0.22%	Yes
Hispanic Americans	0.81%	0.01%	No	0.37%	No
Native Americans	0.81%	0.00%	No	0.00%	No
Caucasian Females	9.19%	3.48%	No	9.69%	No
Non-minority Males	57.57%	91.44%	---	64.01%	---

PRIME CONTRACT DISPARITY: PROFESSIONAL SERVICES

Ethnicity/ Gender	Percent Available	All Dollars Awarded	Disparity	Dollars Awarded Under \$5,000	Disparity
African Americans	26.37%	3.60%	Yes	7.35%	Yes
Asian Americans	4.98%	0.76%	Yes	0.79%	Yes
Hispanic Americans	1.49%	0.00%	Yes	0.10%	Yes
Native Americans	1.49%	0.85%	No	0.44%	Yes
Caucasian Females	13.93%	7.34%	No	13.27%	No
Non-minority Males	51.74%	87.44%	---	78.06%	---

--- denotes overutilization

PRIME CONTRACT DISPARITY: COMMODITIES AND SERVICES

Ethnicity/ Gender	Percent Available	All Dollars Awarded	Disparity	Dollars Awarded Under \$5,000	Disparity
African Americans	26.19%	8.71%	Yes	9.35%	Yes
Asian Americans	0.53%	0.40%	No	1.28%	No
Hispanic Americans	0.88%	0.06%	No	0.15%	No
Native Americans	0.53%	0.48%	No	0.14%	No
Caucasian Females	13.81%	5.56%	Yes	10.00%	Yes
Non-minority Males	58.05%	84.79%	---	79.08%	---

--- denotes overutilization



SUBCONTRACT DISPARITY

SUBCONTRACT DISPARITY: CONSTRUCTION

Ethnicity	Percent of Available Subcontractors	Percent of Subcontract Dollars Awarded	Disparity
African Americans	28.13%	6.91%	Yes
Asian Americans	0.96%	0.00%	No
Hispanic Americans	0.96%	0.17%	No
Native Americans	0.72%	0.00%	No
Caucasian Females	9.62%	2.65%	No
Non-Minority Males	59.62%	90.28%	---
TOTAL	100.00%	100.00%	

--- denotes overutilization

SUBCONTRACT DISPARITY: PROFESSIONAL SERVICES

Ethnicity	Percent of Available Subcontractors	Percent of Subcontract Dollars Awarded	Disparity
African Americans	26.23%	5.28%	Yes
Asian Americans	5.15%	0.00%	No
Hispanic Americans	1.47%	0.00%	No
Native Americans	1.47%	0.00%	No
Caucasian Females	13.97%	0.00%	Yes
Non-minority Males	51.72%	94.72%	---
TOTAL	100%	100.00%	

--- denotes overutilization



PRIVATE SECTOR ANALYSIS

BUSINESS OWNERSHIP MODEL FINDINGS - ALL INDUSTRIES

Business Ownership Results:

- African Americans and Caucasian Females are ***Significantly Less Likely*** to be Business Owners than Caucasian Males
- Asian Americans and Hispanic Americans are ***Less Likely*** to be Business Owners than Caucasian Males

BUSINESS OWNERSHIP MODEL FINDINGS - CONSTRUCTION

Business Ownership Results:

- **Caucasian Females and Hispanic Americans are *Less Likely* to be Business Owners than Caucasian Males**
- **African Americans are *More Likely* to be Business Owners than Caucasian Males**

BUSINESS OWNERSHIP MODEL FINDINGS - PROFESSIONAL SERVICES

Business Ownership Results:

- African Americans are ***Significantly Less Likely*** to be Business Owners than Caucasian Males
- Caucasian Females and Asian Americans are ***Less Likely*** to be Business Owners than Caucasian Males
- Hispanic Americans are ***More Likely*** to be Business Owners than Caucasian Males

BUSINESS OWNERSHIP MODEL FINDINGS - COMMODITIES AND SERVICES

Business Ownership Results:

- Hispanic Americans are ***Significantly Less Likely*** to be Business Owners than Caucasian Males
- Caucasian Females and African Americans are ***Less Likely*** to be Business Owners than Caucasian Males
- Asian Americans are ***More Likely*** to be Business Owners than Caucasian Males

BUSINESS LOAN APPROVAL MODEL FINDINGS - ALL INDUSTRIES

Loan Approval Results:

