

I. INTRODUCTION

Mecklenburg County, North Carolina (“County”) contracted with Griffin & Strong, P.C. (“GSPC”) to conduct a disparity study. The purpose of this disparity study (“Study”) was to determine if minority and Female owned firms (“MWBE”) were participating in County contracting to the extent that should be expected relative to the availability of such firms to compete for County business on Construction, Architecture and Engineering (“A&E”), Professional Services, Other Services, and Goods contracts. Governmental entities, such as the County have authorized disparity studies in response to City of Richmond v. J.A. Croson Co.¹ and the cases which followed, to determine whether there has been a compelling interest for remedial procurement programs, based upon ethnicity, race, and gender.

The Study collected and analyzed relevant data on businesses in the industries of:

1. Construction
2. Architecture and Engineering (“A&E”)
3. Professional Services
4. Other Services
5. Goods

The Study Period for this was a four (4) year period from FY2016 through FY2019.

A. Study Objectives

The principal objectives of this study are:

1. Is there a statistically significant disparity in the relevant geographic and product markets between the percentage of qualified minority and women owned firms (“MWBE”) willing and able to provide goods or services to the County in each category of contracts and the percentage of such firms actually utilized by the County (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-neutral 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 Study?

¹ City of Richmond v. J.A. Croson Co., 488 U.S. 469 (1989).

B. Technical Approach

In conducting this Study and preparing its recommendations, GSPC followed a carefully designed work plan that allowed Study team members to fully analyze availability, utilization, and disparity with regard to MWBE participation. The final work plan consisted of, but was not limited to, the following major tasks:

- establishing data parameters and finalizing a work plan;
- legal analysis;
- policy and procurement process review and remedial program analysis;
- collecting, organizing, and cleaning data;
- conducting market area analyses;
- conducting product market analysis;
- conducting utilization analyses;
- estimating the availability of qualified firms;
- analyzing the utilization and availability data for disparity and significance;
- conducting private sector analysis including credit and self-employment analysis;
- collecting and analyzing anecdotal information; and
- preparing a final report that presents race- and gender-neutral and narrowly tailored race- and gender-based remedies.

C. Report Organization

This report is organized into the following sections, which provide the results of GSPC's quantitative and qualitative analysis. In addition to this introductory chapter, this report includes:

- Chapter II, the Executive Summary including a summary of the findings and recommendations based on the analysis;
- Chapter III, which presents a legal overview of disparity studies and the requirements for race- and gender-conscious programs;
- Chapter IV, review of the County's purchasing policies and practices, particularly as they relate to minority and women owned firms;
- Chapter V, which presents the methodology used in the collection of statistical data from the County and the analyses of those data as they relate to relative MWBE utilization and availability for prime contractors and subcontractors;
- Chapter V, which presents an analysis of disparities, if any, in the private sector and other public entities;
- Chapter VI, which provides the analysis of anecdotal data collected from the survey of business owners, personal interviews, focus groups, public hearings, organizational meetings, and emailed comments and;

Note: Study Definitions are contained in Appendix C.

II. EXECUTIVE SUMMARY OF FINDINGS AND RECOMMENDATIONS

This chapter presents the findings and recommendations resulting from the Study for Mecklenburg County related to Construction, Architecture & Engineering, Professional Services, Other Services, and Goods for the four (4) year period of FY2015-FY2018.

As outlined in the Legal Analysis in Chapter III, the courts have indicated that for race-based or gender-based preference programs to be maintained there must be a strong basis in the evidence for the establishment of such programs or the continuation of existing programs. As the detailed findings below will demonstrate, GSPC found statistically significant underutilization of MWBEs in all five (5) work categories that GSPC analyzed. A regression analysis was performed and found that there was evidence to indicate that the disparities by race, ethnicity, or gender status of the firm owners remained after controlling for capacity and other race and gender-neutral factors. This statistical evidence found support in the anecdotal evidence of the experiences of firms in Mecklenburg County's marketplace.

