



Miami-Dade County Public Schools Comprehensive Disparity Study Volume I

October 26, 2020

FINAL REPORT

Prepared by:

Miller³ Consulting, Inc.

400 Pryor St., Suite 4068

Atlanta, GA 30302

Telephone Number 404-827-9019

www.miller3group.com

TABLE OF CONTENTS

EXECUTIVE SUMMARY	ES-1
E.1 INTRODUCTION	ES-1
E.2 MILLER ³ CONSULTING'S APPROACH AND METHODOLOGY	ES- 5
E.3 FINDINGS AND CONCLUSIONS	ES-14
E.4 RECOMMENDATIONS	ES-35
E.5 SUMMARY	ES-46
CHAPTER 1: INTRODUCTION	1-1
1.1 SCOPE OF THE DISPARITY STUDY	1-1
1.2 ORGANIZATION OF THE DISPARITY STUDY	1-2
CHAPTER 2: LEGAL ANALYSIS	2-4
2.1 INTRODUCTION	2-4
2.2 CONSTITUTIONALITY OF RACE AND GENDER-CONSCIOUS PROGRAMS	2-5
2.3 FACTUAL PREDICATE STANDARDS (CONDUCTING THE DISPARITY STUDY)	2-47
2.4 SUMMARY OF FINDINGS	2-64
CHAPTER 3: PROCUREMENT ANALYSIS	3-68
3.1 INTRODUCTION	3-68
3.2 BEST PRACTICES IN PUBLIC SECTOR PROCUREMENT	3-69
3.3 M-DCPS' ORGANIZATIONAL STRUCTURE AND PROCUREMENT PROCESS	3-74
3.4 ANALYSIS OF M-DCPS SMBE, MWBE AND VBE PROGRAMS	3-104
3.5 INTERVIEW OBSERVATIONS	3-132
3.6 IMPACT OF M-DCPS POLICIES, PROCEDURES AND PRACTICES ON SMBES AND M/WBES	3-133
CHAPTER 4: STATISTICAL METHODOLOGY	4-137
4.1 INTRODUCTION	4-137
4.2 STATISTICAL METHODOLOGY	4-137
4.3 DATA SOURCES UTILIZED IN STATISTICAL ANALYSIS FOR M-DCPS	4-156
4.4. SUMMARY OF FINDINGS	4-164
CHAPTER 5: STATISTICAL ANALYSIS OF RELEVANT MARKET AND M/WBE AVAILABILITY	5-165
5.1 INTRODUCTION	5-165
5.2 RELEVANT MARKET	5-166
5.3 AVAILABILITY DEFINITION	5-171
5.4 RWA SM TOTAL AVAILABILITY	5-173
5.5 RWA SM AVAILABILITY IN ARCHITECTURE AND ENGINEERING	5-175
5.6 RWA SM AVAILABILITY IN CONSTRUCTION	5-176
5.7 RWA SM AVAILABILITY IN MAINTENANCE AND MAINTENANCE-RELATED SERVICES	5-177
5.8 RWA SM AVAILABILITY IN SERVICES	5-179
5.9 RWA SM AVAILABILITY IN GOODS AND SUPPLIES	5-180

5.10	SUMMARY OF FINDINGS	5-181
CHAPTER 6: STATISTICAL ANALYSIS OF M/WBE UTILIZATION		6-183
6.1	INTRODUCTION	6-183
6.2	TOTAL UTILIZATION BASED ON CONTRACT AWARDS, PURCHASE ORDERS AND PAYMENTS	6-184
6.3	UTILIZATION BY PROCUREMENT TYPE	6-190
6.4	ARCHITECTURE AND ENGINEERING UTILIZATION	6-191
6.5	CONSTRUCTION AND CONSTRUCTION-RELATED SERVICES UTILIZATION	6-196
6.6	MAINTENANCE AND MAINTENANCE-RELATED SERVICES UTILIZATION	6-202
6.7	SERVICES UTILIZATION	6-206
6.8	GOODS AND SUPPLIES UTILIZATION	6-210
6.9	UTILIZATION THRESHOLDS	6-214
6.10	TOP TEN BIDDERS AND AWARDEES	6-227
6.11	SUMMARY OF FINDINGS	6-243
CHAPTER 7: STATISTICAL ANALYSIS OF M/WBE DISPARITY IN CONTRACTING		7-246
7.1	INTRODUCTION	7-246
7.2	DISPARITY RATIOS METHODOLOGY	7-247
7.3	DISPARITIES IN ARCHITECTURE AND ENGINEERING	7-247
7.4	DISPARITIES IN CONSTRUCTION AND CONSTRUCTION-RELATED SERVICES	7-249
7.5	DISPARITIES IN MAINTENANCE AND MAINTENANCE-RELATED SERVICES	7-251
7.6	DISPARITIES IN SERVICES	7-253
7.7	DISPARITIES IN GOODS & SUPPLIES	7-255
7.8	SUMMARY OF FINDINGS	7-257
CHAPTER 8: CAPACITY AND REGRESSION ANALYSIS		8-259
8.1	INTRODUCTION	8-259
8.2	CAPACITY ANALYSIS	8-259
8.3	MULTIVARIATE REGRESSION ANALYSIS BASED ON SURVEY DATA	8-300
8.4	DISPARITIES IN BUSINESS FORMATION: PUMS ANALYSIS	8-303
8.5	CONCLUSIONS	8-322

CHAPTER 9: ANECDOTAL COMMENTS FROM THE MARKETPLACE	9-325
9.1 INTRODUCTION	9-325
9.2 ANECDOTAL INTERVIEW METHODOLOGY	9-326
9.3 ANECDOTAL INTERVIEW FINDINGS	9-328
9.4 SUMMARY OF FINDINGS	9-348
CHAPTER 10: MARKETPLACE ANALYSIS	10-350
10.1 INTRODUCTION	10-350
10.2 DEMOGRAPHIC & ECONOMIC PROFILE OF THE RELEVANT MARKET	10-350
10.3 EDUCATION AND TRAINING: PATHWAYS TO BUSINESS FORMATIONS	10-353
10.4 ANALYSIS OF MIAMI-DADE COUNTY BUSINESS LICENSE DATA	10-367
10.5 SUMMARY OF FINDINGS	10-369
CHAPTER 11: RACE NEUTRAL ANALYSIS	11-371
11.1 INTRODUCTION	11-371
11.2 METHODOLOGY	11-372
11.3 MASTER LIST OF RACE NEUTRAL PROGRAMS	11-373
11.4 ANECDOTAL INTERVIEWS WITH EXECUTIVE DIRECTORS	11-424
11.5 SUMMARY OF FINDINGS	11-436
CHAPTER 12: RECOMMENDATIONS	12-437
12.1 INTRODUCTION	12-437
12.2 IDENTIFICATION OF RACE AND GENDER-CONSCIOUS POSSIBILITIES	12-438
12.3 RECOMMENDATIONS	12-430
12.4 SUMMARY	12-450

LIST OF TABLES

EXECUTIVE SUMMARY

TABLE E.1:	INFERENCE OF DISCRIMINATION BASED ON FINDINGS OF STATISTICALLY SIGNIFICANT DISPARITY, BY RACE/ETHNICITY/GENDER, BY PROCUREMENT	ES-13
TABLE E.2:	SUMMARY OF RELEVANT MARKET DETERMINATION	ES-14
TABLE E.3:	SUMMARY TABLE - RWA SM AVAILABILITY PERCENTAGE PARTICIPATION MIAMI-DADE COUNTY PUBLIC SCHOOLS, RELEVANT MARKET; FY 2013—FY 2018	ES-19
TABLE E.4:	INFO-USA AVAILABILITY, TRI-COUNTY MSA, 2020	ES-20
TABLE E.5:	M/WBE UTILIZATION IN PERCENT OF DOLLARS OF PURCHASE ORDERS, PAYMENTS AND CONTRACT AWARDS, MIAMI-DADE PUBLIC SCHOOLS SUMMARY OF M/WBE UTILIZATION; FY 2013—FY 2018 BY RELEVANT MARKET	ES-23
TABLE E.6:	SUMMARY TABLE – UTILIZATION PERCENTAGE PARTICIPATION BY RACE/GENDER/ETHNICITY; MIAMI-DADE COUNTY PUBLIC SCHOOLS RELEVANT MARKET; FY 2013—FY 2018	ES-24
TABLE E.7:	SUMMARY DISPARITY RATIOS BY RACE, ETHNICITY AND GENDER UTILIZATION VS. RWA SM AVAILABILITY LEVEL 2 MIAMI-DADE COUNTY PUBLIC SCHOOLS RELEVANT MARKET; FY 2013—FY 2018	ES-26
TABLE E.8:	CATEGORIES FOR RACE/ETHNICITY/GENDER-CONSCIOUS AND RACE/ETHNICITY/GENDER-NEUTRAL MEANS OF ADDRESSING DISPARITY BY PROCUREMENT TYPE	ES-36

CHAPTER 3: PROCUREMENT ANALYSIS

TABLE 3.1	OEO PRE-QUALIFIED FIRMS BY RACE/ETHNICITY	3-120
TABLE 3.2	OEO PRE-QUALIFIED FIRMS BY GENDER	3-121
TABLE 3.3	OEO PRE-QUALIFIED FIRMS BY DISCIPLINE	3-121
TABLE 3.4	OEO PRE-QUALIFIED BID AND BOND LIMITS	3-122
TABLE 3.5:	M-DCPS PROCUREMENT TYPES ON WHICH GOALS OR PREFERENCES CAN BE ESTABLISHED	3-124

CHAPTER 4: STATISTICAL METHODOLOGY

TABLE 4.1:	M-DCPS SPECIFIC RWA SM AVAILABILITY LEVELS	4-146
------------	---	-------

CHAPTER 5: STATISTICAL ANALYSIS OF M/WBE AVAILABILITY

TABLE 5.1:	SUMMARY OF RELEVANT MARKET DETERMINATION	5-168
TABLE 5.2:	RELEVANT MARKET SUMMARY: ARCHITECTURE AND ENGINEERING, FY 2013-FY 2018	5-168
TABLE 5.3:	RELEVANT MARKET SUMMARY: CONSTRUCTION AND CONSTRUCTION-RELATED SERVICES, FY 2013-FY 2018	5-169
TABLE 5.4:	RELEVANT MARKET SUMMARY: MAINTENANCE AND MAINTENANCE-RELATED SERVICES, FY 2013-FY 2018	5-169
TABLE 5.5:	RELEVANT MARKET SUMMARY: SERVICES, FY 2013-FY 2018	5-170
TABLE 5.6:	RELEVANT MARKET SUMMARY: GOODS AND SUPPLIES, FY 2013-FY 2018	5-170

TABLE 5.7:	RWA SM AVAILABILITY: LEVELS 1-3 TOTAL AVAILABILITY MIAMI-DADE COUNTY PUBLIC SCHOOLS NATIONWIDE, FY 2013-FY 2018	5-174
TABLE 5.8:	RWA SM AVAILABILITY: LEVELS 1-3 ARCHITECTURE AND ENGINEERING MIAMI-DADE COUNTY PUBLIC SCHOOLS TRI-COUNTY MSA, FY 2013-FY 2018	5-175
TABLE 5.9:	RWA SM AVAILABILITY: LEVELS 1-3 CONSTRUCTION AND CONSTRUCTION- RELATED SERVICES MIAMI-DADE COUNTY PUBLIC SCHOOLS TRI-COUNTY MSA, FY 2013 - FY 2018	5-176
TABLE 5.10:	RWA SM AVAILABILITY: LEVELS 1-3, MAINTENANCE AND MAINTENANCE-RELATED SERVICES MIAMI-DADE COUNTY PUBLIC SCHOOLS TRI-COUNTY MSA, FY 2013 – FY 2018	5-178
TABLE 5.11:	RWA SM AVAILABILITY: LEVELS 1-3, SERVICES, MIAMI-DADE COUNTY PUBLIC SCHOOLS, TRI-COUNTY MSA, FY 2013 - FY 2018	5-179
TABLE 5.12:	RWA SM AVAILABILITY: LEVELS 1-3, GOODS & SUPPLIES, MIAMI-DADE COUNTY PUBLIC SCHOOLS, TRI-COUNTY MSA, FY 2013 - FY 2018	5-180
TABLE 5.13:	SUMMARY TABLE - RWA SM LEVEL 2 AVAILABILITY PERCENTAGE PARTICIPATION MIAMI-DADE COUNTY PUBLIC SCHOOLS RELEVANT MARKET; FY 2013 – FY 2018	5-182

CHAPTER 6: STATISTICAL ANALYSIS OF M/WBE UTILIZATION

TABLE 6.1:	TOTAL UTILIZATION, CONTRACT AWARDS--DOLLARS, MIAMI-DADE COUNTY PUBLIC SCHOOLS, NATIONWIDE, FY 2013 – FY 2018	6-187
TABLE 6.2:	TOTAL UTILIZATION, PURCHASE ORDERS--DOLLARS, MIAMI-DADE COUNTY PUBLIC SCHOOLS, NATIONWIDE, FY 2013 – FY 2018	6-188
TABLE 6.3:	TOTAL UTILIZATION, ACCOUNTS PAYABLE--DOLLARS, MIAMI-DADE COUNTY PUBLIC SCHOOLS, NATIONWIDE, FY 2013 - 2018	6-189
TABLE 6.4:	SUMMARY OF RELEVANT MARKET DETERMINATION	6-190

TABLE 6.5:	ARCHITECTURE AND ENGINEERING UTILIZATION CONTRACT AWARDS— DOLLARS PURE PRIME + SUB-CONTRACTORS MIAMI-DADE COUNTY PUBLIC SCHOOLS TRI-COUNTY MSA, FY 2013 – FY 2018	6-192
TABLE 6.6:	ARCHITECTURE AND ENGINEERING UTILIZATION PURCHASE ORDER— DOLLARS MIAMI-DADE COUNTY PUBLIC SCHOOLS TRI-COUNTY MSA, FY 2013 – FY 2018	6-193
TABLE 6.7:	ARCHITECTURE AND ENGINEERING UTILIZATION COMPARISON CONTRACT AWARDS, PURCHASE ORDERS, PAYMENTS—DOLLARS MIAMI-DADE COUNTY PUBLIC SCHOOLS TRI- COUNTY MSA, FY 2013 – FY 2018	6-195
TABLE 6.8:	CONSTRUCTION AND CONSTRUCTION –RELATED SERVICES UTILIZATION, CONTRACT AWARDS –PURE PRIME + SUBCONTRACTOR DOLLARS, MIAMI-DADE COUNTY PUBLIC SCHOOLS, TRI-COUNTY MSA, FY 2013 – FY 2013	6-197
TABLE 6.9:	OEO PRE-QUALIFIED GENERAL CONTRACTORS AGGREGATE BOND AND BID LIMITS, MIAMI-DADE COUNTY PUBLIC SCHOOLS, FY 2020	6-199
TABLE 6.10:	CONSTRUCTION AND CONSTRUCTION–RELATED SERVICES UTILIZATION, COMPARISON—CONTRACT AWARDS, PURCHASE ORDERS, PAYMENTS –DOLLARS, MIAMI-DADE COUNTY PUBLIC SCHOOLS, RELEVANT MARKET, FY 2013 – FY 2018	6-200
TABLE 6.11:	CONSTRUCTION AND CONSTRUCTION-RELATED SERVICES UTILIZATION CONTRACT AWARDS GMP DETAIL TRI-COUNTY MSA, FY 2013 – FY 2018	6-201
TABLE 6.12:	MAINTENANCE AND MAINTENANCE-RELATED SERVICES UTILIZATION PURCHASE ORDER—DOLLARS MIAMI-DADE COUNTY PUBLIC SCHOOLS TRI-COUNTY MSA, FY 2013 – FY 2018	6-203
TABLE 6.13:	MAINTENANCE AND MAINTENANCE-RELATED SERVICES UTILIZATION COMPARISON CONTRACT AWARDS, PURCHASE ORDERS, PAYMENTS— DOLLARS MIAMI-DADE COUNTY PUBLIC SCHOOLS TRI-COUNTY MSA, FY 2013 – FY 2018	6-205
TABLE 6.14:	SERVICES UTILIZATION PURCHASE ORDER—DOLLARS MIAMI-DADE COUNTY PUBLIC SCHOOLS NATIONWIDE, FY 2013 – FY 2018	6-207
TABLE 6.15:	SERVICES UTILIZATION COMPARISON CONTRACT AWARDS, PURCHASE ORDERS, PAYMENTS—DOLLARS MIAMI-DADE COUNTY PUBLIC SCHOOLS NATIONWIDE, FY 2013 – FY 2018	6-209
TABLE 6.16:	GOODS & SUPPLIES UTILIZATION PURCHASE ORDER—DOLLARS MIAMI-DADE COUNTY PUBLIC SCHOOLS NATIONWIDE, FY 2013 – FY 2018	6-211
TABLE 6.17:	GOODS & SUPPLIES UTILIZATION COMPARISON CONTRACT AWARDS, PURCHASE ORDERS, PAYMENTS—DOLLARS MIAMI-DADE COUNTY PUBLIC SCHOOLS NATIONWIDE, FY 2013 – FY 2018	6-213
TABLE 6.18:	ARCHITECTURE AND ENGINEERING UTILIZATION THRESHOLDS PURCHASE ORDERS— DOLLARS MIAMI-DADE COUNTY PUBLIC SCHOOLS TRI-COUNTY MSA, FY 2013 – FY 2018	6-217
TABLE 6.19:	CONSTRUCTION AND CONSTRUCTION-RELATED SERVICES UTILIZATION THRESHOLDS PURCHASE ORDERS—DOLLARS MIAMI-DADE COUNTY PUBLIC SCHOOLS TRI-COUNTY MSA, FY 2013 – FY 2018	6-219
TABLE 6.20:	MAINTENANCE AND MAINTENANCE-RELATED SERVICES UTILIZATION THRESHOLDS PURCHASE ORDERS—DOLLARS MIAMI-DADE COUNTY PUBLIC SCHOOLS TRI-COUNTY MSA, FY 2013 – FY 2018	6-221

TABLE 6.21:	SERVICES UTILIZATION THRESHOLDS PURCHASE ORDERS—DOLLARS MIAMI-DADE COUNTY PUBLIC SCHOOLS NATIONWIDE, FY 2013 – FY 2018	6-223
TABLE 6.22:	GOODS & SUPPLIES UTILIZATION THRESHOLDS PURCHASE ORDERS—DOLLARS MIAMI-DADE COUNTY PUBLIC SCHOOLS NATIONWIDE, FY 2013 – FY 2018	6-225
TABLE 6.23:	TOP TEN BIDDERS ARCHITECTURE AND ENGINEERING TRI-COUNTY MSA; FY 2013 - FY 2018	6-227
TABLE 6.24:	TOP TEN AWARDEES ARCHITECTURE AND ENGINEERING CONTRACT AWARDS TRI-COUNTY MSA; FY 2013 - FY 2018	6-228
TABLE 6.25:	SUCCESS RATE OF TOP TEN BIDDERS: ARCHITECTURE AND ENGINEERING TRI-COUNTY MSA; FY 2013 - FY 2018	6-229
TABLE 6.26:	TOP TEN BIDDERS CONSTRUCTION AND CONSTRUCTION-RELATED SERVICES TRI-COUNTY MSA; FY 2013 - FY 2018	6-230
TABLE 6.27:	TOP TEN AWARDEES CONSTRUCTION AND CONSTRUCTION-RELATED SERVICES CONTRACT AWARDS TRI-COUNTY MSA; FY 2013--FY 2018	6-231
TABLE 6.28:	SUCCESS RATE OF TOP TEN BIDDERS: CONSTRUCTION AND CONSTRUCTION-RELATED SERVICES TRI-COUNTY MSA; FY 2013 - FY 2018	6-232
TABLE 6.29:	TOP TEN BIDDERS MAINTENANCE AND MAINTENANCE-RELATED SERVICES TRI-COUNTY MSA; FY 2013 - FY 2018	6-234
TABLE 6.30:	TOP TEN AWARDEES MAINTENANCE AND MAINTENANCE-RELATED SERVICES UTILIZATION PURCHASE ORDERS TRI-COUNTY MSA; FY 2013 - FY 2018	6-235
TABLE 6.31	SUCCESS RATE OF TOP TEN BIDDERS: MAINTENANCE AND MAINTENANCE RELATED SERVICES TRI-COUNTY MSA; FY 2013 - FY 2018	6-236
TABLE 6.32	TOP TEN BIDDERS SERVICES NATIONWIDE; FY 2013 - FY 2018	6-237
TABLE 6.33	TOP TEN AWARDEES SERVICES PURCHASE ORDERS NATIONWIDE; FY 2013 - FY 2018	6-238
TABLE 6.34	SUCCESS RATE OF TOP TEN BIDDERS: SERVICES NATIONWIDE; FY 2013 - FY 2018	6-239
TABLE 6.35	TOP TEN BIDDERS GOODS & SUPPLIES NATIONWIDE; FY 2013 - FY 2018	6-240
TABLE 6.36	TOP TEN AWARDEES GOODS & SUPPLIES PURCHASE ORDERS NATIONWIDE; FY 2013 - FY 2018	6-241
TABLE 6.37	SUCCESS RATE OF TOP TEN BIDDERS: GOODS & SUPPLIES NATIONWIDE; FY 2013 - FY 2018	6-242
TABLE 6.38	M/WBE UTILIZATION IN PERCENT OF DOLLARS OF PURCHASE ORDERS, PAYMENTS AND CONTRACT AWARDS MIAMI-DADE PUBLIC SCHOOLS SUMMARY OF M/WBE UTILIZATION; FY 2013 - FY 2018 BY RELEVANT MARKET	6-244
TABLE 6.39	SUMMARY TABLE - UTILIZATION PERCENTAGE PARTICIPATION BY RACE/GENDER/ETHNICITY MIAMI-DADE COUNTY PUBLIC SCHOOLS RELEVANT MARKET; FY 2013 – FY 2018	6-245

CHAPTER 7: STATISTICAL ANALYSIS OF M/WBE DISPARITY IN CONTRACTING

TABLE 7.1:	CONTRACT AWARDS UTILIZATION VS. RWA SM AVAILABILITY LEVEL 2 ARCHITECTURE AND ENGINEERING MIAMI-DADE COUNTY PUBLIC SCHOOLS TRI-COUNTY MSA; FY 2013—FY 2018	7-248
TABLE 7.2:	CONTRACT AWARD UTILIZATION VS. RWA SM AVAILABILITY LEVEL 2 CONSTRUCTION AND CONSTRUCTION-RELATED SERVICES MIAMI-DADE COUNTY PUBLIC SCHOOLS TRI-COUNTY MSA; FY 2013—FY 2018	7-250
TABLE 7.3:	PURCHASE ORDER UTILIZATION VS. RWA SM AVAILABILITY LEVEL 2 MAINTENANCE AND MAINTENANCE-RELATED SERVICES MIAMI-DADE COUNTY PUBLIC SCHOOLS TRI-COUNTY MSA; FY 2013—FY 2018	7-252
TABLE 7.4:	PURCHASE ORDER UTILIZATION VS. RWA SM AVAILABILITY LEVEL 2 SERVICES MIAMI-DADE COUNTY PUBLIC SCHOOLS NATIONWIDE; FY 2013—FY 2018	7-254
TABLE 7.5:	PURCHASE ORDER UTILIZATION VS. RWA SM AVAILABILITY LEVEL 2 GOODS & SUPPLIES MIAMI-DADE COUNTY PUBLIC SCHOOLS NATIONWIDE; FY 2013—FY 2018	7-256
TABLE 7.6:	SUMMARY DISPARITY RATIOS BY RACE, ETHNICITY AND GENDER UTILIZATION VS. RWA SM AVAILABILITY LEVEL 2 MIAMI-DADE COUNTY PUBLIC SCHOOLS RELEVANT MARKET; FY 2013—FY 2018	7-258

CHAPTER 8: CAPACITY AND REGRESSION ANALYSIS

TABLE 8.1:	CENSUS CAPACITY CONSTRUCTION MIAMI-FORT LAUDERDALE-WEST PALM BEACH, FL METRO AREA, 2016	8-261
TABLE 8.2:	CENSUS CAPACITY GOODS AND SUPPLIES MIAMI-FORT LAUDERDALE-WEST PALM BEACH, FL METRO AREA, 2016	8-261
TABLE 8.3:	CENSUS CAPACITY NON-PROFESSIONAL SERVICES MIAMI-FORT LAUDERDALE-WEST PALM BEACH, FL METRO AREA, 2016	8-262
TABLE 8.4:	CENSUS CAPACITY PROFESSIONAL SERVICES MIAMI-FORT LAUDERDALE-WEST PALM BEACH, FL METRO AREA, 2016	8-262
TABLE 8.5:	INFOUSA CAPACITY BASED ON TOTAL NUMBER OF EMPLOYEES TOTAL FIRMS MIAMI-DADE, BROWARD AND PALM BEACH COUNTIES FY 2016	8-265
TABLE 8.6:	INFOUSA CAPACITY BASED ON TOTAL NUMBER OF EMPLOYEES ARCHITECTURE AND ENGINEERING MIAMI-DADE, BROWARD AND PALM BEACH COUNTIES FY 2016	8-267
TABLE 8.7:	INFOUSA CAPACITY BASED ON TOTAL NUMBER OF EMPLOYEES CONSTRUCTION MIAMI-DADE, BROWARD AND PALM BEACH COUNTIES FY 2016	8-268
TABLE 8.8:	INFOUSA CAPACITY BASED ON TOTAL NUMBER OF EMPLOYEES GOODS AND SUPPLIES MIAMI-DADE, BROWARD AND PALM BEACH COUNTIES FY 2016	8-269
TABLE 8.9:	INFOUSA CAPACITY BASED ON TOTAL NUMBER OF EMPLOYEES NON-PROFESSIONAL SERVICES MIAMI-DADE, BROWARD AND PALM BEACH COUNTIES FY 2016	8-271
TABLE 8.10:	INFOUSA CAPACITY BASED ON TOTAL NUMBER OF EMPLOYEES PROFESSIONAL SERVICES MIAMI-DADE, BROWARD AND PALM BEACH COUNTIES FY 2016	8-273
TABLE 8.11:	INFOUSA CAPACITY BASED ON SALES VOLUME TOTAL FIRMS MIAMI-DADE, BROWARD AND PALM BEACH COUNTIES FY 2016	8-277

TABLE 8.12:	INFOUSA CAPACITY BASED ON SALES VOLUME ARCHITECTURE AND ENGINEERING MIAMI-DADE, BROWARD AND PALM BEACH COUNTIES FY 2016	8-279
TABLE 8.13:	INFOUSA CAPACITY BASED ON SALES VOLUME CONSTRUCTION MIAMI-DADE, BROWARD AND PALM BEACH COUNTIES FY 2016	8-281
TABLE 8.14:	INFOUSA CAPACITY BASED ON SALES VOLUME GOODS AND SUPPLIES MIAMI-DADE, BROWARD AND PALM BEACH COUNTIES FY 2016	8-283
TABLE 8.15:	INFOUSA CAPACITY BASED ON SALES VOLUME NON-PROFESSIONAL SERVICES MIAMI-DADE, BROWARD AND PALM BEACH COUNTIES FY 2016	8-285
TABLE 8.16:	INFOUSA CAPACITY BASED ON SALES VOLUME PROFESSIONAL SERVICES MIAMI-DADE, BROWARD AND PALM BEACH COUNTIES FY 2016	8-287
TABLE 8.17:	T-TEST OF DIFFERENCE IN MEANS AMONG FEMALE-OWNED FIRMS AND MALE-OWNED FIRMS FOR M-DCPS	8-295
TABLE 8.18:	T-TEST OF DIFFERENCE IN MEANS AMONG MINORITY-OWNED FIRMS AND WHITE MALE-OWNED FIRMS FOR M-DCPS	8-297
TABLE 8.19:	T-TEST OF DIFFERENCE IN MEANS AMONG WHITE FEMALE-OWNED FIRMS AND WHITE MALE-OWNED FIRMS FOR M-DCPS	8-299
TABLE 8.20:	M-DCPS RESULTS OF SURVEY REGRESSION ANALYSIS EXAMINING GROSS REVENUES OF FIRMS DEPENDENT VARIABLE: GROSS REVENUES IN THE PAST TWO YEARS	8-302
TABLE 8.21:	“ODDS RATIO” FOR SELF-EMPLOYMENT FOR MINORITY GROUPS RELATIVE TO NON-MINORITY MALES CONTROLLING FOR ECONOMIC AND DEMOGRAPHIC FACTORS	8-309
TABLE 8.22:	RESULTS OF THE BINARY LOGISTIC REGRESSION ANALYSIS FOR THE FULL SAMPLE	8-310
TABLE 8.23:	“ODDS RATIO” FOR SELF-EMPLOYMENT FOR MINORITY GROUPS RELATIVE TO WHITE MALES CONTROLLING FOR ECONOMIC AND DEMOGRAPHIC FACTORS- CONSTRUCTION ONLY	8-311
TABLE 8.24	RESULTS OF THE BINARY LOGISTIC REGRESSION ANALYSIS FOR THE CONSTRUCTION ONLY	8-312
TABLE 8.25	“ODDS RATIO” FOR SELF-EMPLOYMENT FOR MINORITY GROUPS RELATIVE TO WHITE MALES CONTROLLING FOR ECONOMIC AND DEMOGRAPHIC FACTORS-PROFESSIONAL SERVICES ONLY	8-313
TABLE 8.26	RESULTS OF THE BINARY LOGISTIC REGRESSION ANALYSIS FOR THE PROFESSIONAL SERVICES ONLY	8-314
TABLE 8.27	“ODDS RATIO” FOR SELF-EMPLOYMENT FOR MINORITY GROUPS RELATIVE TO WHITE MALES CONTROLLING FOR ECONOMIC AND DEMOGRAPHIC FACTORS-MAINTENANCE AND MAINTENANCE-RELATED SERVICES ONLY	8-315
TABLE 8.28	RESULTS OF THE BINARY LOGISTIC REGRESSION ANALYSIS FOR THE M&MRS ONLY	8-316
TABLE 8.29	LINEAR REGRESSION RESULTS FOR THE DETERMINANTS OF SELF-EMPLOYMENT INCOME BY RACE AND GENDER FOR THE FULL SAMPLE	8-318
TABLE 8.30	LINEAR REGRESSION RESULTS FOR THE DETERMINANTS OF SELF-EMPLOYMENT INCOME BY RACE AND GENDER FOR THE CONSTRUCTION INDUSTRY	8-319

TABLE 8.31	LINEAR REGRESSION RESULTS FOR THE DETERMINANTS OF SELF-EMPLOYMENT INCOME BY RACE AND GENDER FOR THE PROFESSIONAL SERVICES INDUSTRY	8-320
TABLE 8.32	LINEAR REGRESSION RESULTS FOR THE DETERMINANTS OF SELF-EMPLOYMENT INCOME BY RACE AND GENDER FOR THE MAINTENANCE AND MAINTENANCE-RELATED INDUSTRY	8-321

CHAPTER 9: ANECDOTAL COMMENTS FROM THE MARKETPLACE

TABLE 9.1:	FOCUS GROUP AND PUBLIC HEARING PARTICIPANTS BY RACE/ETHNICITY/GENDER	9-327
TABLE 9.2:	FOCUS GROUP PARTICIPANTS AND PUBLIC HEARING PARTICIPANTS BY INDUSTRY	9-327

