

Executive Summary

A. Introduction

To ensure compliance with constitutional mandates, the City of Austin commissioned NERA Economic Consulting to examine the past and current status of minority-owned and women-owned business enterprises (“M/WBEs”) in its geographic and product markets for contracting and procurement. The results of this Study provide the evidentiary record necessary for the City’s consideration of whether to implement renewed M/WBE policies that comply with the requirements of the courts and to assess the extent to which previous efforts have provided M/WBEs full and fair opportunities to compete for its prime contracts, purchases and associated subcontracts.

This Study finds statistical evidence consistent with the presence of business discrimination against M/WBEs in the private sector of the City of Austin market area. These findings are presented in Chapters IV and V. Statistical analyses of the City’s own contracting and purchasing, which also document evidence consistent with business discrimination, are contained in Chapters II, III and VI. As a check on our statistical findings, documented in Chapter VII, we surveyed the contracting experiences of M/WBEs and non-M/WBEs in the market area and also conducted a series of in-depth personal interviews with business enterprises throughout the market area, both M/WBE and non-M/WBE.

Additionally, the City of Austin asked that we evaluate whether veteran-owned businesses (“VOBs”) and service-disabled veteran-owned businesses (“SDVOBs”) have full and fair opportunities to compete for its prime contracts, purchases and associated subcontracts. Because the constitutional standards applicable to adopting preferences for VOBs or SDVOBs are far less strict than those that apply to preferences for M/WBEs, a disparity study is not a prerequisite in order for the City to consider such preferences for VOBs or SDVOBs.¹ Nevertheless, the City took the opportunity presented in conducting a new Disparity Study to examine the status of VOBs and SDVOBs in addition to that of M/WBEs.² The Study’s findings for VOBs and SDVOBs were mixed, with some results consistent with the presence of business discrimination and other results not. All of these results are discussed, individually, below.³

B. Legal Standards for Government Affirmative Action Contracting Programs

To be legally defensible, a race-based program must meet the judicial test of constitutional strict scrutiny. Strict scrutiny is the highest level of judicial review and consists of two elements:

¹ See the discussion below in Section B of the Executive Summary and also in Appendix B.

² While the data available for the analysis of M/WBEs is limited (in comparison, for example, to the data available for studying the overall business population, the general population, or the labor force), the data available for the analysis of VOBs and SDVOBs is far more limited. Throughout the remainder of the report, while the primary focus will be on M/WBEs, when data and findings for VOBs and SDVOBs are presented, they will be clearly indicated as such.

³ In particular, see Chapters III, IV, VI and VII.



- The government must establish its “compelling interest”⁴ in remedying race discrimination by showing “a strong basis in evidence”⁵ of the persistence of discrimination. Such evidence may consist of demonstrating that the entity is a ‘passive participant’ in a system of racial exclusion....”⁶
- Any remedies adopted must be narrowly tailored to that discrimination; that is, “the means chosen to accomplish the government’s asserted purpose are specifically and narrowly framed to accomplish that purpose.”⁷

The compelling interest prong has been met through two types of proof:

- Statistical evidence of “identified discrimination in [the relevant] industry,”⁸ typically established by showing the significant underutilization of minority-owned firms relative to their availability in the jurisdiction’s market area known as disparity indexes or disparity ratios.⁹
- Anecdotal evidence of race-based barriers to the full and fair participation of minority-owned firms in the market area and in seeking contract opportunities with the agency.¹⁰

The narrow tailoring prong has been met through the assessment of several factors:

- Consideration of alternative, race-neutral means to increase M/WBE participation;¹¹
- The flexibility of the program requirements, including the availability of waiver provisions;¹²
- The duration of the proposed relief;¹³

⁴ *Croson*, 488 U.S. at 492.

⁵ *Id.* at 500 (citing *Wygant v. Jackson Board of Education*, 476 U.S. 267, 277 (1986)).

⁶ *Id.* at 492.

⁷ *Sherbrooke*, 345 F.3d at 971 (citing *Grutter v. Bollinger*, 539 U.S. 306, 333 (2003)).

⁸ *Croson*, 488 U.S. at 505.

⁹ See J. Wainwright and C. Holt, *Guidelines for Conducting a Disparity and Availability Study for the Federal DBE Program*, Transportation Research Board of the National Academies, NCHRP Report, Issue No. 644, 2010, pp. 5-6.

¹⁰ *Concrete Works of Colorado, Inc. v. City and County of Denver*, 36 F.3d 1513, 1520 (10th Cir. 1994) (“*Concrete Works II*”) (“Personal accounts of actual discrimination or the effects of discriminatory practices may, however, vividly complement empirical evidence. Moreover, anecdotal evidence of a municipality’s institutional practices that exacerbate discriminatory market conditions are often particularly probative. Therefore, the government may include anecdotal evidence in its evidentiary mosaic of past or present discrimination.”). See also *Adarand VII*, 228 F.3d at 1166 (“Both statistical and anecdotal evidence are appropriate in the strict scrutiny calculus, although anecdotal evidence by itself is not.”).

¹¹ *Croson*, 488 U.S. at 507, citing *United States v. Paradise*, 480 U.S. 149, 171 (1987). See also *Adarand Constructors, Inc. v. Pena*, 515 U.S. 200, 237-238 (1995) (“*Adarand III*”).

¹² *Paradise*, 480 U.S. at 171; *Adarand VII*, 228 F.3d at 1177.

- The relationship of numerical participation goals to the availability of M/WBEs in the relevant market;¹⁴
- The impact of the relief on third parties;¹⁵ and
- The overinclusiveness or underinclusiveness of the racial classifications.¹⁶

In *Adarand Constructors, Inc. v. Peña*,¹⁷ the Court extended the analysis of strict scrutiny to race-based federal enactments such as the federal (“DBE”) Program. Just as in the state and local government context, the national government must have a compelling interest for the use of race, and the remedies adopted must be narrowly tailored to meet that interest.

In contrast to race-based initiatives, preferences for VOBs or SDVOBs are subject only to a rational basis test, meaning that the government need only demonstrate that the law is related to a legitimate government purpose.¹⁸ A challenger to such a law would have the burden of proving that the policy “has no conceivable legitimate purpose or is not rationally related to it.”¹⁹

Appendix B provides an overview of constitutional standards and case law for race- and gender-conscious contracting initiatives and outlines the legal and program development issues the City of Austin should consider in evaluating its M/WBE Program, with emphasis on critical issues and evidentiary concerns.

C. Defining the Relevant Markets

Chapter II describes how the relevant geographic and product markets were defined for this Study. These definitions were derived empirically, based on the Master Contract/Subcontract Database assembled for the Study. The relevant geographic and product markets were then used to focus and frame the quantitative and qualitative analyses in the remainder of the Study.

The Master Contract/Subcontract Database contains information on 3,934 prime contracts and 9,533 associated subcontracts active during 2008-2013. These contracts and purchases had a total award value of \$4.94 billion and a total payment value of \$4.22 billion (see Table 2.1).²⁰

¹³ *Croson*, 488 U.S. at 498, 509. See also *Paradise*, 480 U.S. at 171.

¹⁴ *Paradise*, 480 U.S. at 171.

¹⁵ *Id.*

¹⁶ *Croson*, 488 U.S. at 506.

¹⁷ 515 U.S. 200 (1995) (“*Adarand IIP*”).

¹⁸ See *Hooper, et al. v. Bernalillo County Assessor*, 472 U.S. 612 (1985).

¹⁹ Cornell Law School, Legal Information Institute, “Rational Basis Test,” available at http://www.law.cornell.edu/wex/rational_basis_test. Moreover, whereas M/WBE programs are constitutionally required to be remedial in nature in addressing the effects of race and gender discrimination, there is no such constitutional requirement that VOB and SDVOB initiatives be remedial in nature.

²⁰ Payments on contracts that were not substantially complete at the time of the Study data collection were excluded from the paid dollar totals.

Contracts and subcontracts in the database were catalogued according to fiscal year and whether they were for Construction; Professional Services;²¹ Nonprofessional Services; or Commodities. The firms performing these contracts and subcontracts were catalogued according to geographic location, primary industry, and race and gender.

