

CITY OF TACOMA, WASHINGTON

2018 Disparity Causation Analysis



ABOUT GRIFFIN & STRONG, P.C.

Firm Specializes in
disparity research,
contract
compliance,
program
development,
training & supplier
diversity consulting:



The most
qualified team in
the industry:

- 4 Juris Doctors
- 2 PhD Economists
- PhD Statistician
- PhD Candidate in Anthropology
- all with expertise in disparity research.



No study conducted
by Griffin & Strong,
P.C. has ever been
challenged or
overturned in court.

IN GOOD HANDS

Project Executive, Rodney K. Strong has **unmatched expertise**, serving as Director of the City of Atlanta's Department of Contract Compliance and as **principal architect** of the City of Atlanta's distinguished MWBE contracting program.

Principal Investigator, Dr. Vince Eagan is one of the **foremost experts** nationwide, conducting **over 120 studies** & successfully defending **6 studies** as expert witness.

Griffin & Strong, P.C.

Project Team

- Rodney K. Strong, Esq. – Project Executive
- Michele Clark Jenkins – Project Manager
- Dr. J. Vincent Eagan- Policy Review
- Dr. Gregory Price – Sr. Economist
- Dr. Rom Raghighi – Chief Statistician
- David Maher, Esq. - Legal Analyst
- Sterling Johnson – Deputy Project Manager
- Imani Strong Tucker – Anecdotal Analyst
- Susan Johnson – Project Administrator
- Creative Research Solutions – Survey of Business Owners



Local Team

- The Planning Studio – Anecdotal Interviews
- Buell Realtime Reporting – Court Reporting

WHAT IS A DISPARITY STUDY & WHY DO WE DO THEM?

Disparity Studies Form the Factual Basis for Remedial Programs

- City of Richmond v. J.A. Croson Co.,
488 U.S. 469 (1989) &
- Strict Scrutiny requirement for race-based programs
(Intermediate for gender-based programs)
- Must have a factual predicate
- Methodology dictated by Case Law
- Must have narrowly-tailored remedy (to avoid over- or under-
inclusion)

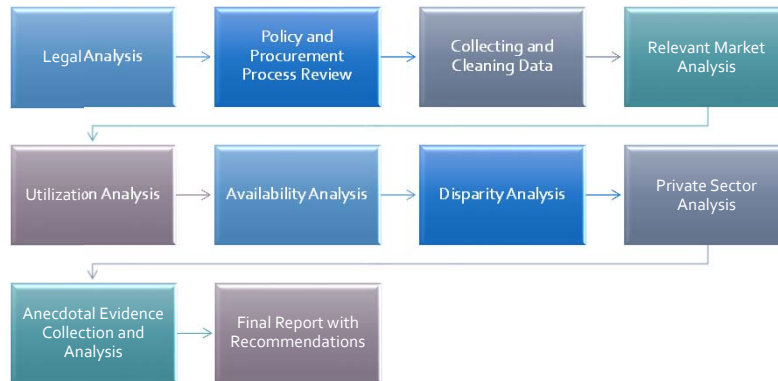


STUDY OBJECTIVES

1. Is there a statistically significant disparity in the relevant geographic and product markets between the percentage of qualified Minority and Woman owned firms ("MWBE") willing and able to provide goods or services to the City in each of the category of contracts and the percentage of dollars awarded to such firms (whether as prime contractors/consultants or subcontractors/consultants)?
2. If a statistically significant disparity exists, have factors, other than race and gender been ruled out as the cause of that disparity, such that there can be an inference of discrimination?
3. Can the discrimination be adequately remedied with race and gender-neutral remedies?
4. If race and gender-neutral remedies are not sufficient, does the evidence from the Study legally support a race and/or gender conscious remedial program?
5. Are the proposed remedies narrowly tailored to the strong basis in evidence from the disparity study?



