

City of Charlotte Disparity Study 2022

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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



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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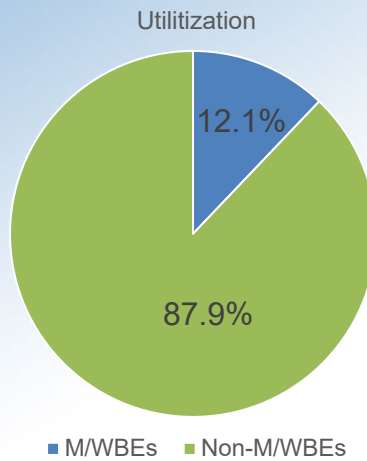
Disparity Study Findings: Utilization

- 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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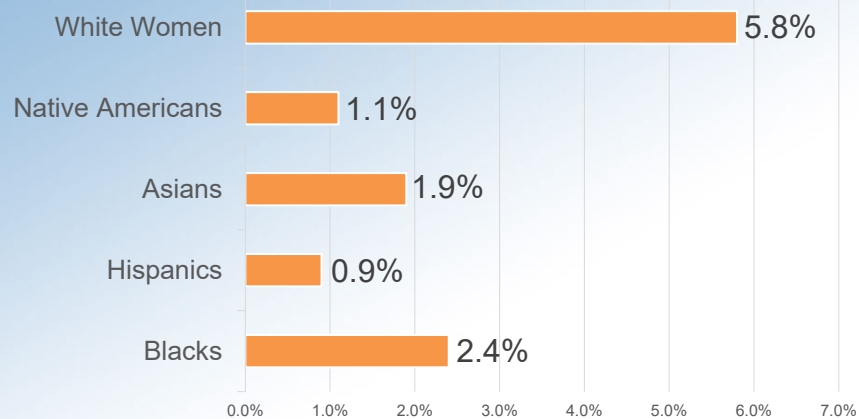


Disparity Study Findings: Utilization



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Disparity Study Findings: Utilization



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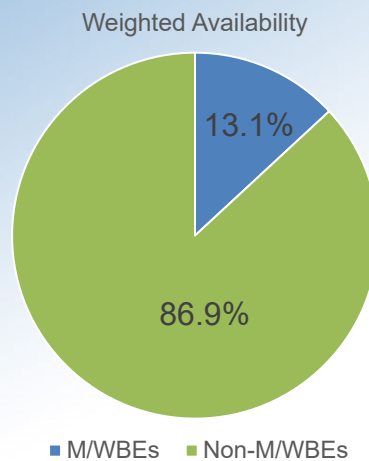
Disparity Study Findings: Availability

- 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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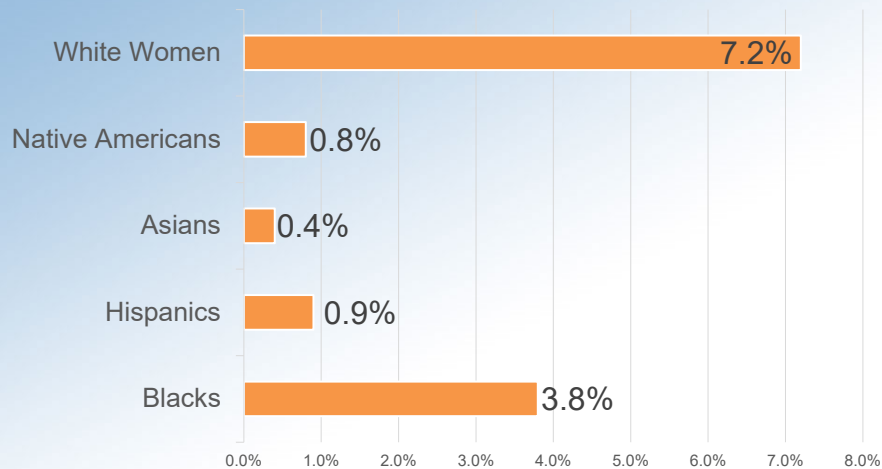
Disparity Study Findings: Weighted Availability