The Master Contract/Subcontract Database was analyzed to determine the geographic radius around the City of Austin that accounts for approximately 75 percent of aggregate contract and subcontract spending. The City of Austin's relevant geographic market area was determined to include the Austin-Round Rock, TX Metropolitan Statistical Area ("MSA"). The Austin-Round Rock, TX MSA includes the Texas counties of Travis, Williamson, Hays, Bastrop and Caldwell (see Tables 2.5 and 2.6).

The Master Contract/Subcontract Database was also analyzed to determine those detailed industry categories that collectively account for 99 percent of contract and subcontract spending by the City of Austin. We determined that the relevant product market includes firms in 207 different North American Industrial Classification System ("NAICS") Industry Groups and 470 NAICS Industries (see Tables 2.7 through 2.10).

D. M/WBE Availability in the City of Austin's Market Area

Chapter III estimates the percentage of establishments in the City of Austin's relevant market area that are owned by minorities or women. For each industry category, M/WBE availability was defined as the number of M/WBEs divided by the total number of business establishments in the relevant contracting market area, weighted by the dollars attributable to each detailed industry. Determining the total number of establishments in the relevant market is more straightforward than determining the number of M/WBE establishments in those markets. The latter task has three main parts: (1) identifying all listed M/WBEs in the relevant market; (2) verifying the ownership status of listed M/WBEs; and (3) estimating the number of unlisted M/WBEs in the relevant market.

Table A1 below provides an executive level summary of the current M/WBE availability estimates derived in the Study. Availability estimates for more detailed industries within the major procurement categories appear in Tables 3.12 through 3.15.

²¹ "Professional Services" is defined by Tex. Gov. Code Ann. § 2254, and includes architectural and engineering services, accounting services, landscape architecture services, medicine, optometry, real estate appraisal, and certain other consulting services.

Table A1. Overall Estimated M/WBE Availability Percentages in the City of Austin Market Area

	African American	Hispanic	Asian/ Pacific Islander	Native American	Minority	Non-minority Female	M/WBE	Non-M/WBE
OVERALL								
AWARD DOLLARS	2.74	8.87	2.33	0.39	14.32	10.87	25.20	74.80
PAID DOLLARS	2.91	9.10	2.37	0.39	14.78	11.20	25.98	74.02
CONSTRUCTION								
AWARD DOLLARS	2.27	10.94	1.14	0.56	14.92	9.61	24.53	75.47
PAID DOLLARS	2.30	10.80	1.11	0.59	14.80	9.56	24.35	75.65
PROFESSIONAL SERVICES								
AWARD DOLLARS	1.60	7.18	2.81	0.38	11.97	6.93	18.90	81.10
PAID DOLLARS	1.64	7.54	2.90	0.40	12.49	6.74	19.22	80.78
NONPROFESSIONAL SERVICES								
AWARD DOLLARS	3.91	8.95	2.40	0.30	15.56	14.39	29.95	70.05
PAID DOLLARS	4.33	9.40	2.50	0.25	16.49	15.48	31.96	68.04
COMMODITIES								
AWARD DOLLARS	1.74	8.28	3.13	0.42	13.57	9.03	22.60	77.40
PAID DOLLARS	1.89	8.16	3.16	0.47	13.68	9.20	22.88	77.12

Source: Table 3.11.

Notes: (1) "Award" indicates that the availability measures are weighted according to dollars awarded; (2) "Paid" indicates that the availability measures are weighted according to dollars paid; (3) For this Study, "Black" or "African American" refers to an individual having origins in any of the Black racial groups of Africa; "Hispanic" refers to an individual of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race; "Asian" or "Asian/Pacific Islander" refers to an individual having origins in the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands; "Native American" refers to an individual having origins in any of the original peoples of North America or of Hawai'i. Businesses owned by members of these groups are collectively referred to as M/WBEs.

E. VOB and SDVOB Availability in the City of Austin's Market Area

Chapter III estimates the percentage of establishments in the City of Austin's relevant market area that are owned by veterans and service-disabled veterans. For each industry category, VOB and SDVOB availability was defined as the number of VOBs and SDVOBs divided by the total number of business establishments in the relevant contracting market area, weighted by the dollars attributable to each detailed industry. Determining the total number of establishments in

the relevant market is more straightforward than determining the number of VOB and SDVOB establishments in those markets. The latter task has three main parts: (1) identifying all listed VOBs and SDVOBs in the relevant market; (2) verifying the ownership status of listed VOBs and SDVOBs; and (3) estimating the number of unlisted VOBs and SDVOBs in the relevant market.

Table A2 below provides an executive level summary of the current M/WBE availability estimates derived in the Study. Availability estimates for more detailed industries within the major procurement categories appear in Tables 3.12A through 3.15A.

Table A2. Overall Estimated VOB and SDVOB Availability Percentages in the City of Austin Market Area

	Veteran	Service-Disabled Veteran
OVERALL		
AWARD DOLLARS	7.36	1.77
PAID DOLLARS	6.96	1.53
CONSTRUCTION		
AWARD DOLLARS	5.80	1.10
PAID DOLLARS	5.74	1.07
PROFESSIONAL SERVICES		
AWARD DOLLARS	9.46	1.85
PAID DOLLARS	9.35	1.74
NONPROFESSIONAL SERVICES		
AWARD DOLLARS	7.23	1.83
PAID DOLLARS	6.39	1.24
COMMODITIES		
AWARD DOLLARS	6.29	2.30
PAID DOLLARS	6.45	2.46

Sources and Notes: Table 3.11.

F. Statistical Disparities in Business Formation and Business Owner Earnings

1. Minorities and Women

Chapter III demonstrates that current M/WBE availability levels in the City of Austin's market area, as measured in Chapter II, are substantially lower in most instances than those that we would expect to observe if commercial markets operated in a race- and gender-neutral manner

and that these levels are statistically significant.²² In other words, minorities and women are substantially and significantly less likely to own their own businesses as the result of discrimination than would be expected based upon their observable characteristics, including age, education, geographic location and industry. We find that these groups also suffer substantial and significant earnings disadvantages relative to comparable nonminority males, whether they work as employees or entrepreneurs.

For example, we found that annual average wages for African Americans in 2009–2013 in the construction sector were 59.5 percent lower in the City of Austin market area than for nonminority males who were otherwise similar in terms of geographic location, industry, age and education (see Table 4.2). This difference is large and statistically significant. Large, adverse, and statistically significant wage disparities were also observed for Hispanics (30.0 percent lower), Asians/Pacific Islanders (14.0 percent lower), Native Americans (34.6 percent lower), persons reporting two or more races (23.4 percent lower) and nonminority women (31.6 percent lower). These disparities are consistent with the presence of market-wide discrimination. Comparable results were observed when the analysis was restricted to the goods and services sector or expanded to the economy as a whole. That is, large, adverse, and statistically significant wage disparities were observed for all minority groups and for nonminority women. All wage and salary disparity analyses were then repeated to test whether observed disparities in the City of Austin market area were different enough from elsewhere in the country or the economy to alter any of the basic conclusions regarding wage and salary disparities. They were not. Indeed, for African Americans and Hispanics in the Austin market area, wages relative to nonminority males were significantly lower than in the country as a whole.

This analysis demonstrates that minorities and women earn substantially and significantly less than their nonminority male counterparts. Such disparities are consistent with race and gender discrimination in the labor force that, in addition to its direct effect on workers, reduces the future availability of M/WBEs by stifling opportunities for minorities and women to progress through precisely those internal labor markets and occupational hierarchies that are most likely to lead to entrepreneurial opportunities. These disparities reflect more than mere “societal discrimination” because they demonstrate the nexus between discrimination in the job market and reduced entrepreneurial opportunities for minorities and women. Other things equal, these reduced entrepreneurial opportunities in turn lead to lower M/WBE availability levels than would be observed in a race- and gender-neutral market area.

