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Construction Services Disparity Study : Implementation of Recommendations

Presented by

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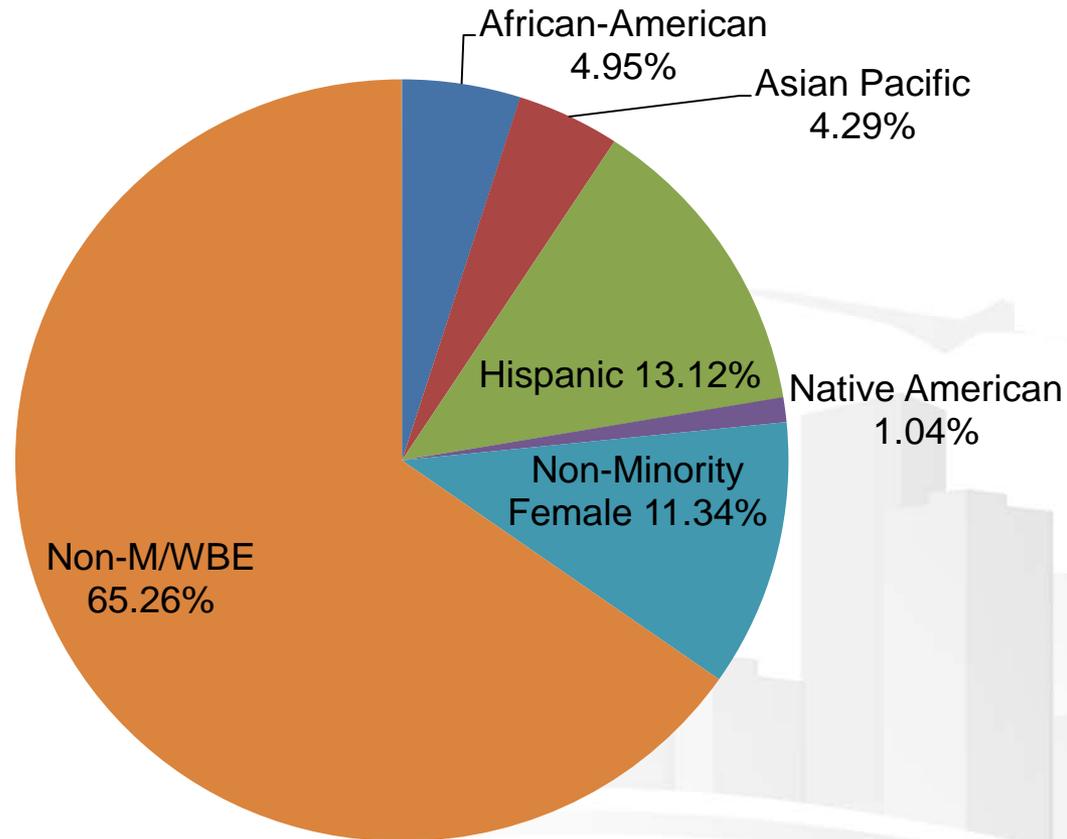


Overview



- Disparity Study was published by Mayor Parker on April 18, 2012.
- The study covers FY 2005 – 2010 construction contracts and analyzed:
 - a total of 756 prime construction contracts and 7,440 associated subcontracts worth \$2.82 billion.
 - Contracts and subcontracts were distributed among 133 detailed industry codes.
 - **Public Works & Engineering:** 487 prime contracts and 3,870 associated subcontracts = \$1.634b
 - **General Services:** 143 prime contracts and 2,325 associated subcontracts = \$308m
 - **Housing:** 75 prime contracts and 795 associated subcontracts = \$185m
 - **Houston Airport System:** 49 prime contracts and 403 associated subcontracts = \$691m

Findings: Overall Current Construction Availability



Note: The total M/WBE availability is 34.73%

Disparity Results



| M/WBE Type | Utilization (%) | Availability (%) | Disparity Ratio |
|------------------------|-----------------|------------------|-----------------|
| Dollars Awarded | | | |
| African American | 2.86 | 4.95 | 57.82 |
| Hispanic | 13.66 | 13.12 | |
| Asian | 2.12 | 4.29 | 49.52 |
| Native American | 1.42 | 1.04 | |
| Minority-owned | 20.06 | 23.39 | 85.76 |
| Non-Minority Female | 9.14 | 11.34 | 80.61 |
| M/WBE total | 29.20 | 34.73 | 84.08 |

Women Business Enterprises after Kossman Settlement

| WBE | Utilization (%) | Availability (%) | Disparity Ratio |
|------------------------|-----------------|------------------|-----------------|
| Dollars Awarded | | | |
| Before March 31, 2009 | 10.14 | 11.34 | 89.41 |
| After March 31, 2009 | 5.01 | 11.34 | 44.17 |

No similar decline was observed for MBEs, nor for non-minority women participating on Federal FAA-funded contracts



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Disparity Study Recommendations: Continue and Augment Race and Gender Neutral Initiatives

The following slides summarize the working group's responses to the race and gender neutral recommendations.