TECHNICAL APPROACH



LEGAL & POLICY FINDINGS



LEGAL FINDINGS

1. The overlap between the federal framework (under Croson, et. al.) and Initiative 200 remains unclear as there have been no reported opinions in Washington applying I-200 in the context of MWBE programming.
2. The 2017 opinion by the state Attorney General on Initiative 200, specific to government contracting, provides some guidance, but did not fully clarify this potential window.



POLICY FINDINGS

The Tacoma SBE program has been ineffective.

The City employs policy tools to encourage SBE/MWBE participation.

SBE Project Goals lack Good Faith Efforts Requirements.

Staffing and resource shortages prevent the program from reaching full effectiveness.



POLICY FINDINGS

City does not operate a separate DBE program.

- Applies state DBE goals to projects

SBE certification net worth and location requirements may limit potential SBE certified vendors.

- Local, HUBZONE, Community Empowerment Zone, etc.

Some Support Services are in place but the impact is unclear.

- PTAC/MBDA/SBDC, etc.

STATISTICAL FINDINGS



GEOGRAPHIC RELEVANT MARKET



SUMMARY OF AVAILABILITY

By Work Category

Based on the Master Vendor File

Ethnicity	Construction	A&E	Services	Goods
African American	2.81%	1.93%	4.04%	0.92%
Asian American	2.97%	12.86%	4.60%	2.63%
Hispanic American	4.69%	2.89%	2.65%	1.12%
Native American	2.03%	0.96%	1.50%	0.33%
Total Minority	12.50%	18.64%	12.79%	5.00%
Nonminority Female	3.13%	19.61%	12.00%	5.27%
Total M/WBE	15.63%	38.25%	24.79%	10.27%
Non-M/WBE	84.38%	61.74%	75.21%	89.73%
Total	100%	100%	100%	100%

PRIME UTILIZATION

Summary of Prime Utilization by Work Category in the Relevant Market

Based on Awards from FY2012-FY2016

Summary of Prime Utilization In the Relevant Market - FY 2012 through 2016 Prime Awards (Using Contracts and Purchase Orders)									
Firm Ownership	Construction		Architectural and Engineering		Services		Goods		Total
African American	\$ 1,849,402	0.57%	\$ -	0.00%	\$ 520,532	0.26%	\$ 56,287	0.03%	\$ 2,426,221 0.33%
Asian American	\$ 40,000	0.01%	\$ 296,660	0.80%	\$ 4,535,196	2.27%	\$ 2,696,464	1.59%	\$ 7,568,320 1.03%
Hispanic American	\$ 13,229,258	4.07%	\$ -	0.00%	\$ 117,800	0.06%	\$ -	0.00%	\$ 13,347,058 1.82%
Native American	\$ 854,301	0.26%	\$ -	0.00%	\$ 129,341	0.06%	\$ -	0.00%	\$ 983,641 0.13%
TOTAL MINORITY	\$ 15,972,960	4.91%	\$ 296,660	0.80%	\$ 5,302,869	2.66%	\$ 2,752,751	1.62%	\$ 24,325,240 3.32%
Nonminority Female	\$ 5,019,008	1.54%	\$ 1,505,413	4.05%	\$ 15,618,373	7.82%	\$ 754,731	0.44%	\$ 22,897,525 3.13%
TOTAL M/WBE	\$ 20,991,968	6.45%	\$ 1,802,073	4.84%	\$ 20,921,242	10.48%	\$ 3,507,482	2.07%	\$ 47,222,765 6.45%
NON-M/WBE	\$ 304,329,627	93.55%	\$ 35,393,584	95.16%	\$ 178,706,096	89.52%	\$ 166,098,514	97.93%	\$ 684,527,821 93.55%
TOTAL FIRMS	\$325,321,595	100.00%	\$ 37,195,657	100.00%	\$ 199,627,338	100.00%	\$169,605,996	100.00%	\$ 731,750,585 100.00%

PRIME CONTRACT DISPARITIES

MWBE GROUPS WITH SIGNIFICANT UNDERUTILIZATION

	Construction	A&E	Services	Goods
African American	X	X	X	X
Asian American	X	X	X	X
Hispanic American	*	X	X	X
Native American	X	X	X	X
Nonminority Female	X	X	X	X

NOTE: Hispanic American owned firms were underutilized in Construction as prime contractors but not statistically significantly so.