Next, we analyzed race and gender disparities in business owner earnings. We found, for example, that annual earnings for self-employed African Americans in 2009–2013 in the construction sector were 41.1 percent lower in the City of Austin market area than for nonminority males who were otherwise similar in terms of geographic location, industry, age and education (see Table 4.5). This difference is large and statistically significant. Large, adverse, and statistically significant wage disparities were also observed for Hispanics (15.7 percent lower), Asians/Pacific Islanders (19.9 percent lower), Native Americans (32.8 percent lower), persons reporting two or more races (25.8 percent lower) and nonminority women (40.8 percent

²² Typically, for a given disparity statistic to be considered “statistically significant” there must be a substantial probability that the value of that statistic is unlikely to be due to chance alone. *See also fn. 81.*

lower). These disparities are consistent with the presence of market-wide discrimination. Similar results were observed when the analysis was restricted to the goods and services sector or expanded to the economy as a whole. As with the wage and salary disparity analysis, we enhanced our basic statistical model to test whether minority and female business owners in the City of Austin market area differed significantly enough from business owners elsewhere in the U.S. economy to alter any of our basic conclusions regarding disparity. They did not.

As was the case for wage and salary earners, minority and female entrepreneurs earned substantially and significantly less from their efforts than similarly situated nonminority male entrepreneurs. These disparities are a symptom of discrimination in commercial markets that directly and adversely affect M/WBEs. Other things equal, if minorities and women cannot earn remuneration from their entrepreneurial efforts comparable to that of nonminority males, growth rates will slow, business failure rates will increase, and business formation rates may decrease. Combined, these phenomena result in lower M/WBE availability levels than would otherwise be observed in a race- and gender-neutral market area.

Next, we analyzed race and gender disparities in business formation (see Tables 4.7 to 4.11). As with earnings, in most cases we observed large, adverse, and statistically significant disparities consistent with the presence of discrimination in these markets in the overall economy, in the construction sector and in the goods and services sector. In the construction sector (Table 4.10), business formation rates for African Americans were 8.6 percentage points lower than for comparable nonminority males. Large, adverse, and statistically significant reductions in business formation were also observed for Hispanics (11.8 percentage points lower), Asians/Pacific Islanders (5.3 percentage points lower), persons reporting two or more races (2.5 percentage points lower) and nonminority women (10.4 percentage points lower).

In the goods and services sector (Table 4.11), business formation rates for African Americans were 5.4 percentage points lower than for comparable nonminority males. Large, adverse, and statistically significant reductions in business formation were also observed for Hispanics (4.3 percentage points lower), Asians/Pacific Islanders (3.3 percentage points lower), Native Americans (3.6 percentage points lower), and nonminority women (2.0 percentage points lower).

In the economy as a whole (Table 4.9), business formation rates for African Americans were 4.0 percentage points lower than for comparable nonminority males. Large, adverse, and statistically significant reductions in business formation were also observed for Hispanics (3.3 percentage points lower), Asians/Pacific Islanders (3.0 percentage points lower), persons reporting two or more races (1.6 percentage points lower) and nonminority women (2.9 percentage points lower).

2. Veterans and Service-Disabled Veterans

Adverse wage disparities were observed for VOBs and SDVOBs in the economy as whole, in the construction sector, and in the goods and services sector. These wage disparities, however, were substantially smaller than those observed for M/WBEs overall.

Adverse business owner earnings disparities were observed for VOBs and SDVOBS in the economy as whole, in the construction sector, and in the goods and services sector. Although these disparities were generally smaller than those observed for M/WBEs overall, they were

substantially larger than what was observed for VOBs and SDVOBs in the wage and salary earnings analysis, consistent with the operation of discrimination against these two groups of business owners.

Large, adverse and statistically significant business formation disparities were observed for VOBs and SDVOBs in the construction sector, in the goods and services sector, and for veterans, in the economy as a whole. These disparities are consistent with the operation of discrimination against these two groups of veteran business owners.

3. Census Bureau's Survey of Business Owners

As a further check on the statistical findings in this chapter, we examined evidence from the Census Bureau's *Survey of Business Owners and Self-Employed Persons* (SBO) (see Tables 4.13 to 4.18). These data show large, adverse, and statistically significant disparities between M/WBEs' share of overall revenues and their share of overall firms in the U.S. as a whole, and in the State of Texas.²³ The size of the disparities facing minority-owned firms in Texas is very large. For example, although 7.3 percent of all firms in Texas are owned by African Americans, these firms earned less than 1.1 percent of all sales and receipts. Hispanic-owned firms are 21.2 percent of all firms in Texas, yet they earned only 7.2 percent of all sales and receipts. Asian-owned firms are 5.4 percent of all firms in Texas, but earned only 4.7 percent of sales and receipts. Native American-owned firms are 0.90 percent of all firms in Texas, but earned only 0.43 percent of sales and receipts. Women-owned firms were 28.9 percent of all firms in Texas, but these firms earned only 11.3 percent of sales and receipts. In contrast, 9.5 percent of firms in Texas were owned by veterans, and these firms earned 11.1 percent of all sales and receipts.

G. Statistical Disparities in Credit/Capital Markets

In Chapter V, we analyzed historical data from the Survey of Small Business Finances ("SSBF"), conducted by the Federal Reserve Board and the U.S. Small Business Administration covering 1993-2003, and more limited data from: (a) nine surveys mirroring the SSBF that NERA conducted throughout the nation between 1999 and 2007, and (b) 2007-2010 data compiled from the Kauffman Firm Survey, to examine whether discrimination exists in the market for small business credit and capital.

Credit market discrimination can have an important effect on the likelihood that M/WBEs will succeed. Moreover, discrimination in the credit market might even prevent such businesses from opening in the first place. This analysis has been held by some courts to be probative of a public entity's compelling interest in remedying discrimination.²⁴ We provide qualitative and quantitative evidence supporting the view that M/WBE firms, particularly African American-owned firms, suffer discrimination in this market.

²³ In general, with this particular dataset, it is not possible to analyze geographies below the state level.

²⁴ See, e.g., *Northern Contracting, Inc. v. Illinois Department of Transportation*, No. 00-C-4515, 2005 WL 2230195 (N.D. Ill. Sept. 8, 2005); *Concrete Works of Colorado v. City and County of Denver*, 321 F.3d 950, cert. denied, (10th Cir. 2003).

The SSBF datasets are constructed for the nation as a whole and for nine Census divisions. The City of Austin market area is part of the West South Central division (WSC), that includes the State of Texas and three surrounding states.²⁵ To render the results as narrowly tailored as possible, we included indicator variables in our statistical analyses to determine whether the results for the WSC were different from those for the nation as a whole. We determined that the national results also apply in general to the WSC.

The main results are as follows:

- Minority-owned firms were more likely to report that they did not apply for a loan over the preceding three years because they feared the loan would be denied (see Tables 5.15, 5.22, 5.29).
- When minority-owned firms applied for a loan, their loan requests were substantially more likely to be denied than non-minorities, even after accounting for differences like firm size and credit history (see Tables 5.8, 5.9, 5.18, 5.19, 5.25, 5.26).
- When minority-owned firms did receive a loan they were obligated to pay higher interest rates on the loans than comparable nonminority-owned firms (see Tables 5.13, 5.14, 5.21, 5.27).
- A larger proportion of minority-owned firms than nonminority-owned firms report that credit market conditions are a serious concern (see Tables 5.3, 5.4, 5.5, 5.6, 5.7, 5.17, 5.24).
- A larger share of minority-owned firms than nonminority-owned firms believes that the availability of credit is the most important issue likely to confront them in the upcoming year (see Tables 5.5, 5.6).
- There is no evidence that discrimination in the market for credit is significantly different in the WSC, which includes the City of Austin market area, or in the construction and construction-related professional services industries than it is in the nation or the economy as a whole (various tables). The evidence from NERA's own credit surveys in a variety of states and metropolitan areas across the country is entirely consistent with the results from the SSBF.
- There is no evidence that the level of discrimination in the market for credit has diminished between 1993 and 2003, between 1999-2007, or in more recent years (various tables).

We conclude that there is evidence of discrimination against M/WBEs in the City of Austin market area in the small business credit market. This discrimination is particularly acute for African American-owned small businesses where, even after adjusting for differences in assets, liabilities, and creditworthiness, the loan denial rates remain substantially higher than for nonminority male-owned small businesses.