CHAPTER 10: MARKETPLACE ANALYSIS

TABLE 10.1:	POPULATION BY RACE AND ETHNICITY, CENSUS 2010	10-351
TABLE 10.2:	CIVILIAN LABOR FORCE BY RACE AND HISPANIC ORIGIN CENSUS 2010	10-352
TABLE 10.3:	EMPLOYMENT IN SELECTED EEO-1 JOB CATEGORIES FOR CONSTRUCTION AND PROFESSIONAL SERVICES (1 OF 2 BY HISPANIC ORIGIN AND RACE, 2010 MIAMI-FT. LAUDERDALE-POMPANO BEACH FL MSA	10-354
TABLE 10.4:	EMPLOYMENT IN SELECTED EEO-1 JOB CATEGORIES FOR CONSTRUCTION AND PROFESSIONAL SERVICES (2 OF 2), BY HISPANIC ORIGIN AND RACE, 2010 MIAMI-FT. LAUDERDALE-POMPANO BEACH FL MSA, 2010	10-355
TABLE 10.5:	EMPLOYMENT IN SELECTED EEO-1 JOB CATEGORIES FOR CONSTRUCTION AND PROFESSIONAL SERVICES (1 OF 2) BY HISPANIC ORIGIN AND RACE, 2010, STATE OF FLORIDA	10-356
TABLE 10.6:	EMPLOYMENT IN SELECTED EEO-1 JOB CATEGORIES FOR CONSTRUCTION AND PROFESSIONAL SERVICES (2 OF 2) BY HISPANIC ORIGIN AND RACE, 2010, STATE OF FLORIDA	10-357
TABLE 10.7:	EMPLOYMENT IN SELECTED APPRENTICABLE EEO CONSTRUCTION OCCUPATIONS BY HISPANIC ORIGIN AND RACE, 2010, MIAMI-FT. LAUDERDALE-POMPANO BEACH FL MSA	10-359
TABLE 10.8:	EMPLOYMENT IN SELECTED APPRENTICABLE EEO CONSTRUCTION OCCUPATIONS BY HISPANIC ORIGIN AND RACE, 2000, STATE OF FLORIDA	10-360
TABLE 10.9:	EMPLOYMENT IN SELECTED APPRENTICABLE EEO PROFESSIONAL OCCUPATIONS BY HISPANIC ORIGIN AND RACE, 2010, MIAMI-FT. LAUDERDALE-POMPANO BEACH FL MSA	10-362
TABLE 10.10:	EMPLOYMENT IN SELECTED APPRENTICABLE EEO PROFESSIONAL OCCUPATIONS BY HISPANIC ORIGIN AND RACE, 2000, STATE OF FLORIDA	10-363
TABLE 10.11:	EMPLOYMENT IN SELECTED APPRENTICABLE EEO SUPPORT SERVICE OCCUPATIONS BY HISPANIC ORIGIN AND RACE, 2010 MIAMI-FT. LAUDERDALE-POMPANO BEACH FL MSA	10-365
TABLE 10.12:	EMPLOYMENT IN SELECTED APPRENTICABLE EEO SUPPORT SERVICE OCCUPATIONS BY HISPANIC ORIGIN AND RACE, 2000, STATE OF FLORIDA	10-366
TABLE 10.13:	MIAMI-DADE COUNTY BUSINESS LICENSE DATA FY-2019	10-368

CHAPTER 12: CONCLUSIONS AND RECOMMENDATIONS

TABLE 12.1:	CATEGORIES FOR RACE/ETHNICITY/GENDER-CONSCIOUS AND RACE/ETHNICITY/GENDER-NEUTRAL MEANS OF ADDRESSING DISPARITY BY PROCUREMENT TYPE	12-439
-------------	--	--------

LIST OF FIGURES

EXECUTIVE SUMMARY

FIGURE E.1:	RWA SM AVAILABILITY MODEL	ES-10
FIGURE 3.2:	M-DCPS SPECIFIC RWA SM AVAILABILITY LEVELS	ES-11
FIGURE 3.3:	DISPARITY RATIO INDICATING AREAS OF SIGNIFICANT & NON-SIGNIFICANT DISPARITY & OVERUTILIZATION	ES-13

CHAPTER 3: PROCUREMENT ANALYSIS

FIGURE 3.1:	TEN COMPONENTS OF A COMPREHENSIVE PROCUREMENT SYSTEM	3-70
FIGURE 3.2:	M ³ CONSULTING SIX ESSENTIAL SBE & M/WBE PROGRAM ELEMENTS	3-73
FIGURE 3.3:	M-DCPS ORGANIZATION HIERARCHY OUTLINE	3-77
FIGURE 3.4:	M-DCPS PROCUREMENT FUNCTIONS	3-78
FIGURE 3.5:	ANALYSIS OF POLICIES AND PROCEDURES	3-81
FIGURE 3.6:	OSF PRE-DESIGN AND DESIGN PROCESS	3-83
FIGURE 3.7:	INFORMAL PURCHASES	3-87
FIGURE 3.8:	SIGNATORY AUTHORITY ON PURCHASE ORDERS	3-87
FIGURE 3.9:	CCNA REQUIREMENTS	3-99
FIGURE 3.10:	RESPONSIBILITIES OF OFFICE OF ECONOMIC OPPORTUNITY, SMALL/MICRO AND MINORITY/WOMEN-OWNED BUSINESS ENTERPRISE ADVISORY COMMITTEE AND THE GOAL SETTING COMMITTEE	3-108
FIGURE 3.11:	M ³ CONSULTING SIX ESSENTIAL SBE & M/WBE PROGRAM ELEMENTS	3-110
FIGURE 3.12:	OUTREACH AND MATCHMAKING	3-111
FIGURE 3.13:	CERTIFICATION REQUIREMENTS FOR M-DCPS S/MBE AND M/WBE PROGRAMS	3-112
FIGURE 3.14:	OEO CERTIFIED M/WBES, SMBES AND VBEs BY RACE/ETHNICITY/GENDER	3-116

CHAPTER 4: STATISTICAL METHODOLOGY

FIGURE 4.1:	RWA SM AVAILABILITY MODEL	4-145
FIGURE 4.2:	RWA SM AVAILABILITY ESTIMATE VENN DIAGRAM	4-147
FIGURE 4.3:	DISPARITY RATIO INDICATING AREAS OF SIGNIFICANT & NON-SIGNIFICANT DISPARITY & OVERUTILIZATION	4-154

CHAPTER 5: STATISTICAL ANALYSIS OF M/WBE AVAILABILITY

FIGURE 5.1:	RWA SM AVAILABILITY MODEL	5-172
FIGURE 5.2:	M-DCPS SPECIFIC RWA SM AVAILABILITY LEVELS	5-173

GLOSSARY OF TERMS

Actual availability—refers to firms that have affirmatively shown interest in doing business with M-DCPS in one or more of the following ways: bidding for a M-DCPS contract; being awarded a M-DCPS contract; or, being included on M-DCPS’ vendor or plan holder’s list. The difference between “actual availability” and “potential availability” may help identify and narrow down the area of availability that may be affected by discrimination, lack of outreach, lack of interest, lack of specific expertise required by the public entity, and lack of capacity.

Active discrimination—refers to any government entity which has directly discriminated against minority and female businesspersons through its contracting and procurement activities, or any other of its activities (e.g. employment).

Anecdotal Interview—interview conducted with a business owner within a particular industry, or who has contracted with a public entity, to ascertain his/her personal experiences in doing business within that industry or with that public entity.

Annual Aspirational Goal or Annual Goal—non-mandatory annual aspirational percentage goal for overall M/WBE prime and subcontract participation established by a public entity each year for the public entity’s identified industry categories.

Annual Survey of Entrepreneurs—A Census database that provides annual data on select economic and demographic characteristics of employer businesses and their owners by gender, ethnicity, race, and veteran status.

Architecture and Engineering Services—professional services of an architectural or engineering nature that are associated with research, planning, development, design, construction, alteration, or repair of real property. For the purposes of this Disparity Study, Construction Management services are included in Construction and Construction-Related Services.

Availability—the percentage of firms by race and gender in an industrial category and available to do business with a government entity.

Awardees—firms that actually receive a contract award from M-DCPS as reflected through contract awards, purchase orders and payments data.

Bidders—firms that submitted a bid or sub-bid on a M-DCPS formal purchasing opportunity or submitted a quote for a M-DCPS informal procurement opportunities.

Capacity—a measure of additional work a firm can take on at a given point in time.

Census—a complete enumeration, usually of a population, but also of businesses and commercial establishments, farms, governments, and so forth.

Certification—process of qualifying a firm as being at least 51 percent owned, managed and controlled by minorities and female.

Compelling Governmental Interest—compelling reasons by a public entity to remedy past discriminatory treatment of racial or ethnic groups.

Construction and Construction-Related Services—Capital construction projects/contracts with construction trade services. For purposes of this Disparity Study, Construction Management firms are included in this procurement category.

Contract award data—data gleaned from M-DCPS' bid history data and contract logs that were provided to M³ Consulting by M-DCPS' Procurement Management Services. The contract logs represent the universe of formal competitive contracts let by M-DCPS.

Crososon Requirements—guidelines which govern any state or local political body's attempt to enact a minority/female business enterprise program which uses set-asides, preferences, goals or other race-conscious measures on condition that a compelling government interest exists and that the program elements are narrowly tailored.

Disparate Impact—a policy or practice that, although neutral on its face, falls more harshly on a protected group. This impact may be viewed as discriminatory behavior in certain instances. The statistical analysis seeks to determine if there is any disparate impact of an agency's policy(ies) or practice(s), intended or unintended, on protected classes.

Disparity Ratio—ratio of the percentage of receipts received by M/WBEs from a particular public entity in a specific category of work (e.g. construction), to the percentage of firms that are M/WBEs available to do business with that public entity; also, the public entity's M/WBE utilization divided by M/WBE availability.

Factual Predicate—an analysis to determine whether there are any identified instances of past discrimination which must be particularized in a manner that provides guidance for the legislative body to determine the precise scope of the injury it seeks to remedy. It is utilized to determine whether a compelling governmental interest exists to support the utilization of race and gender-conscious remedies. The disparity study is utilized to develop the factual predicate.

Formal Purchases—competitive purchasing is required for contracts over \$50,000. Formal purchasing at M-DCPS is done using Invitations for Bid, Requests for Proposals and Invitations to Negotiate.

Goods and Supplies—those traditional purchases that are "non-service" based (computers, food, parts, equipment, furniture, fixtures, etc.)

Informal Procurement—purchases not requiring advertising and valued at \$50,000 or less.

InfoUSA—now Data Axle offers comprehensive and accurate business and consumer databases, with almost 400 distinct attributes across businesses and consumers in the United States and Canada.

Intermediate Scrutiny—is applied to gender and age distinctions and requires the public entity to prove there is a fair and substantial relationship between the classification and the objective of the legislation.

Local Business Preference—a preference given to the lowest responsive and responsible vendor that has a principal place of business in Miami-Dade County, Florida.

Maintenance and Maintenance-related Services—All non-capital construction projects/contracts with construction trade services.

Marketplace Availability—all firms' available in M-DCPS' marketplace, as measured by Dun & Bradstreet and Reed Construction data.

Master S/M/W/DBE List—list of certified SBEs, MBEs, WBEs and DBEs from M-DCPS, Broward County, Broward County Schools, Miami-Dade County, Palm Beach Schools, Florida DOT, State of Florida and Dun & Bradstreet.

Matchmaking—efforts to bring together potential M/WBEs, Non-M/WBEs and M-DCPS personnel on specific opportunities that encourages an environment of relationship building.

M-DCPS Certified M/WBE—firms certified by M-DCPS' Office of Economic Opportunity as an M/WBE.

M-DCPS Certified SBE or SMBE—firms certified by M-DCPS' Office of Economic Opportunity as an SBE or Micro SBE.

Metropolitan Statistical Area (MSA)—an area, defined by the US Census Bureau, which is an integrated economic and social unit with a population nucleus of at least 50,000 inhabitants. Each MSA consists of one or more counties meeting standards of metropolitan character. The Miami-Dade MSA consists of Miami-Dade, Ft. Lauderdale and Pompano Beach.

Micro Business Enterprise—any contractor, sub-contractor, manufacturer or service company (a) that has been doing business under the same ownership or management and has maintained its principal place of business in Miami-Dade County, Florida, for a period of at least one (1) year immediately prior to the date of application for certification under this section, (b) that had annual gross revenues not

exceeding the thresholds for a Micro-Business Enterprise as identified in this policy for each industry, and (c) at least fifty-one percent (51%) of the ownership of which is held by a person or persons who exercise operational authority over the daily affairs of the business and have the power to direct the management and policies and receive the beneficial interests of the company.

Minority Business Enterprise (MBE)—firms that are at least 51% owned and controlled by minority individuals. Minority individuals are defined as: African Americans, Asian Americans, Native Americans, Hispanic Americans, Women.

Multivariate Regression—analyzes whether multiple variables, including race and gender, impact an outcome.

Narrowly Tailored—a law must be written to specifically fulfill only its intended goal. Race and gender-conscious remedial action be “narrowly tailored” to identify past or present discrimination. At least three characteristics were identified by the court as indicative of a narrowly tailored remedy:

- The program should be instituted either after, or in conjunction with, race-neutral means of increasing minority business participation; a governmental entity does not have to enact race-neutral means if they are not feasible or conducive to remedying past discrimination;
- The plan should avoid the use of rigid numerical quotas; and,
- The program must be limited in its effective scope to the boundaries of the governmental entity.

Non-(M/W/SMBEs)—for computation of availability, utilization and disparity tables, represents all other firms, exclusive of M/W/SMBEs.

Other Minority-owned Business—Firms certified as a Minority-owned businesses without specific race or ethnic designations.

Outreach—any effort to communicate with minority or female-owned businesses regarding procurement or contracting opportunities.

Passive Discrimination—participating in the discriminatory or exclusive actions of other agents in the public and private sector.

Passive Participant—refers to any government entity which has indirectly discriminated against minority or female businesspersons by doing business with an industry or business that directly engages in discriminatory practices.

Potential Availability—refers to firms present in M-DCPS’ market beyond those “actually available,” to include those that have not bid on M-DCPS work or taken other affirmative steps toward doing business

specifically with M-DCPS (as opposed to other public and private sector clients) during the study period. This availability includes firms identified under both public-sector availability and marketplace availability.

Procurement Forecasting—an organization and its departments determine their procurement needs for a set period of time.

Public Sector Availability—Includes lists of available firms known to various public sector agencies, including, but not limited to, M-DCPS in the relevant market region. These firms are closer to RWASM, having expressed an interest in contracting opportunities with other public sector agencies with similar standards and limitations as M-DCPS.

Pure Prime Utilization—the value of prime contracts net of subcontract value.

Practical Significance—the most commonly used practical significance measure in the EEO context is the 4/5th or 80 percent rule, which indicates how large or small a given disparity is. An index less than 100 percent indicates that a given group is being utilized less than would be expected based on its availability, and courts have adopted the Equal Employment Opportunity Commission’s “80 percent” rule, that is, that a ratio less than 80 percent presents a prima facie case of discrimination.

Procurement—the acquisition of any good or services in the categories of A&E, construction, professional services, other services and procurement.

PUMS (Public-Use Microdata Samples)—contains records for a sample of housing units with information on the characteristics of each unit and each person in the unit. Files are available from the American Community Survey and the Decennial Census.

Purchase Order—a procurement vehicle used by a government entity to acquire goods or services by opening an order for the goods and services for a specified amount.

Race-Conscious—any business development plan or program which uses race as a criterion for participation.

Race-Neutral—any business development plan or program in which race is not among the criteria for participation.

Rational Basis Standard—tests economic programs that do not make distinctions based on race, ethnic origin or gender. Under this standard, the moving party is required to show that the classification is not rationally related to a valid state purpose.

Ready, Willing and Able Availability Estimate (RWASM Estimate)—the number of M/WBE firms ready and willing to perform a particular scope of work and with the ability to expand (or contract) to do the type of work required. Derived from the U.S. Supreme Court’s statement that:

Where there is a significant statistical disparity between the number of qualified minority contractors willing and able to perform a particular service and the number of such contractors actually engaged by the locality or the locality's prime contractors, an inference of discriminatory exclusion could arise.¹

The first component of the model, "ready", simply means a business exists in the market area. The second component, "willing", suggests a business understands the requirements of the work being requested, and wants to perform the work. The third component, "able", defines the group of firms with capacity to do the job.

Reed Construction Data—a construction market data resource that tracks construction activity by project and location. The data set also provides project specific information which includes owner of the project, value of project, type of project, general contractor, etc.

Relevant Market—the geographic area reflecting a preponderance of commercial activity pertaining to an entity's contracting activity based on where bidders, vendors, or awardees are located. A typical range fitting this definition is approximately 70 percent. Relevant Market categories for M-DCPS:

- **Tri-County Area**—consists of the following three counties: Miami-Dade, Broward, Palm Beach;
- **State of Florida**
- **Nationwide**

Regression Analysis—a statistical method that analyzes how a single dependent variable may change or vary based on values of one or more independent variables. For example, the contract dollars awarded to M/WBEs vary based on characteristics such race, gender, years of experience, and gross annual receipts.

Services—includes any provider of services, both professional and non-professional (attorney, consultant, training, landscaper, security, transportation etc.).

Set-Aside—government policy in which competition for certain contracts/bid opportunities is restricted to certain firms.

Small Business Enterprise—any contractor, sub-contractor, manufacturer or service company (a) that has been doing business under the same ownership or management and has maintained its principal place of business in Miami-Dade County, Florida, for a period of at least one (1) year immediately prior to the date of application for certification under this section, (b) that had annual gross revenues not exceeding the thresholds identified in this policy for each industry, and (c) at least fifty-one percent (51%)

¹*City of Richmond v. J.A. Croson*, 109 S.Ct. 706, at 729 (1989).

of the ownership of which is held by a person or persons who exercise operational authority over the daily affairs of the business and have the power to direct the management and policies and receive the beneficial interests of the company.

State Preference—State law requires M-DCPS to award a preference to the lowest responsive and responsible vendor that has a principal place of business in the State of Florida.

Statistical Significance—how large or small the disparity ratio is in comparison with the observed percentages based on the statistical confidence level; also, the likelihood that a statistic will vary from a given value by more than a certain amount due to chance.

Strict Scrutiny Standard—is evoked if the classification is suspect, in particular, one based on race, ethnic or alien distinctions or infringements upon fundamental rights. The strict scrutiny test is the most rigorous of the three, requiring the public entity to show compelling governmental interests for making such classifications.

Sunset Clause—a legal or regulatory provision that stipulates the periodic review of a government agency or program to determine the need to continue its existence. For race and gender-conscious programs, this can involve: a) a graduation program, b) a definite date to end the program; or c) an annual review of M/WBE program efficacy, goals, and utilization.

Systemic Barrier—entrenched discriminatory practices or policies that effectively prevent participation in economic opportunities.

Technical Assistance—the transfer of skills or information from one party or entity to another, through on-site consultation, conferences, brokering of services, training, or general dissemination of information.

T-Test—assesses whether the means of two groups are statistically different from each other.

Unknown M/WBE—Firms certified as a M/WBE business without specific race or ethnic designations.

Utilization—the percentage of receipts in an industrial category that are spent with a given class of firms (e.g., M/WBEs).

Vendor—any person or business entity who has come forth to a governmental entity and registered with the entity identifying the products and services they would like to supply/render.

Veteran Business Enterprise Program—A race- and gender-neutral program designed to benefit veteran-owned businesses.

EXECUTIVE SUMMARY

E.1 INTRODUCTION

E.1.1 PURPOSE OF DISPARITY STUDY

On July 9, 2019, the Miami-Dade County Public Schools, or M-DCPS, commissioned Miller³ Consulting, Inc. (M³ Consulting) to conduct a Comprehensive Disparity Study (the Study). The purpose of the study was to determine if there is evidence showing that there is disparity among ready, willing, and able M/WBEs in Architecture and Engineering, Construction and Construction-Related Services, Maintenance and Maintenance-Related Services, Services, and Goods & Supplies procurement and contracts issued by the School Board. The study period covers July 1, 2012 to June 30, 2018.

E.1.2 OVERVIEW OF M-DCPS CURRENT RACE AND GENDER-CONSCIOUS AND RACE AND GENDER-NEUTRAL PROGRAMS

Board Policies 6320.02 and 6320.06 govern M-DCPS' Small/Micro and Minority/Women-owned Business Enterprise Programs. M-DCPS commenced its M/WBE program efforts in 1985. It conducted an analysis of contracting expenditures and economic and sociological studies in 1985 and 1990 that showed an existing disparity in contract awards to M/WBEs and the disparity was a result of past discriminatory practices. Based on the 1990 study, M-DCPS instituted race and gender-conscious initiatives in Construction, Construction Support Services, Professional Services, and Commodities and Services, along with race and gender-neutral initiatives.

On November 21, 2012, the Board determined a new study was needed. It repealed its Business Development and Assistance Program Policy, with the understanding that a new policy would be developed based on the new study findings. The Phase 1 Disparity Study and a subsequent Subcontractor Disparity Study, which addressed Construction and Construction-Related Professional Services, was completed and adopted by the Board in 2015.² A Phase 2 Disparity Study, which covered Maintenance and Maintenance-Related Services, Services and Goods & Supplies, was completed and adopted by the Board in 2019.

During the study period, M-DCPS administered three programs jointly targeted to promote equitable inclusion of diverse firms in M-DCPS procurement and contracting opportunities:

² Board Policy 6320.02, p. 1-2

- Small/Micro Business Enterprise Program;
- Minority/Women Business Enterprise Program; and,
- Veteran Business Enterprise Program.

Of these three, M-DCPS business development and business participation programs, only the Minority/Women Business Enterprise Program contains race- and gender- conscious elements that must be periodically re-evaluated for continuing legality under the 14th Amendment of the U.S. Constitution. M-DCPS also enforces the State of Florida’s Local Business Enterprise requirements.³

E.1.3 CROSON AND 11TH CIRCUIT STANDARDS

In *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 109 S.Ct. 706 (1989), the U.S. Supreme Court established a two-pronged “strict scrutiny” test for any governmental entity seeking to redress discrimination through race-conscious means:

- The governmental entity must demonstrate that there is a compelling governmental interest supported by a strong basis in evidence that consideration and use of race- and gender-conscious programs or policies is necessary to remedy discrimination; and,
- Any such race- and gender-conscious program must be narrowly tailored to remedy identified discrimination.

The requirements of the strict scrutiny test can be met through establishment of a factual predicate. Disparity study evidence is a key component of such a factual predicate. The methodology, findings, conclusions and recommendations of this Comprehensive Disparity Study can be utilized by M-DCPS to determine whether it has a basis for utilizing some form of a race- and gender-conscious program consistent with the U.S. Supreme Court requirements of *Richmond v. Croson*.

“Narrow tailoring” is a crucial element in crafting appropriate *Croson* remedies.⁴ Courts have struck down many M/WBE programs due to the failure of local jurisdictions to narrowly tailor their remedies. Once a factual predicate has been established and relied upon by government policy-makers in devising M/WBE programs, Post-*Croson* case law has established more detailed guidance for crafting M/WBE programs: Race and gender-conscious M/WBE programs should be instituted only after, or in conjunction with, race and gender-neutral programs.

³ Procurement Management, Procurement Procedures at 136.

⁴ Narrow tailoring elements include, but are not limited to, good faith consideration of race-neutral alternatives for elimination of barriers to M/WBE participation, project-specific goal setting, flexibility in the size of goals based upon the relative availability of qualified, ready, and willing M/WBEs, and limiting the scope of such remedies to those specific firms that are significantly underutilized within an industry segment.

- M/WBE programs should not be designed as permanent fixtures in a governmental purchasing system without regard to eradicating bias in standard purchasing operations. or in the private sector contracting arena in which the governmental entity is a participant. Consequently, each M/WBE program should have a sunset provision, as well as provisions for regular review. Additionally, there is the implication that reform of purchasing systems should be undertaken.
- M/WBE programs should have sensible graduation provisions for M/WBEs that have largely overcome the effects of discrimination and are no longer in need of a remedy.
- Rigid numerical quotas are at considerable risk of being overturned by judicial review; flexible, rational contract-specific goals are more legally defensible.
- Race and gender-conscious goals, if any, should be tied to the relative M/WBE availability of qualified firms to perform a given contract, and to addressing identified discrimination within an industry.
- M/WBE programs should limit their adverse impact on the rights and operations of innocent third parties.
- M/WBE programs should be limited in scope to only those group(s) and firms that suffer the on-going effects of past or present discrimination.

Croson requirements were extended to federal government programs in *Adarand v. Pena*.

In applying the *Croson* standard, the Eleventh Circuit has developed several distinctive standards. The foundation of current Eleventh Circuit standards was established in 1997 in *Engineering Contractors*. The district court in *Webster v. Fulton County* summarized the Eleventh Circuit's standards as established in *Engineering Contractors* and we repeat much of that case summary here:

- At the forefront of standards established by the Eleventh Circuit is that race and gender-conscious initiatives should be utilized as a "last resort."
- Race and ethnicity will be reviewed under strict scrutiny, with an evidentiary standard of strong basis in evidence.
- Gender will be reviewed under intermediate scrutiny, with an evidentiary standard of sufficient probative evidence.

- Both pre- and post-enactment evidence is admissible in determining the legality of a program.⁵
- The defendant bears the initial burden of satisfying the evidentiary standard, but that the ultimate burden of proof remained with the plaintiff. The plaintiff could rebut an inference of discrimination by demonstrating that: 1) Statistics are flawed; 2) Disparities are not significant; or 3) Conflicting statistical data.
- Statistical analysis and anecdotal testimony should minimally address the following:
 - Disparity indices greater than 80 percent generally are not considered indications of discrimination by the Eleventh Circuit.
 - Study results showing M/WBE underutilization in the market without evidence of underutilization by the agency itself, is not probative of discrimination.
 - An agency can rely on private sector discrimination as part of a factual predicate, if a nexus is shown between agency expenditures, practices, and private sector actors that are engaged in discrimination.
 - A factual predicate study should use regression analysis to control for size/capacity as a variable that might account for disparities in contracts.
 - A factual predicate study should consider bidding data for prime contracting analysis. This can be a bid analysis (the relative percentage of minority bids), or a bidder analysis (the relative percentage of minority bidders).
 - A factual predicate study should not base its availability estimates on the availability measures taken from another agency; particularly another agency with substantially different purchasing patterns from suppliers that have materially different demographic characteristics.
 - Census data are of some limited value for estimating M/WBE availability, but typically overstate M/WBE availability due to the absence of subchapter S-Corporation data.

⁵ There is now Supreme Court precedent that significantly curtails the use of post-enactment evidence to justify the initial establishment of the program by policymakers. However, post-enactment evidence continues to be relevant and probative in determining whether a program continues to be narrowly tailored in the subsequent periodic reviews of the program or policy as mandated under the strict scrutiny standard. (See *Associated Utility Contractors v. City of Baltimore*, 218 F.Supp.2d 749 (D. Md., Sep 9, 2002)); See also Supreme Court decision in *Shaw v. Hunt* (1996), decided after 11th Circuit decision.)

- A factual predicate study should consider the statistical significance of its results. Two standard deviations are a widely accepted measure of statistical significance.
- While anecdotal evidence is important to bolster statistical findings and for purposes of narrowly tailoring and remedies for any identified barriers to M/WBE participation, it cannot alone support an inference of discrimination.

Lastly, in *Engineering Contractors*, the Eleventh Circuit utilized a four-pronged test to determine narrow tailoring and whether race and gender-conscious initiatives are being utilized as a matter of last resort:

- The necessity for the relief and the efficacy of alternative remedies.
- The flexibility and duration of the relief, including the availability of waiver provisions.
- The relationship of numerical goals to the availability of M/WBE firms within the relevant geographic market and industry segment.
- The impact of the relief on the rights of innocent third parties.⁶

E.2 MILLER³ CONSULTING'S APPROACH AND METHODOLOGY

M³ Consulting's exclusive disparity study methodology includes ten analyses which lead to overall conclusions and recommendations.

E.2.1 M³ CONSULTING'S 10-PART DISPARITY STUDY METHODOLOGY

M³ Consulting's 10-part disparity study methodology provides a complete factual predicate consistent with evolving case law and M-DCPS' regulatory environment. The statistical analysis—relevant market, availability, utilization, disparity and capacity—comports with the requirements of *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 109 S.Ct. 706 (1989), *Adarand Contractors, Inc. v. Federica Pena*, 515 U.S. 200, 115 S. Ct. 2097 (1995) and Eleventh Circuit progeny and determines if there are statistically significant disparities from which an inference of discrimination may be drawn. The remaining analysis reflected under the industry and market analysis assist in determining if organizational factors (active discrimination or exclusion) or private sector and marketplace factors (passive discrimination or exclusion) cause any disparity found. Together, these findings allow M-DCPS to determine if there is a compelling governmental interest in utilizing race and gender-conscious remedies for any statistically significant disparity. The combined analysis also leads to a set of customized recommendations that includes race and gender-neutral initiatives and narrowly tailored race and gender-conscious initiatives.

⁶ *Id.* at 927.

M-DCPS Disparity Study

Industry Analysis	Statistical Analysis	Market Analysis	Conclusions	Recommendations
<ul style="list-style-type: none"> • Legal Analysis • Procurement and M/WBE Operational Analysis 	<ul style="list-style-type: none"> • Relevant Market • Availability Analysis • Utilization Analysis • Disparity Ratios • Regression and Capacity Analysis 	<ul style="list-style-type: none"> • Anecdotal and Survey Analysis • Race-Gender-neutral Analysis • Private Sector Analysis 	<ul style="list-style-type: none"> • Finding of discrimination, passive or active, if any • Identification of barriers to M/WBE participation 	<ul style="list-style-type: none"> • Procurement and M/WBE programmatic initiatives • Goal-setting • Non-Discrimination initiatives • Management and Technical Assistance

Description of Disparity Study Components

1. **Legal Analysis** outlines the legal standards of *Richmond v. Croson*, *Adarand v. Peña* and their progeny, as well as around the country. Such a legal analysis provides critical insight to current judicial opinions relevant to both M/WBE program design and disparity study analysis.
2. **Procurement and M/WBE Program Operational Analyses** examines M-DCPS’ contracting history to determine the impact of M-DCPS’ policies, procedures and practices on M/WBEs’ ability to do business with M-DCPS, along with the effectiveness of the M/WBE and SMBE operations on increasing M/WBE participation.
3. **Relevant Market Analysis** determines the geographic boundaries within which M-DCPS performs the substantial part (about 70 percent) of its business activities. The identification of the bounds is also guided by legal criterion that M-DCPS must refine its efforts to impact M/WBE business activity to its market area.
4. **Availability Analysis** determines the available M/WBEs and Non-(M/W/SMBEs) who are available to do business with M-DCPS within the determined relevant market.
5. **Utilization Analysis** quantitatively examines M-DCPS’ contracting history and determines the number of contracts and levels of expenditures with M/WBEs.
6. **Disparity Analysis** determines the difference between the availability of M/WBEs and their utilization by M-DCPS and if any disparity is statistically significant.
7. **Capacity Analyses** examines differences in capacity of firms based on race and gender using established statistical methods and examines if race, gender and ethnicity still impact the participation decision once a set of variables that proxy capacity are controlled for. Further, the survey provides information on business characteristics, such as owner qualifications, years in business, capacity, and credit market experiences.

8. **Anecdotal Analyses** determine the experiences of M/WBEs and Non-(M/W/SMBEs) attempting to do business with M-DCPS and in the business community overall.
9. **Race- and Gender-Neutral Analysis** determines the effectiveness of race and gender-neutral programs in increasing M/WBE participation in both public and private sector opportunities.
10. **Marketplace Analyses** determine M/WBE participation in the marketplace, which consists of both the public and private sector opportunities. Factors that impact business formation and self-employment are also analyzed in this analysis.

The methodology components that M³ Consulting deploys reflect the continuing development of case law that has increased the level and sophistication of the statistical analysis necessary to comply with *Croson* and *Adarand* standards.

E.2.2 STATISTICAL METHODOLOGY

The statistical methodology below discusses in more detail relevant market, availability, utilization, and disparity. It includes various definitions of availability and M³ Consulting's "Ready, Willing and Able" (*RWASM*) model. M³ Consulting has adapted this model to the specific M-DCPS data sources available for this study. Also discussed are the types of utilization analysis that will be performed. The statistical methodology section concludes by defining the disparity ratio and significance tests, crucial for drawing conclusions regarding any disparity in M-DCPS' recent history of contracting with M/WBEs.

To conduct the analysis, M³ Consulting collected Vendor, Bidder, Contract Award, Purchase Order and Payments data for years FY 2013 – FY 2018.

A. Relevant Market

The *Croson* statistical analysis begins with the identification of the relevant market. The relevant market establishes geographical limits to the calculation of M/WBE availability and utilization. Most courts and disparity study consultants characterize the relevant market as the geographical area encompassing most of a public entity's commercial activity. The *Croson* Court required that an MBE program cover only those groups that have actually been affected by discrimination within the public entity's jurisdiction.⁷

Two methods of establishing the relevant market area have been used in disparity studies. The first utilizes vendor and contract awardee location of dollars expended by an entity in the relevant industry categories. In the second method, vendors and contractors from an entity's vendor or bidder list are surveyed to determine their location. The former is based on approaches implemented under the U.S. Justice Department guidelines for defining relevant geographic markets in antitrust and merger cases. M³

⁷ *Richmond v. Croson* at 725.