A. Legal Findings

Consistent with the "narrow tailoring" aspect of the strict scrutiny analysis, Mecklenburg County (the "County") implemented race- and gender-neutral measures to try to increase utilization of MWBE firms (and SBE firms), but the present Study shows that those measures have not been effective in ameliorating the identified disparities for MWBEs.² Accordingly, the County has a basis to introduce race- and gender-conscious remedies or policies toward that goal.³

Moreover, the use of a regression analysis and consideration of the contracting environment in the private sector as part of this Study allow the County to demonstrate that factors other than MWBE status cannot fully account for the statistical disparities found. Stated otherwise, it can show that MWBE status continues to have an adverse impact on a firm's ability to secure contracting opportunities with the County, further supporting more aggressive remedial efforts.

Lastly, having obtained statistical and anecdotal evidence of disparities that are race-, ethnicity-, and gender-specific, Mecklenburg County can ensure that the more robust remedies considered as a result of this Study can be limited to minority groups for which underutilization and an inference of discrimination has been identified.⁴

² See *City of Richmond v. J. A. Croson Company*, 488 U.S. 469, 507-508; 109 S. Ct. 706; 102 L. Ed. 2d 854 (1989).

³ *Id.*

⁴ *Id.*; see also *H.B. Rowe Company, Inc. v. W. Lindo Tippet*, 615 F.3d 233, 256-58 (4th Cir. 2010) (finding strong basis in evidence for remedial action for Black American and American Indian firms, but no similar basis for inclusion of other minority groups (including Female-owned businesses) in the remedial policy).

B. Statistical Findings

FINDING 1: GEOGRAPHICAL RELEVANT MARKET

The figure below summarizes the geographical area where at least 75 % of prime payees were located in each industry. In analyzing the Relevant Market data, GSPC tabulated the percentage of dollars spent, beginning with Mecklenburg County (by zip codes). GSPC continued counting in radius surrounding Mecklenburg County until the cumulative percentage was equal to or greater than 75 percent. The Availability and utilization analyses were conducted only on firms with offices within the geographical markets. The results were as follows:

Figure 1: Summary of Relevant Geographic Market (using Payments)



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FINDING 2: AVAILABILITY

The measures of Availability in this disparity study incorporate all of the criteria of Availability required by Croson:

- The firm does business within an industry group from which Mecklenburg County makes certain purchases.
- The firm's owner has taken steps to demonstrate interest in doing business with government.
- The firm is located within a relevant geographical area such that it can do business with Mecklenburg County.

The firms used to calculate Availability came from the Master Vendor File¹. GSPC found that firms were available to provide goods and services to the County as reflected in the following percentages by each race, ethnicity, and gender group.

Table 1: Summary of Availability Estimates by Work Category

In the respective Relevant Markets
(Based upon the Master Vendor File)
Mecklenburg County Disparity Study

Race/Ethnicity	Construction	Architecture & Engineering	Professional Services	Other Services	Goods & Supplies
American Indian	0.75%	0.54%	0.59%	0.65%	0.29%
Asian American	0.95%	2.18%	1.66%	1.30%	1.05%
Black	9.64%	9.58%	14.82%	13.85%	6.41%
Hispanic American	3.56%	2.61%	1.24%	1.92%	1.08%
Total MBE	14.91%	14.91%	18.30%	17.72%	8.83%
Female	7.43%	6.86%	7.16%	6.69%	6.15%
Unidentified MWBE	0.00%	0.00%	0.06%	0.17%	0.02%
Total MWBE	22.34%	21.76%	25.52%	24.58%	15.00%
Non-Minority	77.66%	78.24%	74.48%	75.42%	85.00%
Total	100.00%	100.00%	100.00%	100.00%	100.00%

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FINDING 3: OVERALL MWBE UTILIZATION

As the table below shows, Mecklenburg County spent a total of \$1,069,359,644 in prime spending in the Relevant Market during the study period and \$120,376,934 of this amount, or 11.26% of this amount was spent with MWBE firms as prime contractors. Non-Minority Female owned firms accounted for 9.62% of the total MWBE awards while MBEs were 1.64% of the payments.