²⁵ The WSC includes Texas as well as Arkansas, Louisiana and Oklahoma.

H. Public Sector Utilization vs. Availability in City of Austin Contracting and Purchasing Markets, 2008–2013

Chapter VI analyzes the extent to which M/WBEs were utilized on contracts active at the City of Austin during 2008-2013 and compares this utilization rate to the availability of M/WBEs in the relevant market area.

Tables B1–B6 provide an executive summary of the utilization findings for the Study by industry category and M/WBE type. Table B1 shows M/WBE and non-M/WBE utilization measured by dollars awarded for all contracts and purchases examined during the study period. Table B2 shows comparable M/WBE and non-M/WBE utilization measured by dollars paid.

Table B3 shows M/WBE utilization, measured by dollars awarded, for contracts on which M/WBE goals *were* established, while Table B4 shows comparable information for contracts on which M/WBE goals were *not* established.

Table B5 shows M/WBE utilization, measured by dollars paid, for contracts on which M/WBE goals *were* established, while Table B6 shows comparable information for contracts on which M/WBE goals were *not* established.

Table B1. M/WBE Utilization in Contracting at the City of Austin—All Contracts (Dollars Awarded)

M/WBE Type	Procurement Category				
	Construction (%)	Professional Services (%)	Nonprofessional Services (%)	Commodities (%)	Overall (%)
African American	1.67	3.24	1.88	1.11	1.82
Hispanic	13.73	11.60	3.27	6.09	8.01
Asian/Pacific Islander	1.64	5.66	2.92	0.31	2.30
Native American	0.03	0.02	0.10	0.21	0.09
Minority Total	17.07	20.53	8.17	7.72	12.23
Nonminority female	6.68	10.90	5.49	2.76	5.90
M/WBE Total	23.76	31.43	13.66	10.48	18.13
Non-M/WBE Total	76.24	68.57	86.34	89.52	81.87
Total (%)	100.00	100.00	100.00	100.00	100.00
Total (\$)	1,418,347,835	643,671,866	1,729,836,803	1,151,098,221	4,942,954,725
Total Prime Contracts	475	479	1,440	1,540	3,934
Total Subcontracts	4,820	2,693	2,020	0	9,533

Source and Notes: Table 6.1.

Table B2. M/WBE Utilization in Contracting at the City of Austin—All Contracts (Dollars Paid)

M/WBE Type	Procurement Category				
	Construction (%)	Professional Services (%)	Nonprofessional Services (%)	Commodities (%)	Overall (%)
African American	1.49	3.70	1.91	1.19	1.84
Hispanic	15.30	12.63	3.51	5.54	8.61
Asian/Pacific Islander	1.62	5.63	3.04	0.26	2.27
Native American	0.03	0.02	0.13	0.16	0.09
Minority Total	18.44	21.98	8.58	7.15	12.81
Nonminority female	6.52	11.37	5.45	3.10	5.94
M/WBE Total	24.95	33.35	14.03	10.24	18.75
Non-M/WBE Total	75.05	66.65	85.97	89.76	81.25
Total (%)	100.00	100.00	100.00	100.00	100.00
Total (\$)	1,230,402,467	538,903,507	1,412,133,147	1,038,323,711	4,219,762,832
Total Prime Contracts	441	405	1,306	1,381	3,533
Total Subcontracts	4,451	2,306	1,754	0	8,511

Source: Table 6.2.

Table B3. M/WBE Utilization in Contracting at the City of Austin—Contracts with M/WBE Goals (Dollars Awarded)

M/WBE Type	Procurement Category				
	Construction (%)	Professional Services (%)	Nonprofessional Services (%)	Commodities (%)	Overall (%)
African American	1.89	3.75	2.93	0.00	2.19
Hispanic	15.50	12.82	8.89	9.76	14.58
Asian/Pacific Islander	1.69	9.28	4.89	0.00	2.91
Native American	0.03	0.07	0.00	0.00	0.03
Minority Total	19.11	25.92	16.71	9.76	19.72
Nonminority female	7.87	16.26	5.14	0.00	8.68
M/WBE Total	26.99	42.18	21.85	9.76	28.40
Non-M/WBE Total	73.01	57.82	78.15	90.24	71.60
Total (%)	100.00	100.00	100.00	100.00	100.00
Total (\$)	961,240,680	159,962,657	95,180,739	11,918,012	1,228,302,089
Total Contracts	309	151	26	8	494
Total Subcontracts	3,949	896	265	0	5,110

Source: Table 6.3.

Table B4. M/WBE Utilization in Contracting at the City of Austin—Contracts without M/WBE Goals (Dollars Awarded)

M/WBE Type	Procurement Category				
	Construction (%)	Professional Services (%)	Nonprofessional Services (%)	Commodities (%)	Overall (%)
African American	1.21	3.08	1.82	1.12	1.69
Hispanic	10.01	11.20	2.94	6.06	5.84
Asian/Pacific Islander	1.54	4.47	2.80	0.31	2.10
Native American	0.02	0.00	0.11	0.21	0.12
Minority Total	12.78	18.74	7.67	7.70	9.75
Nonminority female	4.18	9.13	5.51	2.79	4.98
M/WBE Total	16.96	27.87	13.18	10.49	14.73
Non-M/WBE Total	83.04	72.13	86.82	89.51	85.27
Total (%)	100.00	100.00	100.00	100.00	100.00
Total (\$)	457,107,154	483,709,209	1,634,656,065	1,139,180,208	3,714,652,636
Total Contracts	166	328	1,414	1,532	3,440
Total Subcontracts	871	1,797	1,755	0	4,423

Source: Table 6.4.

Table B5. M/WBE Utilization in Contracting at the City of Austin—Contracts with M/WBE Goals (Dollars Paid)

M/WBE Type	Procurement Category				
	Construction (%)	Professional Services (%)	Nonprofessional Services (%)	Commodities (%)	Overall (%)
African American	1.66	4.02	2.30	0.00	1.99
Hispanic	16.55	13.87	9.14	9.85	15.55
Asian/Pacific Islander	1.72	9.55	3.90	0.00	2.88
Native American	0.03	0.07	0.00	0.00	0.03
Minority Total	19.97	27.52	15.34	9.85	20.46
Nonminority female	7.58	16.00	5.09	0.00	8.38
M/WBE Total	27.54	43.51	20.43	9.85	28.84
Non-M/WBE Total	72.46	56.49	79.57	90.15	71.16
Total (%)	100.00	100.00	100.00	100.00	100.00
Total (\$)	822,053,563	135,349,268	82,718,827	11,814,459	1,051,936,118
Total Contracts	284	124	23	8	439
Total Subcontracts	3,647	748	237	0	4,632

Source: Table 6.5.

Table B6. M/WBE Utilization in Contracting at the City of Austin—Contracts without M/WBE Goals (Dollars Paid)

M/WBE Type	Procurement Category				
	Construction (%)	Professional Services (%)	Nonprofessional Services (%)	Commodities (%)	Overall (%)
African American	1.15	3.59	1.88	1.20	1.79
Hispanic	12.77	12.21	3.16	5.49	6.30
Asian/Pacific Islander	1.40	4.32	2.98	0.26	2.07
Native American	0.03	0.00	0.13	0.16	0.11
Minority Total	15.35	20.12	8.16	7.11	10.27
Nonminority female	4.38	9.82	5.47	3.13	5.13
M/WBE Total	19.73	29.94	13.63	10.25	15.40
Non-M/WBE Total	80.27	70.06	86.37	89.75	84.60
Total (%)	100.00	100.00	100.00	100.00	100.00
Total (\$)	408,348,903	403,554,238	1,329,414,320	1,026,509,252	3,167,826,713
Total Contracts	157	281	1,283	1,373	3,094
Total Subcontracts	804	1,558	1,517	0	3,879

Source: Table 6.6.

Next, we compared the use of M/WBEs on all City of Austin contracts and subcontracts from the study period to our measure of M/WBE availability in the relevant market area. If M/WBE utilization is lower than measured availability in a given category, we report this result as a disparity.

Table C1, on the following page, provides a top-level summary of our disparity findings for the Study for each major procurement category using dollars awarded. Table C2 provides comparable results using dollars paid.