Consulting has developed a method for determining an entity's relevant market by combining the above methods and using an entity's bidder lists, vendor lists, and awardee lists as the basic foundation for market definition.

By examining the locations of bidders, vendors, and winners of contract awards, M³ Consulting seeks to determine the area containing a preponderance of commercial activity pertaining to an entity's contracting activity. While case law does not indicate a specific minimum percentage of vendors, bidders, or contract awardees that a relevant market must contain, M³ Consulting has determined a reasonable threshold is somewhere around 70 percent, each, for bidders, vendors, and contract award winners. Further analysis may be necessary if there are "large" differences in the percentages of these three measures.

B. Availability Analysis

The fundamental comparison to be made in disparity studies is between firms owned by minorities and/or women ("MBEs and WBEs") and other firms ("non-M/WBEs") *ready, willing and able* to perform a particular service (i.e., are "available"), and the number of such businesses actually being utilized by the locality or its prime contractors. This section presents a discussion of the availability estimates for M/WBEs who are *ready, willing and able* to perform work on contracts for M-DCPS.

Availability is the most problematic aspect of the statistical analysis of disparity. It is intrinsically challenging to estimate the number of businesses in the marketplace that are ready, willing and able to perform contracts for or provide services to a particular public entity. In addition to determining an accurate head count of firms, the concomitant issues of capacity, qualification, willingness, and ability complicate the production of accurate availability estimates.

1. Miller³ Consulting, Inc. Availability Model

M³ Consulting employs two general approaches to measuring availability: the Ready, Willing and Able (RWASM) Model and Marketplace Availability. In summary, the Availability measures can fall into the following categories:

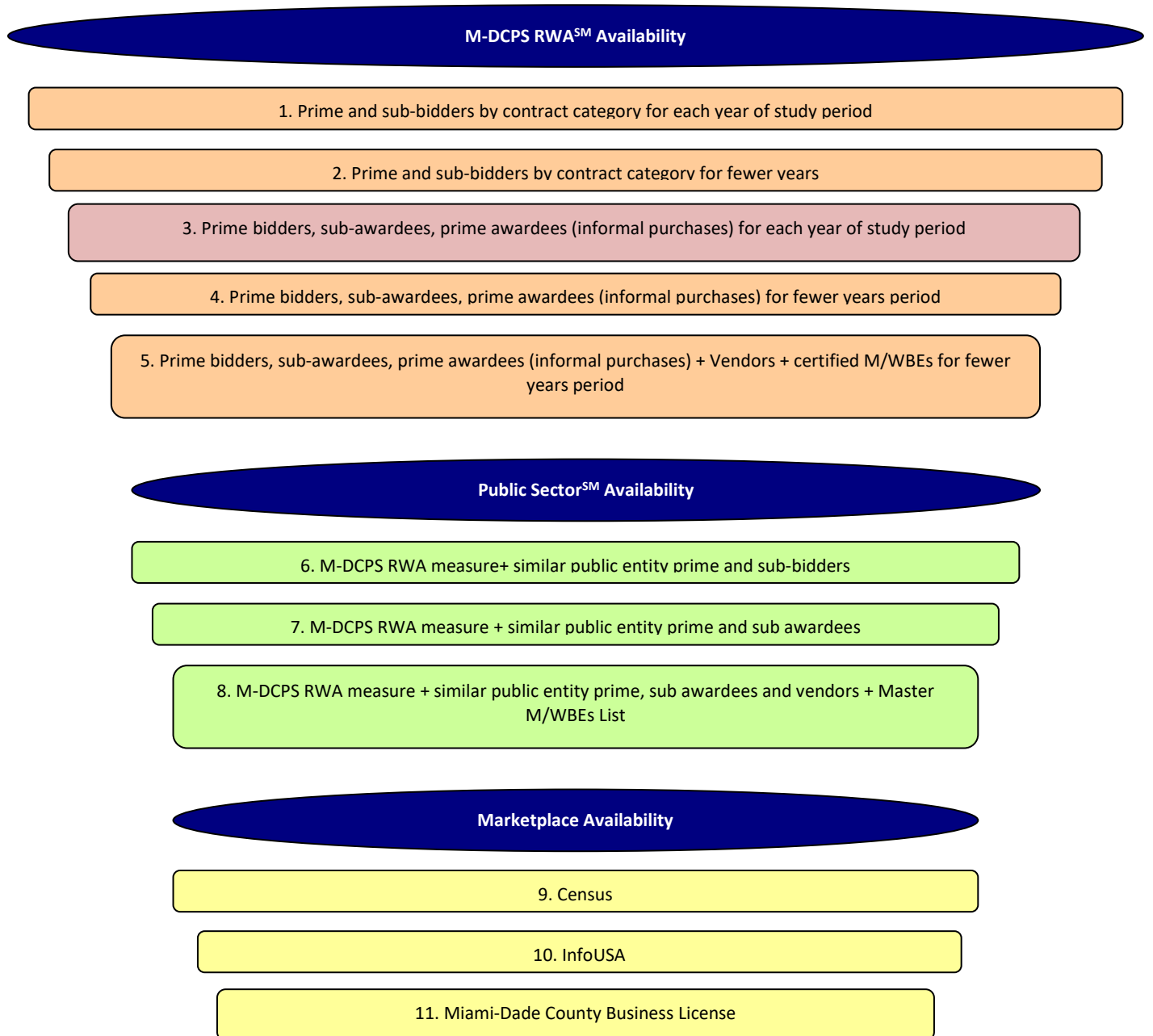
- **RWASM**—Those firms who are ready, willing and able to do business with M-DCPS;
- **Public Sector Availability**—Those firms who are ready, willing and able to do business with similar public sector agencies within M-DCPS' marketplace⁸; and,
- **Marketplace Availability**—All firms' available in M-DCPS' marketplace, as measured by Census, Dun & Bradstreet, InfoUSA and/or Business License data.

⁸ This analysis requires inter-governmental cooperation between public entities providing bidder, vendor and awardee data, thus is not performed, unless such agreement is developed for individual agencies or a consortium of agencies conducted a consortium disparity study.

Executive Summary

The Availability matrix below in Figure E.1 outlines M³ Consulting's Availability Model. The matrix starts with the optimum availability measure of those firms "ready, willing and able" to do business with M-DCPS and cascades down to less optimum measures. Factors that determine which level of availability best suits M-DCPS' environment include quality of available data, legal environment, and previous levels of inclusion of M/WBE in bidding and contracting activity.

Figure E.1
RWASM Availability Model



Source: M³ Consulting, Inc.

M³ Consulting’s RWASM Availability Model is further tailored to the robustness of M-DCPS’ specific databases available for analysis. RWASM availability is defined at Level 2 for the years FY 2013 – FY 2018 period that includes prime and sub bidders, informal and non-competitive awardees and prime and sub awardees to comprise this availability pool.

Levels 1-3 are presented independently and cumulatively in Figure E.2, as three measures of RWASM availability, with Level 2 being a combined pool of discrete available firms across these measures and Level 3 further including M-DCPS Vendors who may or may not have bid with M-DCPS.

Figure E.2 M-DCPS Specific RWASM Availability Levels	
RWASM Availability Level	RWASM Availability Definition
Level 1	M-DCPS Bidders and Sub-bidders
Level 2	M-DCPS Bidders and Sub-bidders + AP/PO Firms
Level 3	M-DCPS Bidders and Sub-bidders + AP/PO Firms + Vendors*

Source: M³ Consulting; *All firms certified by MDCPS are included on the Vendors List

C. Utilization Analysis

Utilization represents the contracting and subcontracting history of Non-(M/W/SMBEs) and M/WBEs with M-DCPS. In developing the contract database to be used as the basis for determining utilization, there are three alternative measures of utilization that can be taken in each procurement category. These are:

1. The numbers of contracts awarded;
2. The dollar value of contracts actually paid or received; and,
3. The numbers of firms receiving contracts.

The current report presents two of the three measures of utilization: the number of contracts awarded and the dollar value of the contract awards. Both dollars and counts are reported to determine if there are any outliers or large single contracts that cause utilization dollar values to be at reported levels. These were preferred over the third measure—the number of firms, which is less exact and more sensitive to errors in measurement.

For instance, if one Non-(M/W/SMBE) received 30 contracts for \$5 million, and ten African American-owned firms received one contract each worth \$100,000, measured by the number of firms (one Non-(M/W/SMBE vs. 10 African American-owned firms), African American-owned firms would appear to be over utilized, and Non-(M/W/SMBEs) underutilized. Using the number of contracts (30 contracts vs 10

contracts) and the dollar value of contracts (\$5 million vs \$1 million) awarded, the aforementioned result would reverse (depending on relative availability).

D. Disparity Analysis

A straightforward approach to establishing statistical evidence of disparity between the availability of M/WBEs and the utilization of M/WBEs by M-DCPS is to compare the utilization *percentage* of M/WBEs with their availability *percentage* in the pool of total businesses in the relevant market area. M³ Consulting's specific approach, the "Disparity Ratio," consists of a ratio of the percentage of dollars spent with M/WBEs (utilization), to the percentage of those businesses in the market (availability).

Disparity ratios are calculated by actual availability measures. The following definitions are utilized in the M³ Consulting ratio:

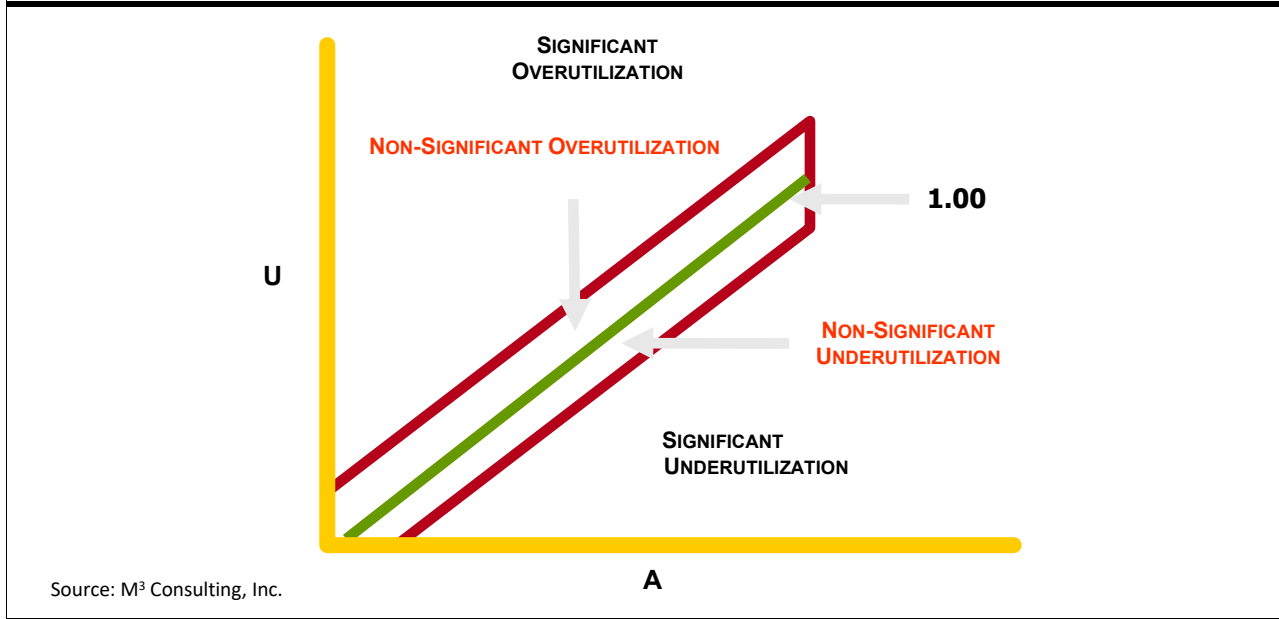
A	=	Availability proportion or percentage
U	=	Utilization proportion or percentage
D	=	Disparity ratio
Nw	=	Number of women-owned firms
Nm	=	Number of minority-owned firms
Nt	=	Total number of firms

Availability (A) is calculated by dividing the number of minority and/or women-owned firms by the total number of firms. Utilization (U) is calculated by dividing total dollars expended with minority and women-owned firms by the total expenditures.

Aw	=	Nw / Nt
Am	=	Nm / Nt
D	=	U / A

When $D=1$, there is no disparity, (*i.e.*, utilization equals availability). As D approaches zero, the implication is that utilization is disproportionately low compared to availability. As D gets larger (and greater than one), utilization becomes disproportionately higher compared to availability. Statistical tests are used to determine if the difference between the actual value of D and 1 are statistically significant, (*i.e.*, if it can be stated with confidence that the difference in values is not due to chance (see Figure E.3).

Figure E.3
Disparity Ratio Indicating Areas of Significant and Non-Significant Disparity and Overutilization



The statistical disparity ratio used in this study measures the difference between the proportion of available firms and the proportion of dollars those firms received. Therefore, as the proportion of contract dollars received becomes increasingly different than the proportion of available M/WBEs, an inference of discrimination can be made.

The concept of statistical significance as applied to disparity analysis is used to determine if the difference between the utilization and availability of M/WBEs could be attributed to chance. Significance testing often employs the t-distribution to measure the differences between the two proportions. The number of data points and the magnitude of the disparity affect the robustness of this test. The customary approach is to treat any variation greater than two standard deviations from what is expected as statistically significant.

A statistically significant outcome or result is one that is unlikely to have occurred as the result of random chance alone. The greater the statistical significance, the smaller the probability that it resulted from random chance alone. P-value is a standard measure used to represent the level of statistical significance. It states the numerical probability that the stated relationship is due to chance alone. For example, a p-value of 0.05 or 5 percent indicates that the chance a given statistical difference is due purely to chance is 1 in 20.

E.3 FINDINGS AND CONCLUSIONS

E.3.1 SIGNIFICANT DISPARITY

Based on the statistical findings in the disparity chapter, the utilization of qualified firms as reflected by the percentage of contracts or purchase orders awarded, appears to be less inclusive than warranted, when compared to the availability of ready, willing and able firms (RWASM). Thus, M³ Consulting draws an inference of discrimination against the following race, ethnicity and gender groups, as shown in Table E.1 below:

Table 12.1. Inference of Discrimination Based on Findings of Statistically Significant Disparity By Race/Ethnicity/Gender By Procurement Type					
	Architecture and Engineering	Construction and Construction-Related Services	Maintenance and Maintenance-Related Services	Services	Goods & Supplies
African American	No disparity	No disparity*	Disparity*	Disparity*	Disparity*
Asian American	Disparity*	Disparity	Disparity*	No disparity*	No disparity*
Hispanic American	No disparity*	No disparity*	No disparity*	No disparity*	No disparity*
Native American	ND	Disparity	ND	ND	ND
WBE	Disparity*	Disparity*	Disparity*	Disparity	Disparity*

Source: M³ Consulting
 *Statistically Significant

In reviewing disparity findings in more detail, we note that African American-owned firm non-disparity in Architecture & Engineering is impacted by non-disparity in 2 of the 5 years of the study period. For construction, African American-owned firm statistically significant non-disparity reflects one African American-owned firm garnering over 40 percent of total African American dollars. When this firm is removed, African American-owned firms reflect non-significant disparity. No other group reflects this level of concentration by one firm. Asian American statistically significant non-disparity results from non-disparity in 2 of the 5 years of the study period for Services, while their level of non-disparity in Goods & Supplies became larger in the latter 3 years of the study period.

E.3.2 STATISTICAL FINDINGS IMPACTING STATISTICALLY SIGNIFICANT DISPARITY

A. Relevant Market

Based on the data provided for this study, three relevant markets were defined:

- Tri-County Area—consists of the following three counties: Miami-Dade, Broward and Palm Beach Counties;
- State of Florida; and,
- Nationwide.

The relevant market for each procurement category is summarized in Table E.2. The relevant market for each category is calculated separately as the location of vendors that attempt to conduct business with M-DCPS may vary based on the different procurement category.

Table 12.2. Summary of Relevant Market Determination			
	Tri-County	State	Nationwide
Architecture and Engineering	✓		
Construction and Construction-Related Services	✓		
Maintenance and Maintenance-Related Services	✓		
Services			✓
Goods & Supplies			✓

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data, M-DCPS Vendor data.

B. Availability Analysis

Table E.3 below summarizes the availability estimates for M/WBE and SMBE firms within the relevant market for M-DCPS. M³ Consulting places emphasis on the availability estimates at Level 2 of the RWASM model, which is based on bidders, sub-bidders and awardees data. Marketplace availability measures in Table E.4, based on InfoUSA, are presented as a benchmark of minority- and women-owned firm availability and for M-DCPS to consider potentially available firms for outreach purposes.

Architecture and Engineering

Within the Tri-County MSA, M/WBE RWASM availability in Architecture and Engineering was at 69.44 percent. Hispanic American-owned firms led M/WBE participation at 41.67 percent, followed by WBEs at 6.94 percent. African American-owned firm reflected 5.56 percent.

Based on InfoUSA availability, M/WBE participation at 36.50 percent was lower than RWASM availability. At 18.86 percent, Hispanic American-owned firm marketplace availability was considerably lower than RWASM availability. While African American-owned firm RWASM availability at 5.56 percent was higher than marketplace at 0.61 percent, WBE RWASM availability (6.94 percent) was significantly lower than their representation in marketplace availability (15.13 percent).

Construction and Construction-Related Services

Construction and Construction-Related Services RWASM availability reflected 48.93 percent M/WBE participation, with 26.96 percent to Hispanic American-owned firms. African American-owned firms had RWASM availability of 7.91 percent, compared to 9.43 percent for WBEs and 0.55 percent for Asian American-owned firms.

Comparatively, in the marketplace, Hispanic American-owned firms accounted for 21.42 percent of 34.84 percent M/WBE contractor availability. At 11.82 percent, WBE marketplace availability was somewhat higher than RWASM availability. African American-owned firms reflected less than one percent, while Asian American-owned firms were at 1.03 percent availability in the marketplace.

Maintenance and Maintenance-Related Services

In Maintenance and Maintenance-Related Services, the availability of M/WBEs was at 31.37 percent based on RWASM availability estimates. Minority-owned contractors were at 26.85 percent, with Hispanic American-owned firms leading this group at 17.59 percent. African American-owned firms and WBEs were at 4.28 percent and 3.47 percent respectively in the Tri-County marketplace.⁹ While a specific procurement category for M-DCPS, the firms in this category are very similar to those in Construction and Construction-Related Services, as such a separate marketplace availability measure was not calculated.

⁹ We note that the difference between RWASM Availability for Construction and Construction-Related Services and Maintenance and Maintenance-Related Services is based on M-DCPS categorizations of these services within its commodity coding in SAP.

Services

For Services, M/WBE availability based on RWASM availability was only at 9.94 percent, significantly lower in comparison to marketplace availability at 45.46 percent. Minority-owned firms came in at 7.26 percent and Woman-owned firms at 1.90 percent, based on RWASM availability. Hispanic American-owned firms led Minority-owned Service firms at 4.41 percent. African American-owned firms reflected participation¹⁰ of 1.82 percent, while Asian American-owned firms had 0.52 percent.

WBEs led M/WBE firms, at 23.72 percent, in marketplace availability, followed by Hispanic American-owned firms at 19.48 percent. Asian American-owned firms fared slightly better in the marketplace at 1.45 percent than in RWASM availability at less than one percent. African American-owned firms' participation was less than one percent of firms in the marketplace.

Goods & Supplies

For Goods & Supplies, Minority-owned firm RWASM availability percentage was about 7.53 percent, most of which was from Hispanic American-owned suppliers at 5.05 percent, followed by African American-owned firms at 1.42 percent. WBE availability in this procurement category was at 2.34 percent based on the RWASM availability measure.

The marketplace availability measure based in Goods & Supplies shows a higher presence of Minority-owned suppliers in the industry at 24.24 percent and Woman-owned firms at 18.65 percent. African American owned-firm marketplace availability was below one percent, while Asian American-owned firms were at 2.13 percent, higher than RWASM availability at 0.33 percent.

The presence of M/WBEs is higher in count of firms in the marketplace overall. This greater number of M/WBEs reflects firms that do not participate in the M-DCPS procurement process, although they may potentially be available to do business. Additional exploration of whether these potentially available firms meet the RWASM availability criteria and may be encouraged to participate in the M-DCPS contracting process is needed.

As such, conclusive findings on the differences between potential availability (Marketplace) and actual availability (RWASM) cannot be drawn at this time. The differences could reflect the impact on actual availability of "But-For Discrimination", but it could also reflect the absence of outreach by M-DCPS to potentially available firms, as well. In other words, from the RWASM estimates, bidders, sub-bidders, and

¹⁰ We note that survey results on why firms did not bid with M-DCPS reflected the main reasons as "no bids for what I sell" and "no notice of bids from M-DCPS."

awardees are presumed to be actually available, whereas InfoUSA includes firms that may not be actually available due to discrimination or other factors.

Other than race- and gender-conscious goals, such factors influencing the difference between RWASM Availability measures and InfoUSA (and Census ASE and Business License Availability) figures could include, but not be limited to:

- Firms available in InfoUSA, while falling into a North American Industry Classification System code utilized by M-DCPS, do not provide the specific goods and services being procured by M-DCPS;
- Firms within the InfoUSA availability pool may not be interested in doing business with M-DCPS or in the public sector; and,
- M-DCPS may be viewed by the community as a more inclusive environment, than the private sector or other public entities.

As the Office of Economic Opportunity continues to conduct inclusive outreach to and surveying of firms on the marketplace availability, more conclusive determinations may be made regarding the difference between RWASM and marketplace availability figures.¹¹

¹¹ Specific firm information is not available from Census SBO.

Executive Summary

Table E.3.
Summary Table - RWASM Level 2 Availability Percentage Participation
Miami-Dade County Public Schools
Relevant Market; FY 2013 – FY 2018

Ethnicity	Architecture and Engineering ²		Construction and Construction-Related Services ²		Maintenance and Maintenance-Related Services ²		Services ¹		Goods & Supplies ¹		Total Firms ¹	
	#	%	#	%	#	%	#	%	#	%	#	%
Non-Minority/ WBE/SMBE	30	20.83	777	47.29	553	64.00	2,056	88.85	2,622	87.69	3,184	69.73
African American	19	13.19	130	7.91	37	4.28	42	1.82	44	1.47	221	4.84
Asian American	8	5.56	9	0.55	4	0.46	12	0.52	10	0.33	28	0.61
Hispanic American	60	41.67	443	26.96	152	17.59	95	4.11	151	5.05	638	13.97
Native American	1	0.69	2	0.12	0	0.00	19	0.82	20	0.67	3	0.07
Other Minority	0	0.00	27	1.64	39	4.51	0	0.00	0	0.00	50	1.10
Total Minority	88	61.11	611	37.19	232	26.85	168	7.26	225	7.53	940	20.59
WBE	10	6.94	155	9.43	30	3.47	44	1.90	70	2.34	257	5.63
Unknown M/WBE	2	1.39	38	2.31	9	1.04	18	0.78	20	0.67	66	1.45
Total M/WBE	100	69.44	804	48.93	271	31.37	230	9.94	315	10.54	1,263	27.66
SMBE	14	9.72	62	3.77	39	4.51	27	1.17	51	1.71	117	2.56
Veterans	0	0.00	0	0.00	1	0.12	1	0.04	2	0.07	2	0.04
Grand Total	144	100.00	1,643	100.00	864	100.00	2,314	100.00	2,990	100.00	4,566	100.00

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data, M-DCPS Vendor data; * Services include Professional and Non-Professional Services; Other Minority is a firm identified as MBE, with no specific race/ethnicity identified; Unknown M/WBE is a firm identified as M/WBE, with no specific race/ethnicity/gender identified.

¹Nationwide

²Tri-County Area

³State of Florida

Executive Summary

Table E.4. InfoUSA Availability Tri-County MSA, 2020										
	Architecture and Engineering		Construction and Construction-Related Services		Services		Goods & Supplies		Total Firms	
	#	%	#	%	#	%	#	%	#	%
Non-(M/W/SMBE)	1,034	63.32	5,947	64.97	25,094	54.37	12,891	56.95	44,966	56.51
African American	10	0.61	52	0.57	351	0.76	140	0.62	553	0.69
Asian American	31	1.90	94	1.03	670	1.45	482	2.13	1,277	1.60
Hispanic American	308	18.86	1,961	21.42	8,991	19.48	4,862	21.48	16,122	20.26
Native American	0	0.00	0	0.00	25	0.05	4	0.02	29	0.04
Total Minority	349	21.37	2,107	23.02	10,037	21.75	5,488	24.24	17,981	22.60
WBE	247	15.13	1,082	11.82	10,947	23.72	4,221	18.65	16,497	20.73
Total M/WBE	596	36.50	3,189	34.84	20,984	45.46	9,709	42.89	34,478	43.33
Grand Total	1,633	100.00	9,153	100.00	46,155	100.00	22,636	100.00	79,577	100.00

Source: InfoUSA Firms as of Feb. 2020; M³ Consulting

C. Utilization Analysis

Table E.5 summarizes utilization of M/WBEs by the three utilization measures – Purchase Orders, Accounts Payables¹² and Contract Awards. Overall, utilization of M/WBEs is highest in Architecture and Engineering, as high as 82.68 percent if measured by Contract Awards, over 76 percent based on Payables and over 62 percent based on POs. The majority of the M/WBE utilization is based on Minority-owned firm utilization and not WBEs. WBEs never exceed 7.43 percent utilization based on any of the measures of utilization. While it appears that Minority-owned firms are utilized substantially, most of the dollars are going to Hispanic American-owned firms.

When viewing results by race/ethnicity/gender in Table E.6, Hispanic American-owned firms had the highest M/WBE participation rates in A&E, Construction and Construction-Related Services and Maintenance and Maintenance-Related Services. In A&E (62.96 percent) and Construction and Construction-Related Services (60.03 percent), Hispanic American-owned firm participation levels were higher than Non-(M/W/SMBEs). M³ Consulting took a deeper dive into these two categories and made the following observations:

- Non-(M/W/SMBE) and WBE pre-qualification aggregate bonding and bidding limits at \$1.2 billion and \$33.4 million, respectively, on average were higher than Hispanic American-owned firms at \$30.3 million. Even so, Hispanic American-owned firms were awarded contracts at higher rates than these two groups.
- Hispanic American-owned firm utilization at 60.03 percent in Construction and Construction-Related Services significantly outpaced their RWASM availability at 26.96 percent.
- One African American-owned firm represented over 88 percent of prime contract awards for this group. No other race/ethnic/gender group reflected this level of concentration of awards in one firm. While the contractor had the highest aggregate bonding and bidding limits for African American-owned General Contractors at \$60 million, at least two other African American-owned General Contractors had bonding and bidding limits (\$20 million and \$30 million) that would allow them to perform on many of the District's construction contracts at the prime level.

¹² AP and PO data reflect prime level analysis, whereas Contract Awards reflect Prime + Subcontractor Analysis. M3 Consulting, in comparing subawards and subpayments found no significant difference. Missing data elements did not permit an exact matching process between invoice payments and subpayments at the contract level.

Executive Summary

- Construction and Construction-Related Services M/WBE utilization, with contracts primarily over \$2 million, outpaced Maintenance and Maintenance-Related Services M/WBE utilization, with contracts primarily under \$2 million.
- In Maintenance and Maintenance-Related Services, it appears that M/WBEs included as awardees on multi-awardee contracts (contract awards) are not actually receiving POs under those contracts. Because of data limitations, M³ Consulting was unable to conclusively verify this observation. We note that, while the differences are not as stark because of low participation rates, similar observations can be made in Goods & Supplies.

For M/WBE participation in Services and Goods & Supplies, African American- and Asian American-owned firms did not reach one percent in either category. WBEs had slightly over one percent participation in Services, but less than one percent in Goods & Supplies.

Based on the Utilization Threshold analysis and Top Ten Analysis, M-DCPS' results may reflect limited competition, with Hispanic American-owned firms and Non-(M/W/SMBEs) garnering the majority of M-DCPS contract and procurement opportunities across the various threshold levels and procurement categories. In Architecture and Engineering and Construction and Construction-Related Services, these opportunities are concentrated in a small number of firms. Furthermore, while Hispanic American-owned firms reflect the highest levels of participation in lower thresholds, Non-(M/W/SMBEs) have the highest levels of participation in the largest Construction thresholds. These findings support the pre-qualification findings, which reflect that Non-(M/W/SMBEs) have the capacity to perform these very large projects.

This concentration is further reflected in the limited participation of other M/WBE groups, even in procurement thresholds where capacity is not an issue. While the District has a race/gender-conscious program, competition, bidding and participation levels may still be limited by the appearance of a "closed shop" or the belief by the bidding community that only certain firms will be awarded contracts by the District.

Executive Summary

Table E.5.
M/WBE Utilization in Percent of Dollars of Purchase Orders, Payments and Contract Awards
Miami-Dade Public Schools
Summary of M/WBE Utilization; FY 2013 - FY 2018
By Relevant Market

Procurement Category	M/WBE Utilization Based on Purchase Orders			M/WBE Utilization Based on Accounts Payables			M/WBE Utilization Based on Contract Awards		
	(in percent)			(in percent)			(in percent)		
	Minority	WBE	M/WBE ⁴	Minority	WBE	M/WBE ⁴	Minority	WBE	M/WBE ⁴
Architecture and Engineering ²	59.73	2.98	62.73	69.93	3.33	73.27	78.92	3.76	82.68
Construction and Construction-Related Services ²	47.03	2.34	49.42	50.90	2.48	53.51	71.60	7.43	79.31
Maintenance and Maintenance-Related Services ²	27.41	0.39	27.84	38.20	0.71	39.05	47.72	3.87	52.16
Services ³	6.72	1.77	9.62	6.55	1.75	9.33	8.19	1.03	10.62
Goods & Supplies ¹	16.70	0.98	17.76	18.83	1.05	20.00	8.94	2.03	11.05

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data, M-DCPS Vendor data; * Services include Professional and Non-Professional Services

¹Nationwide

²Tri-County Area

³State of Florida

⁴Includes unknown M/WBEs

Executive Summary

Table E.6.
Summary Table - Utilization Percentage Participation
Using Utilization Measure Relied Upon in Disparity Ratio Calculations
By Race/Gender/Ethnicity
Miami-Dade County Public Schools
Relevant Market; FY 2013 – FY 2018

Race/Ethnicity/ Gender	Architecture and Engineering ² (contract awards)		Construction and Construction- Related Services ² (contract awards)		Maintenance and Maintenance- Related Services ² (purchase orders)		Services ¹ (purchase orders)		Goods & Supplies ¹ (purchase orders)		Total Firms ¹ (purchase orders)	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
Non-(M/W/SMBE)	3,208,075	13.80	81,312,711	18.52	30,495,023	54.94	685,605,548	90.22	1,040,078,597	79.55	2,153,314,103	73.57
African American	3,308,953	14.23	46,937,051	10.69	1,075,035	1.94	7,466,488	0.98	2,727,605	0.21	62,535,062	2.14
Asian American	400,693	1.72	1,601,222	0.36	184,297	0.33	5,419,230	0.71	7,320,829	0.56	12,978,809	0.44
Hispanic American	14,636,419	62.96	263,572,780	60.03	19,012,746	34.25	37,671,098	4.96	207,397,617	15.86	568,231,327	19.41
Native American	0	0.00	79,130	0.02	0	0.00	0	0.00	0	0.00	0	0.00
Other Minority	0	0.00	2,166,893	0.49	94,893	0.17	484,909	0.06	854,824	0.07	1,937,568	0.07
Total Minority	18,346,066	78.92	314,357,076	71.60	20,366,971	36.69	51,041,725	6.72	218,300,875	16.70	645,682,766	22.06
WBE	874,836	3.76	32,627,526	7.43	291,624	0.53	13,431,525	1.77	12,749,606	0.98	52,693,412	1.80
Unknown M/WBE	0	0.00	1,215,717	0.28	27,472	0.05	8,634,327	1.14	1,167,902	0.09	10,289,271	0.35
Total M/WBE	19,220,901	82.68	348,200,320	79.31	20,686,067	37.27	73,107,577	9.62	232,218,383	17.76	708,665,450	24.21
SMBE	818,539	3.52	9,531,554	2.17	4,322,498	7.79	1,198,638	0.16	35,065,999	2.68	64,976,082	2.22
Veterans	0	0.00	0	0.00	0	0.00	19,665	0.00	15,027	0.00	34,692	0.00
Grand Total	23,247,516	100.00	439,044,585	100.00	55,503,588	100.00	759,931,427	100.00	1,307,378,006	100.00	2,926,990,327	100.00

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data; * Services include Professional and Non-Professional Services; Other Minority is a firm identified as MBE, with no specific race/ethnicity identified; Unknown M/WBE is a firm identified as M/WBE, with no specific race/ethnicity/gender identified.