Table 2: Summary of Prime Utilization for FY2016-FY2019

By Dollars in the Relevant Markets
(Based upon the Master Payment File)
Mecklenburg County Disparity Study

Race/Ethnicity	Construction		Architecture & Engineering		Professional Services		Other Services		Goods & Supplies	
	\$	%	\$	%	\$	%	\$	%	\$	%
Black	\$1,666,536	0.28%	\$3,706,676	10.27%	\$691,087	0.57%	\$3,864,780	1.91%	\$94,869	0.08%
Asian American	\$333,213	0.06%	\$93,000	0.26%	\$34,275	0.03%	\$734,965	0.36%	\$81,163	0.07%
Hispanic American	\$1,339,589	0.22%	\$938,299	2.60%	\$33,306	0.03%	\$172,700	0.09%	\$6,930	0.01%
American Indian	\$1,632,170	0.27%	\$78,070	0.22%	\$108,963	0.09%	\$1,782,241	0.88%	\$57,906	0.05%
Total MBE	\$4,971,508	0.83%	\$4,816,045	13.35%	\$867,631	0.71%	\$6,554,686	3.25%	\$240,868	0.21%
Female	\$97,570,292	16.37%	\$317,825	0.88%	\$241,672	0.20%	\$3,593,693	1.78%	\$1,202,715	1.06%
Total MWBE	\$102,541,800	17.20%	\$5,133,870	14.23%	\$1,109,303	0.91%	\$10,148,379	5.03%	\$1,443,582	1.27%
Non-Minority	\$493,498,410	82.80%	\$30,946,853	85.77%	\$120,369,660	99.09%	\$191,794,669	94.97%	\$112,373,117	98.73%
Total	\$596,040,210	100.00%	\$36,080,723	100.00%	\$121,478,963	100.00%	\$201,943,048	100.00%	\$113,816,700	100.00%

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The table below depicts all prime and subcontractor payments combined in total. GSPC found no prime Goods & Supplies awards with subcontractors. In all categories but Construction, the utilization percentages are identical at the prime and sub level. In the Construction category when prime and subcontractors are considered, Total MBE increased by 0.35% and Female increased by 0.28%.

Table 3: Summary of Prime and Subcontractor Utilization for FY2016-FY2019

By Dollars in the Relevant Markets
(Based upon the Master Payment File)
Mecklenburg County Disparity Study

Race/Ethnicity	Construction		Architecture & Engineering		Professional Services		Other Services	
	\$	%	\$	%	\$	%	\$	%
Black	\$2,581,117	0.43%	\$3,706,676	10.27%	\$691,087	0.57%	\$3,864,780	1.91%
Asian American	\$944,517	0.16%	\$93,000	0.26%	\$34,275	0.03%	\$734,965	0.36%
Hispanic American	\$1,888,101	0.32%	\$938,299	2.60%	\$33,306	0.03%	\$172,700	0.09%
American Indian	\$1,632,170	0.27%	\$78,070	0.22%	\$108,963	0.09%	\$1,782,241	0.88%
Total MBE	\$7,045,906	1.18%	\$4,816,045	13.35%	\$867,631	0.71%	\$6,554,686	3.25%
Female	\$99,227,097	16.65%	\$317,825	0.88%	\$241,672	0.20%	\$3,593,693	1.78%
Total MWBE	\$106,273,003	17.83%	\$5,133,870	14.23%	\$1,109,303	0.91%	\$10,148,379	5.03%
Non-Minority	\$489,767,208	82.17%	\$30,946,853	85.77%	\$120,369,660	99.09%	\$191,794,669	94.97%
Total	\$596,040,210	100.00%	\$36,080,723	100.00%	\$121,478,963	100.00%	\$201,943,048	100.00%

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FINDING 4: SUMMARY OF DISPARITY ANALYSIS FOR FY2016-FY2019

The tables below indicate those MWBE groups (with a check mark) where a statistically significant underutilization was found.

Table 4: Summary of Disparity Analysis of MWBE Underutilization in Prime Contracting

Mecklenburg County Disparity Study

	Construction	A&E	Professional Services	Other Services	Goods & Supplies
American Indian	✓	✓	✓		✓
Asian American	✓	✓	✓	✓	✓
Black	✓		✓	✓	✓
Hispanic American	✓	parity	✓	✓	✓
Female		✓	✓	✓	✓

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*Occurrences in this group were too small to measure.

**Firms in this group were underutilized, but it was not statistically significant.

Table 5: Summary of Disparity Analysis of Total Utilization (Prime and Subcontractor Awards)

Mecklenburg County Disparity Study

	Construction	A&E	Professional Services	Other Services
American Indian	✓	✓	✓	
Asian American	✓	✓	✓	✓
Black	✓		✓	✓
Hispanic American	✓	parity	✓	✓
Female		✓	✓	✓

Griffin & Strong, P.C. 2020

* Occurrences in this group were too small to measure.