- Minorities have a ***Significantly Lower*** Probability of Obtaining a Business Loan than Caucasian Males
- Caucasian Females have a ***Lower Probability*** of Obtaining a Business Loan than Caucasian Males

BUSINESS LOAN APPROVAL MODEL FINDINGS

Loan Approval Results:

- **Construction**
 - **Caucasian Females and Minorities have a *Lower Probability* of Obtaining a Business Loan than Caucasian Males**
- **Professional Services**
 - **Caucasian Females and Minorities have a *Lower Probability* of Obtaining a Business Loan than Caucasian Males**

BUSINESS LOAN APPROVAL MODEL COMMODITIES AND SERVICES

Business Loan Results:

- Minorities have a Significantly ***Lower Probability*** of Obtaining a Business Loan than Caucasian Males
- Caucasian Females have a ***Lower Probability*** of Obtaining a Business Loan than Caucasian Males



SIGNIFICANCE OF PRIVATE SECTOR ANALYSIS

- **Statistical Findings are Consistent with Disparity Study Results**
- **Private Sector Barriers Limit Business Formation and Development for MWBEs**
- **Economic Conditions Depress the Number of Available Market Area MWBEs**



ANECDOTAL ACCOUNTS

BARRIERS CREATED BY COUNTY

- **Bid Information Difficult to Obtain**
- **Inadequate Lead Time to Bid**
- **Unreasonable Solicitation Requirements**
- **Contracts Bundling**
- **Late Payment**



BARRIERS CREATED BY PRIME CONTRACTORS

- **Reduction in Scope of Work**
- **Unauthorized Substitution of LOSBs**
- **Higher Performance Standard for LOSBs**
- **Good Old Boy Network**
- **Late Payments**



RECOMMENDATIONS

RACE/GENDER CONSCIOUS RECOMMENDATIONS

- **Prime Contract Remedies**
 - **Bid Discounts on Low Bid Contracts**
 - **Incentive Credits on Professional Service Contracts**
- **Subcontract Remedies**
 - **Goals Limited to Ethnic and Gender Groups with Disparity**
 - **Goals Should Be Met at Bid Opening**
- **M/WBE Program Reinstatement**
 - **Administered by EOC Office**
 - **Augment Staff to Manage M/WBE Function**
 - **Establish M/WBE Advisory Committee**

RACE/GENDER NEUTRAL RECOMMENDATIONS

- **Locally Owned Small Business Program**
 - **Revise Gross Receipt Eligibility Requirement**
 - **Apply Bid Discount/Evaluation Credits to LOSB Primes**
 - **Mandate LOSB Subcontract Goals on All Contracts**
 - **Implement Small Contracts Rotation Process**
- **Sole Source Contracts**
 - **Require EOC Review Before Approval of Requisitions**
 - **Apply LOSB/MWBE Goals on All Contracts**
- **Purchase Orders Under \$5,000**
 - **Solicit LOSB and M/WBE Quotes on Small Contracts**

ADMINISTRATIVE RECOMMENDATIONS

- **Target Advertising of Contracts Under \$50,000 to LOSBs and M/WBEs**
- **Provide Technical Supportive Services**
- **Publish Intent to Award Notices**
- **Establish Formal Bid Protest Procedures**
- **Implement Post Award Debriefing Process**
- **Post Prime Awards and Payments on Website**



TRACKING AND MONITORING RECOMMENDATIONS

- **Commission Should Track, Verify and Report Payments to All Subcontractors, Truckers, and Suppliers**
- **Commission Should Publish Quarterly M/WBE and LOSB Compliance Reports**
- **Prime Contractors Should List Subcontractor Payments with Each Invoice**
- **Penalties Should Be Assessed When Prime Contractors Fail to Meet M/WBE or LOSB Subcontract Goals**
- **Incentives Should be Available for Compliance with M/WBE and LOSB Goals**

NEXT STEPS

- **County Commission Approves Report and Authorizes:**
 - **M/WBE Policy**
 - **Modifications to LOSB Program**
 - **Procurement Policy Enhancements**
- **County Commission Roll-out of M/WBE Program**
 - **Host Working Groups with Business Community Members**
 - **Host Briefings with County Executives**

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**THANK
YOU!**

謝謝!

Спасибо!

¡Gracias!