¹Nationwide

²Tri-County Area

³State of Florida

D. Disparity Analysis

Table E.7 summarizes the disparity ratios discussed in this chapter for each procurement categories at the race/ethnic/gender group level, for M-DCPS procurements for the period FY 2013-FY 2018. Based on the foregoing analysis and the summary below, findings of statistically significant disparity are made for the following groups in the following procurement categories:

- Architecture and Engineering—Asian American-owned firms, WBEs
- Construction and Construction-Related Services—WBEs
- Maintenance and Maintenance-Related Services—African American-owned contractors, Asian American-owned contractors, WBEs
- Services—African American-owned firms
- Goods & Supplies—African American-owned firms, WBEs

Table E.7.
Summary Disparity Ratios by Race, Ethnicity and Gender
Utilization vs. *RWA*SM Availability Level 2
Miami-Dade County Public Schools
Relevant Market; FY 2013—FY 2018

Ethnicity	Architecture & Engineering ¹ (Contract Awards)		Construction & Construction-Related Services ¹ (Contract Awards)		Maintenance & Maintenance Related Services ¹ (Purchase Orders)		Services ² (Purchase Orders)		Goods & Supplies ² (Purchase Orders)	
	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.
Non-(M/W/SMBE)	0.66	S	0.39	S	1.12	S	1.02	S	0.91	S
African American	1.08	NS	1.35*	S	0.18	S	0.54	S	0.14	S
Asian American	0.31	S	0.66	NS	0.35	S	1.37	S	1.67	S
Hispanic American	1.51	S	2.23	S	1.51	S	1.21	S	3.14	S
Native American	ND	S	0.16	NS	ND	S	ND	S	ND	S
Other Minority	0.00	S	0.30	S	0.07	S	0.07	S	0.10	S
Total Minority	1.29	S	1.64	S	1.00	NS	0.79	S	2.19	S
WBE	0.54	S	0.79	S	0.09	S	0.93	NS	0.42	S
Unknown M/WBE	0.00	S	0.12	S	0.02	S	1.47	S	0.13	S
Total M/WBE	1.19	S	1.40	S	0.83	S	0.87	S	1.67	S
SMBE	0.36	S	0.58	S	1.38	S	0.14	S	1.57	S
Veterans	ND	S	ND	S	0.00	S	0.00	S	0.00	S

Source: M-DCPS Contracts Data, SAP PO and AP data; M³ Consulting

Ratio is Less than 1 –Statistically Significant Underutilization;

Significance is NS and Ratio is Greater than 1—Overutilized, but not Statistically Significant; Significance is NS and Disparity Ratio is Less than 1 – Disparity, but not Statistically Significant;

ND: Not Defined

*0.90 (NS) without African American contractor with 88 percent of awards

¹Tri-County MSA

²Nationwide

E. Capacity Analysis

As disparities in procurement and contracting are often attributed to differences in capacity of Non-M/WBE and M/WBE firms, the capacity analysis sought to examine if there were any differences in capacity of firms based on race or gender that impact disparity outcomes and that could hinder firms from being actually and potentially available to M-DCPS. The purpose of this analysis is to determine if there

are any differences in the capacity of race, gender and ethnic groups and after accounting for any differences in the capacity of firms, if race and gender are contributing factors to any disparities found.

Capacity Based on Census Annual Survey of Entrepreneurs

Based on Census ASE data, Hispanic American- and Other Minority-owned firms appear to have higher capacity among M/WBEs, across procurement categories. However, these firms are smaller in absolute size than Non-M/WBEs, based on number of employees and revenues among the race/gender/ethnic groups in the MSA. WBE capacity is similar to Hispanic American- and Other Minority-owned firms in Professional Services.

If relative capacity compared to Non-M/WBEs was considered, the differences in capacities among M/WBEs and Non-M/WBEs is fairly small based on firms with paid employees across procurement categories, with the widest difference in capacity being in Construction.

Capacity Based on InfoUSA

In accordance with the InfoUSA data, using number of employees, there is little difference in capacity between the race/gender/ethnic groups and across procurement categories up to 250 employees and less so up to 500 employees.

Using revenues, capacity is similar between Non-M/WBEs and M/WBEs by both number of firms and percentage of firms up to \$2.5 million across procurement categories. If taking into consideration the lower count of firms across race/gender/ethnic groups, capacity is similar for Non-M/WBEs and M/WBEs up to \$20 million.

Above 500 employees and \$20 million in revenues, the number of firms represented are very small. Even so, there are few differences it appears among these very large firms.

Capacity Based on Survey Regressions

M³ Consulting conducted a survey of firms on the M-DCPS vendor registry and Master M/WBE/SBE list, with a focus on gathering capacity data that was to be used in the regression analysis to examine for differences in capacity based on race/gender/ethnicity, if any. The list includes firms that may never have done business with M-DCPS. The process involved creating a questionnaire, sample design, data collection and coding, analysis and interpretation. Questions were designed with the specific purpose of collecting information about the availability of firms seeking to do business with M-DCPS and the private sector and their capacity. The results of the survey are discussed in this section of the report.

Typically, a sampling frame is defined based on vendors that registered to do business with M-DCPS and the Master M/WBE/SBE list and a random sample drawn, enabling M³ Consulting to obtain information to make inferences about capacity of vendors in the population being analyzed. However, since we used online surveys and it was cost effective, instead of sending the survey to only a random sample of firms,

we emailed the survey link to the entire population of firms in these two aforementioned lists to be able to maximize sample size. A total of 8,325 firms were sent an online survey link with a unique password on the first emailing. Two reminder emails were sent, with 8,320 emailed on the second email and 8,316 on the third email. There were 53 bounce backs on the first emailing, 59 on the second emailing and 74 on the third emailing. The total number of responses was 429 firms. The number of respondents per question varies and may not equal 429 firms, due to questions skipped by respondents. Additionally, several survey questions were cross-matched against Q.13 on male/female status of firm and Q.14 on race/ethnicity/gender of firm to allow for more detailed analysis.

T-Test Results

Male-owned firms had significantly higher initial start-up capital and applied for loans significantly more often than female-owned firms, while female-owned firms among the respondents on average had the largest bond acquired in the past two years, based on t-tests. Even so, in terms of firm characteristics, there was no statistically significant differences among firms based on gender.

Similarly, in comparing Minority-owned firms to White male-owned firms, the former had lower initial start-up capital and significantly lower gross receipts. As in the case of gender, there is no statistically significant differences among Minority-owned and White male-owned firms, based on firm characteristics. Comparatively, White Females are significantly less likely to do a start-up than White male-owned firms perhaps due to significantly lower initial capital, however they do not show significantly lower gross receipts, full-time employees or years in business.

Multivariate Regression Results

Based on multivariate regression results, firm characteristics, such as company age, number of full-time employees, owners' level of education, whether the firm was a start-up, do not impact the gross revenues of the firms in the sample. However, the owner's prior experience in the public sector and race/ethnicity appear to significantly influence the variation in revenues.

After accounting for variables that may impact firms' revenues, race/gender/ethnicity of the firm's owner does seem to have an influence. This is especially true in the case of African American- and Hispanic-owned firms where there is a negative and significant relationship between African American and Hispanic ownership status and revenues. Those firms that have mixed race/gender/ethnic ownership also show a similar negative relationship between gross revenues and race after controlling for firm and owner characteristics.¹³ Any variation in revenues of Asian American-owned firms and WBEs is due to chance.

¹³ Survey data only allowed for observations at the aggregated level.

Capacity Based on PUMS

Public Use Microdata Samples (PUMS) [from U.S. Census data] analysis is undertaken by M³ Consulting to examine the impact of race and gender, along with other demographic and economic factors that impact: (1) the choice of self-employment and (2) the level of self-employment income.

Examining the factors that impact the self-employment decision, it is noted that comparing similarly situated individuals (in terms of economic and demographic variables), a White male is 2 times more likely to be self-employed as an African American, 1.2 times as likely as an Asian American, about 1.19 times as likely as any Other Race and only little over 0.7 times as likely as a Hispanic American to be self-employed in Florida.¹⁴ Also, Female-owned firms are a little over half as likely as Male-owned firms to be self-employed.

Further examining the likelihood of self-employment based on race and gender characteristics, controlling for variables related to economic and demographic factors, while race and gender do have a significant impact on the probability of being self-employed, African Americans are significantly less likely to be self-employed in Florida. The Construction industry reflects that African Americans are significantly less likely to be self-employed, while Hispanic Americans are significantly more likely to be self-employed. In Professional Services as well, White males are more inclined to be self-employed in Florida. In comparing similarly situated individuals within Professional Services or Construction, Maintenance and Maintenance-Related Services, the greatest discrepancy is seen in African Americans as compared to White males with regards to self-employment than is seen in Asian Americans and Other races.

Examining the factors that impact self-employment earnings, we note that all other variables kept constant, a self-employed Hispanic American will earn about \$282 more than a Non-minority firm; an Asian American will earn about \$22 more and a male self-employed person will earn \$1,128 more than a self-employed female. As discussed above, with regards to self-employment decision, with earnings as well, a self-employed African American will earn about \$631 less than a similarly situated Non-minority firm. This holds true in the Construction, Maintenance and Maintenance-Related Services as well as Professional Service industries, with self-employment earnings for an African Americans lower by \$1,298, \$1,173 and \$1,347 respectively. In contrast, Hispanic Americans that are self-employed earn \$279 higher in Construction and \$756 higher in Professional Services, but \$525 lower in Construction, Maintenance and Maintenance-Related industries.

Capacity differences do not appear to be distinct in the size of the firms based on revenues or full-time employees across the board for all race/gender or ethnicities. The constraints in capacities are more notable in terms of revenues, employees and business formation and factors related to the self-

¹⁴ PUMS data was not available at the Metropolitan or Tri-County level.

employment decision and earnings for African American-owned firms, more so than in any other race/gender/ethnic groups wherein the results are mixed.

E.3.3 QUALITATIVE FINDINGS IMPACTING STATISTICALLY SIGNIFICANT DISPARITY

A. Procurement Analysis

M-DCPS has developed a sound infrastructure for promoting M/WBE participation in its opportunities. The Superintendent has shown his commitment to ensuring M/WBE participation. Collaboration between Procurement Management Services and the Office of Economic Opportunity has increased markedly. M-DCPS has invested in bidder/vendor registration systems, M/WBE contract compliance software, and construction management systems. The Goal Setting Committee now has significant involvement from appropriate department heads to ensure thoughtfully tailored and achievable goal-setting.

As such, the observations below identify additional shortcomings that may inhibit M-DCPS success in achieving overall program objectives and therefore, may impact the ability of many M/WBEs to successfully engage in business with the District.

M/WBE Goal Attainment vs. Inclusive Procurement

The administrative implementation of the M-DCPS program has thus far largely focused on M/WBE goal attainment. Somewhat less emphasis has been placed on building a broader, more inclusive, procurement pipeline that nurtures the availability and capacity of new entrants and competitors. Too much emphasis on goal attainment to the exclusion of addressing underlying barriers in the procurement process may exacerbate risks for legal challenges that allege political considerations as the driving motivation for the program's application of race/gender-conscious goals. Furthermore, root causes of underutilization that contribute to marketplace disparities and inhibit broader mainstream M/WBE participation in an inclusive procurement environment are not fully addressed and explored:

- M/WBE bidder availability in the various trade and procurement categories is not openly addressed. OEO, Procurement Management Services and Facilities staff recognize the impact that certified M/WBE firm availability or the lack thereof has on meeting goals, which can lead to employing a certain few certified M/WBEs repeatedly.
- Procurement buyers and Facilities staff with detailed knowledge of their commodity areas and the available vendors acknowledged that they could be more creative in bidding and procuring in a manner that promotes inclusion of M/WBEs, without sacrificing or jeopardizing M-DCPS procurement objectives. However, it does not appear that the creative planning process is being fully engaged by PMS, Facilities or OEO; and,

- The Goal Setting Committee and OEO has not optimized construction planning and scheduling and PMS forecasting to provide the maximum amount of lead time for M/WBE planning, outreach, and matchmaking.

Limits on Transparency

While Finance, PMS, OEO and Facilities have invested in ERP and other software to assist them to more efficiently execute their tasks, the various systems have not been integrated to maximize organizational and operational transparency. Based on interviews, the various departments continue to operate in silos, thus further limiting organizational transparency. This lack of transparency impacts real-time decision making at senior levels and reduces collaboration among departments and schools, as it relates to including M/WBEs in M-DCPS' opportunities.

Impact of Pre-Qualification and M/WBE Certification

While pre-qualification of prime-level construction contractors is a State of Florida requirement and M/WBE certification is needed in the operation of an effective M/WBE program, both can have an exclusionary impact on M/WBE participation and limit the level of competition on M-DCPS opportunities. Pre-qualification may reduce the number of firms that can bid on M-DCPS opportunities at the prime level. This requirement also reduces the number of firms available in the various trade categories, further exacerbating issues of low M/WBE availability. Stringent M/WBE certification requirements can reduce the pool of available M/WBEs even further. While some agency certifications are accepted (Miami-Dade County, Broward County, Palm Beach County), M-DCPS has not yet created broad interlocal certification agreements with other public sector jurisdictions, such as Broward Schools, Palm Beach Schools, South Florida Minority Supplier Development Council and Florida DOT.

Capacity Building

Given the constraints of pre-qualification on construction opportunities, i.e., bidding dollar limits, and District requirements in terms of quantities, on-site school requirements, i.e., Jessica Lunsford Act, utilizing M-DCPS opportunities to build capacity can be challenging. Based on interviews, staff recognized that, because most construction under the bond has been executed, the opportunity to conduct capacity building initiatives has all but passed.

B. Anecdotal Analysis

The anecdotal data from 36 participants was gathered through one focus group and three public hearings.¹⁵ The objective of the in-depth interviews was to capture the experiences, attitudes, issues, and perceptions of business owners seeking opportunities with M-DCPS, and with other public and private organizations in the Tri-County area, as well as M&TA providers supporting these firms.

The following observations illustrate the possible barriers that interviewees perceive to exist for minority and women business owners as they attempt to transact business with M-DCPS and in the marketplace.

- Lobbying license and M/WBE certification are not useful, according to some participants, as they were unable to reach school officials or win bids, even though they had obtained these accreditations. Other participants, however, had better success in optimizing these tools. One participant recommended that certification and pre-qualification be streamlined, as the process for both is extremely time consuming and both applications use much of the same information.
- Several participants were concerned about slow payments. These participants were frustrated by their inability to obtain timely payments from general contractors, prime contractor withholding of their retainage several months after contract completion, the slow processing of change orders and payments by M-DCPS, which impacted prime contractor payments, and the inability to check with M-DCPS as to whether a prime contractor had received payment.
- Several participants found OEO staff and the Supplier Diversity Program very helpful. A few noted the improved operation since the appointment of the new OEO Assistant Superintendent for Equity & Diversity.
- Some participants discussed the difficulty working with schools and departments, which included difficulty in reaching school representatives or being given consideration and the narrow specifications used by schools, i.e., using specific brand names, as opposed to a product description.
- Some participants believed that prime contractors sometimes used them as “bid fodder”.
- Several participants desired increased communication from M-DCPS on awarded firm and feedback on the reasons they were not awarded.

¹⁵ We note that two other focus groups were scheduled, but confirmed participants did not attend. Additionally, we attempted to schedule one-on-one interviews as well, but received no confirmations.

- Size of firms impacted the ability of some firms to bid on M-DCPS opportunities. For some, M-DCPS seemed to contract with large out of state firms over local small firms; Others felt that M-DCPS projects were too large and small firms did not have the capacity to perform them.

C. Marketplace Analysis

The Marketplace Analysis examined various activities to determine M/WBE participation levels in private sector and other public sector opportunities. Demographic and Labor Force data and Miami-Dade County Business License data was reviewed.

Demographic and Labor Force

While White Americans represented the majority in the State, Hispanic Americans represent the largest population group in the Miami-Ft. Lauderdale-Pompano Beach MSA at 42.82 percent, with African Americans making up about 20 percent of the population and Asian Americans barely present in the MSA at 2.35 percent. The civilian labor force in the MSA mirrors the population.

Construction

Construction occupations in the Miami-Ft. Lauderdale-Pompano Beach MSA seems to mirror the Civilian Labor force, with Hispanic Americans taking the lead followed by White Americans and African Americans.

Professional Services

White Americans as well as Hispanic Americans dominated the Science, Engineering and Computer professions and Management, Business and Financial professions in the MSA. Hispanic Americans and African Americans were also represented in the healthcare professions.

Support Services

Hispanic American and African American women were noted to have a strong presence in Support Service occupations, while their male counterparts largely were in Protective Service occupations in the Miami-Ft. Lauderdale-Pompano Beach MSA.

Business License Data

Comparing business license data as a measure of firm availability for the marketplace to M-DCPS RWASM availability, M/WBEs represented a rather small proportion of the marketplace at 1.50 percent, which includes firms doing business in both the private and public sector. Their largest presence in both the private and public sector was in Construction at 4.62 percent.

D. Race Neutral

There are a significant number of race-neutral programs that provide assistance and support to M/WBEs and SMBEs. M³ Consulting reviewed the offerings of over 70 organizations in the categories of:

- Goal-Based and Other Targeted Procurement Programs
- Management and Technical Assistance Providers
- Financial Assistance Providers
- Community and Economic Development Organizations
- Chambers of Commerce
- Trade Organizations and Business Associations
- Other Advocacy Groups

M³ Consulting interviewed Executive Directors of 10 organizations to determine their experiences working with small, minority and women-owned businesses. The Executive Directors identified the following issues impacting the S/M/WBEs that they service¹⁶:

- Lack of parity, inclusiveness, diversity, discrimination
- Need for improved M-DCPS commitment and processes supporting M/WBEs
- Importance and availability of Capital (Funding)
- Insufficient access to information, communication, technology
- Lack of uniform certification and lack of results from being certified
- Need for training and education on bid process, running a business, goal-based program requirements
- Discrimination and exclusion

Though race-neutral programs within the Tri-County Area have made some progress in improving M/WBEs and SMBEs management skills, access to capital, and greater exposure to the larger business community, M/WBEs and SMBEs still face some difficulty in gaining access to public and private sector contracting opportunities.

The results of the program review and interviews revealed that, while race neutral efforts may have contributed in some degree to increased capacity and participation in contract awards, race neutral programs alone have not been fully effective in increasing availability, capacity or utilization of M/WBEs or eliminating disparity.

¹⁶ We note that most of the comments reflected experiences in the marketplace and not specific to M-DCPS, specific industries or specific experiences.

Given this result, the provision of management, finance and technical assistance via race-neutral programs, in and of itself, does not appear to adequately address all issues and barriers faced by M/WBEs in the Tri-County area.

E.4 RECOMMENDATIONS

In light of the findings discussed above, M³ Consulting is providing the following recommendations to M-DCPS. The recommendations contain both race/gender-neutral and race /gender-conscious elements. These recommendations consist of a listing of pertinent options from which M-DCPS may select in narrow tailoring its efforts to the findings of this report. The options combine agency specific and best practices recommendations that are legally defensible based on the factual findings of this study. M-DCPS should consider adoption of those recommendations that are considered most appropriate in terms of cost, resources, likely effectiveness, community acceptance and organizational feasibility.

The recommendations provided by Miller³ Consulting, Inc. in the Phase 2 Disparity Study continue to be relevant to M-DCPS. As such, several Phase 2 recommendations have been integrated into the recommendations below for the reader's convenience.

E.4.1 IDENTIFICATION OF RACE AND GENDER-CONSCIOUS GOAL POSSIBILITIES

The actual setting of legally defensible M/WBE goals is a policy decision that requires action by M-DCPS. M-DCPS can establish overall M/WBE policy goals that then may be used by employees with buying authority. M-DCPS can then develop an action plan that specifies procedure, program and goal improvements that will be made, and the timeline allocated for those tasks.

Establishment of Race- and Gender-Conscious Goals

In certain categories and for certain groups, race/gender-conscious means are supportable activities toward the achievement of established goals, based on the findings of statistically significant disparity, reflected in Table E.8 below.

As significant disparity is eliminated in the race/gender-conscious categories, the utilization of race/gender-neutral means in attaining the established goals should be increased. However, in all instances where race/gender-neutral means are utilized, if significant disparity re-emerges, then race/gender-conscious techniques can be utilized on a non-permanent basis to correct identified disparities.

While M-DCPS should utilize race/gender-neutral means to address participation of groups where there is no statistically significant disparity, that does not mean or condone passive or no outreach to these groups, as significant disparity can emerge or re-emerge with lack of focus by M-DCPS to be inclusive. This is especially true in the COVID-19 environment, where a significant amount of emergency purchasing is

being done by M-DCPS and public entities in South Florida and around the country. M-DCPS should continuously focus on an inclusive procurement environment that considers M/WBE and SDBEs and narrow the focus when necessary, based on meeting established goals.

Availability, Utilization and Disparity measures should be tracked on an annual basis and annual goals set as discussed above, as the recommendations below are implemented.¹⁷ RWASM Availability is significantly impacted by bidding patterns and practices. If the bidding patterns of M-DCPS vendors are altered, due to internal adjustments within M-DCPS or marketplace factors, the impact of those changes should be captured. Similarly, Utilization, particularly in Construction and Construction-Related Services and Maintenance and Maintenance-Related Services, reflect issues that require further analysis and potential changes to increase competitiveness, provide opportunities where capacity is not an issue and eliminate concentration in one contractor for African Americans in Construction.

Table E.8. Categories for Race/Ethnicity/Gender-Conscious and Race/Ethnicity/Gender-Neutral Means of Addressing Disparity By Procurement Type		
	Race and gender-Conscious	Race and gender-Neutral
Architecture & Engineering	<ul style="list-style-type: none"> Asian American WBEs 	<ul style="list-style-type: none"> African American Hispanic American
Construction and Construction-Related Services	<ul style="list-style-type: none"> WBEs 	<ul style="list-style-type: none"> African American* Asian American Hispanic American
Maintenance and Maintenance-Related Services	<ul style="list-style-type: none"> African American Asian American WBEs 	<ul style="list-style-type: none"> Hispanic American
Services	<ul style="list-style-type: none"> African American 	<ul style="list-style-type: none"> Asian American Hispanic American WBEs
Goods & Supplies	<ul style="list-style-type: none"> African American WBEs 	<ul style="list-style-type: none"> Asian American Hispanic American

Source: M³ Consulting; Based on Level 2 RWASM Availability and PO Utilization

*When African American contractor with 88 percent of awards is removed from the analysis, there is disparity, but not statistically significant.

¹⁷ Annual goals should be set as benchmarks only that provide guidance in accessing how well the program is working on an annual basis, and that help the agency determine whether it needs to be more or less aggressive in the kinds of tools and efforts it is undertaking to remedy the ongoing effects of discrimination.

In conjunction with M-DCPS' outside legal counsel, as part of sunset preparation, we suggest removing a portion (e.g., 10 percent) of all contracts let each year within certain industry segments no longer experiencing widespread M/WBE underutilization from the assignment of race- and gender-conscious goals, evaluation preferences, and remedies, and carefully monitoring them on a quarterly basis to ensure that significant disparities in M/WBE utilization do not re-appear. The Board and Administration would determine the period of time that this gradual sunset review process would occur. This process would assist the Board to confirm whether race- and gender-conscious goals should be sunset for a particular group.

E.4.2 LONG-TERM AVAILABILITY AND CAPACITY BUILDING INITIATIVES

The M-DCPS General Obligation Bond presented an opportunity for increasing availability and capacity of M/WBE and SMBE firms. However, based on interviews, the District was not focused on utilizing these opportunities for the purpose of capacity building. The recommendations in this section are focused on how M-DCPS can utilize both its resources and opportunities to contribute to the growth and development of M/WBE and SMBE firms, in addition to increasing the number of contract awards.

A. Increasing Pipeline of M/WBE and SMBE Firms

To increase opportunities for M/WBE and SMBE firms, M-DCPS must start with the consideration of available firms. Particularly among African American-owned firms, significant social and economic factors impact their availability in the general marketplace. While there are a large number of management, financial and technical assistance programs to assist M/WBE and SMBE firms, no entity has more ability to impact the pool of M/WBE and SMBE firms than M-DCPS.

The Starting Point: Youth Entrepreneurship

Crososn makes it clear that public entities cannot address social discrimination through legal race/gender-conscious remedies. However, the District is positioned, through its responsibility to educate its students, to begin to reshape some of the social dynamics that impact their successful entry into the marketplace as entrepreneurs upon graduation.

M-DCPS has more access to children and their parents than any other institution in the Miami area. As such, M-DCPS is in an invaluable position to impact values, behaviors and attitudes toward discrimination and bias, and to cultivate a culture of entrepreneurship. By inculcating students early, it allows the African American community in particular to expand social capital and the Miami community to begin to change the narrative of the historical, social and economic factors that have ultimately stunted the natural growth and development of entrepreneurs in the African American community, and among women and certain Hispanic Americans from different national origins.

Efforts can include:

- Youth entrepreneurship and financial literacy programs;
- Mentorship and apprenticeship programs with M-DCPS vendors/contractors/consultants;
- Targeted entrepreneurship career tracks—with *emphasis on exposure to entrepreneurs, as opposed to large corporations*—in conjunction with local technical colleges. We note that the State of Florida has one of the strongest two-year college programs in the country;
- Expanded access to entrepreneurship and financial literacy programs to students' parents/family members;
- Ultimately, providing graduates of the M-DCPS system who become entrepreneurs with access to M-DCPS opportunities through SMBE programs, such as small business set-asides, sheltered markets and M/WBE mentor/protégé programs. Initiatives focused on students that have matriculated at M-DCPS would be considered race/gender-neutral, with a desired outcome of promoting economic and social development that encompasses all segments of the M-DCPS student population.

Refocus Certification and Pre-Qualification Efforts to Identification of Qualified Firms

The District should continuously monitor its certification application eligibility standards and process to ensure that it is inclusive only of those M/WBEs adversely impacted by discrimination, and that they do not serve as an unnecessary barriers to contract participation. Furthermore, the District should maximize uniform certification agreements and reciprocity within the region to reduce the certification application burden on M/WBEs.¹⁸

Additionally, M-DCPS should work to streamline the application processes, such that M/WBEs are not required to submit the same information more than once. Uniform data elements captured within automated centralized bidder registration systems throughout the region, as well as reciprocity in the sharing of resultant bidder registration systems across jurisdictional boundaries, would go a long way towards achievement of this objective.

Before addressing other initiatives regarding certification and pre-qualification standards, OEO should:

- Analyze and share compiled prospective bidder lists and business directories among community trade associations, advocacy groups, Chambers of Commerce, and Management and Technical Assistance providers (M&TA) to determine whether the listings of firms in this master vendor/bidder list are comprehensive, or in need of further augmentation. Organizations with

¹⁸ We note that M-DCPS has already developed reciprocity with Miami-Dade County, Broward County and Palm Beach County.

private membership lists should also be encouraged to share their directories to help compile the most exhaustive list of firms.

- For firms on the list that are not certified, conduct additional surveys to obtain data on type of goods and services provided and gauge interest in doing business with M-DCPS.
- Measure M-DCPS progress in increasing the number of firms certified and number of firms pre-qualified against this list of identified firms.
- For those available firms that do not meet M/WBE certification and pre-qualification requirements, work to include as many available firms as possible on the M-DCPS vendor registry and in M-DCPS' SMBE programs, and then, develop these race/gender-neutral goals and initiatives accordingly.

B. Expanding Competition

Due to policies like pre-qualification and practices like repeatedly awarding contracts to a few incumbent firms in certain lines of work, M-DCPS has somewhat limited competition within many areas of its contracting opportunities. M-DCPS should constantly monitor its contracting activity to determine whether contract awards are concentrated among a small group of firms.

Develop Processes for Ensuring Actual Awards to Multi-Awardees and M/WBE Partners

On contracts where there are multiple awardees, such as Maintenance and Maintenance-Related Services and Goods & Supplies, it appears that M/WBEs on these awards are not receiving actual awards. M-DCPS should consider creating methods, i.e., rotations, to ensure that all awardees are receiving actual contracts. M-DCPS should ensure that M/WBE partners, i.e., partners providing services such as construction and program management, outreach, contract compliance, and technical assistance, on construction management teams are participating beyond pre-construction.

Deeper Dive of Bid/RFP, Award and Payment Process

M-DCPS should consider undertaking a deeper dive to identify the factors affecting its bidding patterns, RFP proposal rankings, contract awards, change orders, and any differences between cumulative contract awards and actual payments at the prime contract and subcontract levels. Such additional analysis is especially warranted regarding contracts for Construction and Construction-Related Services to ensure that the outcomes reflected in the Availability and Utilization chapters reflect a procurement process that is open, fair, transparent, and inclusive. This deeper dive to review *actual practices* affecting the award and payment patterns for a representative sample of *individual contracts* would include a review by an independent party of:

- Pre-award activity—bid and award documents for individual opportunities, including bidder/vendor solicitation and outreach, bid tabulations, the identity of persons and interests

included on selection committees that evaluate responsive proposals, evaluation score sheets, GMP negotiation documents, prime contractor selection and evaluation score sheets for subcontractors, and prime contractor solicitation list for subcontractors.

- Post-award activity—Selection process on multi-awardee contracts, M/WBE participation as observed through various phases of projects, procedures followed in addressing proposed contractor / subcontractor substitutions, change orders, slow or non-payments to subcontractors, and the impacts of all of the above on bonding access for both prime contractors and subcontractors on construction projects.

We emphasize that this deeper dive is not an audit of policies and procedures, but rather a review of the execution of those policies and procedures (actual practices) and their impact on the outcomes reflected in the Disparity Study.

To facilitate this deeper dive, certain data capture issues should first be addressed:

1. The bid/ITB/RFP number established at the point of bid should follow the awarded firm. Upon completion of negotiations with the awarded firm, the bid/ITB/RFP number should become an available and required data field within the Purchase Order data, subject to extraction. The addition of the bid/ITB/RFP number will allow for tracking of the project/contract from the point of award, to the point of contract through actual payments.
2. Similarly, a unique centralized bidder registration number should be obtained from each awarded prime contractor and for each of its subcontractors (regardless of race or gender ownership status) prior to execution of each contract. Such centralized bidder registration numbers should be incorporated or recorded in the contract documents, the purchase orders, and each invoice submitted by the prime contractor over the course of the contract term. Corresponding commodity codes for the scopes of work performed by the prime contractor and each of its subcontractors, as well as corresponding dollar values for such work should also be stated in each invoice in a manner consistent with the contract documents and purchase orders, so that progress towards S/M/WBE participation commitments by the prime may be matched and monitored in subsequent invoices.
3. All payments that are attached to an underlying Purchase Order should have the Purchase Order number captured in the SAP financial management system that can be viewed and extracted in standard or ad hoc reporting.
4. Direct disbursements (payments without and underlying Purchase Order) should be identified in AP data. (Similar requirements as outlined in number two above should also be followed for such direct disbursements.) Direct disbursements are typically non-encumbered expenditures which may not be budgeted for. Purchase Orders are encumbered expenses and therefore budgetarily can be accounted for at the department/fund level.

Expand Certification and Utilization of M/WBE and SMBE Pre-Qualified Firms

Pre-qualification is a state requirement, and thus, M-DCPS has limited control over this policy. However, M-DCPS can expand the number of firms who are pre-qualified through management and technical assistance and outreach to encourage M/WBEs to seek pre-qualification, as well as increase its utilization of existing pre-qualified firms.

Goal Setting and Other OEO Tools Applied by Threshold

M³ Consulting's threshold utilization analysis suggests that, where capacity is not an issue, certain race/ethnic/gender groups are still reflecting disparity. As such, M-DCPS should conduct a more detailed spend analysis to obtain a greater understanding of the individual contract opportunities and the dollar values associated with them.¹⁹ The spend analysis allows M-DCPS to review these individual opportunities by size. This process is different from unbundling, where the organization starts with the larger contracts and attempts to break them down into component parts or smaller contracts.

For example, Maintenance and Maintenance-Related Services opportunities mostly fall under \$2 million. Even so, M/WBE participation was lower in many cases than Construction and Construction-Related Services, where opportunities were mostly greater than \$2 million. For M&MRS opportunities, there is not so much a need to unbundle contracts, as there is to use more aggressive race/gender-neutral techniques, such as small business set-asides, to increase participation levels of Minority-owned firms and WBEs. The same logic applies to informal contracts under \$50,000.