** Firms in this group were underutilized, but it was not statistically significant.

C. Policy Findings

FINDING 5: County Procurement and MWSBE Utilization

County interviewees indicate that the County attempts to increase MWSBE usage on projects under \$50,000. There are reportedly also greater opportunities for MWSBE inclusion in Construction Manager At Risk (CMAR) projects as compared to design-bid-build projects. Under Economic Development Grants the City’s MWBE methods for attaining inclusion are applied. County p-card usage is not tracked for MWSBE utilization.

The County’s Procurement Policy specifically provides for vendor rotation on Qualifications-based procurement, but interviews revealed that vendor rotation is rarely used. Master agreements are used for

temporary worker agencies, lawn mowing services, and some design/engineering specialty services. There is very limited use of on-call contracts.

FINDING 6: Bonding and Insurance

Performance and payment bonds are waivable per County policy. However, interviews confirmed that the bonding requirements associated with County public projects can serve as a barrier to MWSBE participation. About 12.3% of MBE and 6.1% of WBE survey respondents reported bonding as a barrier to obtaining work on Mecklenburg County projects.

The mandatory insurance coverages associated with County projects have anecdotally been seen as a barrier to greater participation/bidding by MWSBE firms, particularly with insurance requirements on Construction Manager at Risk (CMAR) projects. About 11.3% of MBE and 2.3% of WBE survey respondents reported insurance requirements as a barrier to obtaining work on Mecklenburg County projects.

FINDING 7: Prompt Payment

Transition to a digital payment system appears to have alleviated concerns by vendors about prompt payment from the County – both as to direct payment to primes, and eventual payment from primes to subcontractors. The few prompt payment disputes that have reached the administrative level tended to involve the failure of prime contractors to finish projects (or milestones) on a timely basis. About 19.5% of MBE and 25.2% of WBE survey respondents reported being paid from 30 to 90 days on Mecklenburg County projects. Only one MWBE reported being paid later than 90 days.

FINDING 8: MWSBE Program

The MWSBE Program is a voluntary, non-binding goals program which “encourages contractors to actively and aggressively seek MWSBE participation.” There are no set-asides, annual goals, bid preferences, or points/bonuses in scoring as part of the Program. There also are no SBE set asides or bid preferences. The County Manager is required to report annually to the Board of County Commissioners the M/W/SBE utilizations as compared to the aspirational goals set.

FINDING 9: MWSBE Project Goals

The current aspirational project goals are expressly based on the last Disparity Study and are as follows in the table below.

Table 6: County Aspirational Goals based upon 2004 MGT Disparity Study

Recommended Goals for Each Business Category
By Race/Ethnic/Gender Classification Based on 2004 Disparity Study

Category	MBE Goal	WBE Goal	SBE Goal	Total Goal
Construction	10%	6%	5%	21%
Architecture & Engineering	4%	7%	5%	16%
Professional Services	9%	9%	5%	23%
Other Services	5%	4%	5%	14%
Goods	3%	3%	5%	11%

Source: Mecklenburg County Disparity Study, MGT of America, 2004

*NOTE: The overall Goal can be achieved by any combination of participation by MBE, WBE and or SBE's.

In the Solicitation forms, separate aspirational project goals are announced for MBEs, WBEs, and SBEs. The goals can be met through any combination of M/W/SBE involvement, and no double-counting is permitted (e.g., MBE that is also an SBE). This allows for projects goals to be met entirely by SBE participation.

FINDING 10: Good Faith Efforts

The required County Good Faith Efforts Form sets forth a point system for GFEs that in some respects deviates from the guidance provided in North Carolina state statutes on Good Faith Efforts. Policy interviews revealed that while the Good Faith Efforts forms are required to be submitted, there is no effort to confirm that such efforts were undertaken by a bidder, and interviewees did not recall any circumstance where a bid was rejected or declared non-responsive due to insufficient Good Faith Efforts.

FINDING 11: MWSBE Certification

Mecklenburg County does not independently certify as to MWSBE status. The County accepts certification from the City of Charlotte; State of North Carolina Historically Underutilized Businesses (HUB) Office; North Carolina DOT; and the federal Small Business Administration (SBA). The County has set size standards for SBE certification at 25% of the applicable SBE size standards.

