

SHELBY COUNTY LEGAL ANALYSIS AND DISPARITY STUDY



February 3, 2016



PRESENTATION AGENDA

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



DISPARITY STUDY OBJECTIVES

- **Analyze Prime Contract and Subcontract Awards and Payments**
- **Determine Extent of Any Prime Contract or Subcontract Disparity**
- **Assess How County Procurement Practices Affect Any Documented Disparity**
- **Evaluate Effectiveness of LOSB Program**
- **Provide Program Recommendations**

STUDY PROFILE

Study Period: January 1, 2012 – December 31, 2014

Construction

**Professional Services, including Architecture and
Engineering**

Commodities and Services

BUSINESS SIZE BY EMPLOYEES

Businesses	Shelby County	State of Tennessee	United States
Less Than 5 Employees	44.38%	48.75%	54.63%
Less Than 10 Employees	65.04%	69.66%	73.50%
Less Than 20 Employees	79.88%	83.80%	86.21%
Over 100 Employees	3.50%	2.87%	2.31%
Minority-owned Businesses	35.62%	12.51%	21.26%
Women-owned Businesses	30.77%	25.94%	28.76%

Source: U.S. Census: County Business Patterns 2012; Survey of Business Owners 2007

SHELBY COUNTY BUSINESSES BY ETHNICITY AND GENDER

Ethnicity	Percentage
African American	48.52%
Asian American	3.38%
Hispanic American	2.75%
Native American	0.75%
Caucasian	44.59%
	100%

Source: U.S. Census, 2012 Survey of Business Owners

DISTRIBUTION OF PRIME CONTRACT DOLLARS BY MARKET AREA

Market Area: Shelby County

Total Dollars

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

Within Market Area

\$85,952,652

41.66%

Outside Market Area

\$104,558,555

58.34%

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: CONSTRUCTION

Ethnicity/ Gender	Percent Available	Percent of All Dollars Awarded	Disparity	Percent of 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%	---

--- denotes overutilization

PRIME CONTRACT DISPARITY: PROFESSIONAL SERVICES

Ethnicity/ Gender	Percent Available	Percent of All Dollars Awarded	Disparity	Percent of 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	Percent of All Dollars Awarded	Disparity	Percent of 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: CONSTRUCTION

Ethnicity	Percent Available	Percent of Dollars	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 Available	Percent of Dollars	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




RECOMMENDATIONS



RACE/GENDER CONSCIOUS RECOMMENDATIONS

- **Prime Contract Remedies**
 - **Bid Discounts on Low Bid Contracts**
 - **Incentive Credits on Professional Service Contracts**
- **Subcontract Remedies**
 - **Goals on Construction and Professional Services Contracts**
 - **Goals for Ethnic and Gender Groups with Disparity**
- **Establish M/WBE Program Function**
 - **Expand EOC Office Responsibility**
 - **Retain Staff to Manage M/WBE Services**
 - **Appoint M/WBE Advisory Committee**



RACE/GENDER NEUTRAL RECOMMENDATIONS

- **Locally Owned Small Business Program**
 - **Revise Gross Receipt Eligibility Requirement**
 - **Implement Small Contracts Rotation Process**
 - **Apply Bid Discount/Evaluation Credits to LOSB Primes**
 - **Mandate LOSB Subcontract Goals on All Contracts**
- **Sole Source Contracts**
 - **Require EOC Review of Requisitions Before Approval**
 - **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 Payments on Website**



TRACKING AND MONITORING RECOMMENDATIONS

- **Commission Should Track, Verify and Report Awards to All Subcontractors, Truckers, and Suppliers at Bid Opening**
- **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**

NEXT STEPS

- **Prepare Draft Final Report**
- **Respond to County Comments on Report**
- **Submit Final Report to County Commission**
- **County Commission Approves Report and Authorizes:**
 - **M/WBE Policy**
 - **Modifications to LOSB Program**
 - **Procurement Policy Amendments to Include M/WBE Program Components**
- **County Commission Launches M/WBE Program**

감사합니다! **Merci!**

धन्यवाद! cảm ơn!

**THANK
YOU!**

謝謝!

Спасибо!

¡Gracias!