Conduct Economic Impact Analysis

A Disparity Study provides critical quantitative and qualitative data on the participation of M/WBEs and SMBEs in M-DCPS opportunities and the factors impacting such levels of participation. An Economic Impact Analysis shows the impact on economic growth in a locale of procurement spend and of major capital improvement projects. This economic impact analysis should be conducted as a means to measure the effectiveness of M-DCPS SMBE and M/WBE programs in serving the broader economic inclusion policy objectives of the Board, and to also ensure that its spending practices provide for equal business opportunity for all segments of the student and family population within its service area. Moreover, such analysis would expand the compelling interest for M-DCPS's programs from one of simply addressing the ongoing effects of marketplace discrimination, to one of promoting economic growth and community development that simultaneously enhances the educational resources at its disposal toward achievement of its core mission.

¹⁹ Data capture issues outlined above should be addressed prior to conducting this spend analysis.

M-DCPS' auditor conducted an economic impact analysis of the GOB, but this analysis was not conducted by race/ethnicity. While relatively new, some cities and states, such as the State of Maryland, have conducted economic impact analysis by race/gender to determine whether the benefits of tax dollars utilized for procurement and contracting of goods and services is benefitting its citizens in an equitable manner.

Assess Performance of Personnel with Buying Authority

At the end of the day, increasing M/WBE and SMBE participation in M-DCPS falls to M-DCPS personnel making the purchasing decisions. With new e-procurement systems being implemented by the District, M-DCPS should be able to track the performance of individuals with buying authority to determine the degree to which they are making those purchasing decisions in a sufficiently inclusive fashion. The individual track record can be considered in annual or semi-annual performance evaluations. We noted in "Chapter IV. Statistical Methodology" that, in EEO Disparate Impact analysis, failure to maintain records necessary to monitor the race/gender of an organization's workforce can be deemed as an adverse impact.

C. Develop M/WBE and SMBE Program Which Addresses Requirements of Large Construction and Development Projects

Project-Based Planning and Procurement Approach

A project-based planning and procurement approach should be utilized to match M-DCPS' operational requirements on large construction projects. Utilizing the Seven Phases of a Development ProjectSM defined by M³ Consulting will allow M-DCPS to meet its planning, procurement and M/WBE and SMBE needs across the life cycle of the development project. This approach results in well-planned Opportunity Plans for major construction projects. These plans can be developed at the point of conceptual design or 65-70 percent construction document completion, which maximize the opportunity for matchmaking and outreach efforts.

The Seven Phases of a Development ProjectSM, along with possible opportunities (list intended to provide examples, not be exhaustive) at each stage are:

- **Planning**—opportunities exist in the acquisition of right-a-way; acquisition of property; legal services; environmental studies; land use studies; geotechnical studies and feasibility studies.
- **Financing**—opportunities may include investment banking, lobbyists, grant proposers, and legal services.
- **Designing**—design services include both architectural and engineering services, with other additional services that may be required such as geotechnical services, and environmental

services. Design services may also include the development of a bulk purchasing plan. Construction management services would also be included here.

- **Constructing**—these services include prime contractor/subcontractor activities including general contractors, tradesmen and soil testing.
- **Equipping**—involves the furnishing of facilities and buildings.
- **Maintaining**—involves the maintenance of equipment, facilities and buildings.
- **Operating**—covers the provision of those services that contribute to the overall continued function of the facility and buildings.

When M/WBE and SMBE participation is viewed within the construct of the phases of a development project, unbundling becomes a natural part of the project planning process.

Bonding and Insurance Program Related to Project-Based Procurement Process

Bonding

Four approaches may be taken to remove the barrier that bonding requirements sometimes can represent. *The efficacy of these programs must be reviewed in light of bonding requirements from the State of Florida.* The approaches include waiving bonding requirements, removing customary bonding stipulations at the subcontract level, reducing bonding, and phasing bonding. Each is described below:

- *Waiving bonding requirements.* Typically, small dollar value contracts are not required to have bonds. In addition, bonds can be required within a certain number of days after bid submittal, rather than with the bid submittal, so that only low bidders, and not unsuccessful bidders, must obtain them.
- *Removing bonding stipulations at subcontract level.* Currently, the District does not require subcontractor bonding on its projects and discourages its use. According to anecdotal interviews, this has a negative impact on M/WBE prime contractors. The District should review its processes to ensure that it is providing the appropriate support to ensure that its policy can continue in a manner that is fair to both prime and subcontractors.
- *Reducing bonding.* Rather than requiring a 100 percent payment and performance bond, consideration also can be given to reducing the dollar coverage of the bond. A 50 percent bond, for example, can be required, thus reducing the size and cost of bonding. In this way, a company's bonding capacity is not reached so quickly, and bonding is made more affordable.

- *Phasing bonding.* This technique can be used in instances where bonding cannot be waived but where there are limitations of the low bidder to obtain a full bond. For example, the owner can divide the job into three phases, each requiring a separate notice to proceed. The successful bidder is then required to obtain a bond for each phase. Upon completion of the first phase of the work, the bond is released, and the contractor is required to provide a second bond in a like amount. This process is then repeated for a third time. The owner thereby accommodates a M/WBE or SMBE that might not otherwise qualify, the owner is still protected from risks, and the contractor builds a track record of completing work under three bonds, thereby building bonding capacity and lowering the cost of bonding.

In addition to the above, several governmental bodies across the country have worked with local banking and other financial institutions to create bonding programs underwritten by the local government. A key to the success of such programs is establishing a contractor performance monitoring function to provide an early warning to any problems being encountered by covered contractors. The monitors are empowered to mobilize necessary assistance to ensure completion of the work and to minimize financial and other risk to the underwriter.

Wrap-Up Insurance

This represents an approach to affording all contractors the necessary insurance to perform public work, while guaranteeing the owner that needed insurance coverage is in place in all critical areas of contracting. Under a wrap-up insurance plan, the owner establishes a subsidiary organization, usually made up of a consortium of insurance brokers. Insurers are normally eager to compete for this business and will offer competitive rates to secure it. The arrangement also represents an excellent opportunity to involve M/WBEs and SMBEs in this business. Once in place, the owner offers blanket insurance coverage to all contractors through the wrap-up program.

D. Additional Adjustments to OEO Initiatives

OEO, under current leadership, has stabilized and has begun to implement initiatives, such as the Supplier Diversity Training program, that are being embraced by business owners. Based on the outcomes of the Disparity Analysis, the Procurement Analysis and Anecdotal/Race Neutral Testimony, OEO should consider the following:

Expand Use of SMBE Goal Setting and Other Race/Gender-Neutral Evaluation Techniques

The SMBE (Small Micro-Business Enterprise) program is not subject to the same level of judicial scrutiny as race/gender-conscious goals. Therefore, it allows M-DCPS to be more aggressive in utilizing tools that

essentially are not available under race/gender-conscious programs, such as set-asides and sheltered market. Utilizing these tools to the maximum level can assist M-DCPS in expanding the capacity of Small, Minority- and Women-owned firms, provided the program is implemented in an inclusive manner.

Further, M-DCPS should consider the use of race- and gender-neutral means to counteract any inherent bias in the selection of contractors and vendors that favors M-DCPS incumbent firms (e.g., evaluation preferences assigning up to 15 out of 100 evaluation points to those prequalified firms having little or no prior experience with M-DCPS).²⁰

Address Concerns about Slow Payments

Some firms expressed concerns about slow payments from prime contractors and long delays in the release by M-DCPS and prime contractors of retainage. OEO should further investigate these claims and determine whether an OEO payment monitor is needed. This investigation may also assist M-DCPS to determine whether M/WBE subcontractors hired by Prime Contractors for contract compliance and M/WBE outreach are being utilized throughout the life of the project and whether OEO needs additional contract compliance support internally.

M-DCPS should also consider developing a pay application that includes subcontractor utilization reporting to be utilized by Prime Contractors and approved appropriate District personnel. Any project with M/WBE, SMBE or VBE goals should be monitored for compliance by M-DCPS project managers. Not only does the District obtain more accurate data, as reporting is connected to payment, M-DCPS project managers take more responsibility for participation objectives, instead of viewing M/WBE issues as OEO's responsibility.

Discuss Impact of M-DCPS Decision Not to Reimburse Subcontractor Bonding on Smaller Prime Contractors

A few construction managers testified that M-DCPS' unwillingness to reimburse them for the cost of subcontractor bonds has made it difficult or impossible for them to work for M-DCPS. OEO and Facilities should discuss ways to mitigate this impact on small primes that M-DCPS is trying to support.

Optimize Procurement Forecasting and Construction Scheduling and Budgeting

The earlier M-DCPS can identify opportunities that will be bid, the better opportunity OEO has to work to expand the bidder and sub-bidder pool. The goal-setting process should be tied to forecasting, budgeting

²⁰ Recommendation made in conjunction with M-DCPS outside legal counsel.

and scheduling processes, as opposed to the bid and RFP process only. To do so requires opportunity identification at prime and subcontractor levels at the point of budgeting and funding.

Adjust Graduation Provisions

M-DCPS should modify its graduation provisions in the M/WBE program to ensure that those firms that are competitively viable are no longer entitled to race- and gender-conscious remedial assistance, unless and until, their three-year average gross revenues fall below the graduation threshold for at least two consecutive years. Modifications to graduation thresholds should be based upon rational objective data (e.g., a survey of the median revenues of prequalified firms within a particular industry segment).²¹

Non-Discrimination Policy

M-DCPS' commercial non-discrimination policy enforcement should be strengthened through periodic surveys of subcontractors to identify patterns of racial/gender exclusion on the part of certain M-DCPS prime contractors on their private sector contracts. The District should seek particularized evidence of denial of opportunities to bid or unfair denial of subcontract awards to certified M/WBE subcontractors on the part of M-DCPS primes.²²

E.5 SUMMARY

In summary, Miller³ Consulting, Inc. found that M-DCPS purchasing activities suggest that M/WBEs continue to have some difficulties obtaining significant contracts with M-DCPS. In submitting specific findings within the Disparity Study for M-DCPS, M³ Consulting formulated recommendations that allow M-DCPS to rely upon race and gender-conscious means when necessary to address ongoing hindrances to eliminate disparities, while also addressing M/WBE participation through race and gender-neutral efforts. Our economic and statistical utilization analyses could serve as part of the policy and procedure-making decisions needed to ensure enhanced and legally defensible M/WBE participation in M-DCPS's purchasing processes and opportunities.

²¹ Recommendation made in conjunction with M-DCPS outside legal counsel.

²² Recommendation made in conjunction with M-DCPS outside legal counsel.

CHAPTER 1: INTRODUCTION

1.1 SCOPE OF THE DISPARITY STUDY

On July 9, 2019, the Miami-Dade County Public Schools, or M-DCPS, commissioned Miller³ Consulting, Inc. (M³ Consulting) to conduct a Comprehensive Disparity Study (the Study). In conducting this Study, M³ Consulting collected and developed data to determine disparities, if any, between the availability and utilization of small-, minority-, and women-owned businesses for contracts awarded by M-DCPS. The Study involved the following areas of analysis:

- Collection and analysis of historical purchasing, contracting records and levels of M/WBEs, SMBE and VBE participation in the procurement categories of construction and construction-related services and professional services from July 1, 2012 through June 30, 2018 (FY 2013-FY 2018) and goods and services/ from July 1, 2015 through June 30, 2018 (FY 2016-FY 2018).
- Compilation of bidder, vendor, M/WBE certification and other lists to determine relative availability of contractors and vendors.
- A market survey analysis to determine capacity.
- An assessment of procurement and M/WBE, SMBE and VBE policies and procedures that included the following: an analysis of the organizational structures of M-DCPS; a review of past and present purchasing, as well as M/WBE laws, policies, procedures and practices; and interviews with Procurement and Office of Economic Opportunity (OEO) personnel;
- Anecdotal interviews and surveying of minority, women and Non-(M/W/SMBE) business owners.
- Examination of Non-(M/W/SMBE) and M/WBE participation in the private sector in M-DCPS' market areas; and
- Analysis of race and gender-neutral alternatives to minority and women business goal-based programs.

This Comprehensive Disparity Study contains the results of M³ Consulting's research and provides conclusions based on our analyses.

1.2 ORGANIZATION OF THE DISPARITY STUDY

This report consists of two volumes. Volume I includes the Executive Summary and twelve chapters. Volume II contains additional statistical tables and relevant appendices. A brief description of each chapter is outlined below.

- **Chapter I – Introduction** includes a synopsis of the contents of each chapter.

1.2.1 Industry Analysis

- **Chapter II – Legal Analysis** presents a discussion of the *City of Richmond v. J.A. Croson* decision and lower court cases interpreting and applying the *Croson* decision, including a discussion of the United States Court of Appeals for the Eleventh Circuit’s review of race and gender-conscious programs.
- **Chapter III – Procurement Analysis** reviews M-DCPS’ Procurement and M/WBE, SMBE and VBE procedures, policies and practices in relation to their effect on M/WBE, SMBE and VBE participation.

1.2.2 Statistical Analysis

- **Chapter IV – Statistical Methodology** provides a detailed discussion of the statistical methods used in the Study for determining availability and utilization of M/WBEs, SMBEs and VBEs and in calculating disparity. The chapter begins with a brief review of (a) the relevant market; (b) definition of businesses’ *readiness, willingness, ability* and how they affect measurement of availability; (c) measures of utilization and disparity; and (d) statistical significance. This chapter also reviews the task of data collection and includes a summary of data sources relied upon for relevant market, availability, utilization, and capacity determinations.
- **Chapter V – Statistical Analysis of Relevant Market and M/WBE, SMBE and VBE Availability** presents data on M/WBE availability in the relevant market based on the *Ready, Willing and Able (RWASM) Model* and InfoUSA data.
- **Chapter VI – Statistical Analysis of M/WBE Utilization** presents data on M/WBE, SMBE and VBE utilization in awards and payments for FY 2013-FY 2018 based on contract awards, accounts payable and purchase order data.

- **Chapter VII – Statistical Analysis of M/WBE Disparity in Contracting** presents disparity ratios, which are a comparison of the availability measures in Chapter V and the utilization measures in Chapter VI.
- **Chapter VIII – Capacity and Regression** examines if firm capacity contributed in any way to the observed disparities. The purpose of this analysis is to determine if, after accounting for any differences in the capacity of firms, race and gender are contributing factors to any disparities found. In addition, access to financing is also analyzed in this chapter through survey data.

1.2.3 Market Analysis

- **Chapter IX – Anecdotal Analysis** includes a description of anecdotal data collected and a synopsis of comments during interviews made by minority women and Non-(M/W/SMBE) business owners. The interviews focus on personal experiences in conducting business within a specified industry or with M-DCPS.
- **Chapter X – Marketplace Analysis** examines M/WBE participation in public/private sector opportunities and factors impacting their growth and development. It includes U.S. Bureau of Census Self-Employment and Apprenticeship data, Census EEO data, and local business license data.
- **Chapter XI – Race-Neutral Alternatives** analyzes race and gender-neutral programs to determine if they stimulate the utilization of M/WBEs without reliance upon characteristics of race, ethnicity or gender.

1.2.4 Recommendations

- **Chapter XII – Recommendations** presents policy and program recommendations that flow from the findings presented in the report. These recommendations range from race and gender-conscious initiatives for M-DCPS to substantive suggestions that pertain to the enhancement of inclusive procurement operations and SMBE and M/WBE programs.

The findings in each of the report's chapters are interdependent. This statistical analysis, when viewed in totality, provides M-DCPS with a picture of M/WBE participation in contracting and procurement activity involving prime contracts and subcontracts for the period FY 2013-FY 2018.

CHAPTER 2: LEGAL ANALYSIS

2.1 INTRODUCTION

The purpose of this chapter is to review the legal construct governing Miami-Dade County Public School's (M-DCPS) efforts to include minority and women-owned firms in its procurement and contracting opportunities. The analysis is intended to be a comprehensive overview of the requirements of *City of Richmond v. J.A. Croson* and its progeny²³ and their application to M-DCPS.

The chapter is divided into three sections, with the following subsections.

2.2. Constitutionality of Race and Gender-Conscious Programs

2.2.1 *City of Richmond v. J.A. Croson* Analysis

- *Adarand v. Peña*—Strict Scrutiny Applied to Federally Funded Requirements

2.2.2 Judicial Review of *Croson* Cases in the Eleventh Circuit

2.3 Factual Predicate Standards (Conducting the Disparity Study)

2.3.1 Relevant Market vs. Jurisdictional Reach

2.3.2 Availability

2.3.3 Utilization

2.3.4 Disparity Ratios

2.3.5 Capacity and Regression

2.3.6 Anecdotal

2.3.7 Private Sector

2.3.8 Race Neutral

2.4 Conclusions

2.4.1 *Croson* Standards

2.4.2 Eleventh Circuit Standards

2.4.3 Elements of Factual Predicate

This legal construct is instrumental in not only determining the parameters of a disparity study, but also in guiding the analysis of the constitutionality of M-DCPS' current race and gender-conscious initiatives.

²³ Progeny are legal cases that follow an original opinion setting legal precedent.

2.2 CONSTITUTIONALITY OF RACE AND GENDER-CONSCIOUS PROGRAMS

2.2.1 CITY OF RICHMOND V. J. A. CROSON ANALYSIS

The legal basis for adoption and application of a government race-conscious program was considered by the U.S. Supreme Court in the precedent-setting case *City of Richmond v. J.A. Croson Co.*²⁴ The following sections of this chapter discuss the *Croson* case and both the United States Court of Appeals for the Eleventh Circuit's and the State of Florida courts' interpretation of the Supreme Court's constitutional analysis of government-sponsored race and gender-conscious programs.

A. Background

In 1983, the City of Richmond, Virginia enacted an ordinance that established a minority business enterprise utilization plan (MBE plan) requiring non-minority-owned prime contractors awarded city contracts to subcontract at least 30 percent of the dollar amount to minority business enterprises. According to the MBE plan, minority business enterprises were defined broadly as companies with at least 51 percent ownership and control by U.S. citizens who were Black, Spanish-speaking, Asians, Indian, Eskimo, or Aleut. Under this definition, the MBE plan had no geographic boundaries, in that the MBEs eligible to participate in the plan could be located anywhere in the United States. The MBE plan was touted as a solution for promoting greater participation by minority business in construction contracting. The operation of the MBE plan included a waiver for contractors who demonstrated to the director of the Department of General Services that the plan's set-aside requirements could not be achieved. There was no administrative appeal of the director's denial of waiver.

The MBE plan was adopted after a public hearing at which no direct evidence was presented that: 1) the City had discriminated on the basis of race in letting contracts, or that 2) prime contractors had discriminated against minority sub-contractors. In the creation of its program, the City Council relied upon a statistical study indicating that, in a city where the population was 50 percent Black, less than one percent of the contracts had been awarded to minority businesses in recent years.

In 1983, the same year the MBE plan was adopted, J.A. Croson Company lost a contract to install plumbing fixtures in the city jail because of a failure to satisfy the 30 percent set-aside requirement. Croson determined that to meet the City's requirements, an MBE would have to supply fixtures that would account for 75 percent of its contract price. After contacting several MBEs on two separate occasions, only one MBE expressed interest, but was unable to submit a bid to Croson due to credit issues. Upon bid opening by the City of Richmond, Croson was the only bidder. Post bid-opening, Croson provided

²⁴ 488 U.S. 469, 109 S.Ct. 706 (1989).

additional time for the MBE to submit a bid to no avail. Croson then requested a waiver from the City, which was denied.

Croson sued the City of Richmond in the U.S. District Court, alleging the plan was unconstitutional because it violated the Equal Protection Clause of the Fourteenth Amendment.²⁵ The court upheld the plan. In 1985, the Fourth Circuit Court of Appeals affirmed the decision. The U.S. Supreme Court, in an opinion in which Justice O'Connor was joined by four other Justices, held that the Fourteenth Amendment's Equal Protection Clause of the U.S. Constitution was violated by the City of Richmond's set-aside ordinance because:

- 1) Richmond had failed to demonstrate a compelling governmental interest in apportioning public contracting opportunities on the basis of race; and,
- 2) The plan was not narrowly tailored to remedy the effects of prior or present discrimination.²⁶

The Court stated there was no proof in the record upon which to base a *prima facie* case of a constitutional or statutory violation by any contractors in the Richmond construction industry. The Court further held that the inclusion of Spanish-speakers, Asians, American Indians, Alaskans, and Aleuts, where there was absolutely no evidence of past discrimination against such persons, demonstrated that the City's purposes were not, in fact, to remedy past discrimination. Finally, the Court held that the 30 percent set-aside was not narrowly tailored to remedy the past effects of any prior alleged discrimination.

B. Standard of Scrutiny Analysis

The *Croson* case falls under the protection of the Equal Protection Clause. The Fourteenth Amendment, which prohibits states from denying any person within its jurisdiction the equal protection of the laws, is usually invoked when the state makes distinctions or classifications. There are three levels of scrutiny under which a state statute, regulation, policy, or practice can be examined: strict scrutiny, intermediate scrutiny, or rational basis.

- 1) The **strict scrutiny** standard is evoked if the classification is suspect; in particular, one based on race, ethnic or alien distinctions or infringements upon fundamental rights. The strict scrutiny test

²⁵ The district court upheld the plan which was affirmed by the Court of Appeals for the Fourth Circuit in reliance on *Fullilove v. Klutznick*, 448 U.S. 448, 100 S. Ct. 2758 (1980). The United States Supreme Court remanded the case for further consideration in light of the decision in *Wygant v. Jackson Board of Education*, 476 U.S. 267, 106 S.Ct. 1842 (1986) in which it applied the "strict scrutiny test" in invalidating the local school board's layoff policy.

²⁶ See *Croson*, at 488 U.S. 469, 109 S. Ct. 706 (1989).

is the most rigorous of the three levels of judicial scrutiny, requiring the state to show compelling governmental interests for making such classifications.

- 2) **Intermediate scrutiny** is applied to gender and age distinctions and requires the state to prove there is a fair and substantial relationship between the classification and the objective of the legislation.²⁷
- 3) The **rational basis** standard tests economic programs that do not make distinctions based on race, ethnic origin or gender. Under this standard, the moving party is required to show that the classification is not rationally related to a valid state purpose.

C. *Croson* and Strict Scrutiny

In reviewing the Richmond ordinance, the Supreme Court analyzed an affirmative action program that made distinctions based on race. Although the Court was deeply divided, the majority opinion in *Croson* interpreted the Equal Protection Clause as providing the same protection against discrimination and unequal treatment provided to Blacks and other minorities as to non-minority individuals.²⁸ The Court reasoned that protection of the individual rights guaranteed by the Equal Protection Clause requires strict judicial scrutiny of the facts and circumstances surrounding the adoption of race-based preferences to “smoke out” possible illegitimate motivations such as simple race politics or racial stereotyping.²⁹

Justice O’Connor, writing the majority opinion, favored this heightened scrutiny of race-conscious programs, basing her opinion on Justice Powell’s opinions in *University of California Regents v. Bakke*³⁰ and *Wygant v. Jackson Board of Education*, in which he applied the strict scrutiny standard to race-based preferences related to student admissions and employment, respectively. The use of a heightened scrutiny was necessary, O’Connor reasoned, because the majority Black population in the City of Richmond raised the concern of the Court that a political majority will more easily act to the disadvantage of a minority based on “unwarranted assumptions or incomplete facts . . .”³¹ Although Justice O’Connor relied on *Wygant* to define the strict scrutiny standard for *Croson*, it is important to note that her concurring opinion in *Wygant* acknowledges the lack of consensus among the members of the Court regarding the appropriate interpretation of the strict scrutiny standard. Four members of the Court dissented on the standard set forth in the O’Connor opinion.

²⁷ Lower courts have not agreed upon the standard to be applied to physical and mental handicaps, however, intermediate and rational basis have been employed.

²⁸ *Croson*, at 721.

²⁹ *Id.*

³⁰ 438 U.S.265, 98 S. Ct. 2733 (1978).

³¹ *Croson*, at 722.

While the majority in *Croson* subjected race-based preferences adopted by state and local governments to the most stringent test of constitutionality, the Court apparently did not intend to sound a complete retreat from attempts by state and local governments to remedy racial injustice. In her opinion, Justice O'Connor stated:

"It would seem equally clear, however, that a state or local subdivision (if delegated the authority from the State) has the authority to eradicate the effects of private discrimination within its own legislative jurisdiction. This authority must, of course, be exercised within the constraints of the Fourteenth Amendment."³²

Justice Kennedy, in his concurring opinion, went further, stating the City, upon intentionally causing wrongs, has an "absolute duty" to eradicate discrimination.³³ Even so, the Court concluded that, in the enactment and design of the plan, the City of Richmond failed both prongs of the strict scrutiny test.

1. Compelling Governmental Interest

In some instances, public entities have compelling reasons to remedy past discriminatory treatment of racial or ethnic groups. In *Croson*, the Court noted that a municipality has a compelling interest in redressing discrimination committed by the municipality or private parties within the municipality's legislative jurisdiction if the municipality in some way perpetuated the discrimination to be remedied by the program.³⁴ The Court makes clear that a state or local government may use its legislative authority in procurement to remedy private discrimination, if that discrimination is identified with the "particularity required by the Fourteenth Amendment."

In *Grutter v. Bollinger*,³⁵ the U.S. Supreme Court further expounded on the compelling governmental test, stating that, "[we] have never held that the only governmental use of race that can survive strict scrutiny is remedying past discrimination...Not every decision influenced by race is equally objectionable and strict scrutiny is designed to provide a framework for carefully examining the importance and the sincerity of

³² *Id.* at 720.

³³ *Id.* at 734.

³⁴ *Id.* at 720.

³⁵ 539 U.S. 306, 123 S. Ct. 2325 (2003)

the reasons advanced by the governmental decision-maker for the use of race in that particular context.”³⁶

2. *Factual Predicate*

Thus, race-conscious measures can be adopted when a governmental entity establishes, through a factual predicate, identified instances of past discrimination which must be particularized in order to provide guidance for the “legislative body to determine the precise scope of the injury it seeks to remedy.”³⁷

The City of Richmond justified its enactment of the plan based on five factors: (1) the plan declared its purpose to be “remedial”; (2) at public hearings in connection with enacting the plan, proponents stated there had been past discrimination in the construction industry locally, throughout the state and the country; (3) minority businesses received .67 percent of prime contracts from the City, while minorities constituted 50 percent of Richmond’s population; (4) minority contractors were grossly under-represented in local contractors’ associations; and (5) U.S. Congressional studies have concluded that minority participation in the construction industry nationally was stifled by the present effects of past discrimination.³⁸

The *Croson* court rejected the foregoing factors as inadequate, either singularly or in concert, to establish a strong basis in evidence to justify Richmond’s plan for the following reasons:

- *Remedial Purpose Recitation*: The mere recitation of a “remedial” purpose for a racial classification is insufficient, particularly where an examination of the history of the legislation and its legislative scheme suggests that its goal was other than its asserted purpose.³⁹
- *Statements Regarding Past Discrimination*: The generalized assertions of plan proponents’ that there had been past discrimination in the construction industry were highly conclusive in nature

³⁶ *Sherbrooke* and *Hershell Gill* have concluded that the holdings of the *Gratz v. Bollinger*, 539 U.S. 244, 123 S. Ct. 2411 (2003) and *Grutter v. Bollinger*, 539 U.S. 306, 123 S. Ct. 2325 (2003) cases in no way disturbs the holdings of *Croson*. See *Sherbrooke Turf, Inv. V. Minnesota Department of Transportation*, 345 F. 3d 964 (8th Cir. 2003) and *Hershell Gill Consulting Engineers v. Miami-Dade County*, 333 F.Supp.2d 1305 (2004)

³⁷ *Croson* at 723.

³⁸ The City of Richmond attempted in part to predicate its program on the studies cited by the Supreme Court in *Fullilove v. Klutznick*, supra n. 1. The court noted that the Equal Protection component of the Fifth Amendment was not violated when Congress established a set-aside program since it was substantially related to the achievement of an important national goal of remedying the past acts of racial discrimination in the area of public contracts. The Congressional authority to establish a set-aside program is greater than that of a state and is subjected to less judicial scrutiny by the courts. However, the Court in *Adarand Contractors, Inc. v. Federica Pena* held that “all racial classifications, imposed by whatever federal, state, or local government actor, must be analyzed under strict scrutiny. 515 U.S. 200, 115 S. Ct. 2097, 2113 (1995)

³⁹ *Id.* at 720.

and of no sufficient evidence or probative value in establishing past discrimination by anyone in the construction industry in the City of Richmond.⁴⁰

- *Disparity in Contracts Awarded*: Where special qualifications were required, the comparisons to the general population, rather than to the special smaller group of qualified individuals, may have little probative value. Thus, the relevant statistical pool for demonstrating discriminatory exclusion was the number of MBEs qualified to undertake the task, as opposed to the percentage of minority individuals in the general population. While the plan contemplated minority sub-contractor participation, the City did not know how many MBEs in the local area were qualified to do the work or the percentage of MBE participation in city projects.⁴¹
- *Low Participation in Contractors' Association*: A low percentage of minorities in the local contractors' associations did not provide sufficient evidence without proof that this low percentage was due to discrimination against, as opposed to the free choice, of Blacks to pursue alternate employment or interests.⁴²
- *Congressional Findings*: The finding by Congress that past discrimination accounted for the low number of minority contractors in the county had little or no probative value with respect to establishing discrimination in the City of Richmond. A more particularized showing of past discrimination by the City was required, such as a pattern of discrimination in the local industry that the City could act to eradicate, or discrimination in which the City was a "passive participant."⁴³

The Court concluded that a more specific inquiry and discovery would be required to support a constitutionally permissible set-aside program. The factual inquiry must be local in nature and the statistical analysis must address a relevant comparison. In *Croson*, Justice O'Connor relied heavily on her opinion and that of Justice Powell in *Wygant*, when specifying the requirement that "judicial, legislative or administrative findings of constitutional or statutory violation" must be found before a government entity has a compelling interest in favoring one race over another.⁴⁴

For example, in *Wygant*, the U.S. Supreme Court considered the validity of a collective bargaining agreement, which provided special protection for minority teachers in layoffs. The school board argued that the board's interest in providing minority teacher role models for its minority students, as an attempt to alleviate societal discrimination, was sufficiently important to justify the use of a racial classification embodied in the layoff provision.⁴⁵ The Justices rejected the role model theory and held that it could not

⁴⁰ *Id.* at 724.

⁴¹ *Id.* at 726.

⁴² *Id.* at 727.

⁴³ *Id.*

⁴⁴ *Id.* at 723.

⁴⁵ See *Wygant*, at 274.

be used to support a remedial measure, such as a layoff provision. The disparity between teachers and students, according to the Court, had no probative value in demonstrating discrimination in hiring and promotion, which necessitated corrective action. Substantially, the same conclusion had been reached by the Supreme Court in 1979 in *Bakke*.⁴⁶

In showing particularized instances of discrimination, the *Croson* Court decided that the factual predicate suffered the same flaws as did *Wygant's*. The factual predicate depended upon generalized assertions, which could lead to an attempt to match contract awards to MBEs to the minority population as a whole. In analyzing the *Croson* factual predicate, the Supreme Court did not “provide a set of standards or guidelines describing the kind of MBE plan that would pass constitutional muster. It simply provided a stringent burden of proof for proponents of MBE laws to meet ...”⁴⁷ The Court also did not give legislatures much guidance on the parameters of a factual predicate that would show evidence of discrimination. There are some indications of the measures the Court will accept:

- 1) A pattern of discrimination shown through an appropriate disparity analysis can raise an inference of discrimination;
- 2) A relevant market in which the public entity conducts business must be established; and
- 3) Qualitative evidence of discrimination, such as anecdotal testimony, may also be acceptable.

The Court, however, leaves a great deal of room for interpretation in the development of models to satisfy these standards.

Because the *Croson* Court left the task of further establishing a factual predicate to the lower courts, the lower courts have been experiencing difficulties in navigating the complexities in this area of constitutional law. In response, state and local governmental entities use independent consultants to assess if they have the factual predicate or a statistically significant disparity necessary to justify remedial race and/or gender-conscious programs under *Croson*.