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Disparity Study Findings: Weighted Availability



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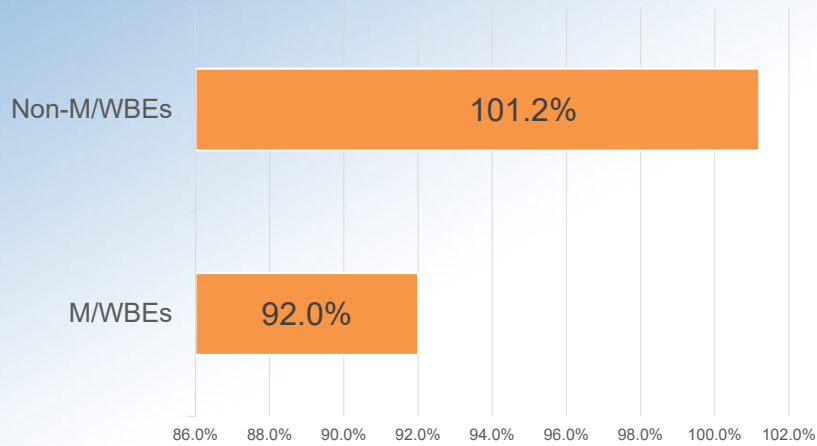
Disparity Study Findings: Disparity Ratios

- 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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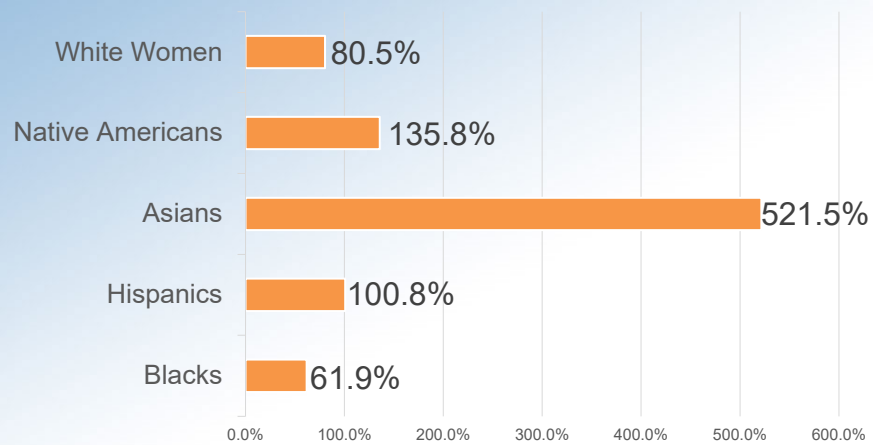
Disparity Study Findings: Disparity Ratios - Everyone



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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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2022 Disparity Study

Major Changes, Q&A and Schedule

CITY OF CHARLOTTE
CHARLOTTE BUSINESS INCLUSION OFFICE

September 12, 2022

What are some major changes from the 2017 study?

Adopt the recommended MWBE aspirational goal

- 2022 study recommends an MWBE goal of 13.1% (20.9 in 2017 study)

Charlotte Statistical Area (CSA) expands

- 100 North Carolina Counties and York County in South Carolina (from 13 counties in 2017 study)

Set MWBE goals only (SBE goals when MWBE are not available)

- 2022 study recommends goals for minority and women owned firms only

What are the next steps?

DATE	ACTION
September 12, 2022	2022 Disparity Study is presented to full Council
September 26, 2022	2022 Disparity Study accepted by full Council
Fall 2022	CBI Advisory Committee receives presentation of 2022 Disparity Study
Fall 2022	CBI Staff, the CBI Advisory Committee, and ED Council Committee will review and recommend changes to the policy and procedures
Fall 2022	Staff to do the work to craft policy changes in anticipation of 2023 implementation
Spring 2023	Staff to implement a communication and marketing plan for 2022 Disparity Study

Questions

