

Miami-Dade County Comprehensive Disparity Study

Final Report

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IV. ANALYSIS OF STATISTICALLY SIGNIFICANT UNDERUTILIZATION

The objective of this chapter is to determine whether the portion of prime contracts awarded to Minority and Woman-owned Business Enterprises (M/WBE) was at parity with each ethnic and gender groups' availability. A test of statistical significance was applied to the group that had a disparity between its utilization and availability. Under a fair and equitable system of awarding contracts, the proportion of contract dollars awarded to M/WBEs should be relatively close to the corresponding proportion of available M/WBEs in the relevant market area. If the ratio of utilized M/WBE prime contractors to available M/WBE prime contractors is less than one, a statistical test is conducted to calculate the probability of observing the empirical disparity ratio or any event which is less probable. This analysis assumes a fair and equitable system.¹⁰ *Croson* states that an inference of discrimination can be made *prima facie* if the disparity is statistically significant. Under the *Croson* model, Non-Minority Male Business Enterprises are not subjected to a statistical test.

A disparity analysis was performed on all prime contracts and subcontracts awarded from January 1, 2007 to December 31, 2011. Disparity was found at both the prime contract and subcontract levels for several ethnic and gender groups at both dollar thresholds.

A. Disparity Findings

1. Prime Contracts

As indicated in Table 1.09 disparity was found for African American, Asian American, Hispanic American, and Women Business Enterprise construction prime contractors on all County contracts. Disparity was found for African American, Asian American, Hispanic American, and Women Business Enterprise construction prime contractors on contracts valued under \$250,000.

¹⁰ When conducting statistical tests, a confidence level must be established as a gauge for the level of certainty that an observed occurrence is not due to chance. It is important to note that a 100-percent confidence level or a level of absolute certainty can never be obtained in statistics. A 95-percent confidence level is considered by the courts to be an acceptable level in determining whether an inference of discrimination can be made. Thus, the data analyzed here was done within the 95-percent confidence level.

Table 1.09: Prime Contract Disparity Summary
January 1, 2007 to December 31, 2011

Ethnicity/Gender	All Prime Contracts	
	All Prime Contracts	Prime Contracts under \$250,000
African Americans	Statistically Significant Underutilization	Statistically Significant Underutilization
Asian Americans	Statistically Significant Underutilization	Statistically Significant Underutilization
Hispanic Americans	Statistically Significant Underutilization	Statistically Significant Underutilization
Native Americans	----	----
Women Business Enterprises	Statistically Significant Underutilization	Statistically Significant Underutilization

(----) denotes an underutilized group with too few available firms to test statistical significance.

2. Subcontracts

As indicated in Table 1.10 below, disparity was found for African American and Hispanic American construction subcontractors.

Table 1.10: Subcontract Disparity Summary
January 1, 2007 to December 31, 2011

Ethnicity / Gender	Construction
African Americans	Statistically Significant Underutilization
Asian Americans	----
Hispanic Americans	Statistically Significant Underutilization
Native Americans	----
Women Business Enterprises	**

(----) denotes an underutilized group with too few available firms to test statistical significance.

(**) denotes that this study does not test statistically the overutilization of minority or gender groups.



V. ANECDOTAL FINDINGS

In addition to requiring a statistical analysis, the United States Supreme Court in *Croson* stated that anecdotal findings, “if supported by appropriate statistical proofs, lend support to a [local entity’s] determination that broader remedial relief [is] justified.” *Croson* authorizes anecdotal inquiries along two lines. The first approach examines barriers attributed to the local entity. Such action is defined as the active participation of the government entity. The second approach examines whether the local entity was essentially a passive participant of exclusion practiced by its prime contractors.

A. Summary of In-Depth Interviews

Two methods were used to elicit anecdotal information. Individuals were identified from outreach efforts to prime contractors, subcontractors, suppliers, and trade and business organizations. Attendees at the business community meetings were contacted to determine their willingness to participate in an anecdotal interview. All of the interviewees were Florida business owners and provided construction, architecture and engineering, professional, or goods and other services.

A set of probes was used for the interviews to uniformly elicit information regarding the interviewee’s experience doing business with and within the County. The probes addressed all aspects of operating a business from formation to development.

The patterns and practices evident in the interviewee accounts have been grouped into 17 categories. The categories are as follows:

- Racial and Gender Barriers
- Sexual and Racial Harassment
- Disparate Standards of Review
- Difficulty with the Contracting Community
- Presence of a Good Old Boys Network
- Impediments to the Bid Process
- Inadequate Lead Time to Prepare Bids
- Problems with Supplier Agreements
- Difficulty Meeting Prequalification Requirements
- Barriers to Financial Resources
- Criteria for Bonding
- Late Payments from the County
- Late Payments from Prime Contractors
- Implementation of the Community Small Business Enterprise Program
- Exemplary County Business Practices
- Contrasts between Public Sector and Private Sector Experiences
- CSBE and M/WBE Program Enhancements



VI. RECOMMENDATIONS

Race and gender-neutral recommendations are offered to increase M/WBE access to the County's prime and subcontracts and to track, monitor, report, and verify M/WBE prime contractor and subcontractor utilization. The recommended strategies address all industries and apply to all ethnic and gender groups. The recommendations are derived from an analysis of the County's Small Business Enterprise Program, a review of the County's web page, anecdotal interviews, and government and corporate best management practices.

A. Administrative Strategies

- Standardize SBE Goals throughout all County Departments
- Standardize and the Dissemination of the County's Procurement Procedures to all Departments
- Authorization to Approve Subcontractor Waivers
- Evaluate Staff Compliance with the SBE Program
- Expand the Advisory Board's Function

B. Pre-Award Recommendations

- Expand Unbundling Policy
- Establish a Direct Purchase Program for Construction Contracts
- Promote Diversity in Distributorships
- Advertise Small Contracts Bond Provisions
- Pay Mobilization to Subcontractors
- Disseminate the Procedures for the County's Equitable Distribution Program for Architecture and Engineering Consultants
- Maintain Virtual Plan Room
- Revise Insurance Requirements
- Review Selection Panel Process
- Distribute Bid Protest Procedures
- Enhance MWBE Outreach Campaign

C. Post-Award Recommendations

- Institute a Payment Verification Program
- Publish Prime Contractor Payments
- Track All Subcontractors
- Conduct Routine Post-Award Contract Compliance Monitoring
- Assess Penalties for Not Achieving the M/WBE and SBE Contract Goals
- Publish MWBE Utilization Reports
- Develop Contract Opportunities Forecast

D. Website Recommendations

- Provide Accessibility for Visually Impaired Individuals
- Provide Option to Enlarge Text
- Provide Text-to-Speech Feature
- Offer Mobile-Optimized Website

E. Data Management Strategies

- Track and Monitor M/WBE and SBE Prime and Subcontractors in on Centralized Financial Management System
- Use a Unique Identifier for all Contracts Regardless of Procurement Type
- Track and Monitor Pre-Award Subcontractor Commitments
- Improve Oversight of Noncompetitively Bid Contracts
- Uniformly Capture Ethnicity and Gender for Contractors/Vendors
- Require a M/WBE Utilization Plan with the Bid
- Track, Verify, and Report M/WBE Participation Monthly by Task Order
- Assess Penalties for Not Achieving the Project Goal Set on Each Task Order