3. Narrowly Tailored

The Court in *Croson* made it clear that the second prong of the “strict scrutiny” test demands that remedial action be “narrowly tailored” to identify past or present discrimination. At least three characteristics were identified by the Court as indicative of a narrowly tailored remedy:

⁴⁶ *Cone v. Hillsborough*, 905 F. 2d 908, 913 (1990)

⁴⁷ 488 U.S. at 507-508.

- 1) The program should be instituted either after, or in conjunction with, race-neutral means of increasing minority business participation; a governmental entity does not have to enact race-neutral means if they are not feasible or conducive to remedying past discrimination;
- 2) The plan should avoid the use of rigid numerical quotas;⁴⁸ and,
- 3) The program must be limited in its effective scope to the boundaries of the governmental entity.

Croson found the 30 percent quota in Richmond to be a rigid numerical quota without justification. Given that the city considered bids and waivers on a case-by-case basis, the Court found no need for the rigid quotas. In creating a plan, a public entity cannot employ quotas simply to avoid “the bureaucratic effort necessary to tailor remedial relief to those who truly have suffered the effects of prior discrimination.”⁴⁹

Yet, based on the discovery of a significant statistical disparity, the public entity can then institute measures to “end the discriminatory exclusion.”⁵⁰ In fact, in some showings of discrimination, goals, quotas or set-asides could be employed: “in the extreme case, some form of narrowly tailored racial preference might be necessary to break down patterns of deliberate exclusion.”⁵¹ Any plan of action containing racial preferences should be grounded in the statistical assessment of disparity.

Several lower courts have sought to expound upon the components of narrow tailoring dictated by the Supreme Court. In doing so, the following findings have been made:

- 1) Flexible and aspirational goals should be demonstrated by being tied to availability, set project-by-project and achieved through good faith efforts.⁵² Goals can be set for small minority groups where discrimination may have negatively impacted their numbers causing the inability to reach statistical significance.⁵³ Race-conscious goals within federal contracts should be utilized to achieve the portion of DBE participation that cannot be achieved through race and gender-neutral means.⁵⁴

⁴⁸ *Id.*

⁴⁹ *Croson* at 729.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Cone v. Hillsborough County*, 905 F. 2d 908 (1990), *Associated General Contractors of Ohio v. Drabik*, 214 F. 3d 300 (6th Cir. 2000).

⁵³ *Concrete Works v. County of Denver* (Concrete Works I), 823 F. Supp. 821, 843 (1993).

⁵⁴ *Western States Paving Co. v. Washington DOT*, 407 F.3d 983 (9th Cir. 2005).

- 2) Waivers and good faith efforts should be an integral component of the program. If MBEs are not available, or submit unreasonably high price quotes, the prime contractor should be granted a waiver.⁵⁵
- 3) A sunset clause is also a component of a narrowly tailored MBE program. This can involve: a) a graduation program,⁵⁶ b) a definite date to end the program;⁵⁷ or c) an annual review of M/WBE program efficacy, goals, and utilization. M/WBE programs should not be designed as permanent fixtures in a purchasing system without regard to eradicating bias in standard purchasing operations or in private sector contracting.
- 4) Additionally, any race-conscious program or other remedial action should not extend its benefits to MBEs outside the political jurisdiction, unless the MBEs can show that they have suffered discrimination within the locale.⁵⁸ M/WBE programs should be limited in scope to group(s) and firms that suffer the ongoing effects of past or present discrimination.⁵⁹
- 5) Race and gender-conscious M/WBE programs should be instituted only after, or in conjunction with, race and gender-neutral programs.
- 6) M/WBE programs should limit their impact on the rights and operations of third parties.

In *Grutter v. Bollinger*⁶⁰ and *Gratz v. Bollinger*⁶¹, which addressed the standards for utilizing race-conscious measures in public education, the U.S. Supreme Court reviewed the utilization of goals in affirmative action cases. The utilization of race should allow for individualized consideration, and be

⁵⁵ *Coral Construction Co. v. King County*, 941 F. 2d at 924, *Associated General Contractors of Ohio v. Drabik*, 214 F. 3d 300 (6th Cir. 2000), *Hershell Gill Consulting Engineers v. Miami-Dade County*, 333 F.Supp.2d 1305 (2004), *Western States Paving Co. v. Washington DOT*, 407 F.3d 983 (9th Cir. 2005)

⁵⁶ *AGC v. Coalition for Economic Equality*, 950 F.2d 1407,1417 (1991), *Associated General Contractors of Ohio v. Drabik*, 214 F. 3d 300 (6th Cir. 2000), *Hershell Gill Consulting Engineers v. Miami-Dade County*, 333 F.Supp.2d 1305 (2004) (August 24, 2004).

⁵⁷ *AGC v. San Francisco*, 748 F. Supp. 1443, 1454 (1990), *Associated General Contractors of Ohio v. Drabik*, 214 F. 3d 300 (6th Cir. 2000).

⁵⁸ *Concrete Works I*, 823 F. Supp. 821, 843 (1993). This was true even if the statistical evidence shows discrimination by contractors in cities in other locales, *Coral Construction v. King County*, 941 F. 2d 910, 925 (1991).

⁵⁹ In *Jana-Rock Const. v N.Y. State Dept of Econ. Dev.*, 438 F.3d 195 (2nd Cir. 2006), the 2nd Circuit considered the issue of under-inclusiveness—whether NYS’ exclusion of Portuguese and other European Spanish speaking persons from its definition of Hispanic in its affirmative action programs. While the court found that strict scrutiny and narrowly tailoring required that programs not be over-inclusive, the Court of Appeals did not believe that Croson intended to subject under-inclusiveness to the strict scrutiny standard.

⁶⁰ 539 U.S. 306, 123 S. Ct. 2325 (2003)

⁶¹ 539 U.S. 244, 123 S. Ct. 2411 (2003)

applied in a flexible, non-mechanical way. The Court appears to conclude that race can be used as more of a “plus” factor, as opposed to a defining feature of the application.

In *Sherbrooke Turf, Inc. v. Minnesota Department of Transportation* and *Gross Seed Company v. Department of Transportation*⁶², the Eighth Circuit Court of Appeals has interpreted these two cases in light of the U.S. Supreme Court’s decision in *Crosby*. The court found that the DOTs’ goal programs were consistent with the requirements of *Gratz* and *Grutter*, as they were flexible and individualized and emphasized race-neutral means.

In *Western States Paving Co., Inc. v. Washington State Department of Transportation*⁶³, the Ninth Circuit Court of Appeals reached a similar conclusion in finding that Washington DOT met the compelling governmental interest test but failed the narrow tailoring test. The court found that Washington DOT did not present any evidence of discrimination within the transportation construction market. Missing, the court stated, was (1) a statistical analysis that considered capacity of firms within Washington DOT’s market, and (2) anecdotal testimony.⁶⁴

4) Overconcentration

The District Court of Minnesota considered whether a DBE Program was narrowly tailored due to overconcentration in *Geyer Signal, Inc. v. Minnesota DOT*⁶⁵. In this case, Geyer sought a permanent injunction of Minnesota DOT’s DBE Program, declaring it unconstitutional on its faces and as applied. A major argument made by Geyer was that the DBE program was not narrowly tailored because DBE goals were only satisfied through a few areas of work on construction projects or over-concentrated, which burdened non-DBEs in those sectors and not addressing problems in other areas.⁶⁶ Under the federal requirements, DBE programs are required to monitor and address issues of overconcentration. The court first held that plaintiffs failed to establish that the DBE Program goals would always be fulfilled in a manner that created overconcentration, as is required under a facial challenge. Goals are established based on DBEs that are ready, willing and able to participate in the DOT’s procurement opportunities, thus accounting for work that DBEs are unable to perform.⁶⁷ Second, the court found, where there were issues of overconcentration, MnDOT Program has established mechanisms to address through:

- 1) Flexible contract goals that allow MnDOT to change focus from over-concentrated areas,

⁶² 345 F.3d 964, 2003 U.S. App. LEXIS 20287 (8th Circuit, May 2004)

⁶³ 407 F.3d 983 (9th Cir. 2005)

⁶⁴ *Id.* at 1002-1003.

⁶⁵ 2014 WL 1309092

⁶⁶ *Id.* at 11.

⁶⁷ *Id.* at 16.

- 2) Ability of prime contractors to subdivide projects that would typically require more capital and equipment than a DBE can acquire,
- 3) Waivers, and,
- 4) Incentives, technical assistance, business development programs, mentor-protégé programs and other measures to assist DBEs to work in other areas, where there is not overconcentration.⁶⁸

The as-applied challenge failed as well. On the issue of overconcentration, the district court held that there is “no authority for the proposition that the government must conform its implementation of the DBE Program to every individual business’ self-assessment of what industry group they fall into and what other businesses are similar.”⁶⁹ Because Geyer did not demonstrate that the NAICs code analysis was unreasonable or that overconcentration exists in its type of work, it did not show that MnDOT’s program was not narrowly tailored.

5) *Race-Neutral Alternatives*

The Court in *Croson* held that the MBE program should be instituted either after, or in conjunction with, race-neutral means of increasing minority business participation. The *Croson* Court stated that, in Richmond, there did “not appear to have been any consideration of the use of race-neutral means to increase minority participation in City contracting.”⁷⁰ The Court further stated that, in upholding the federal set-aside in *Fullilove*⁷¹, “Congress had carefully examined the rejected race-neutral alternatives before enacting the MBE set-aside.” This was because “by the time Congress enacted [the MBE set-aside] in 1977, it knew that other racial remedies had failed to ameliorate the effects of racial discrimination in the construction industry.”⁷²

While *Croson* does not define race-neutral programs or what constitutes a consideration of race-neutral programs, other passages in *Croson* do shed some light on the Court’s opinion on these two issues. The Supreme Court noted that the City of Richmond had at its disposal a wide array of race-neutral measures that could “increase the accessibility of City contracting opportunities to small entrepreneurs of all races.

⁶⁸ *Id.* at 16-17.

⁶⁹ *Id.* at 20.

⁷⁰ *Croson*, citing *U.S. v. Paradise*, 480 U.S. 49, 171 (1987).

⁷¹ In *Fullilove v. Klutnick*, 448 U.S. 448 (1980), the U.S. Supreme Court found that the United States government could use its spending power to remedy past discrimination in the construction industry by establishing that 10 percent of federal funds could go to minority-owned firms under a set-aside program. *Fullilove v. Klutnick* was overruled by *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200 (1995), bringing federal programs in line with *Richmond v. Croson*.

⁷² *Croson*, at 732 (1989).

Simplification of bidding procedures, relaxation of bonding requirements, and training and financial aid for disadvantaged entrepreneurs of all races would open the public contracting market to all those who have suffered the effects of past societal discrimination or neglect.”⁷³

The Court also suggested that the City may “[a]ct to prohibit discrimination in the provision of credit or bonding by local suppliers and banks. Business as usual should not mean business pursuant to the unthinking exclusion of certain members of our society from its rewards.”⁷⁴ Thus, the cities can attempt to thwart discrimination in those private industries that can award city contracts to minority contractors.⁷⁵

What constitutes an adequate consideration of race-neutral programs is more vague. *Fullilove* held that Congress made a thorough investigation of the inadequacy of race-neutral measures to promote MBEs. While *Croson* held that Richmond could not rely on the congressional findings referred to in *Fullilove*, presumably, Richmond could have relied on a similar quantum of evidence that Congress relied upon in *Fullilove*. However, congressional findings in *Fullilove* were remarkably thin with no hearings held to document the discrimination that the statute in *Fullilove* set out to rectify. While *Fullilove* has been in large part superseded by *Adarand v. Peña*, *Adarand* was also largely silent on what constituted an adequate consideration of race-neutral alternatives.⁷⁶

Subsequent federal case law has provided some illumination on the question of what constitutes adequate consideration of race-neutral measures.

- 1) As stated previously, a governmental entity does not have to enact race-neutral means if they are not feasible or conducive to remedying past discrimination.⁷⁷
- 2) If race-neutral programs and legislation were in place prior to the establishment of a race-conscious program and had been attempted in good faith, and yet M/WBE participation in public procurement remains low relative to availability, then an inference is created that race-neutral programs were inadequate to relieve the impact of past discrimination.⁷⁸

⁷³ *Id.* at 706-707.

⁷⁴ *Id.* at 729.

⁷⁵ However, the court did not say whether this influence should be exercised through legislative enactment.

⁷⁶ See fn 45, as well as discussion below in 6. Scrutiny applied to Federally Funded Programs.

⁷⁷ *Coral Construction v. King County*, 941 F.2d 910, 923 (9th Cir. 1991), *AGC of California v. Coalition of Economic Equity*, 950 F.2d 1401,1417 (9th Cir. 1991), *Engineering Contractors v. Dade County*, 122 F. 3d 895 (11th Cir. 1997), *Concrete Works of Colorado, Inc. v. City and County of Denver (Concrete Works I)*, 823 F. Supp. 821 (D Colo 1993), *Western States Paving Co., Inc. v. Washington State Department of Transportation*, 407 F.3d 983 (9th Cir. 2005).

⁷⁸ *Concrete Works I* at 841.

4. *Scrutiny Applied to Federally Funded Programs*

a. *Background of Adarand v. Peña*

In *Adarand Contractors, Inc. v. Peña*⁷⁹ the U.S. Supreme Court analyzed the constitutionality of a federally funded race-conscious DBE program. The facts of *Adarand III*⁸⁰ are as follows. The Central Federal Lands Highway Division (CFLHD), which is part of the United States Department of Transportation, in 1989, awarded the prime contract for a highway construction project in Colorado to Mountain Gravel & Construction Company. Mountain Gravel then solicited bids from sub-contractors for the guardrail portion of the contract. Petitioner Adarand, a Colorado-based highway construction company that specialized in guardrail work, submitted the lowest bid. Gonzales Construction Company also submitted a bid to complete the guardrails.⁸¹ Gonzales was a certified Disadvantaged Business Enterprise (DBE). Adarand was not. Mountain Gravel awarded the subcontract to Gonzales, even though Adarand had the lowest bid.⁸²

Federal law requires a subcontracting clause “be inserted which states that [the] contractor shall presume that socially and economically disadvantaged individuals include Blacks, Hispanics, American Indians, Asians, and other minorities, or any other individual found to be disadvantaged by the [Small Business] Administration pursuant to section 8(a) of the Small Business Act.”⁸³ Adarand filed suit in the United States District Court for the District of Colorado against various federal officials, claiming that the race-based presumptions involved in the use of subcontracting compensation clauses violated Adarand’s right to equal protection. In addition to its general prayer for “such other and further relief as to the court seems just and equitable,” Adarand specifically sought declaratory and injunctive relief against any *future* use of sub-contractor compensation clauses.⁸⁴ The District Court ruled against Adarand, (*Adarand I*) granting the government’s motion for summary judgment. The Court of Appeals affirmed. (*Adarand II*)⁸⁵

⁷⁹ 515 U.S. 200; 115 S. Ct. 2097 (2005).

⁸⁰ *Id.*

⁸¹ *Id.* at 205.

⁸² *Id.* Note that in *Western States Paving*, the Ninth Circuit concluded that a DBE program is not rendered unconstitutional because it sometimes results in bids by non-DBE firms being rejected in favor of higher bids from DBEs. “Although this places a very real burden on non-DBE firms, this fact alone does not invalidate TEA 21. If it did, all affirmative action programs would be unconstitutional because of the burden on non-minorities.” 407 F.3d at 995.

⁸³ *Id.* at 205.

⁸⁴ *Id.* at 210.

⁸⁵ *Id.*

b. Discussion of U.S. Supreme Court Ruling

Before the U.S. Supreme Court could decide on the merits of the case, it had to determine if Adarand had standing to seek forward-looking relief. In order for Adarand to have standing, it would have to allege that the use of sub-contractor compensation clauses in the future constitutes “an invasion of a legally protected interest which is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical.”⁸⁶ The Court determined that Adarand’s claim met this test. The Court further stated that Adarand need not demonstrate that it has been, or will be, the low bidder on a government contract. The injury in cases of this kind is that a “discriminating classification prevent[s] the plaintiff from competing on an equal footing...” The aggrieved party “need not allege that he would have obtained the benefit but for the barrier in order to establish standing.”⁸⁷

The next issue the Court addressed was the standard of review for federal racial classifications in determining the viability of programs to address discrimination. The Court concluded “that any person, of whatever race, has the right to demand that any governmental actor subject to the Constitution justify any racial classification subjecting that person to unequal treatment under the strictest judicial scrutiny,”⁸⁸ thereby holding “that all racial classifications, imposed by whatever federal, state, or local governmental actor, must be analyzed by a reviewing court under strict scrutiny.” Such classifications are constitutional only if they have narrowly tailored measures that further compel governmental interests. The Court, in its decision, recognized the persistence of the practice and lingering effects of racial discrimination against minority groups and the government’s ability to act in response to it. Further, the Court wanted to dispel the notion that strict scrutiny is “strict in theory, but fatal in fact.”⁸⁹

c. *Adarand* on Remand to the Lower Courts

The Court remanded the case to the United States Tenth Circuit Court of Appeals to address several issues:

- To determine if the interests served using sub-contractor compensation clauses are properly described as “compelling.”
- To address narrow tailoring in terms of strict scrutiny cases by exploring the use of race-neutral means to increase minority business participation in government contracting.

⁸⁶ *Id.* at 211.

⁸⁷ *Id.* at 211.

⁸⁸ *Adarand*, 515 U.S. at 224.

⁸⁹ *Fullilove*, *supra* at 519.

- To determine if the program is appropriately limited, so it will not outlive the discriminatory effects it was designed to eliminate.
- To review the discrepancy between the definitions of which socially disadvantaged individuals qualify as economically disadvantaged for the 8(a) and 8(d) programs.
- To determine if 8(d) sub-contractors must make individualized showings, or if the race-based presumption applies to both socially and economically disadvantaged businesses.

The Tenth Circuit Court of Appeals remanded the case to the District Court for action on the issues raised by the U.S. Supreme Court.⁹⁰ The federal district court in *Adarand* (“*Adarand IV*”) accepted the federal government’s evidence of compelling interest, but rejected the DBE program in Colorado as not being narrowly tailored.⁹¹ The court, although acknowledging the U.S. Supreme Court’s pronouncement that strict scrutiny is not “fatal in fact”, found it “difficult to envisage a race-based classification” that would ever be narrowly tailored, thereby effectively pronouncing strict scrutiny fatal in fact.⁹²

Following *Adarand IV*, the Tenth Circuit Court of Appeals, in *Adarand V*, considered subsequent events that the court deemed to have rendered the case moot.⁹³ During the course of the litigation, Adarand applied for and was granted DBE certification by the Colorado Department of Transportation. The appellate court concluded that Adarand could no longer demonstrate an injury stemming from the Sub-contractors Compensation Clause (a federal subcontracting program), and therefore, the case was moot.⁹⁴

In the U.S. Supreme Court’s review of the court of appeals decision in *Adarand VI*, the Court reversed the lower court, holding that “it was ‘far from clear’ that DOT would not initiate proceedings to revoke Adarand’s status and because ‘it is impossible to conclude that respondents have borne their burden of establishing that it is ‘absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur, petitioner’s cause of action remains alive.’”⁹⁵ The Supreme Court remanded the case back to the Appellate Court for consideration on the merits.

⁹⁰ *Adarand Constructors, Inc. v. Peña*, 965 F.Supp. 1556 (D.Colo. 1997).

⁹¹ Similarly, a Texas District court, in *Rothe Development Corp v. U.S. Department of Defense*, Civ. Act No. SA-98-CV-1011-EP (1999), upheld the federal government benchmark study as an adequate factual predicate for the small, disadvantaged business program of the U.S. Department of Defense. See also *Concrete Works of Colorado, Inc. v. City and County of Denver, Co.* Civil Action No: 92-M-21 Mar. 7, 2000.

⁹² See *Adarand Constructors, Inc. v. Peña* 965 F. Supp. 1556, 1580 (D. Colo. 1997) (“*Adarand IV*”)

⁹³ See *Adarand Constructors, Inc. v. Slater*, 169 F.3d 1292 (10th Cir. 1999) (“*Adarand V*”)

⁹⁴ *Id.* at 1296-1297

⁹⁵ *Adarand Constructors, Inc. v. Slater*, 120 S.Ct. 722, 726-27 (2000) (“*Adarand VI*”)

On remand, in *Adarand VI*, the Appeals Court found that the government’s evidence more than satisfied the compelling interest prong of the strict scrutiny test, thus reversing the district court’s holding in *Adarand IV*. The Court then considered if the programs currently before the Court were narrowly tailored using the following factors: (1) the availability of race-neutral alternative remedies, (2) limits on the duration of the sub-contractors’ compensation clause program and the DBE certification program, (3) flexibility, (4) numerical proportionality, (5) the burden on third parties, and (6) over- or under-inclusiveness. Taking all these factors into consideration, the Court found the amended and revised subcontracting program and DBE certification programs to be narrowly tailored.⁹⁶ On November 27, 2001, in *Adarand Constructors v. Mineta, (Adarand VII)* the U.S. Supreme Court dismissed the writ of certiorari on the Tenth Circuit’s decision as improvidently granted.⁹⁷

D. Intermediate Scrutiny

The courts examine programs that give preference to women-owned businesses under a different standard than racially-based programs. A gender-conscious program created by a governmental entity is examined under the intermediate scrutiny test, rather than the strict scrutiny test employed for racial classifications.⁹⁸ Under intermediate scrutiny review, the actions of the state are valid if they are “substantially related” to important governmental objectives, supported by sufficiently probative evidence or exceeding persuasive justification.⁹⁹

In *Coral Construction Co. v. King County*¹⁰⁰, the Ninth Circuit employed the intermediate scrutiny test to review King County’s WBE program by examining the validity of a sex-based preference.¹⁰¹ Under the test, the Court noted that the gender classification must serve an important governmental objective, and there must be a “direct, substantial relationship” between the objective and the means chosen to

⁹⁶ *Adarand Constructors, Inc. v. Slater*, docket no. 90-K-1413 (D. Colo.) (Sep 25, 2000)

⁹⁷ 534 U.S. 103, 122 S. Ct. 511 (2001). See also *Gratz v. Bollinger*, 539 U.S. 244, 123 S. Ct. 2411 (2003) and *Grutter v. Bollinger*, 539 U.S. 306 123 S. Ct. 2325 (2003)

⁹⁸ See e.g. *City of Cleburne*, supra no.6.

⁹⁹ *Id.* at 441. See also *Caltrans*, 713 F.3d at 1195; *Western States Paving*, 407 F.3d at 990 n. 6; *Coral Constr. Co.*, 941 F.2d at 931-932 (9th Cir. 1991); *Eng’g Contractors Ass’n*, 122 F.3d at 905, 908, 910; *U.S. v. Virginia*, 518 U.S. 515, 532 and n. 6 (1996)(“exceedingly persuasive justification.”)

¹⁰⁰ 941 F.2d 910 (9th Cir. 1991)

¹⁰¹ See *Coral Construction Co. v. King County*, 941 F.2d 910,931 (9th Cir. 1991); *Contractors Ass’n. Eastern Pennsylvania, Inc. v. City of Philadelphia*, 6 F.3d 990 (3rd Cir. 1993). The Sixth Circuit Court of Appeals employed the intermediate scrutiny review in *Michigan Road Builders Ass’n. v. Milliken*, 834 F. 2d 583 (6th Cir. 1987), aff’d 49 U.S. 1061 (1989). However, after *Croson*, the Sixth Circuit seemingly applied a strict scrutiny test when considering a gender-based affirmative action program.

accomplish that objective.¹⁰² A governmental entity may use gender-based preferences “only if members of the gender benefited by the classification actually suffered a disadvantage related to the classification.”¹⁰³

According to the court of appeals, unlike the strict standard of review applied to race-based programs, intermediate scrutiny does not require any showing of governmental involvement, active or passive, in the discrimination it seeks to remedy.¹⁰⁴ The Court would uphold the ten percent gender preference if the County could establish a sufficient factual predicate for the claim that women-owned construction businesses have suffered economic discrimination.

The Court concluded that King County had legitimate and important interests in remedying the many disadvantages that confronted women business owners. Further, the means chosen was substantially related to the objective. The Court determined there was adequate information to show discrimination against women in King County¹⁰⁵ after reviewing an affidavit from a woman business owner detailing that less than seven percent of her firm’s business came from private contracts with the majority coming from gender-based set-aside programs.

The Ninth Circuit revisited this issue in *Western Paving*, where it essentially applied the intermediate scrutiny standard to gender discrimination. The Court determined that conducting a separate analysis for sex discrimination under intermediate scrutiny was not necessary, “in this case, intermediate scrutiny would not yield a different result than that obtained under strict scrutiny's more stringent standard.”¹⁰⁶

The Court of Appeals for the Third Circuit in the City of Philadelphia noted that the Supreme Court’s gender discrimination cases are inconclusive and the Court has never squarely ruled on the necessity of statistical evidence in gender discrimination cases. However, the court of appeals found that the City must be able to rely on less evidence in enacting a gender preference than a racial preference, because the intermediate scrutiny standard is less stringent than the strict scrutiny test applied in *Croson*.¹⁰⁷

¹⁰² *Id.* at 921.

¹⁰³ *Id.* at 931.

¹⁰⁴ *Id.* at 932.

¹⁰⁵ *Id.* at 932-33. In *Construction Association of Eastern Pennsylvania, Inc. v. City of Philadelphia*, supra n. 76, the Court of Appeals for the Third Circuit also applied the intermediate standard to a gender-based preference program.

¹⁰⁶ *Western Paving* at 407 F.3rd 990, fn 6.

¹⁰⁷ *Id.* at 1010. Another example of this double standard was in *RGW Construction v. San Francisco BART*, Case No. C92-2938 TEH (N.D. CA). In this case, an injunction was issued against the race-conscious but not the gender-conscious program area of BART’s DBE program for non-federally funded contracts because of the lack of a factual predicate for the program. The injunction was later partially lifted based on evidence in two disparity studies in counties where BART operated.

In support of its program, Philadelphia relied only on general statistics and one affidavit from a woman in the catering business. Since there was not a disparity index for women-owned construction businesses and given the absence of anecdotal evidence establishing discrimination in the construction industry, the court of appeals affirmed the grant of summary judgment, invalidating the gender preference for construction contracts.

In *Engineering Contractors Association of South Florida Inc. v. Metropolitan Dade County*, the Eleventh Circuit Court of Appeals held that the intermediate scrutiny remains the applicable constitutional standard in gender discrimination cases.¹⁰⁸ The level of evidence that is sufficient to meet the intermediate scrutiny test is “one of degree, not of kind.”¹⁰⁹ This test requires less evidence than a race-conscious constitutional review. The Court, however, noted that the difficulty in determining the adequacy of evidence in gender-conscious cases is determining how much evidence is permissible. In an attempt to resolve this issue, the Court looked to the Third Circuit Court of Appeals’ review of the City of Philadelphia for guidance and applied the same analysis to its review of the Dade County WBE program.

E. Rationally Related Standard of Scrutiny

Race-neutral economic development and local business programs would be evaluated under the rationally related test. That is, a legitimate state interest must exist, and the means employed to further the interest must be rationally related to the legislation’s purpose.

In the 1987 case of *Associated General Contractors of California v. City and County of San Francisco*,¹¹⁰ the Court held that the City had a legitimate state interest in encouraging businesses to locate and remain in the city. Two factors were used to substantiate the City’s interest. First, the Court noted the higher administrative costs of doing business within the City, such as higher rents, taxes and wages, incurred by disadvantaged businesses. Second, the Court noted that the public interest was best served by encouraging businesses to be located in the city. The Court also noted that foreign businesses could be locally-owned business enterprises (LBEs) by acquiring offices within the City and paying permit and license fees from a city address.

In *Gary Concrete Products, Inc. v. Riley*¹¹¹ the Court held that an LBE bid preference was constitutional, as the State has a legitimate interest in directing the benefits of its purchases to its citizens. The Court concluded that bid preferences for residents encourage local industry, which increases the tax base and

¹⁰⁸ 122 F.2d 895 (11th Cir. 1997).

¹⁰⁹ *Id.*

¹¹⁰ 813 F. 2d 922, 943 (9th Cir 1987)

¹¹¹ 285 S.C. 498, 331 S.E. 2d 335 (1985)

helps the state economy. The statute was rationally related, even though non-residents could qualify for the preference. Non-residents qualified only when they maintained an office and inventory in the state and paid certain taxes.

In *CS-360, LLC v. U.S. Department of Veterans Affairs*,¹¹² 101 F. Supp. 3d 29 (Dist. Court, DC 2015), the District Court for the District of Columbia upheld the Veteran Administration's denial of CS-360's application for verification as a Service-Disabled Veteran Owned Businesses. The court found that the standard of law was very "deferential" and that the decision was not "arbitrary or capricious, unsupported by substantial evidence or otherwise contrary to law." The court further found that, using the established legal standard, there was a "rational connection between the facts found and the choice made."

F. Burden of Proof

Under the *Croson* strict scrutiny analysis, the governmental entity has the initial burden of showing that there was a "strong basis in evidence" supporting its race and gender-conscious program. This evidentiary burden is met by satisfying *Croson's* two-pronged test of showing both a compelling governmental interest and narrow tailoring. *Croson* established that a factual predicate consisting of statistically significant disparity and anecdotal interviews was important to showing compelling governmental interest.¹¹³ Several courts have since held that disparity studies are important to establishing the factual predicate that supports *Croson's* two-pronged test.¹¹⁴

Once the governmental entity has met the *Croson* two-pronged test, the burden of proof shifts to the plaintiff to rebut the showing. The plaintiff cannot simply state that the evidence submitted by the governmental entity is insufficient or flawed. According to the Eleventh Circuit, the plaintiff has the ultimate burden of persuading the court that the defendant's evidence "did not support an inference of prior discrimination and thus a remedial purpose, or that the plan instituted on the basis of this evidence was not sufficiently "narrowly tailored.""¹¹⁵ The court stated that the plaintiff could rebut the inference of discrimination with a neutral explanation by showing that the statistics were flawed, that the disparities are not significant or actionable or by presenting contrasting data.

In *Rowe v. Tippett*, the Fourth Circuit held that:

¹¹² 101 F. Supp. 3d 29, 32-33 (D.Ct. DC, 2015)

¹¹³ See *Croson* discussion supra, at pp.5-9.

¹¹⁴ See *Caltrans*, 713 F.3d at 1195-1200; *Concrete Works of Colo. Inc. v. City and County of Denver*, 36 F.3d 1513, 1522 (10th Cir. 1994).

¹¹⁵ *Engineering Contractors*. at 916.

Those challenging race-based remedial measures must "introduce credible, particularized evidence to rebut" the state's showing of a strong basis in evidence for the necessity for remedial action. *See Concrete Works*, 321 F.3d at 959 (internal quotation marks omitted). Challengers may offer a neutral explanation for the state's evidence, present contrasting statistical data, or demonstrate that the evidence is flawed, insignificant, or not actionable. *See Eng'g Contractors*, 122 F.3d at 916; *Contractors Ass'n of E. Pa, Inc. v. City of Philadelphia*, 6 F.3d 990, 1007 (3d Cir. 1993) (*Contractors Ass'n I*); *Coral Constr. Co. v. King County*, 941 F.2d 910, 921 (9th Cir. 1991). However, mere speculation that the state's evidence is insufficient or methodologically flawed does not suffice to rebut a state's showing. *See Concrete Works*, 321 F.3d at 991.¹¹⁶

2.2.2 JUDICIAL REVIEW OF *CROSON* CASES IN THE ELEVENTH CIRCUIT

The following is a summary of cases in the Eleventh Circuit that have considered the constitutional permissibility of M/WBE programs.

South Florida Chapter, Associated General Contractors of America, Inc. v. Metropolitan Dade County

In an older case reviewed by the Eleventh Circuit Court of Appeals, *South Florida Chapter, Associated General Contractors of America, Inc. v. Metropolitan Dade County*¹¹⁷, the difference in the level of scrutiny that this court applied to its constitutional review of race-conscious action was not as rigorous as its review of the Dade County program discussed later in this chapter. In Metropolitan Dade County, the court considered the constitutionality of a Metropolitan Dade County ordinance and resolution granting preferential treatment to Blacks in its contract bidding process.

The ordinance allowed the county to "set aside" contracts for bidding solely among Black contractors and contained goal provisions by which the County could require that a certain percentage of a contract's value be subcontracted to Black contractors. The plaintiffs, non-profit corporations and a trade association, sued, challenging the ordinance, both facially and as applied, regarding the county construction contract for the Arlington Heights metro-rail station.