FINDING 12: Budget and Staffing

The FY2020 budget allocates \$109,000 for the MWSBE Program. At present, the MWSBE Program consists of the Program Manager and one shared administrative employee. The office is housed within the Office of Economic Development, having moved from the Procurement division approximately 5 years ago.

D. Anecdotal Findings

Mecklenburg County marketplace firms and stakeholders raised the following primary concerns:

FINDING 13: Outreach and visibility were lacking.

More than 15 % were not registered with the County, and more than 33% of that unregistered number said they did not know how to register to do business with the County. 45% did not even know that there was a registry for working with Mecklenburg County. Nearly 30% said they did not understand the certification process. There is concern of staff that tends to “hide behind an email” and lacks a “sense of urgency.” Also, too few bids outside of the construction or construction-related industries (professional services) are being advertised.

FINDING 14: Informal Network Monopolizes the Public Contracting Process

More than 43% of the participants in an online survey believe the informal network of Primes and subs monopolize the public contracting process with the County. Anecdotally, several firms complained that the Mecklenburg County marketplace was ruled territorialism – hiring that often excludes firms from outside of the greater Charlotte area. Disturbing the status quo by letting someone into the inner circle is rare because it calls for the ones in a position of power to “stick their neck out.” But the so-called “Good Ole’ Boy” network was identified as a barrier to doing business, and meant one needed access from, sometimes, as high up as a mayor.

FINDING 15: Double Standards in Qualifications and Work Performance

Roughly 56 % of Black respondents agreed in some manner (28% agree, 26% strongly agree) with the statement that “double standards in qualifications and work performance make it more difficult for minority and Female-owned businesses to win bids or contracts.” Nearly 24% of Females (18% agree and 6% strongly agree) agreed with this assessment. A minority-owned radio station said that the county contracts with a third-party ad agency to handle RFPs on ad buys that refused to communicate with MBEs. Another firm, however, felt that it was unfair that there was a mandate that they meet a quota of minority hiring to win a bid.

E. Marketplace Disparity Findings

FINDING 16: Lower Firm Revenues

Lower revenues for small, minority, Female, disadvantaged, and Historical Underutilized Business (“HUB”) certified firms (“SMWDH”) and lower self-employment rates for ethnic and racial minorities in the Mecklenburg County Market Area are suggestive of private sector discrimination that undermines their capacity to compete with non-minority owned firms for public contracting opportunities.

FINDING 17: Diminished Odds of Public Contracting and Subcontracting

In most instances, we find that a nontrivial subset of SMWDHs in the Mecklenburg County Market Area are particularly harmed by private sector discrimination and/or face diminished odds of public contracting and subcontracting success with Mecklenburg County.

FINDING 18: Awarded Less Prime Contracts

Relative to non-SMWDHs, firms owned by Black Americans were awarded less prime contracts with Mecklenburg County.

FINDING 19: More Likely to Never Receive a Contract

Relative to non-SMWDHs, firms owned by Black Americans and American Indians, are more likely to have never received either Mecklenburg County prime contracts or subcontracts. The likelihood of SMWDHs certified as a minority business enterprise and owned by Black Americans and American Indians of never receiving a prime contract with Mecklenburg County was higher relative to non-SMWDHs over the time period under consideration in our analysis.

FINDING 20: Face Barriers to Securing Contracts

The existence of public contracting success disparities between SMWDHs and non-SMWDHs—particularly when considering the racial/ethnic status of owners—even after controlling for capacity and ability to secure public contracts, suggests that relative to non-SMWDHs, SMWDHs face barriers to securing public contracts with Mecklenburg County.

FINDING 21: More Likely to Perceive Contracting Dominated by Informal Networks

Relative to non-SMWDHs, certified minority and disadvantaged business enterprises are more likely to perceive that contracting in Mecklenburg County is monopolized/dominated by informal networks.

FINDING 22: More Likely to Have Experienced Discrimination

Relative to non-SMWDHs, minority and disadvantaged business enterprises are more likely to have experienced perceived discrimination in the private sector.

FINDING 23: Won Fewer Contracts

Relative to non-SMWDHs, certified Female business enterprises won fewer subcontracts with Mecklenburg County.