Increase Vendor Communication and Outreach

Program-wide

- Since April 2011, OBO has increased certified firm pool by 25%.
- OBO Director maintains a robust outreach schedule
- In 2011, OBO reorganized to include an External Affairs Division and Vendor Services Unit.
 - External Affairs Division: facilitates networking opportunities to connect certified firms and primes, partners with private sector and educational institutions to educate and train firms.
 - Vendor Services Unit: dedicated to assessing certified firms and assisting with overall business development.

Strategy:

- City Departments will provide annual contracting forecasts.

Impact: Certified Firms and City Departments



Concern:

- Unbundling large contracts may unnecessarily present an operational burden for departments.

Strategy:

- Generally, the city departments ensure that contracts are sized appropriately to the required scope to address project needs, however, the City will make efforts to unbundle large contracts when economically and operationally feasible.
- Smaller contracts are available through job order contracts
- Forecast future opportunities so that companies can create partnerships for upcoming larger projects
- Continue to assist businesses with increasing bonding capacity

Impact: City Departments

Review Surety Bonding, Insurance and Experience Requirements

Construction Only

Concerns:

- Texas Procurement Code requires that municipalities have these requirements to protect the public's assets.

Strategy:

- The City through the Administration and Regulatory Affairs Department will study the feasibility of a department-wide and city-wide Owner Controlled Insurance Plan. It will also determine the impact to small businesses.

Impact: City Departments, Prime Contractors and Subcontractors

Implement a Bonding and Financing Program

Construction Only

- In August 2012, OBO, PWE and several other stakeholders facilitated a free seven-week Bonding Education Program, provided by U.S. DOT
- In 2013, the City will launch the second cohort of the Bonding Education Program

Impact: Certified Firms and Small Businesses

Ensure Prompt Payments

Program-wide

- OBO will implement an online system to document complaints.
- Departments will proactively monitor timeliness of prime contractor payments and issues of subcontractor complaints.
- Departments and OBO will closely monitor incident rates which may require a change in the City's current practices.
- OBO will continue to monitor utilization of payments to certified firms listed on projects.
- OBO will enforce the City's Prompt Pay Executive Order

Impact: Departments and Prime Contractors

Ensure Bidder Non-Discrimination and Fairly Priced Subcontractor Quotations

Program-wide

- City will encourage collaboration between primes and subcontractors pre-bid proposal submission.
- Include potential primes and subcontractors in preliminary evaluations, constructability review, and value engineering.
- City will require that primes retain subcontractor quotes.
- Modify city documents and procedures creating more accountability for Primes

Impact: Departments and Prime Contractors

Ensure Solicitation of M/W/SBEs for Informal Contracts and Rotation Lists for Work Order Contracts



Concern:

- Department's work order contracts tend to exceed \$50,000 thereby requiring competitive bidding.

Strategy:

- Departments currently require the solicitation of at least 3 bids from M/WBEs for informal procurements.
- Departments will track excessive "no responses"
- Departments will explore the use of the "Target Market" for SBEs

Impact: Departments

Revise the Small Business Enterprise Component

Program-wide

- Departments support the creation of a small business enterprise program, using the Target Market method that has a \$500,000 cap.
- Legislative support needs to be sought to effectuate this program.
- The program will assume a 3% SBE goal until an alternate SBE program is implemented.

Impact: Certified Firms and Department

Improve Contracting and Procurement Data Collection and Retention Procedures

Program-wide

- In 2011, OBO changed data collection process for construction-related contracts.
 - Contract data is uploaded into B2G Now for retention.
- OBO is currently working with the IT Department to integrate several databases to better track and report utilization.
- OBO is exploring the option of quarterly or bi-annual utilization reporting, instead of bi-monthly.

Impact: City Departments and Primes Contractors

Increase Certification Outreach

Program-wide

- In 2011, OBO expanded outreach efforts to include eligible companies through partnerships with Chambers, Trade Associations and business organizations.
- In 2011, OBO executed Memoranda of Understanding between certifying partners HMSDC and WBEA
- In 2011, OBO expanded the certification period from 1 year to 3 years to retain firms.
- Currently performing GAP analysis of City procurement looking at several years

Impact: Prospective Companies



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Disparity Study Recommendations: Adopt Race and Gender Conscious Policies and Procedures to Enhance Current Measures

The following slides summarize the working group's responses to race and gender conscious recommendations.