The Dade County Commission, in reaction to the May 1980 disturbances in Miami's Liberty City, instituted the set-aside program. The County concluded that the unrest was largely due to the vast gap in economic

¹¹⁶ *Rowe v. Tippet*, 615 F.3d 233, 241-242, (4th Cir. 2010).

¹¹⁷ 723 F.2d 86 (11th Cir. 1984)

opportunities for Blacks in the area. The Commission decided to set aside 100 percent of the Arlington Heights metro-rail construction with 50 percent to go to sub-contractors. The court found that the Commission's actions were based on reliable and substantial information compiled by independent investigations. The district court found from the evidence presented that, although the present county government had not engaged in discriminatory practices, there had been "identified discrimination against Dade County Black contractors at some point prior to the county's present affirmative action program."¹¹⁸ However, the district court held that the set-aside provision violated the Equal Protection Clause of the Fourteenth Amendment and granted a permanent injunction, and the county appealed the lower court's decision.

The Eleventh Circuit Court of Appeals found the Dade County ordinance to be constitutionally acceptable, as it required three qualified sub-contractors to be available for each project to utilize the set-aside. The court also found that the ordinance was aimed at remedying immediate past discrimination in Metropolitan Dade County, Florida.

C.H. Barco v. State Department of Transportation

In *C.H. Barco v. State Department of Transportation*,¹¹⁹ the Florida Department of Transportation's (FDOT) DBE program was reviewed. Barco, a White contractor, submitted the lowest bid, but did not indicate a good faith effort to comply with disadvantaged utilization goals. FDOT awarded the contract to the second lowest bidder who exceeded the minority participation goal. Barco protested, but the hearing officer ruled in favor of FDOT, in accordance with the *Florida Administrative Code Rule 14-78.03 (2)(b)(4) (1984 supp.)* which provided, in part:

For all contracts for which DBE and WBE contract goals have been established, each bidder shall meet or exceed or demonstrate that it could not meet, despite its good faith efforts, the contract goals set by the department.¹²⁰

The District Court held, "[in] Florida, a public body has wide discretion in soliciting and accepting bids for public improvements and its decision, when based on an honest exercise of its discretion, will not be overturned by the Court even if reasonable persons may disagree."¹²¹

¹¹⁸ *Id.*, quoting *South Florida Chapter of the Associated Contractors of America, Inc. v. Metropolitan Dade County*, at 853. 552 F. Supp. 909 (S. D. Fla. 1982)

¹¹⁹ 483 So 2d 796 (Fla. Dist. Ct. App. 1986).

¹²⁰ *Barco* at 796.

¹²¹ *Barco* at 801 (quoting *Liberty County v. Baxter's Asphalt and Concrete*, 421 So. 2d 505,507 (Fla. 1982)

Cone Corporation v. Hillsborough County

The Tampa area MBE program received judicial attention in *Cone Corporation v. Hillsborough County*¹²². The Court of Appeals found that Hillsborough County based its law on 1) statistical data that indicated there was discrimination by contractors doing business with the county and 2) that it had unsuccessfully tried less restrictive measures for remedying such discrimination. The court applied the strict scrutiny test enumerated in *Crosby* and found that the Hillsborough County MBE program was indeed a remedial program based on statistically proven discrimination. The Hillsborough County plan delineated its numerical goal of participation by minority groups who most likely had been discriminated against based on the statistical data. The overall goal was twenty-five percent. Of the 25 percent, 10 percent was to go to Black-owned businesses, seven percent to Hispanic-owned businesses, two percent to women-owned businesses, and one percent to other minorities. The court reversed the district court's grant of summary judgment and remanded the case to the district court to hold proceedings consistent with its ruling.

Northeastern Florida Chapter of the Associated General Contractors of America v. City of Jacksonville, Florida

On April 4, 1989, the Jacksonville, Florida MBE program was challenged by the Northeastern Florida Chapter of the Associated General Contractors of America (AGC).¹²³ The city's MBE program required ten percent of the amount spent on city contracts be set aside each fiscal year for MBEs.

The AGC sought as its remedy a preliminary injunction prohibiting the City of Jacksonville from continuing to operate under its Minority Business Enterprise Participation ordinance and challenged its constitutionality. The district court granted the preliminary injunction until completion of full trial.

The City of Jacksonville appealed to the Eleventh Circuit, which vacated the district court's judgment and remanded to dismiss without prejudice. It found that the district court did not address the sufficiency of the record nor the matter of standing. The AGC petitioned to the U.S. Supreme Court and certiorari was granted. The Supreme Court found the AGC to have standing, holding that "to have standing, petitioners need only demonstrate that its members are able and ready to bid on contracts and that a discriminatory policy prevents them from doing so on an equal basis."¹²⁴ During the interim review by various courts, the City of Jacksonville repealed the ordinance at the core of this litigation, and replaced it with another one that limited minority participation goals. The case was resolved by a joint stipulation of voluntary dismissal without prejudice on December 21, 1993.

¹²² 905 F. 2d 908 (1990)

¹²³ 508 U.S. 656 (1993)

¹²⁴ *Id.*, at 657.

Engineering Contractors Association of South Florida, Inc. v. Metropolitan Dade County

In 1996, the Metropolitan Dade County MBE program was challenged in *Engineering Contractors Association of South Florida, Inc. v. Metropolitan Dade County*.¹²⁵ The district court held that the Dade County MBE program in construction was unconstitutional, violating the Equal Protection Clause of the Fourteenth Amendment. “The Court held the statistical data presented to show discrimination in the award of prime contracts to Black Business Enterprises (BBE) fall short of providing a strong basis in evidence for the BBE program.”¹²⁶

In 1994, Dade County adopted the Women and Hispanic Business Enterprise programs (WBE and HBE, respectively) for the first time. The county set participation goals of fifteen percent for BBES, nineteen percent for HBEs, and eleven percent for WBEs for SIC codes 15, 16, and 17. All construction contracts in excess of \$25,000, funded in whole or in part, by the county were covered. The county could achieve its goals by one of several ways: set-asides, sub-contractor goals, project goals, bid preferences or selection factors.

The court employed the *Croson* analysis, the strict scrutiny two-prong test, as its highest examining tool. The court searched for the compelling state interest in its review of Dade County’s M/WBE program by examining statistical data and anecdotal evidence provided to justify the need to remedy past discrimination in Dade County’s construction industry. Because the Fourteenth Amendment only tolerates race-conscious programs that narrowly seek to remedy identified discrimination, “the county must demonstrate a strong basis in evidence to support its use of race- and ethnicity-conscious contract measures.”¹²⁷

Therefore, per the court, Dade County had to demonstrate that gross statistical disparities existed between the proportion of MBEs awarded county construction contracts and the proportion of MBEs in the local construction industry “willing and able to do work” to justify its use of race- and ethnicity-conscious contract measures.

Dade County proffered several statistical analyses of county construction contracting trends it claimed provided a strong basis in evidence to show that discrimination occurred in the local construction industry and supported the use of race-, ethnicity-, and gender-conscious measures by the county in awarding contracts.

¹²⁵ 943 F. Supp. 1546 (S.D. Fla. 1996).

¹²⁶ *Id.*, at 1565.

¹²⁷ The Eleventh Circuit has clearly pronounced that the county’s post-enactment evidence was properly introduced in the record and relied upon the District Court in determining the constitutionality of government affirmative action programs.

The court concluded the evidence presented did not show any discernible discrimination occurring in the award of contracts to BBEs. Disparities alone do not prove or establish discrimination. It must be shown there are no other explanations for the disparities. The County also employed the theory of regression analysis to prove if certain statistical relationships were random or not. The court did not trust the regression analysis that was used and therefore found that the statistical analysis used to sustain the BBE program fell short of proving discrimination in awards of contracts to prime contractors. The court further found the level of disparity in the subcontracting was not sufficiently probative to sustain a race-based program.

As such, the district court held that there was no compelling interest to justify a race-conscious program and, even if there was legal support for the program, it was not sufficiently narrowly tailored. The district court also held that the WBE program was not substantially related to an important governmental interest in remedying past or present discrimination, even if the evidence had been sufficient to support the existence of that program.

Appellate Review of Engineering Contractors v. Metro Dade County

The Eleventh Circuit Court of Appeals reviewed the district court's opinion in *Engineering Contractors Association of South Florida, Inc. v. Metropolitan Dade County*.¹²⁸ In the appellate review of the Dade County M/WBE program, the court considered the following:

- If the plaintiffs had standing,
- If the district court erred in finding that the county lacked a "strong basis in evidence" to justify the existence of the BBE and HBE programs,
- If the district court erred in finding the county lacked a sufficient probative basis in evidence to justify the existence of the WBE program, and,
- If the M/WBE programs are adequately tailored to the interests, they are purported to serve.¹²⁹

Strong Basis in Evidence

¹²⁸ 122 F.3d 895 (11th Cir. 1997).

¹²⁹ *Id.* at 903.

The Eleventh Circuit held that in meeting the *Croson* test, a governmental entity must show that there is a “strong basis in evidence” that shows that any remedial program is necessary.¹³⁰ In doing so, the governmental entity may rely on a showing of gross statistical disparities, buttressed by anecdotal evidence.¹³¹ The County provided both statistical evidence and anecdotal evidence to support its remedial program. Prior to reviewing, in detail, the statistical evidence, the Eleventh Circuit ruled that the County permissibly relied on post-enactment evidence.

The County presented statistical evidence in five areas: County contracting data, county subcontracting data, marketplace data, The Wainwright Study and The Brimmer Study.

County Contracting Data: Regarding the review of statistical evidence produced to support the use of race- and gender-conscious programs, the Eleventh Circuit concluded:

At least this one is fairly obvious from the foregoing statistics. For the BBE and the HBE statistics, there are no consistently negative disparities between the bidder and the awardee percentages. In fact, by 1993, the BBE and the HBE bidders are being awarded more than their proportionate ‘share’ of the total number of county contracts in every SIC category, when the bidder percentages are used as the baseline for predicting those shares . . . Therefore, as an initial matter, we certainly cannot conclude that the district court clearly erred by failing to find a strong basis in evidence of discrimination against BBE and HBEs from disparities between bidder and awardee percentages.”¹³²

The court followed these findings with an explanation of the burden of proof. The proponent of the affirmative action program is first required to submit statistical evidence supporting the remedial purpose. The plaintiff however has the ultimate burden of persuading the court that the defendant’s evidence “did not support an inference of prior discrimination and thus a remedial purpose, or that the plan instituted on the basis of this evidence was not sufficiently “narrowly tailored.”¹³³ The court stated that the plaintiff could rebut the inference of discrimination with a neutral explanation by showing that the statistics were flawed, that the disparities are not significant or actionable or by presenting contrasting data. The court held that the plaintiff had provided an adequate neutral explanation by showing that disparities were “better explained by firm size than by discrimination.”¹³⁴ The plaintiffs relied upon Census data showing that M/WBE construction firms in Engineering Contractors Association were smaller

¹³⁰ *Id.* at 906.

¹³¹ *Id.*

¹³² *Id.* at 913.

¹³³ *Id.* at 916.

¹³⁴ *Id.*

than non-M/WBE firms.¹³⁵

The County had attempted to anticipate this argument through the presentation of a regression analysis that would identify disparities that could be based on a factor other than size, such as discrimination. The County conducted regressions based on (1) total awarded value of all contracts bid on and (2) largest single contract award. Upon reviewing the analysis, the Eleventh Circuit agreed with the district court's ruling that the disparities were due to firm size, not discrimination, as the regression analysis only revealed a few unexplained disparities after the controlling of firm size.¹³⁶

The County also attempted to argue that the district court erroneously relied on disaggregate data broken down by contract type. The Eleventh Circuit held that the district court did not err in finding that the disaggregated data was insufficient basis to support an M/WBE program. Both the Eleventh Circuit and the district court found that "the aggregation of disparity statistics for non-heterogeneous data populations can give rise to a statistical phenomenon known as "Simpson's Paradox," which leads to illusory disparities in improperly aggregated data that disappear when the data are disaggregated."¹³⁷

County subcontracting data: The Eleventh Circuit confirmed the district court's findings that the sub-contractor data was insufficient to support race and gender-conscious measures. The district court previously found that the subcontracting data was problematic, as its overstated sub-contractor participation in Dade County, by relying on total sales and receipts, which could include sales and receipts outside of the County.¹³⁸

Marketplace data: The County presented an analysis of a sample of 568 firms out of 10,462 that had filed a certificate of competency with Dade County as of January 1995. The County's expert collected data on these firms related to race, ethnicity, gender, as well as total sales and receipts and sought to determine if there was a meaningful relationship between the two pools of data. The expert conducted a regression analysis, using number of employees as a proxy for size.

The Eleventh Circuit found that the statistical pool of firms relied upon by the County was significantly larger than the actual number of firms willing, able and qualified to do the work, particularly given that these firms represented those firms simply licensed as construction contractors. Further, the court held that, after controlling for firm size, neither BBE nor WBE data revealed statistically significant disparities

¹³⁵ *Id.* at 917.

¹³⁶ *Id.*

¹³⁷ *Id.* at 919.

¹³⁸ *Id.* at 920.

and that the district court was not required to assign any disparities controlling weight.¹³⁹

The Wainwright Study: The Wainwright Study presented data from the 1990 Public Use Microdata Sample database on the personal and financial characteristics of self-employed persons working full-time in the Dade County construction industry. The study found that “blacks, Hispanics, and women are less likely to own construction businesses than similarly situated white males, and MBE/WBEs that do enter the construction business earn less money than similarly situated white males.”¹⁴⁰ Wainwright posited that any significant disparities remaining after control of variables are due to the ongoing effects of past and present discrimination. The Eleventh Circuit found that the district court did not have to accept Wainwright’s theory, quoting *Croson* that “[t]here are numerous explanations for this dearth of minority participation, including past societal discrimination in education and economic opportunities as well as both black and white career and entrepreneurial choices. Blacks may be disproportionately attracted to industries other than construction.”¹⁴¹ Further the district court found that there had been a substantial growth rate of M/WBE firms, as opposed to non-M/WBEs, thus discounting the notion of discrimination against M/WBEs.¹⁴²

The Brimmer Study: The Eleventh Circuit held that the district court could permissibly discount the results of this study. Dr. Brimmer studied the disparity between sales and business receipts of black-owned construction firms for 1977, 1982 and 1987 and sales and business receipts for all construction firms, using Census SMWOBE data. The study revealed disparities for 1977 and 1987, but not 1982. The County argued that the lack of disparity in 1982 was due to race-conscious measures on a major construction project, Metrorail project. The district court found that the study did not attempt to account for this project.¹⁴³

¹³⁹ *Id.* at 921.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*, quoting *Croson*, 488 U.S. at 503.

¹⁴² *Id.* at 922.

¹⁴³ *Id.* at 922-924.

Anecdotal Evidence: The County presented testimony of two County employees responsible for the MBE/WBE programs, affidavit testimony of twenty-three M/WBEs and a survey of seventy-eight black-owned construction firms. The Eleventh Circuit found that several M/WBEs perceived that they were victims of discrimination and the County employees believed that discrimination could negatively impact the County’s construction contracting process. However, the Eleventh Circuit held that “anecdotal evidence can play an important role in bolstering statistical evidence, but that only in the rare case will anecdotal evidence suffice standing alone.”¹⁴⁴

Evidence Supporting WBE Program

The Eleventh Circuit held that WBE programs were subject to intermediate scrutiny, under which the government must provide sufficient probative evidence of discrimination, which is less than the strong basis in evidence under strict scrutiny.¹⁴⁵ The court found that sufficient probative evidence to demonstrate the required substantial relationship had not been presented and thus, the WBE program was unconstitutional as well.

Narrow Tailoring

While the Eleventh Circuit did not find that there was a sufficient evidentiary foundation for remedial action, it proceeded to the narrow tailoring prong. The court first stated that racial preferences must only be a ‘last resort’ option.¹⁴⁶ It then stated that it would consider four factors in determining if a race and gender-conscious program was narrowly tailored: (1) the necessity for the relief and the efficacy of alternative remedies; (2) the flexibility and duration of the relief, including the availability of waiver provisions; (3) the relationship of numerical goals to the relevant labor market; and (4) the impact of the relief on the rights of innocent third parties.¹⁴⁷

The Eleventh Circuit

flatly reject[ed] the County’s assertion that given a strong basis in evidence of a race-based problem, a race-based remedy is necessary. That is simply not the law. If a race-neutral remedy is sufficient to cure a race-based problem, then a race-conscious remedy can never be narrowly tailored to that problem. *Id.*, citing *Croson*, 488 U.S. at 507 (holding that affirmative action program was not narrowly tailored where —there does not appear

¹⁴⁴ *Id.* at 925.

¹⁴⁵ *Id.* at 900.

¹⁴⁶ *Id.* at 926, quoting *Hayes v. North Side Law Enforcement Officers Ass’n*, 10 F.3d 207, 2017 (4th Cir. 1993) and citing *Croson*, 488 U.S. at 519.

¹⁴⁷ *Id.* at 927.

to have been any consideration of the use of race-neutral means to increase minority business participation in city contracting)) ... Supreme Court decisions teach that a race-conscious remedy is not merely one of many equally acceptable medications the government may use to treat a race-based problem. Instead, it is the strongest of medicines, with many potential side effects, and must be reserved for those severe cases that are highly resistant to conventional treatment.¹⁴⁸

The Eleventh Circuit held that the County failed to give serious and good faith consideration to the use of race- and ethnicity-neutral measures. The Eleventh Circuit found that most problems facing M/WBEs at the County were institutional barriers, related to procurement operations, as identified by the County's own employees, as well as other barriers impacting all new entrants into the construction marketplace. The County employees identified problems related to the decentralized County contracting system, which affords a high level of discretion to County employees. The problems included the complexity of County contract specifications; difficulty in obtaining bonding; difficulty in obtaining financing; unnecessary bid restrictions; inefficient payment procedures; and insufficient or inefficient exchange of information.¹⁴⁹ The Eleventh Circuit noted that the County should first focus on dismantling those barriers. The Court found that, except for some limited technical and financial aid, the County had not seriously considered race- and ethnicity-neutral alternatives available. "[T]he County has not taken any action whatsoever to ferret out and respond to instances of discrimination if and when they have occurred in the County's own contracting process."¹⁵⁰

The Eleventh Circuit stated that the County had taken no steps to "inform, educate, discipline, or penalize" discriminatory misconduct by its own employees.¹⁵¹ Nor had the County passed any local ordinances expressly prohibiting discrimination by local contractors, sub-contractors, suppliers, bankers, or insurers. "Instead of turning to race- and ethnicity-conscious remedies as a last resort, the County has turned to them as a first resort."¹⁵²

As such, the Eleventh Circuit held that even if the M/WBE programs were supported by the requisite evidentiary foundation, they violated the Equal Protection Clause because they were not narrowly tailored.¹⁵³

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ *Id.* at 928.

¹⁵¹ *Id.* at 929.

¹⁵² *Id.*

¹⁵³ *Id.*

City of Wildwood v. Gibbs & Register, Inc.

In 1997, the City of Wildwood, Florida's MBE program was challenged in *City of Wildwood v. Gibbs & Register, Inc.*¹⁵⁴ The city had a minority business goal of eleven percent. All contractors had to submit statements with their bids confirming they had either achieved or made a good faith effort in attempting to achieve the goal. Gibbs & Register (GR) was the lowest bidder, and the city awarded GR the contract. However, GR refused to comply with the requirement of a statement referencing the participation of an MBE. The city deemed GR's bid non-responsive. The city filed a complaint in district court for damages against GR's bond. GR filed a counter-complaint. The court granted summary judgment to GR. The city appealed the court's decision claiming it had a right to the bond. In discovery, the city found that GR had worked with an MBE previously and that MBE submitted a bid to GR. The MBE's bid was the lowest, yet GR chose not to utilize the MBE. The district court, therefore, ruled if after being the successful bidder, GR refused to execute the contract, which included the MBE requirements, it was considered a breach, which entitled the city to the bond.

Phillips & Jordan, Inc. v. Ben G. Watts¹⁵⁵

In 1991, the Florida Department of Transportation (FDOT) hired a consultant to conduct a disparity study to document the existence of past and/or continuing discrimination involving contracts for state-funded road maintenance projects. The study defined the relevant market area as all the counties of Florida and those counties outside of Florida whose firms were awarded contracts totaling .5 percent or more of the overall contract dollars during the study period. FDOT has eight districts that can award contracts of up to \$250,000 within the District; any contracts worth more are let from the central office in Tallahassee. The consultant based its estimate of total firms available to perform work on the Census Bureau's County Business Patterns, an annual publication that reports the total number of business establishments by state, county, and SIC code.

After making its determinations, the consultant concluded a disparity existed among Black and Hispanic businesses with FDOT, and this was an indication of discrimination in contracting. FDOT, utilizing this study, implemented a set-aside program for its state-funded road and bridge maintenance projects. The program allowed FDOT to set-aside contracts for competition solely among Black- and Hispanic-owned businesses. The decision determining which contracts would be set-aside was to be made at the district level.

The plaintiff filed suit arguing that the program violated its constitutional rights under the Fourteenth Amendment of the U.S. Constitution. The plaintiff was a White male-owned business and alleged that it

¹⁵⁴ 22 FLW D996 (Fla. Dist. Ct. App. 1997).

¹⁵⁵ 13 F.Supp.2d 1308 (N.D.FL 1998).

had been excluded in the past and would be excluded in the future due to the set-aside programs of certain maintenance contracts for Black and Hispanic businesses. The district court granted the plaintiff's motion for summary judgment; declared the FDOT set-aside program violated the Equal Protection Clause of the Fourteenth Amendment; and enjoined FDOT from setting aside state-funded highway maintenance contracts for competition by minority businesses solely.

The Court found the methodology used by the consultant to determine availability and disparity of Black and Hispanic business owners to be flawed. The court was critical of the study for the following reasons:

- There was no evidence gathered on a district basis to determine what if any minority businesses bid on contracts.
- There was no evidence given showing any disparities at the district level.
- There was no evidence of who and how parties at the FDOT participated in discriminatory conduct or conduct that resulted in disparity of Hispanic and Black contractors.
- The study aggregated all the data from the individual districts.

Webster v. Fulton County

In *Webster v. Fulton County*,¹⁵⁶ a White male contractor challenged the constitutionality of Fulton County's MFBE program. The district court, citing *Engineering Contractors*, first held that race and gender-conscious goals can only be used as a last resort.¹⁵⁷ Further, the court cited the standard of review established in *Engineering Contractors*:

- Race/ethnicity will be reviewed under strict scrutiny, with an evidentiary standard of strong basis in evidence.
- Gender will be reviewed under intermediate scrutiny, with an evidentiary standard of sufficient probative evidence.
- Both pre- and post-enactment evidence was admissible.¹⁵⁸

First, the court found the County bore the initial burden of satisfying the evidentiary standard, but the ultimate burden of proof remained with the plaintiff. The plaintiff could rebut an inference of

¹⁵⁶ 51 F.Supp.2 1354 (N.D.GA 1999).

¹⁵⁷ *Id.* at 1362-63, citing *Engineering Contractors*, 122 F.3d 895 (11th Cir. 1997).

¹⁵⁸ *Id.*

discrimination by demonstrating that: 1) Statistics are flawed; 2) Disparities are not significant; or 3) Presenting conflicting statistical data.¹⁵⁹

Compelling Government Interest

The district court found that the defendant operated a minority and female preference program for nearly two decades. Under the strict scrutiny standard, the court found that Fulton County could not produce evidence that it systematically discriminated against Blacks or any other minority businesses during the last two decades. As such, given there was no evidence of active discrimination, the County had to demonstrate that it had been a passive participant in marketplace discrimination.¹⁶⁰

Fulton County presented three different studies addressing the need for and continuation of the MFBE program. The court held that the studies produced were flawed and made the following criticisms:

- Disparity indices greater than 80 percent generally are not considered indications of discrimination by the Eleventh Circuit;¹⁶¹
- Study results showing MFBE underutilization in the market without evidence of underutilization by the agency itself, is not prohibitive of discrimination;¹⁶²
- An agency can rely on private sector discrimination as part of a factual predicate, if a link is shown between agency practices and private sector discrimination.¹⁶³
- A factual predicate study needs to use regression analysis to control for size as a variable accounting for disparities in contracts.¹⁶⁴
- A factual predicate study should consider bidding data for prime contracting analysis. This can be a bid analysis (the relative percentage of minority bids), or a bidder analysis (the relative percentage of minority bidders).¹⁶⁵

¹⁵⁹ *Id.* at 1364.

¹⁶⁰ *Id.* at 1369.

¹⁶¹ *Id.* at 1368, citing *Engineering Contractors*, 122 F. 3d at 914.

¹⁶² *Id.* at 1369.

¹⁶³ An analysis of private sector discrimination is increasingly important. See generally, Ayres & Vars, *Does Private Discrimination Justify Affirmative Action*, 98 (Columbia Law Review 1577 (1998)).

¹⁶⁴ *Id.*

¹⁶⁵ *Id.* at 1371.

- A factual predicate study should not base its availability estimates on the availability measures taken from another agency; particularly another agency governing a population with very different demographic characteristics.¹⁶⁶
- Census data are of value for estimating MFBE availability, but it overstates MFBE availability due to the absence of subchapter C Corporation data.¹⁶⁷
- A factual predicate study should consider the statistical significance of its results. Two standard deviations are a widely accepted measure of statistical significance.¹⁶⁸
- While anecdotal evidence is important to bolster statistical findings, it cannot alone support an inference of discrimination.¹⁶⁹

As it relates to the pivotal issue for which this case is known and cited, the district court held that the County did not have sufficient evidence that it had become a passive participant in a pervasive system of discrimination in the private sector. “It does not show that the County’s spending practices are exacerbating identified discrimination in the private sector. The County may rely upon a showing of discrimination in the private sector if it provides a linkage between private sector discrimination and the County’s contracting policies. *Concrete Works*, 36 F.3d at 1529. No such linkage is provided by the data in the Brimmer-Marshall Study.”¹⁷⁰

Narrow Tailoring

The district court also considered if the County’s program was narrowly tailored. According to the court, the Eleventh Circuit established a four-part test to determine if race and gender-conscious remedies are being utilized as a matter of “last resort.”¹⁷¹

In finding the program to fail the narrow tailoring prong, the court made the following findings, using the Engineering Contractor’s four-part test:

- Although many of the Commissioners were African American, the County continued to rely on a race and gender-conscious program and had not seriously considered race and gender-neutral

¹⁶⁶ *Id.* at 1372.

¹⁶⁷ *Id.* at 1374.

¹⁶⁸ *Id.* at 1377-1378.

¹⁶⁹ *Id.* at 1379.

¹⁷⁰ *Id.* at 1369.

¹⁷¹ See *supra*, at p. 31.

alternatives; the court found that no evidence was presented that the County had ever substituted race and gender-neutral efforts on a proposal for numerical set-asides, nor had any evidence been presented that a race neutral measure had been attempted and failed.

- The County had included ethnic and racial groups in its race and gender-conscious program who had not suffered from discrimination.
- There was no substantial relationship between the numerical goals and the relevant market. The court noted that *Engineering Contractors* struck down a goal-based program, similar to what it would do for a quota program.
- The County failed to provide sufficient probative evidence of discrimination to support a gender-based program.¹⁷²

The court found the Fulton County program unconstitutional and permanently enjoined the County from using racial, ethnic or gender participation goals in accepting or awarding bids for Fulton County contracts.

Florida A.G.C. Council, Inc. v. The State of Florida

The Plaintiffs, Florida A.G.C. Council, Inc. and the South Florida Chapter of the Associated General Contractors, challenged the constitutionality of Florida statute § 287.09451 in *Florida A.G.C. Council, Inc. v. The State of Florida*.¹⁷³ § 287.09451 established overall MBE spending targets for state agencies at the levels of twenty-one percent of monies expended for construction contracts, twenty-five percent for architectural and engineering contracts, twenty-four percent for commodities and 50.5 percent for contractual services.¹⁷⁴ These goals were broken down in greater detail by race and gender percentages. Further, the statute stated there was evidence of a systemic pattern of past and present discrimination against minority business enterprises and a disparity in the availability and use of MBEs in the procurement system. The State deems the spending goals to be “precatory.”¹⁷⁵ The district court granted summary judgment and made the following findings regarding the State’s program:

- The court did not review the evidentiary basis for a compelling governmental interest, as it said that the State’s articulated reason for utilizing race- and gender-conscious goals to

¹⁷² *Id.* at 1380-1383.

¹⁷³ 303 F. Supp 2d 1307 (N.D. Fla, 2004)

¹⁷⁴ *Id.*, at 1312.

¹⁷⁵ *Id.*

remedy past and present discrimination would, if true, constitute a compelling governmental interest.¹⁷⁶

- On the other hand, the goals were found not to be narrowly tailored because:
 - The State did not consider race-neutral means to increase M/WBE participation.
 - While the State legislature produced its own internal report stating that there was little evidence to support the spending goals, the legislature continued with its goals anyway.

Because the state agencies are required to coordinate their activities with the Office of Supplier Diversity, which can review any and all solicitations until the spending goals are met, the goals were found to be compulsory, and not precatory.¹⁷⁷

Hershell Gill Consulting Engineers v. Miami-Dade County

The plaintiffs, Hershell Gill Consulting Engineers and Brill and Rodriguez, Inc., were White male-owned engineering firms who consistently did business with Miami-Dade County. They challenged the architectural and engineering portion of the County's M/WBE program as unconstitutional in *Hershell Gill Consulting Engineers v. Miami-Dade County*.¹⁷⁸

In an earlier case, the County's race- and gender-conscious construction program had been struck down by the district court. The Eleventh Circuit Court of Appeals later upheld the district court's ruling. The County implemented a Community Small Business Enterprise program for construction, thereafter. However, the County did not alter any of its other programs in response to this ruling.¹⁷⁹

For A&E contracts, the County had goals of twelve percent for Black business enterprises (BBEs), twenty-five percent for Hispanic business enterprises (HBEs) and seventeen percent for Women business enterprises (WBEs).¹⁸⁰ The goals could be achieved through the utilization of set-asides, sub-contractor goals, project goals, bid preferences or selection factors. Based on the County's policies and procedures, the County was to review its M/WBE programs on an annual basis to determine if there was a continuing need for race and gender-conscious remedies. No independent study was conducted by the Commission for the period 1994-2000. The County Manager conducted a study for 1998-1999, which showed that

¹⁷⁶ *Id.*, at 1315.

¹⁷⁷ *Id.* at 1316.

¹⁷⁸ 333 F. Supp.2d 1305 (S.D. Fla. 2004)

¹⁷⁹ *Id.* at 1311.

¹⁸⁰ *Id.* at 1312.

parity had been reached in A&E contracting. However, the Commission questioned the methodology utilized in the report and did not alter the goals.¹⁸¹

In May 2000, about eighteen months after the lawsuit was filed, the Commission brought in Dr. Manuel J. Carvajal, an econometrician, to conduct a study of architects and engineers. Dr. Carvajal found that there was discrimination against women and Hispanics, but not against Blacks.¹⁸²

Compelling Governmental Interest

The standard of review utilized by the court is the two-pronged *Crosan* test of compelling governmental interest and narrow tailoring. The court first reviewed the evidence submitted to determine if it satisfied the compelling governmental test. The court was seeking to determine if the County had submitted evidence that either (1) showed gross statistical disparities between the proportions of minorities awarded contracts and the proportion of minorities willing and able to do the work. This could be supported by anecdotal evidence or (2) that the County was a passive participant in a system of racial exclusion in the local A&E industry.¹⁸³ For women, the court sought to determine if there was discrimination in the economic sphere at which the affirmative action efforts were targeted.¹⁸⁴

Turning to the evidence submitted by Dr. Carvajal, there were several data elements provided: (1) 1999-2000 Bell South telephone directory, (2) a list compiled by InfoUSA, (3) firms registered for technical certification with the County's Department of Public Works, (4) firms with an architecture professional license, (5) a telephonic survey which solicited information on gender/ethnic classification, capacity/experience input variables and annual volume of business (6) M/WBE certification data and (7) County awards data. The first four measures were used in the availability analysis.¹⁸⁵

The court first noted that Dr. Carvajal himself corroborated the County Managers report, finding that "there is no disparity indicating any underutilization of M/WBEs or of minority firms in the award of contracts by the County itself for A&E services, nor is there any significant underutilization of M/WBEs in the contracts they were awarded."¹⁸⁶ Therefore, the first component of review for gross statistical disparities was not met.

As such, the court turned to the marketplace data to determine if the County had been a passive

¹⁸¹ *Id.* at 1314.