F. Recommendations

The findings of this Study demonstrate that there is significant basis for an inference of discrimination in its public contracting, which may be current or the current effects of past discrimination. Further, GSPC's analysis of marketplace disparities shows the County has been a passive participation in marketplace discrimination toward these same groups. As a result, GSPC makes the following recommendations to assist the County in remedying the disparities found to ensure that all qualified firms within the relevant market are given every chance to succeed in business with the County.

Recommendation 1: Allocation of Resources, Including Staffing

The County currently has one full-time equivalent staff member assigned to its MWSBE Program. The County should be commended for adding another full-time equivalent staff member to the upcoming 2021 budget. However, in order to operate a full and robust MWBE Program as GSPC herein recommends, the County will need a larger Contract Compliance staff of at least 2-3 additional staff members. The following are suggested positions:

Chief Diversity Officer – Best practices are that the person in this position oversee all areas of diversity for the County, including procurement and workforce.

Contract Compliance Officer: Responsibilities include: forecasting, outreach, certification review, maintaining availability lists, coordinating supportive services, and coordinating with other agencies.

Contract Administration: Responsibilities include: prebid conferences, working with MWSBEs to make sure they are bidding, investigation of Good Faith Efforts, tracking participation, and reporting participation.

Providing a reasonable budget and having sufficient staff are critical to a successful program. The Covid-19 pandemic has made it difficult for counties and municipalities throughout the country to allocate sufficient resources to launch new initiatives. For that reason, and because the programs recommended by GSPC are new to the County, GSPC recommendations provide a means for the County to ramp up its programs over multiple fiscal years.

Recommendation 2: MWBE Subcontracting Goals

All MWBE groups were statistically significantly underutilized except Non-Minority Females in Construction, Black American and Hispanic American owned firms in A&E, and American Indian owned firms in Other Services. For those groups that were not the exception, the Study provides a basis for the County to a robust race and gender-based subcontractor program that includes both contract goals and annual goals. However, to begin the program, GSPC suggests that the County only set goals on Construction projects for the first year of the program until additional staff is added.

The County should set separate MBE and WBE goals and no longer set SBE goals. Race and gender discrimination are different and GSPC has suggested other measures to enhance SBEs instead of subcontracting goals since there is no reason to believe that SBEs are not already used as subcontractors when subcontractors are utilized.

The MBE contract goals should be based upon the combined availability of all ethnic groups in order to gain an incentive for Prime Contractors to utilize firms owned by all ethnic minority groups. However, it is equally important for the County to monitor those contract goals and adjust them, if necessary, if the relative balance of the utilization of minority groups is out of line with the individual race/ethnicity group availability.

For those categories that were not underutilized, the County should still have aspirational goals equal to availability that should be monitored to make sure that Non-minority Female owned firms continue to be utilized if Construction subcontractor goals are only set for MBEs.

To effectively administer an MWBE subcontracting program, the County must institute all aspects of contract compliance including robust monitoring to make sure that prime contractors utilize firms as committed to in their bid package.

Recommendation 3: Robust Good Faith Efforts

If firms do not meet the MWBE contract-by-contract goals, they should demonstrate Good Faith Efforts. The State of North Carolina has a 50-point system to measure Good Faith Efforts that can be modified to meet the County's objectives. If a firm does meet the MWBE goals or does not satisfy Good Faith Efforts, they should be deemed responsive and their cost proposal should not be opened.

Recommendation 4: Small Business Reserve Program

Availability estimates demonstrate that there are sufficient numbers of MWBE firms that can do the work of prime contractors. The first step to remedy this inequity is to institute a race and gender-neutral program that designates certain contracts, particularly in Construction, that can only be bid on by small businesses. This is an excellent way to get firms that have only worked as subcontractors to bid as prime contractors and grow their capacity. This will ultimately result in more competition in the marketplace. But it is important to provide supportive services to firms making this transition.

Recommendation 5: Increased Vendor Rotation

County procurement policy already allows for vendor rotation. Some agencies use vendor rotation to limit routine purchases from majority firms, particularly in Professional Services, and to ensure that MWSBEs

have an opportunity to bid along with majority firms. Requiring rotation of diverse teams can assist in this area.

Recommendation 6: Mandatory Subcontracting

Mandatory subcontracting requires firms with awards over a determined threshold to subcontract a percentage of their work to subcontractors. This will assist in creating more opportunities for small businesses, MWBEs, and require MWBE prime contractors to meet the MWBE goals.