Implement Narrowly Tailored Program Eligibility Standards

Program-wide

- Expand Geographic Coverage to the 10 Counties Identified by NERA to be consistent with the Houston Sugarland Baytown Metropolitan Area (include San Jacinto and Austin counties)

Impact: Departments

Resume WBE Contract Goals and Adopt Overall M/WBE Goals

Construction Only

- Reinstatement of WBE goals in construction contracts
- The existing goals are 14% MBE and 8% SBE with no WBE goals
- NERA recommends that the city not set goals at the level that would be expected “but for” discrimination due to the city’s prior utilization and the levels of current availability.

Impact: City Departments, Certified Firms and Prime Contractors

Methodology for New M/WBE Goals

Construction Only

- Step 1: Determine Base Figure
 - Availability = 34.73% M/WBE
- Step 2: Adjusting Base Figure
 - Availability = 34.73% M/WBE
 - FY 2012 Subcontractor Participation = 15.8%
- Overall Goal
 - Average of Availability and Past Participation
- Overall Goal: 25.31% rounded to 25%
- Proposed New Goals: 17% MBE, 8% WBE and 3% SBE

Set Contract Specific Goals

Program-wide

- OBO hired a Procurement Specialist who will assist Departments with setting contract-specific goals – volume will dictate need for additional staff
- OBO Procurement Training Institute included a class that provides a step-by-step approach to developing a goal setting methodology.
- OBO is working with B2G Now to include a module that will provide an automated function that can be used by Departments for setting contract specific goals.

Impact: City Departments

Count M/WBE Prime Contractor Participation Towards Meeting Contract Goals

Program-wide

Concern:

- In the City's procurement of services, it must not show favor or provide advantage in awarding contracts based on race and gender.

Strategy:

Requires a change to the City Code of Ordinance Chapter 15 because the City's program does not currently allow for Prime credit

- The City should consider modeling programs implemented by other cities in which Primes receive some level of credit
- Encourage joint venture partnerships

Impact: Primes and Certified Firms and City

Credit Lower Tier M/WBE Utilization toward Contract Goals

Program-wide

- This is currently the practice of the City of Houston.

Enhance Policies and Procedures for Good Faith Efforts Reviews and Approvals

Program-wide

- With Invitation for bids, provide list of currently certified firms for scope of work
- Require the Participation Plan be due with bids -Increase number of days Primes have to find certified firms before submitting bids
 - Bids will only be deemed responsive if they include a plan that meets the solicited goal or has been previously approved for a waiver or meets the elements of the City's good faith efforts policy.
- Enhance GFE Policy
 - Strengthen sanctioning enforcement

Impact: Departments, Primes, Certified Firms

Ensure Monitoring of Contract Performance

Program-wide

- Continued challenge of limited staffing to support workload
- Created a procurement services function in OBO to assist Departments with setting contract goals based on true availability of cert firms to set realistic goals
- Launched a Procurement Training Institute for Departments to reinforce common compliance issues and best practices
- OBO will engage department project managers in supporting and bolstering contract performance monitoring and tracking progress

Impact: Departments, Primes, Certified Firms

Enhance Program Administration



New! External Affairs

Outreach & Recruitment

Partner Development

External Communications

Events & Networking

Certification

Small/Minority/Women
(SMW)

DBE

Hire Houston First (HHF)

New! Vendor Services

One Stop Business
Center

Business Assessment

Bid & Proposal Assistance

Navigating Through
Government

Training & Education

New! Procurement

Procurement Training
Institute

Department Utilization &
Planning

Assist with Department's
Goal Setting/ Waivers
and Good Faith Efforts

Contract Compliance

Monitoring

S/MWDBE Compliance

Prevailing Wage

Hire Houston First (HHF)
on Contracts

Pay or Play (POP)



Develop Performance Measures for Program Success



- OBO developed significantly enhanced utilizations report to function as scorecard.
- OBO is performing a gap analysis to identify levels of participation by certified firms in all industries in order to identify gaps and direct resources accordingly
- OBO will work with Department to identify specific Department initiatives aimed at increasing participation by certified firms

Mandate Program Review and Sunset

- Review Program every 5 years to ensure it is narrowly tailored to meet objectives
- Conduct a new construction disparity study in preparation for each review
- Perform disparity study for professional services and purchasing



YOUR IDEAS/COMMENTS REGARDING ADDRESSING/IMPLEMENTING RECOMMENDATIONS AND QUESTIONS

The full Disparity Study Report can be viewed on OBO's website at: <http://www.houstontx.gov/obo/disparitystudy.html>. You can also submit any suggestions you have via the comment page on the website.



Thank You.

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