SUBCONTRACTOR UTILIZATION

Summary of Subcontractor Utilization in Construction

Based upon Awards FY2012-FY2016

Firm Ownership	Construction	
African American	\$ 70,757	0.10%
Asian American	\$ 346,619	0.47%
Hispanic American	\$ 1,010,450	1.37%
Native American	\$ 109,159	0.15%
TOTAL MINORITY	\$ 1,536,985	2.08%
Nonminority Female	\$ 1,910,270	2.58%
TOTAL M/WBE	\$ 3,447,255	4.66%
NON-M/WBE	\$ 70,573,752	95.34%
TOTAL FIRMS	\$ 74,021,007	100.00%

TOTAL UTILIZATION DISPARITY

MWBE GROUPS WITH SIGNIFICANT UNDERUTILIZATION

	Construction
African American	×
Asian American	×
Hispanic American	×
Native American	×
Nonminority Female	*

NOTE: Nonminority Female owned firms were underutilized, but it was not statistically significant.

PRIVATE SECTOR ANALYSIS

1. Being an MWBE in the Tacoma Market Area is associated with lower firm revenue and MWBEs are less likely to be self-employed
2. Lower revenues for MWBEs suggest private sector discrimination and undermine their capacity to compete with Non-Minority firms for public contracts
3. MWBE status has no effect on entering the Tacoma Market Area, but does have an adverse effect on securing public contracts.
4. Public Contracting disparities cannot be explained by credit capacity



PRIVATE SECTOR ANALYSIS

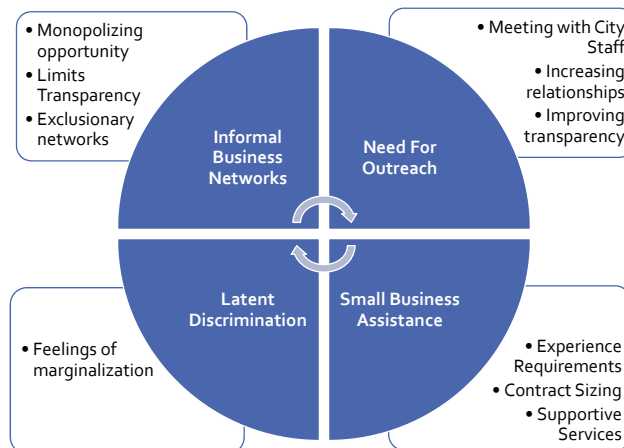
5. Disparities cannot be explained by differences in prime contract submission
6. Disparities can be explained, in part, by MWBEs being less likely to serve as a prime contractor in the past.
7. Results of the GSPC disparity analysis suggest that any observed disparities between MWBEs/Non-MWBEs are not explained by differences in capacity.



ANECDOTAL FINDINGS



ANECDOTAL FINDINGS



CONCLUSION OF FINDINGS

The City of Tacoma's current race neutral program has not been sufficient in promoting equity in public contracting, demonstrated by statistically significant underutilization for nearly all MWBE groups for both prime contract opportunities and subcontract opportunities.

Existing race neutral programs can be more effectively administered. Race and gender conscious programs that do not run afoul of Initiative 200 are supported by the findings of the Study and should also be utilized.

If Initiative 200 is abolished, the findings of this Study also support race and gender conscious preference program. E.g., MWBE subcontractor goals.



RECOMMENDATIONS



**FIND US ON THE WEB AT
WWW.GSPCLAW.COM**

 @GriffinStrong



GS GRIFFIN &
STRONG P.C.
ATTORNEYS AND FINANCIAL ADVISORS