Recommendation 7: Strengthen Forecasting

Planning plays an important role in establishing and maintaining effective remedial programs. This begins with understanding what services and goods the County will be buying in the year to come.

- **Targeted Outreach-** Annual forecasting will enable the contract compliance personnel to target firms that are capable of doing the work for notification of the work. This is important so that firms, including those outside of construction are aware of upcoming opportunities;
- **Encourage Teaming-** Knowing ahead of time what work will be presented in the coming year will give room for contract compliance to schedule networking events and encourage firms to team. It also gives more time for mandatory pre-bid conferences where potential prime contractors can meet potential subcontractors.

Recommendation 8: Supportive Services

Annual forecasting will allow the County to provide supportive services well in advance of the bid issuance, if needed. Supportive services may be offered internally in coordination with other agencies, the Small Business Administration bonding program, and the Small Business Development Centers. This is particularly important on the County's large capital projects to insure diverse supplier participation.

Recommendation 9 Prompt Pay Ordinance

GSPC recommends that the County review prompt payment compliance under state law for its payments and for its prime contractors. This is particularly important because it assists small businesses in meeting their financial obligations. - The County is considering contract compliance software which should allow prime contractors and subcontractors to go into the system to confirm payments.

Recommendation 10: Encourage Joint Ventures

On very large Construction projects, the County should encourage firms to joint venture with MBE firms. This will assist MBE firms to build their capacity. The City of Atlanta has had a very successful required MWBE joint venture program for more than 25 years for projects over \$5 Million.

Recommendation 11: Data Maintenance Reform

1. Revise Commodity Code Practices

GSPC made use of both Object Codes (used by Finance) and NIGP Codes to classify payments into a work category. A specific Object Code for Architecture & Engineering services should exist.

Regarding NIGP codes, GSPC found that the most frequently used NIGP codes were also the vaguest in describing services. The NIGP code 96258 (Professional Services) should be disallowed from internal use as we found this to be the misleading. Generally, the vaguest codes start with a 961 or 962 and more specific alternatives should be attempted to be used first before using any code with that prefix.

2. Revise Vendor Data Practices

Process payment data in a way where dollars paid to joint ventures are based on separate vendors. This would entail a unique vendor number for each vendor in the joint venture.

Implement a field called "Is Employee" at the Vendor level to prevent mixing employees in with vendors in vendor level queries.

3. Implement Subcontractor Data System

GSPC found there was informally maintained spreadsheets managed across departments for tracking subcontractors. Additionally, GSPC entered in form VI documents which were notarized but had gaps in the data making them impossible to connect to Prime Payment data without contacting the Prime directly. A proper relational database system for all records the County tracks should exist, even something as simple as a Microsoft Access database.

If the County purchases contract compliance software, it should track all subcontractors, not just MWBEs or only contracts with goals. This will allow the County to accurately track the use of all subcontractors and the percentage of MWBEs utilized as subcontractors. It would also be helpful if subcontractors are required to register as vendors with the County so they can be notified of awards and opportunities.

4. Cohesive Tracking of Awards

An award data system for tracking full award values and decision dates of contracts should be implemented. This award system should also track amendments and status changes of the contract. Necessarily, this system should be connected to the payment system by some sort of primary key that is shared in both systems (reference document ID, for example).

5. Intentional Commodity Codes

The accuracy of any analysis done on data within Mecklenburg relies on the commodity codes. Over the study period we received a lot of skepticism from Mecklenburg itself over the utility of the codes based on the current practices surrounding these codes, even causing problems for internal staff attempting to leverage these codes.

An emphasis should be made at an organizational level to encourage precision when assigning commodity codes. Audits should be done periodically by taking random samples of payments in every department to determine the accuracy of the codes being used. It is possible to generate reports using SQL which randomly select rows from a database by department.

6. Bidders Register as Vendors

An outward facing vendor system should exist. It should be required for any interested vendor to register with this system in order to bid. This will allow for Mecklenburg to have access to a greater pool of ready willing and able vendors and also give a deeper understanding of the firms interested in working with Mecklenburg. This system should allow for vendors to also self-assign a limited number of primary and secondary codes which describe their main focus of work.