Tables C3 and C4 show comparable information for those contracts on which M/WBE goals were established, while Tables C5 and C6 show comparable information for those contracts on which no M/WBE goals were established.

Table C1. Utilization, Availability and Disparity Results for the City of Austin Contracting, Overall and by Contracting Category--All Contracts (Dollars Awarded)

Contracting Category & M/WBE Type	Utilization	Availability	Disparity Ratio
OVERALL			
African American	1.82	2.74	66.36 *
Hispanic	8.01	8.87	90.35
Asian/Pacific Islander	2.30	2.33	98.98
Native American	0.09	0.39	24.24 ****
Minority-owned	12.23	14.32	85.36
Nonminority female	5.90	10.87	54.27 ****
M/WBE total	18.13	25.20	71.95 ****
CONSTRUCTION			
African American	1.67	2.27	73.40
Hispanic	13.73	10.94	
Asian/Pacific Islander	1.64	1.14	
Native American	0.03	0.56	4.92 ****
Minority-owned	17.07	14.92	
Nonminority female	6.68	9.61	69.57 ****
M/WBE total	23.76	24.53	96.85
PROFESSIONAL SERVICES			
African American	3.24	1.60	
Hispanic	11.60	7.18	
Asian/Pacific Islander	5.66	2.81	
Native American	0.02	0.38	4.46 ****
Minority-owned	20.53	11.97	
Nonminority female	10.90	6.93	
M/WBE total	31.43	18.90	
NONPROFESSIONAL SERVICES			
African American	1.88	3.91	47.98 ****
Hispanic	3.27	8.95	36.51 ****
Asian/Pacific Islander	2.92	2.40	
Native American	0.10	0.30	34.91
Minority-owned	8.17	15.56	52.49 ****
Nonminority female	5.49	14.39	38.15 ****
M/WBE total	13.66	29.95	45.60 ****
COMMODITIES			
African American	1.11	1.74	63.83
Hispanic	6.09	8.28	73.62 ***
Asian/Pacific Islander	0.31	3.13	9.83 ****
Native American	0.21	0.42	49.39
Minority-owned	7.72	13.57	56.88 ****
Nonminority female	2.76	9.03	30.57 ****
M/WBE total	10.48	22.60	46.37 ****

Source: Table 6.8.

Notes: (1) "*" indicates an adverse disparity that is statistically significant at the 15% level or better (85% confidence). "***" indicates an adverse disparity that is statistically significant at the 10% level or better (90% confidence). "****" indicates the disparity is significant at a 5% level or better (95% confidence). "*****" indicates significance at a 1% level or better (99% confidence). (2) An empty cell in the Disparity Ratio column indicates that no adverse disparity was observed for that category.

Table C2. Utilization, Availability and Disparity Results for the City of Austin Contracting, Overall and by Contracting Category—All Contracts (Dollars Paid)

Contracting Category & M/WBE Type	Utilization	Availability	Disparity Ratio
OVERALL			
African American	1.84	2.91	63.05 **
Hispanic	8.61	9.10	94.63
Asian/Pacific Islander	2.27	2.37	95.72
Native American	0.09	0.39	23.74 ****
Minority-owned	12.81	14.78	86.70
Nonminority female	5.94	11.20	53.01 ****
M/WBE total	18.75	25.98	72.17 ****
CONSTRUCTION			
African American	1.49	2.30	64.74 *
Hispanic	15.30	10.80	
Asian/Pacific Islander	1.62	1.11	
Native American	0.03	0.59	5.25 ****
Minority-owned	18.44	14.80	
Nonminority female	6.52	9.56	68.19 ****
M/WBE total	24.95	24.35	
PROFESSIONAL SERVICES			
African American	3.70	1.64	
Hispanic	12.63	7.54	
Asian/Pacific Islander	5.63	2.90	
Native American	0.02	0.40	4.60 ****
Minority-owned	21.98	12.49	
Nonminority female	11.37	6.74	
M/WBE total	33.35	19.22	
NONPROFESSIONAL SERVICES			
African American	1.91	4.33	44.08 ****
Hispanic	3.51	9.40	37.30 ****
Asian/Pacific Islander	3.04	2.50	
Native American	0.13	0.25	49.74
Minority-owned	8.58	16.49	52.02 ****
Nonminority female	5.45	15.48	35.23 ****
M/WBE total	14.03	31.96	43.89 ****
COMMODITIES			
African American	1.19	1.89	62.74 *
Hispanic	5.54	8.16	67.88 ***
Asian/Pacific Islander	0.26	3.16	8.26 ****
Native American	0.16	0.47	34.18 **
Minority-owned	7.15	13.68	52.24 ****
Nonminority female	3.10	9.20	33.66 ****
M/WBE total	10.24	22.88	44.77 ****

Source: Table 6.9.

Table C3. Utilization, Availability and Disparity Results for the City of Austin Contracting, Overall and by Contracting Category—Contracts with M/WBE Goals (Dollars Awarded)

Contracting Category & M/WBE Type	Utilization	Availability	Disparity Ratio
OVERALL			
African American	2.19	2.74	80.13
Hispanic	14.58	8.87	
Asian/Pacific Islander	2.91	2.33	
Native American	0.03	0.39	8.22 ****
Minority-owned	19.72	14.32	
Nonminority female	8.68	10.87	79.82
M/WBE total	28.40	25.20	
CONSTRUCTION			
African American	1.89	2.27	83.07
Hispanic	15.50	10.94	
Asian/Pacific Islander	1.69	1.14	
Native American	0.03	0.56	5.27 ****
Minority-owned	19.11	14.92	
Nonminority female	7.87	9.61	81.97
M/WBE total	26.99	24.53	
PROFESSIONAL SERVICES			
African American	3.75	1.60	
Hispanic	12.82	7.18	
Asian/Pacific Islander	9.28	2.81	
Native American	0.07	0.38	17.96 ***
Minority-owned	25.92	11.97	
Nonminority female	16.26	6.93	
M/WBE total	42.18	18.90	
NONPROFESSIONAL SERVICES			
African American	2.93	3.91	74.94
Hispanic	8.89	8.95	99.27
Asian/Pacific Islander	4.89	2.40	
Native American	0.00	0.30	0.00 ****
Minority-owned	16.71	15.56	
Nonminority female	5.14	14.39	35.70 ****
M/WBE total	21.85	29.95	72.96 ****
COMMODITIES			
African American	0.00	1.74	0.00 ****
Hispanic	9.76	8.28	
Asian/Pacific Islander	0.00	3.13	0.00 ****
Native American	0.00	0.42	0.00 ****
Minority-owned	9.76	13.57	71.94 **
Nonminority female	0.00	9.03	0.00 ****
M/WBE total	9.76	22.60	43.19 ****

Source: Table 6.10.

Table C4. Utilization, Availability and Disparity Results for the City of Austin Contracting, Overall and by Contracting Category—Contracts with M/WBE Goals (Dollars Paid)

Contracting Category & M/WBE Type	Utilization	Availability	Disparity Ratio
OVERALL			
African American	1.99	2.91	68.43
Hispanic	15.55	9.10	
Asian/Pacific Islander	2.88	2.37	
Native American	0.03	0.39	8.82 ****
Minority-owned	20.46	14.78	
Nonminority female	8.38	11.20	74.79
M/WBE total	28.84	25.98	
CONSTRUCTION			
African American	1.66	2.30	72.03
Hispanic	16.55	10.80	
Asian/Pacific Islander	1.72	1.11	
Native American	0.03	0.59	5.47 ****
Minority-owned	19.97	14.80	
Nonminority female	7.58	9.56	79.29
M/WBE total	27.54	24.35	
PROFESSIONAL SERVICES			
African American	4.02	1.64	
Hispanic	13.87	7.54	
Asian/Pacific Islander	9.55	2.90	
Native American	0.07	0.40	18.30 **
Minority-owned	27.52	12.49	
Nonminority female	16.00	6.74	
M/WBE total	43.51	19.22	
NONPROFESSIONAL SERVICES			
African American	2.30	4.33	53.06 ***
Hispanic	9.14	9.40	97.23
Asian/Pacific Islander	3.90	2.50	
Native American	0.00	0.25	0.00 ****
Minority-owned	15.34	16.49	93.02
Nonminority female	5.09	15.48	32.88 ****
M/WBE total	20.43	31.96	63.90 ****
COMMODITIES			
African American	0.00	1.89	0.00 ****
Hispanic	9.85	8.16	
Asian/Pacific Islander	0.00	3.16	0.00 ****
Native American	0.00	0.47	0.00 ****
Minority-owned	9.85	13.68	71.97 **
Nonminority female	0.00	9.20	0.00 ****
M/WBE total	9.85	22.88	43.03 ****

Source: Table 6.11.

Table C5. Utilization, Availability and Disparity Results for the City of Austin Contracting, Overall and by Contracting Category—Contracts without M/WBE Goals (Dollars Awarded)

Contracting Category & M/WBE Type	Utilization	Availability	Disparity Ratio
OVERALL			
African American	1.69	2.74	61.81 *
Hispanic	5.84	8.87	65.86 ***
Asian/Pacific Islander	2.10	2.33	90.29
Native American	0.12	0.39	29.53 **
Minority-owned	9.75	14.32	68.06 ****
Nonminority female	4.98	10.87	45.83 ****
M/WBE total	14.73	25.20	58.47 ****
CONSTRUCTION			
African American	1.21	2.27	53.08 **
Hispanic	10.01	10.94	91.48
Asian/Pacific Islander	1.54	1.14	
Native American	0.02	0.56	4.19 ****
Minority-owned	12.78	14.92	85.66
Nonminority female	4.18	9.61	43.51 ****
M/WBE total	16.96	24.53	69.15 ****
PROFESSIONAL SERVICES			
African American	3.08	1.60	
Hispanic	11.20	7.18	
Asian/Pacific Islander	4.47	2.81	
Native American	0.00	0.38	0.00 ****
Minority-owned	18.74	11.97	
Nonminority female	9.13	6.93	
M/WBE total	27.87	18.90	
NONPROFESSIONAL SERVICES			
African American	1.82	3.91	46.42 ****
Hispanic	2.94	8.95	32.86 ****
Asian/Pacific Islander	2.80	2.40	
Native American	0.11	0.30	36.94
Minority-owned	7.67	15.56	49.29 ****
Nonminority female	5.51	14.39	38.29 ****
M/WBE total	13.18	29.95	44.00 ****
COMMODITIES			
African American	1.12	1.74	64.49
Hispanic	6.06	8.28	73.15 *
Asian/Pacific Islander	0.31	3.13	9.93 ****
Native American	0.21	0.42	49.91
Minority-owned	7.70	13.57	56.72 ****
Nonminority female	2.79	9.03	30.89 ****
M/WBE total	10.49	22.60	46.40 ****

Source: Table 6.12.

Table C6. Utilization, Availability and Disparity Results for the City of Austin Contracting, Overall and by Contracting Category—Contracts without M/WBE Goals (Dollars Paid)

Contracting Category & M/WBE Type	Utilization	Availability	Disparity Ratio
OVERALL			
African American	1.79	2.91	61.26 *
Hispanic	6.30	9.10	69.29 ***
Asian/Pacific Islander	2.07	2.37	87.18
Native American	0.11	0.39	28.69 **
Minority-owned	10.27	14.78	69.51 ****
Nonminority female	5.13	11.20	45.78 ****
M/WBE total	15.40	25.98	59.27 ****
CONSTRUCTION			
African American	1.15	2.30	50.06 ***
Hispanic	12.77	10.80	
Asian/Pacific Islander	1.40	1.11	
Native American	0.03	0.59	4.81 ****
Minority-owned	15.35	14.80	
Nonminority female	4.38	9.56	45.84 ****
M/WBE total	19.73	24.35	81.02 ***
PROFESSIONAL SERVICES			
African American	3.59	1.64	
Hispanic	12.21	7.54	
Asian/Pacific Islander	4.32	2.90	
Native American	0.00	0.40	0.00 ****
Minority-owned	20.12	12.49	
Nonminority female	9.82	6.74	
M/WBE total	29.94	19.22	
NONPROFESSIONAL SERVICES			
African American	1.88	4.33	43.52 ****
Hispanic	3.16	9.40	33.58 ****
Asian/Pacific Islander	2.98	2.50	
Native American	0.13	0.25	52.84
Minority-owned	8.16	16.49	49.47 ****
Nonminority female	5.47	15.48	35.37 ****
M/WBE total	13.63	31.96	42.65 ****
COMMODITIES			
African American	1.20	1.89	63.46
Hispanic	5.49	8.16	67.27 ***
Asian/Pacific Islander	0.26	3.16	8.35 ****
Native American	0.16	0.47	34.57 *
Minority-owned	7.11	13.68	52.01 ****
Nonminority female	3.13	9.20	34.05 ****
M/WBE total	10.25	22.88	44.79 ****

Source: Table 6.13.

Tables D1 and D2 provide an executive summary of the utilization findings for the Study by industry category and M/WBE type restricted to prime contracts. Table D1 shows M/WBE and non-M/WBE utilization measured by dollars awarded for all prime contracts examined during the study period. Table D2 shows comparable M/WBE and non-M/WBE utilization for prime contracts measured by dollars paid.

Table D1. M/WBE Utilization at the City of Austin—Prime Contracts (Dollars Awarded)

M/WBE Type	Procurement Category				
	Construction (%)	Professional Services (%)	Nonprofessional Services (%)	Commodities (%)	Overall (%)
African American	0.12	0.74	0.94	1.11	0.72
Hispanic	9.74	4.80	2.29	6.09	5.64
Asian/Pacific Islander	1.07	3.15	2.66	0.31	1.72
Native American	0.00	0.02	0.11	0.21	0.09
Minority Total	10.93	8.71	6.00	7.72	8.17
Nonminority female	3.79	5.55	4.63	2.76	4.08
M/WBE Total	14.72	14.26	10.64	10.48	12.25
Non-M/WBE Total	85.28	85.74	89.36	89.52	87.75
Total (%)	100.00	100.00	100.00	100.00	100.00
Total (\$)	1,418,347,835	643,671,866	1,729,836,803	1,151,098,221	4,942,954,725
Total Prime Contracts	475	479	1,440	1,540	3,934

Source: Table 6.14.

Table D2. M/WBE Utilization at the City of Austin—Prime Contracts (Dollars Paid)

M/WBE Type	Procurement Category				
	Construction (%)	Professional Services (%)	Nonprofessional Services (%)	Commodities (%)	Overall (%)
African American	0.11	0.78	0.91	1.19	0.73
Hispanic	9.42	5.48	2.54	5.54	5.66
Asian/Pacific Islander	0.89	3.03	2.81	0.26	1.65
Native American	0.00	0.02	0.13	0.16	0.08
Minority Total	10.43	9.31	6.39	7.15	8.13
Nonminority female	3.37	5.53	4.83	3.10	4.07
M/WBE Total	13.79	14.84	11.23	10.24	12.20
Non-M/WBE Total	86.21	85.16	88.77	89.76	87.80
Total (%)	100.00	100.00	100.00	100.00	100.00
Total (\$)	1,230,402,467	538,903,507	1,412,133,147	1,038,323,711	4,219,762,832
Total Prime Contracts	441	405	1,306	1,381	3,533

Source: Table 6.15.

Next, we compared the use of M/WBEs on City of Austin prime contracts from the study period to our measure of M/WBE availability in the relevant market area. If M/WBE utilization is lower than measured availability in a given category, we report this result as a disparity.

On the following page, Table E1 provides a top-level summary of our disparity findings for the Study for prime contracts in each major procurement category using dollars awarded. Table E2 provides comparable results using dollars paid.

Table E1. Utilization, Availability, and Disparity Results for City of Austin Contracting, Overall and by Contracting Category—Prime Contracts (Dollars Awarded)

Contracting Category & M/WBE Type	Utilization	Availability	Disparity Ratio
OVERALL			
African American	0.72	2.74	26.20 ****
Hispanic	5.64	8.87	63.59 ****
Asian/Pacific Islander	1.72	2.33	74.03
Native American	0.09	0.39	22.92 ***
Minority-owned	8.17	14.32	57.03 ****
Nonminority female	4.08	10.87	37.49 ****
M/WBE total	12.25	25.20	48.60 ****
CONSTRUCTION			
African American	0.12	2.27	5.42 ****
Hispanic	9.74	10.94	88.96
Asian/Pacific Islander	1.07	1.14	93.62
Native American	0.00	0.56	0.00 ****
Minority-owned	10.93	14.92	73.25 ***
Nonminority female	3.79	9.61	39.49 ****
M/WBE total	14.72	24.53	60.03 ****
PROFESSIONAL SERVICES			
African American	0.74	1.60	46.13 ***
Hispanic	4.80	7.18	66.89 ***
Asian/Pacific Islander	3.15	2.81	
Native American	0.02	0.38	4.45 ****
Minority-owned	8.71	11.97	72.73 ***
Nonminority female	5.55	6.93	80.17
M/WBE total	14.26	18.90	75.46 ***
NONPROFESSIONAL SERVICES			
African American	0.94	3.91	23.93 ****
Hispanic	2.29	8.95	25.61 ****
Asian/Pacific Islander	2.66	2.40	
Native American	0.11	0.30	37.57
Minority-owned	6.00	15.56	38.60 ****
Nonminority female	4.63	14.39	32.20 ****
M/WBE total	10.64	29.95	35.52 ****
COMMODITIES			
African American	1.11	1.74	63.83
Hispanic	6.09	8.28	73.62 *
Asian/Pacific Islander	0.31	3.13	9.83 ****
Native American	0.21	0.42	49.39
Minority-owned	7.72	13.57	56.88 ****
Nonminority female	2.76	9.03	30.57 ****
M/WBE total	10.48	22.60	46.37 ****

Source: Table 6.16.

Table E2. Utilization, Availability, and Disparity Results for City of Austin Contracting, Overall and by Contracting Category—Prime Contracts (Dollars Paid)

Contracting Category & M/WBE Type	Utilization	Availability	Disparity Ratio
OVERALL			
African American	0.73	2.91	25.10 ****
Hispanic	5.66	9.10	62.22 ****
Asian/Pacific Islander	1.65	2.37	69.61
Native American	0.08	0.39	21.46 ***
Minority-owned	8.13	14.78	55.01 ****
Nonminority female	4.07	11.20	36.31 ****
M/WBE total	12.20	25.98	46.95 ****
CONSTRUCTION			
African American	0.11	2.30	4.91 ****
Hispanic	9.42	10.80	87.26
Asian/Pacific Islander	0.89	1.11	80.24
Native American	0.00	0.59	0.00 ****
Minority-owned	10.43	14.80	70.47 ****
Nonminority female	3.37	9.56	35.23 ****
M/WBE total	13.79	24.35	56.64 ****
PROFESSIONAL SERVICES			
African American	0.78	1.64	47.69 **
Hispanic	5.48	7.54	72.73 **
Asian/Pacific Islander	3.03	2.90	
Native American	0.02	0.40	5.08 ****
Minority-owned	9.31	12.49	74.58 ***
Nonminority female	5.53	6.74	82.07
M/WBE total	14.84	19.22	77.20 ***
NONPROFESSIONAL SERVICES			
African American	0.91	4.33	21.15 ****
Hispanic	2.54	9.40	27.02 ****
Asian/Pacific Islander	2.81	2.50	
Native American	0.13	0.25	49.51
Minority-owned	6.39	16.49	38.79 ****
Nonminority female	4.83	15.48	31.24 ****
M/WBE total	11.23	31.96	35.13 ****
COMMODITIES			
African American	1.19	1.89	62.74
Hispanic	5.54	8.16	67.88 ***
Asian/Pacific Islander	0.26	3.16	8.26 ****
Native American	0.16	0.47	34.18
Minority-owned	7.15	13.68	52.24 ****
Nonminority female	3.10	9.20	33.66 ****
M/WBE total	10.24	22.88	44.77 ****

Source: Table 6.17.

Next, Chapter VI analyzes the extent to which VOBs and SDVOBs were utilized on contracts active at the City of Austin during 2008-2013, and compares this utilization rate to the availability of VOBs and SDVOBs in the relevant market area.

Tables F1 and F2 summarize these utilization findings by industry category. Table F1 shows VOB and SDVOB utilization measured by dollars awarded. Table F2 shows comparable M/WBE and VOB and SDVOB utilization measured by dollars paid.²⁶

Table F1. VOB and SDVOB Utilization at the City of Austin—All Contracts (Dollars Awarded)

Veteran Type	Procurement Category				
	Construction (%)	Professional Services (%)	Nonprofessional Services (%)	Commodities (%)	Overall (%)
VOB	0.94	0.32	1.24	2.18	1.30
SDVOB	0.03	0.00	0.22	0.31	0.17
Total (%)	100.00	100.00	100.00	100.00	100.00
Total (\$)	523,285,190	292,819,270	656,319,346	579,340,061	2,051,763,867
Total Prime Contracts	214	269	719	691	1,893
Total Subcontracts	2,950	1,777	996	0	5,723

Source: Table 6.18.

Table F2. VOB and SDVOB Utilization at the City of Austin—All Contracts (Dollars Paid)

Veteran Type	Procurement Category				
	Construction (%)	Professional Services (%)	Nonprofessional Services (%)	Commodities (%)	Overall (%)
VOB	0.65	0.32	1.35	2.31	1.30
SDVOB	0.01	0.00	0.31	0.35	0.20
Total (%)	100.00	100.00	100.00	100.00	100.00
Total (\$)	455,450,962	255,684,205	464,921,518	508,602,199	1,684,658,885
Total Prime Contracts	199	231	639	615	1,684
Total Subcontracts	2,736	1,518	854	0	5,108

Source: Table 6.19.

²⁶ VOB and SDVOB utilization was measured using a subset of the full master prime and subcontract database for the Study. See fn. 158.

We also compared the use of VOBs and SDVOBs on City of Austin contracts and subcontracts from the study period to our measures of VOB and SDVOB availability in the relevant market area. If VOB or SDVOB utilization is lower than measured availability in a given category, we report this result as a disparity. Table G1 provides a top-level summary of our VOB and SDVOB disparity findings for the Study for each major procurement category using dollars awarded. Table G2 provides comparable results using dollars paid.

Table G.1. Utilization, Availability, and Disparity Results for City of Austin Contracting, Overall and by Contracting Category—All Contracts (Dollars Awarded)

Contracting Category & Veteran Type	Utilization	Availability	Disparity Ratio
OVERALL			
Veteran	1.30	7.36	17.7 ****
Service-Disabled Veteran	0.17	1.77	9.4 ****
CONSTRUCTION			
Veteran	0.94	5.80	16.2 ****
Service-Disabled Veteran	0.03	1.10	3.1 ****
PROFESSIONAL SERVICES			
Veteran	0.32	9.46	3.4 ****
Service-Disabled Veteran	0.00	1.85	0.0 ****
NONPROFESSIONAL SERVICES			
Veteran	1.24	7.23	17.2 ****
Service-Disabled Veteran	0.22	1.83	12.2 ****
COMMODITIES			
Veteran	2.18	6.29	34.7 ****
Service-Disabled Veteran	0.31	2.30	13.6 ****

Source: Table 6.20.

Table G.2. Utilization, Availability, and Disparity Results for City of Austin Contracting, Overall and by Contracting Category—All Contracts (Dollars Paid)

Contracting Category & Veteran Type	Utilization	Availability	Disparity Ratio
OVERALL			
Veteran	1.30	6.96	18.6 ****
Service-Disabled Veteran	0.20	1.53	12.8 ****
CONSTRUCTION			
Veteran	0.65	5.74	11.3 ****
Service-Disabled Veteran	0.01	1.07	0.9 ****
PROFESSIONAL SERVICES			
Veteran	0.32	9.35	3.5 ****
Service-Disabled Veteran	0.00	1.74	0.0 ****
NONPROFESSIONAL SERVICES			
Veteran	1.35	6.39	21.1 ****
Service-Disabled Veteran	0.31	1.24	25.2 ****
COMMODITIES			
Veteran	2.31	6.45	35.8 ****
Service-Disabled Veteran	0.35	2.46	14.4 ****

Source: Table 6.21.

Finally, Chapter VI compares current levels of M/WBE availability in the City of Austin's market area with what we would expect to observe in a race- and gender-neutral market area. If there is full parity in the relevant market area, then the expected M/WBE availability rate (that is, the M/WBE availability level that would be observed in a non-discriminatory market area) will be equal to the actual current M/WBE availability rate. If there are adverse disparities facing M/WBEs in the market area, however, as documented in Chapters IV, V, VI and VII of this Study, then expected availability will *exceed* current availability. Expected availability percentages for the City's overall contracting and by major contracting category are presented below in Table H. Expected availability exceeds actual current availability in 66 of the 70 cases observed.

Table H. Current Availability and Expected Availability for City of Austin Contracting

Contracting Category & M/WBE Type	Award Dollar Weights		Paid Dollar Weights	
	Current Availability (%)	Expected Availability (%)	Current Availability (%)	Expected Availability (%)
OVERALL				
African American	2.74	4.40	2.91	4.67
Hispanic	8.87	12.41	9.10	12.73
Asian/Pacific Islander	2.33	2.59	2.37	2.64
Native American	0.39	0.40	0.39	0.40
Minority	14.32	19.36	14.78	19.98
Nonminority female	10.87	12.84	11.20	13.23
M/WBE total	25.20	33.87	25.98	34.91
CONSTRUCTION				
African American	2.27	3.25	2.30	3.29
Hispanic	10.94	18.26	10.80	18.02
Asian/Pacific Islander	1.14	1.37	1.11	1.34
Native American	0.56	0.48	0.59	0.50
Minority	14.92	24.43	14.80	24.24
Nonminority female	9.61	14.91	9.56	14.84
M/WBE total	24.53	41.22	24.35	40.92
PROFESSIONAL SERVICES				
African American	1.60	2.29	1.64	2.35
Hispanic	7.18	11.98	7.54	12.58
Asian/Pacific Islander	2.81	3.38	2.90	3.49
Native American	0.38	0.32	0.40	0.34
Minority	11.97	19.60	12.49	20.46
Nonminority female	6.93	10.75	6.74	10.46
M/WBE total	18.90	31.76	19.22	32.30
NONPROFESSIONAL SERVICES				
African American	3.91	7.42	4.33	8.22
Hispanic	8.95	13.58	9.40	14.26
Asian/Pacific Islander	2.40	2.85	2.50	2.97
Native American	0.30	0.42	0.25	0.35
Minority	15.56	21.18	16.49	22.45
Nonminority female	14.39	16.65	15.48	17.91
M/WBE total	29.95	40.06	31.96	42.74
COMMODITIES				
African American	1.74	3.30	1.89	3.59
Hispanic	8.28	12.56	8.16	12.38
Asian/Pacific Islander	3.13	3.72	3.16	3.76
Native American	0.42	0.59	0.47	0.66
Minority	13.57	18.47	13.68	18.62
Nonminority female	9.03	10.45	9.20	10.65
M/WBE total	22.60	30.23	22.88	30.60

Source: Table 6.22.

I. Anecdotal Evidence

Chapter VII presents the results of a large scale mail survey we conducted of M/WBEs and non-M/WBEs about their experiences and difficulties in obtaining contracts. The survey quantified and compared anecdotal evidence on the experiences of M/WBEs and non-M/WBEs as a method to examine whether any differences might be due to discrimination.²⁷

We found that M/WBEs that have been hired in the past by non-M/WBE prime contractors to work on public sector contracts with M/WBE goals are rarely hired—or even solicited—by these prime contractors to work on projects without M/WBE goals. The relative lack of M/WBE hiring and, moreover, the relative lack of solicitation of M/WBEs in the absence of affirmative efforts by the City of Austin and other public entities in the market area shows that business discrimination continues to fetter M/WBE business opportunities in the relevant markets.

We found that M/WBEs in the relevant market area report suffering business-related discrimination in large numbers and with statistically significantly greater frequency than non-M/WBEs. These differences remain statistically significant even when firm size and other “capacity”-related owner characteristics are held constant. Some of the largest disparities were observed in applying for commercial loans, working or attempting to work on private sector prime contracts and subcontracts, receiving timely payment for work performed, and functioning without hindrance or harassment on the work site.

We also found that M/WBEs in these markets are more likely than similarly situated non-M/WBEs to report that specific aspects of the regular business environment make it harder for them to conduct their businesses, and less likely than similarly situated non-M/WBEs to report that specific aspects of the regular business environment make it easier for them to conduct their businesses. In particular, large project sizes, late notice of bid/proposal deadlines, and the cost of bidding or proposing were statistically significantly more difficult for M/WBEs than non-M/WBEs, even when holding firm size and other “capacity”-related owner characteristics constant. Other factors where M/WBEs reported more difficulty than similarly-situated non-M/WBEs included bonding requirements, insurance requirements, previous experience requirements, obtaining working capital, prior dealings with project owners, and the price of supplies or materials.

Chapter VII also presents the results from a series of in-depth personal interviews conducted with almost 200 M/WBE and non-M/WBE business owners and representatives from the City of Austin’s market area. Similar to the survey responses, the interviews strongly suggest that minorities and women continue to suffer discriminatory barriers to full and fair access to City of Austin, other public sector and private sector contracts. Participants reported discriminatory attitudes and negative perceptions and expectations of minorities’ and women’s competence; workplace harassment; not being paid on equal terms; exclusion from industry and information networks; discrimination in access to commercial loans, surety bonds, and insurance; barriers to obtaining public sector contracts; and barriers to obtaining work on private sector contracts and public sector contracts without goals.

²⁷ The survey also examined differences according to VOB and SDVOB status.

We conclude that the statistical evidence presented in this report is consistent with these anecdotal accounts of contemporary business discrimination. The results of the surveys and the personal interviews are the types of anecdotal evidence that, especially in conjunction with the Study's extensive statistical evidence, the courts have found to be highly probative of whether, without affirmative interventions, the City of Austin would be a passive participant in a discriminatory local market area. It is also highly relevant for narrowly tailoring any M/WBE goals that are established.

J. The City of Austin's M/WBE Program: Overview and Feedback Interviews

Austin's Minority-Owned and Women-Owned Business Enterprise Procurement Program adopts race- and gender-conscious goals to provide equal opportunity to all contractors, redress discrimination in the City's marketplace and public contracting and to encourage the participation of M/WBEs in all phases of the City's procurement activities. Austin's policies under this Program are governed by Chapter 2-9A-D of the Austin City Code, Minority and Women's Business Enterprises Procurement Program.

Chapter VIII provides a review of the City of Austin's M/WBE Program and Administrative Regulations, followed by a summary of business owner experiences with these policies and procedures obtained from our interviews. We interviewed almost 200 business owners and representatives, as well as City staff from SMBR, the Contract Management Department, and Austin Energy, to solicit their feedback regarding the Program. Our interviews covered the following subjects:

- Overview of the City's M/WBE Program;
- Annual M/WBE Participation Goals;
- Outreach to M/WBEs and Other Small Businesses;
- Certification Standards and Processes;
- Program Review Procedures;
- Goal-Setting Processes;
- Contract Award Policies and Procedures;
- Contract Performance Policies and Procedures;
- Third-Party Contracts; and
- The Airport Concessions and Disadvantaged Business Enterprise Programs

- Consider reciprocal certification opportunities
- Contract Award Policies and Procedures
 - Standardize Good Faith Efforts waiver requirements and related policies
 - Standardize M/WBE Program implementation across City departments
 - Scrutinize Commercially Useful Function and increase contract monitoring
- M/WBE Goal-Setting
 - Adopt annual aspirational M/WBE goals
 - Revise the method for counting M/WBE prime participation towards meeting M/WBE goals
 - Count lower tier M/WBE participation towards meeting M/WBE goals
 - Continue to set contract-specific goals
 - Consider the effects of discrimination on current levels of availability when setting M/WBE goals
- Clarify SMBR Authority
- Review Sanctions Policy
- Continue the M/WBE Program Sunset Review Process