¹⁸² *Id.* at 1315.

¹⁸³ *Id.* at 1316.

¹⁸⁴ *Id.*

¹⁸⁵ *Id.* at 1318.

¹⁸⁶ *Id.*

participant in discrimination in the A&E marketplace. The court found the County's BBE program to be unconstitutional, as Dr. Carvajal's study conceded that there was no evidence of discrimination to support the BBE program.¹⁸⁷ Then, the court turned to the evidence to determine the constitutionality of the HBE and WBE programs. The court made the following findings regarding the data:

- *The data failed to properly measure the geographic market.* Dr. Carvajal did not attempt to limit his analysis of the firms' volume of business only to the volume of business performed in Miami-Dade County. Further, no effort was made to count sub-contractor/sub-consultant dollars.
- *The data failed to properly measure the product market.* Dr. Carvajal did not look at the volume of business for each of the three product markets being reviewed separately—architecture, civil engineering and structural engineering. As such, each product market is clearly overstated. Further, each product market has submarkets that the court believed should have been reviewed separately. By overstating the dollars in each market, Dr. Carvajal was not considering that all firms, particularly small firms, cannot perform all types of A&E projects. Per the court, this is particularly true for small firms whose scope is usually limited.
- *The marketplace data survey is unreliable.* Even though many firms reported to have only one to two architects or engineers, Dr. Carvajal did not question the large dollar ranges provided by these firms. An example of a range submitted by a one engineer firm was from \$45,000 to \$100 million. Additionally, some firms reported no architects or engineers. However, Dr. Carvajal utilized the volume data submitted anyway. Further, Dr. Carvajal utilized number of employees and number of professionals as a proxy for capacity. Per the court, this assumes that each employee and professional had a substantially similar effect on productivity. This was inconsistent with Dr. Carvajal's data that showed wide differences between employee productivity, with architectural productivity ranging from \$20,000 for one employee to \$175 million for another.¹⁸⁸
- *The anecdotal evidence did not support Dr. Carvajal's findings.* First, there was no anecdotal evidence related to HBEs or BBEs. Secondly, the anecdotal evidence submitted pertained to discrimination in County contracts, where there was no statistical support for a M/WBE program, as opposed to the overall marketplace, where all of Dr. Carvajal's statistical analysis was directed.¹⁸⁹

¹⁸⁷ *Id.*

¹⁸⁸ *Id.* at 1321-1325.

¹⁸⁹ *Id.* at 1325-1326.

Based on the above findings, the court held that “the statistical evidence presented in this case is unreliable and fails to establish the existence of discrimination.”¹⁹⁰

Narrow Tailoring

The court then turned to the narrow tailoring prong of the *Croson* test. The court utilized the four factors established by the Eleventh Circuit to determine narrow tailoring: (1) the necessity for the relief and the use of alternate remedies; (2) the flexibility and duration of the relief, including the availability of waiver provisions; (3) the relationship of the goals to the relevant labor market; and (4) the impact of the relief on the rights of innocent third parties.

The court first reiterated that Dr. Carvajal’s study failed to “identify who is engaging in the discrimination, what form the discrimination might take, at what stage in the process it is taking place, or how the discrimination is accomplished.”¹⁹¹ The court then held that the program was not narrowly tailored. The court found that the County had not considered race-neutral alternatives. While the County implemented a race and gender-neutral program for construction after the race and gender-conscious program was struck down, the County made no attempts to implement a similar program for A&E and did not make any adjustments to its race and gender-conscious goals. Furthermore, the County had a very strong anti-discrimination ordinance. However, there were no complaints filed. Per the court, this was either due to (1) non-enforcement by the County or (2) no discrimination occurring. Additionally, the court found that the goal and waiver provisions were inflexible, as the County had never made any adjustments to its program. It appeared, per the court that the County intended to allow its program to run indefinitely.¹⁹²

After reviewing the *Croson* standards, the court turned its attention to the issues of immunity and damages. As to immunity, the court found that the Commissioners had absolute immunity for their legislative actions of enacting the race and gender-conscious program. However, they did not have qualified immunity for their administrative actions of voting on the application of goals to specific A&E contracts if their actions violated “clearly established statutory or constitutional rights of which a reasonable person would have known.”¹⁹³ In this case, the court held that the Commissioners were not entitled to qualified immunity because they “ had before them at least three cases that gave them fair warning that their application of the ME/WBE programs were unconstitutional: *Croson*, *Adarand* and *Engineering Contractors Association*.”¹⁹⁴ The court also found that the County Manager had provided

¹⁹⁰ *Id.*

¹⁹¹ *Id.* at 1330.

¹⁹² *Id.* at 1331.

¹⁹³ *Id.* at 1335.

¹⁹⁴ *Id.* at 1336.

the Commissioners evidence of parity and the Commissioners did not conduct the annual studies mandated by the MBE/WBE ordinance itself. As such, the County and the Commissioners were held jointly and severally liable.

Paramijit S. Virdi v. Dekalb County Schools

In *Virdi v. Dekalb County Schools*¹⁹⁵, Virdi, an Asian Indian architect, filed a claim of discrimination against Dekalb County Schools in the award of architectural contracts, claiming that its minority vendor involvement program (MVP) was facially unconstitutional.

Dekalb County Schools instituted the MVP based on “The Tillman Report” which summarizes the views and feelings of the Tillman Committee, appointed by the Board. The Committee’s “feelings” were that minorities were under-represented generally. The Committee recommended that the School Board advertise in minority papers, conduct periodic seminars to educate minorities on doing business with the School Board, that it notify minority organizations of bidding and purchasing opportunities and that it publish an “How To” booklet. The Committee further recommended goals for contracts, purchases and services of 15 percent for Black businesses, five percent for Female Businesses and five percent for Other Minorities. Actual selection however was to continue on a race neutral basis.¹⁹⁶

Virdi expressed interest in and provided information to the School Board over a period of four years. In 1994, he claimed that a prime contractor project manager said that the School Board was only interested in Black businesses. The School Board did not respond to Virdi’s inquiries regarding this matter. In 1996, new managers for the School Board were hired. The new managers developed completely new lists of architects based on massive inquiries regarding the upcoming SPLOST activity. Virdi provided his information to the new managers after the list of architects had been constructed.

The district court held that the MVP did not “expressly endorse any discriminatory behavior or action if the goals were not met” thus the MVP did not violate Virdi’s equal protection rights¹⁹⁷. The Court of Appeals disagreed, finding that the MVP was subject to strict scrutiny, as racial classifications were involved, regardless of whether they created “binding racial preferences.”¹⁹⁸

The Court of Appeals also disagreed with the district court’s finding that the MVP was narrowly tailored because its main interest was to track participation to ensure it was not unwittingly involved in

¹⁹⁵ 135 Fed. Appx 262, 2005 U.S. App. LEXIS 11203, (11th Cir. 2005)

¹⁹⁶ *Id.* at 4.

¹⁹⁷ *Id.* at 13.

¹⁹⁸ *Id.* at 14.

discrimination. The Court of Appeals found this holding lacking and the program not narrowly tailored for two reasons:

- There was no evidence that race neutral alternatives were fully considered. Tracking could have been conducted without the implementation of goals;
- The MVP's goals had an unlimited duration.¹⁹⁹

As to Virdi's intentional discrimination claim, the Court of Appeals found that Virdi had provided no evidence that the MVP caused him to lose a contract he would have otherwise received. "Thus, Virdi has failed to establish a causal connection between the unconstitutional aspect of the MVP and his alleged injury."²⁰⁰

Thompson Building Wrecking Company, Paulette Tucker Enterprises and Sidney Cullars v. Augusta, Georgia

In *Thompson, Tucker and Cullars*²⁰¹, a non-racial DBE and two non-DBEs challenged the City of Augusta's DBE program, stating that the ordinance lacked adequate objective criteria for awarding contracts and that city officials were acting arbitrarily and capriciously in violation of due process.²⁰² They alleged that the City favors prime contractors who include DBEs in their subcontracting opportunities by adding twenty points to a proposal or bid.²⁰³

The City, in support of its program, conducted a disparity study in 1994, thirteen years earlier, which found that:

- There were several socioeconomic factors impacting the ability of blacks to start and grow businesses, such as reduced financial resources, market size and strength.
- There was a disparity in the "skew of awards".
- The study also included anecdotal evidence based on 22 interviews.

¹⁹⁹ *Id.*

²⁰⁰ *Id.* at 19.

²⁰¹ 2007 U.S. Dist. LEXIS 27127

²⁰² *Id.* at 2.

²⁰³ *Id.* at 3.

Based on these findings, the study recommended mandatory race- and gender-conscious goals. Using this study, the City enacted its DBE program.²⁰⁴

The Court first found that only the non-DBEs had standing based on race. Secondly the court found that plaintiffs were likely to succeed because the Study did not show discrimination by race and gender groups and after thirteen years, the City had conducted no further investigation to determine the need for the program.²⁰⁵ As such, the program was not narrowly tailored and the City's program was enjoined.²⁰⁶

South Florida Chapter of the Associated General Contractors v. Broward County

In *South Florida Chapter of the Associated General Contractors v. Broward County*²⁰⁷, the District Court of the Southern District of Florida, in this Motion for Preliminary Injunction hearing, considered if the Ninth Circuit's decision in *Western States Paving Co. v. Washington State Department of Transportation*, 407 F.3d 983 (9th Cir. 2005) should govern its consideration of the Plaintiff's claim regarding the constitutionality of the County's adherence to federal regulations under Disadvantaged Business Program requirements.²⁰⁸ The plaintiffs, AGC, argued that it did and that the County had to take additional steps beyond mere compliance with federal regulations to ensure the constitutionality of its program. Conversely, the County argued that the position of the Seventh Circuit in *Northern Contracting v. Illinois*, 473 F.3d 715 (7th Cir. 2007)²⁰⁹ should be controlling and that the County simply needed to comply with federal regulations. Because there is no controlling law in the Eleventh Circuit, the court reviewed the case law in other circuits to decide the appropriate approach.²¹⁰

The court commenced its review with the Ninth Circuit's *Western Paving* decision. The district court found that the Ninth Circuit concluded that the federal government had delegated to the states the responsibility to determine if a program was narrowly tailored and looked to the data relied upon to make that determination of narrow tailoring, as opposed to simply relying on the states' compliance with the federal regulations. The district court noted that this was an as-applied inquiry into the narrow tailoring of the State's program.²¹¹ The district court went on to note that the Eighth Circuit had taken a similar

²⁰⁴ *Id.* at 10.

²⁰⁵ *Id.* at 25.

²⁰⁶ *Id.* at 28.

²⁰⁷ 544 F.Supp.2D 1336 (S.D. Fla. 2008).

²⁰⁸ *Id.* at 1337. Plaintiffs also challenged Broward County's M/WBE program, but it was not at issue in this motion hearing.

²⁰⁹ *Id.* at 1338.

²¹⁰ *Id.*

²¹¹ *Id.* at 1339.

approach in *Sherbrooke Turf, Inc. v. Minnesota Department of Transportation*, 345 F.3d 964 (8th Cir. 2003).²¹²

The court then reviewed the Seventh Circuit’s *Northern Contracting* case, which stated that Illinois DOT was acting as an instrument of federal policy, and thus, the plaintiff could not attack collaterally the federal regulations through a challenge to Illinois DOT’s DBE program.²¹³ The district court in the present case noted that other circuits have followed this reasoning, including the Sixth Circuit and the Tenth Circuit. These circuits have concluded that “where a state or county fully complies with the federal regulations, it cannot be enjoined from carrying out its DBE program, because any such attack would simply constitute an improper collateral attack on the constitutionality of the regulations.”²¹⁴

The District Court then went on to hold that it agreed with the approach by the Seventh Circuit and “concludes that the appropriate factual inquiry in the instant case is whether or not Broward County has fully complied with the federal regulations in implementing its DBE program.”²¹⁵ While plaintiff argues that a disparity study is required to determine the constitutionality of the County’s program, the court found that federal regulations do not explicitly require such under federal regulations.

“If as Plaintiffs argue, a disparity study is required to make the DBE program constitutional, then the absence of such a requirement in the regulations may make those regulations unconstitutional as applied. However, that issue is not before this Court in this case, because Plaintiffs have not challenged the as-applied constitutionality of the regulations themselves, but rather have focused their challenge on the constitutionality of Broward County’s actions in carrying out the DBE program.”²¹⁶

Later, the case was dismissed without a trial in November 2008.

²¹² *Id.*

²¹³ *Id.* at 1340.

²¹⁴ *Id.* at 1340-41.

²¹⁵ *Id.* at 1341.

²¹⁶ *Id.*

2.3 FACTUAL PREDICATE STANDARDS (CONDUCTING THE DISPARITY STUDY)

The factual predicate is utilized to determine if a compelling governmental interest exists to support the utilization of race and gender-conscious remedies. The disparity study is utilized to develop the factual predicate. Below is a discussion of the courts' review of the sufficiency of several components of the disparity study in establishing a factual predicate.

2.3.1 RELEVANT MARKET VS. JURISDICTIONAL REACH

Relevant market establishes geographical limits to the calculation of M/WBE availability and utilization. Most courts and disparity study consultants characterize the relevant market as the geographical area encompassing most of a public entity's commercial activity. Relevant market can be different from jurisdictional reach, which defines the reach of the race and gender-conscious program implemented. Relevant market has not been litigated much.

In *Croson*, the Supreme Court did not provide specific guidance on the estimation of relevant market for the purposes of conducting a factual predicate study. The *Croson* Court did require that an M/WBE program cover only those groups that have been affected by discrimination within the public entity's jurisdiction.²¹⁷ This position was also taken by both the Ninth and Tenth Circuits. In *Concrete Works I*, the consultant found that over eighty percent of Denver's construction and design contracts were awarded to vendors in the Denver MSA.²¹⁸ The district court found the Denver MSA to be relevant to determining the jurisdiction of Denver's contract awards. The district court cited the Ninth Circuit opinion in *Coral Construction v. Kings County*:

Concrete Works also overlooks the fact that the Court of Appeals found even the ultimately rejected Pierce County evidence to be probative, even though it was from a completely separate jurisdiction, because:

"It is, however, immediately adjacent to King County and is part of the same metropolitan area. Likewise, the world of contracting does not conform itself neatly to jurisdictional boundaries. In this regard, contracting differs markedly from a school system, which conducts its business in relative isolation from other school systems. *Id.*"

²¹⁷ *Richmond v. Croson*, at 725.

²¹⁸ 823 F.Supp. 821, 836 (1993).

We conclude that Denver is not acting outside its jurisdiction, but is applying a policy to those contractors who have been found to choose to enter Denver's boundaries to seek work and win Denver's tax dollars.²¹⁹

2.3.2 AVAILABILITY

Availability calculations determine the number of firms who are ready, willing and able to do business with a public entity. Disparity ratios are determined by comparing availability to actual utilization. Availability measures are the most questioned and litigated portions of a disparity study, given the challenges in developing an accurate head count of firms in the marketplace, accounting for issues of capacity, qualification, willingness, and ability. As such, this section explores the evolution of judicial opinions on availability.

We note that the judiciary's view of availability within a jurisdiction is heavily influenced by the disparity methodology utilized to justify the DBE or M/WBE program under review. In many cases, the judge determines the validity of a particular methodology without declaring it as the only acceptable availability methodology.

The *Croson* decision did not turn on the evaluation of data in a disparity study. Consequently, *Croson* did not provide a detailed discussion of permissible data sources. Instead, the Court admonished local agencies to compare contract awards to M/WBEs to the number of "available" minority firms seeking public sector work, and not to the minority population. The source of this availability data was never addressed. Early case law following *Croson* did not cover the issue of competing measures of M/WBE availability. Several cases did not cite the sources of availability data.²²⁰

In the mid-1990s, cases applying *Croson* began to address the use of Census data as a measure of M/WBE availability. The basic criticism the courts had of Census data is that Survey of Minority-owned Business Enterprises (SMOBE) and Survey of Women-owned Business Enterprises (SWOB) data did not indicate which firms were seeking public sector work.²²¹ For example, in *Engineering Contractors Association of South Florida v. Metropolitan Dade County*,²²² the district court stated:

²¹⁹ *Id.* The district court also cited *AGC v. City of San Francisco*. See *Associated General Contractors of California v. City and County of San Francisco*, 813 F.2d 922, 934 (9th Cir.1987) ("*AGCC I*") (noting that any plan that extends race-conscious remedies beyond territorial boundaries must be based on very specific findings that actions the city has taken in the past have visited racial discrimination on such individuals).

²²⁰ See, e.g., *Cone Corp. v. Hillsborough*, 908 F.2d 908 (11th Cir. 1990).

²²¹ Census no longer produces these sources of data.

²²² 943 F.Supp. 1546 (1996).

“The census [SMOBE] data used in both [disparity] studies simply represent individuals or firms located in Dade County, which list themselves as being in the business of construction. The census data do not identify whether these entities have ever done work specifically for the county, or to what degree their reported sales or income stems from private sources versus public sources, much less whether the earnings are primarily the result of work done for Dade County versus Broward County, Palm Beach County or some other Florida locale, or even sites outside of Florida. This lack of specificity makes it difficult, if not impossible, to draw accurate conclusions concerning whether Dade County is itself a participant in gender, racial or ethnic discrimination to the extent that it justified its use of race, ethnicity, and gender-conscious remedies.”²²³

The Census Bureau’s Public Use Micro Sample (PUMS) data has been criticized for similar reasons. One of Miami’s disparity studies used PUMS data to study business formation amongst minorities. The district court concluded that, because PUMS did not look at public sector contracting, the PUMS “is not the type of particularized evidence that is required to provide a strong basis in evidence for the County’s race- and ethnicity-conscious contract award process, which is aimed at M/WBEs which are already in business and qualified to perform work.”²²⁴

The District Court for the Southern District of Ohio had similar criticisms of the use of Census data. The court stated, “it is apparent, however, that not all construction firms in the Columbus MSA are qualified, willing and able to bid on City construction contracts.”²²⁵ The court went on to state that “census data probably overstate the proportions of available [M/WBEs] . . .”²²⁶ Nevertheless, the court still preferred Census data to study disparity among sub-contractors. The court concluded that, “[w]hile the Census total industry data have limitations, it appears to be the best data considered by [the disparity study consultant] for use in determining availability of M/WBEs as sub-contractors.”²²⁷ In fact, the Ohio district court rejected the use of the bidder registration file list because it was not consistent with the SMOBE data.

The District Court for the Eastern District of Pennsylvania in Philadelphia also had similar criticisms of SMOBE and SWOB data. In its review of the evidence of disparity presented, the court, stated:

²²³*Id.* at 1572-1573.

²²⁴*Id.* at 1574.

²²⁵*AGC v. City of Columbus*, 1996 U.S. Dist. Lexis 12519 (SD Ohio 1996), at 22. This case was overturned on jurisdictional grounds.

²²⁶*Id.* at 22.

²²⁷*Id.* at 26.

[The evidence of disparity] never measured the number of contractors actually engaged by the City to perform particular services . . . Without measuring the number of contractors actually engaged by the City to perform particular services, it is impossible to determine whether Black firms were excluded from performing these services. In addition, it is impossible to determine whether Black companies even existed to perform these services required by the City. Without examining this information, it is impossible to draw any conclusions about discrimination in City public works contracting. In sum, the court finds that [the disparity study consultant] failed to measure the “relevant statistical pool” necessary to perform an accurate disparity study in accordance with the standards set forth in *Croson*.²²⁸

Upon review of the lower court decision, the Third Circuit Court of Appeals was more lenient on the use of SMOBE and SWOB data. The court rejected the argument that census data did not measure those willing to undertake public sector contracting. The court stated, “in the absence of some reason to believe otherwise, one can normally assume that participants in a market with the ability to undertake gainful work will be ‘willing’ to undertake it.”²²⁹ The court went so far as to state “the census data offer a reasonable approximation of the total number of firms that might vie for City contracts.”²³⁰ The court further suggested that census data might *understate* MBE availability, because “past discrimination in a marketplace may provide reason to believe the minorities who would otherwise be willing are discouraged from trying to secure this work.”²³¹

The general criticism of SMOBE and SWOB data is the lack of detail and specificity in qualifications. For example, in criticizing the disparity study in Miami, the District Court for the Southern District of Florida stated “[t]he major drawback of this analysis [disparity ratios] is that the SMOBE data relied upon do not include information such as firm size, number of employees, etc., thus the Brimmer Study does not contain regression analyses to control for neutral variables that could account for these disparities.”²³² The district court did not suggest an alternative data source to provide the specificity it was seeking. This omission was not unusual because courts generally did not provide guidance in determining valid or invalid sources of M/WBE availability data.

²²⁸*Contractors Assn. of Eastern Pennsylvania v. City of Philadelphia*, 1995 WL 11900 (ED Pa 1995), at 13.

²²⁹*Contractors Assn. of Eastern Pennsylvania v. City of Philadelphia*, No. 89-cv-02737 (3d Cir 1996), at 36.

²³⁰*Id.* at 39.

²³¹*Id.* at 36.

²³²*Engineering Contractors Association of South Florida v. Metropolitan Dade County*, *supra* n. 5, at 31.

Similarly, geographical mismatching of the data sets raised concern for some courts about the use of SMOBE data. The district court in Ohio, for example, criticized mixing SMOBE data with *County Business Patterns* because of the different geographical scopes,²³³ ignoring the fact that one is a measure of firms and the other is a measure of establishments.²³⁴

Other courts have not been concerned with the absence of such detail in Census data. For example, the Third Circuit Court also was not concerned by the lack of qualification data in the SMOBE data set. The court noted that “[t]he issue of qualifications can be approached at different levels of specificity, however, and some consideration of the practicality of various approaches is required. An analysis is not devoid of probative value simply because it may theoretically be possible to adopt a more refined approach.”²³⁵ The court accepted the mixture of census data with city purchasing data, although they differed in geographical scope. Similarly, a federal court of appeals sitting in Denver stated, “[w]e agree with other circuits which have interpreted [that] *Croson* implied to permit a municipality to rely, as does Denver, on general data reflecting the number of MBEs and WBEs in the marketplace to defeat the challenger’s Summary Judgment motion or request for a preliminary injunction.”²³⁶

The principal alternative to using Census data to measure M/WBE availability in *Croson* factual predicate studies is using lists of marketplace participants, primarily, vendor, bidders, pre-qualification and certification lists. The *Ready, Willing and Able* (RWA) approach is a list-based approach to the estimation of M/WBE availability. In the late 1990s, partly in response to the *Engineering v. Dade County* case, list-based approaches were utilized.²³⁷ As such, courts began to focus on these types of availability analysis.

In 2005, in *Northern Contracting, Inc. v. Illinois Department of Transportation*²³⁸, the district court found that a valid statistical methodology was presented to justify that the DBE program was narrowly tailored. This methodology included six steps: (1) identified the geographic market for contracting as the State of Illinois; (2) identified the product markets (i.e. highways, transportation, engineering, housing, etc.); (3) identified all available contractors in each product market regardless of race, using Dun & Bradstreet; (4) identified the number of DBE contractors in each product market and broke the numbers down by geographical location; (5) corrected errors by updating the qualified DBE firm list to eliminate firms that are no longer qualified; and (6) correct errors by accounting for DBE firms that were not listed on the

²³³ *AGC v. City of Columbus*, supra n. 8, at 18, vacated on jurisdictional grounds.

²³⁴ An enterprise (firm) may have several establishments at various locations.

²³⁵ *Contractors Assn. of Eastern Pennsylvania v. City of Philadelphia*, supra n. 12, at 36.

²³⁶ *Concrete Works v. City and County of Denver (Concrete Works II)*, 36 F.3d 1513, 1529 (10th Cir. 1994).

²³⁷ D.J. Miller & Associates, Inc. (now Miller³ Consulting, Inc.) used a Ready, Willing and Able list-based approach from its inception in 1988.)

²³⁸ 473 F.3d 715 (7th Cir. 2007)

qualified directory.²³⁹

The availability analysis in *Northern Contracting* represented what is commonly called “custom census” availability. A similar methodology was employed in the Caltrans’ disparity study. In *Caltrans*, the Ninth Circuit citing *Northern Contracting*, held that federal guidelines state the availability analysis should not separate contracts by construction and engineering and by prime and sub-contractor because there was already substantial overlapping in these areas.²⁴⁰ Furthermore, the court found the consultant had adjusted availability for the capacity of firms to do the work.²⁴¹

Conversely, the court in *Rothe Development Co. v. U.S. Department of Defense* found the appropriate measure of availability is to determine those firms “ready, willing, and able” to do business with the government. The court found the following sources as tending to establish a business’ qualifications—awardees, bidders, and certification lists. The reliance on lists compiled by local business associations, by community outreach, from vendor lists and from self-affirmation of qualification and ability is more questionable.²⁴²

In *H.B. Rowe Co. v. Tippett*²⁴³, the 4th Circuit found acceptable an availability analysis that depended on the following variables: “a vendor list comprising (1) sub-contractors approved by the Department to perform subcontract work on state-funded projects, (2) sub-contractors that performed such work during the study period, and (3) contractors qualified to perform prime construction work on state-funded contracts.”²⁴⁴ The court agreed with the consultant’s explanation why prime and sub-contractors were not separated.

²³⁹ *Id.* at 719.

²⁴⁰ See also *Mountain West Holding v. State of Montana and Geyer Signal, Inc. v. MnDOT*.

²⁴¹ *Caltrans* at 1199.

²⁴² *Rothe Development Corp v. U.S. Department of Defense*, 545 F.3d 1023, 1042 (2008)

²⁴³ 615 F.3d 233 (2010).

²⁴⁴ *Id.* at 245.

2.3.3 UTILIZATION

Utilization analysis measures the actual dollars awarded and paid to firms doing business with the public entity, by race and gender. The utilization analysis is rather straight-forward, thus there is limited discussion in case law on standards for utilization. The *Croson* decision specifically mentions the number of firms “qualified, willing and able to perform...and the number of such contractors actually engaged”.

In *Concrete Works III*, the court stated that the presentation of both goal and non-goal contracts provided a clearer picture of MBE participation. In fact, the court found that “non-goal projects were a better indicator of discrimination in City contracting.”²⁴⁵

Illinois Department of Transportation (IDOT), in *Northern Contracting*, tried to test for the impact of race-conscious programs on DBE participation with its Zero-Goal Program. This program dropped the DBE goal from select construction contracts to see if there would be a decrease in the number of DBE participants compared to those projects with a DBE goal. However, the court found the experiment flawed because the State did not provide the number of DBEs that actually bid on these projects or the dates during which these experiments took place. As such, the court was unable to conclude that the drop in DBE participation was due to the lack of an affirmative action program.²⁴⁶

In *Caltrans*, the Ninth Circuit noted that the disparity consultant utilized state-funded contracts, which did not have goals, to determine if the affirmative action program for federally-funded contracts skewed the data. The court further found that the consultant appropriately accounted for women, by combining minority women with the requisite minority group, thus the women category only included white women.²⁴⁷

2.3.4 DISPARITY RATIOS

The most important part of the statistical analysis is the disparity ratio, which is a comparison of availability to utilization. An inference of discrimination can be drawn from statistically significant disparity. The courts agree on the calculation of disparity and statistical significance, as discussed below.

In *Adarand VII*, the Tenth Circuit noted that “the disparity between minority DBE availability and market utilization in the subcontracting industry raises an inference that the various discriminatory factors the

²⁴⁵ *Concrete Works III* at 988.

²⁴⁶ *Northern Contracting* at 719.

²⁴⁷ *Caltrans* at 1198.

government cites have created that disparity... Of course, it would be "sheer speculation" to even attempt to attach a figure to the hypothetical number of minority enterprises that would exist without discriminatory barriers to minority DBE formation. *Croson*, 488 U.S. at 499. However, the existence of evidence indicating that the number of minority DBEs would be significantly (but unquantifiable) higher, but for such barriers is nevertheless relevant to the assessment of whether a disparity is sufficiently significant to give rise to an inference of discriminatory exclusion."²⁴⁸

In *Rowe*, the court there noted that several courts have followed a similar methodology:

After *Croson*, a number of our sister circuits have recognized the utility of the disparity index in determining statistical disparities in the utilization of minority- and women-owned businesses. See, e.g., *Rothe II*, 545 F.3d at 1037-38; *Concrete Works*, 321 F.3d at 962-63; *W.H. Scott*, 199 F.3d at 218; *Eng'g Contractors*, 122 F.3d at 914; *Contractors Ass'n I*, 6 F.3d at 1005; *Associated Gen. Contractors of Cal., Inc. v. Coal. for Econ. Equity*, 950 F.2d 1401, 1413-14 (9th Cir. 1991). Generally, courts consider a disparity index lower than 80 as an indication of discrimination. See *Rothe II*, 545 F.3d at 1041; *Eng'g Contractors*, 122 F.3d at 914; see also 29 C.F.R. § 1607.4(D) (2010) (directing federal agencies to regard a "selection rate" of lower than 80 percent as evidence of disparate impact employment discrimination).²⁴⁹

Further, the court found that the application of t-test²⁵⁰ was appropriate, as standard deviation test allows a determination of whether any disparity found is merely due to chance or due to some other reason. The court supported its argument by citing a mid-90s case, *Engineering Contractors*, 122 F.3d at 914.²⁵¹

In finding the disparity study sufficient in *Caltrans*, the court noted that disparities were assessed across a variety of contracts based on funding source (state or federal), type of contract (prime or subcontract) and type of project (engineering or construction).

²⁴⁸ *Adarand v. Slater*, 228 F.3d 1147 (10th Cir. 2000).

²⁴⁹ *Id.* at 244.

²⁵⁰ T-test determines statistical significance of any disparity found. The t-test assesses whether two groups are statistical different from each other.

²⁵¹ *Id.*

2.3.5 CAPACITY AND REGRESSION

Parties seeking to explain what the U.S. Supreme Court meant in *Croson* usually raise the capacity issue of qualified minorities. The Capacity Analysis seeks to determine the factors, including size, race and gender among others, that are contributing to any disparity found as a result of comparing availability and utilization.

In *Concrete Works I*, the district court reviewed the challenged availability/utilization analysis submitted by the City and County of Denver. The Concrete Works Company challenged the use of availability measures and suggested that the appropriate standard was capacity. The court provided a lengthy discussion of the capacity arguments:

Capacity, as Concrete Works' expert economist points out, is ideally measured by the total amount of business that could be handled by MBEs. There are typically three measures used to predict the amount of business that W/MBEs can handle: the number of W/MBE companies relative to the total number in the industry (also known as 'availability'), W/MBE revenue as a percent of industry revenue, and the number of W/MBE employees as a percent of the industry total . . . [A]s evidenced both by Concrete Works' failure to suggest an alternative way to measure capacity and the admission of its expert that availability is more often used in actual practice, the ability of a firm to handle any given amount of business is exceedingly difficult to define and even more difficult to quantify. Capacity is a function of many subjective, variable factors. Second, while one might assume size reflects capacity, it does not follow that smaller firms have less capacity; most firms have the ability and desire to expand to meet demand. A firm's ability to break up a contract and subcontract its parts make capacity virtually meaningless . . . Finally, Concrete Works can cite no authority for its assertion that its amorphous, ambiguous conception of capacity is required. No court to date has required a comparison of a firm's 'ability to handle work.'²⁵²

In *Concrete Works III*, the Tenth Circuit reviewed those variables that CWC alleged the disparity studies had not controlled for and made the following findings:

- a. **Size and experience:** CWC did not conduct its own disparity study that controlled for firm size and experience. "Denver is permitted to make assumptions about capacity and qualification of M/WBEs to perform construction services, if it can support those assumptions. The assumptions made in this case are consistent with the evidence presented at trial, and support the City's

²⁵²*Concrete Works I* at 838-39.

position that 1) a firm's size does not affect its qualifications, willingness, or ability to perform construction services and 2) that the smaller size and lesser experience of M/WBEs are, themselves, the result of industry discrimination."²⁵³

- b. **Specialization:** CWC offered no support for its view that M/WBEs are clustered in certain construction specialties and did not demonstrate that disparities are eliminated when there is control for firm specialization. On the other hand, the disparity study consultant controlled for SIC code subspecialty and still showed disparities.²⁵⁴
- c. **Bidding:** Disparity studies must make the same assumptions about availability for *all* firms. It is unnecessary to consider only those firms actually bidding on Denver's projects because it does not indicate qualification.²⁵⁵

The Ninth Circuit has also discussed the issue of capacity. In *Western Paving*, the Court found Washington DOT's capacity analysis to be flawed because:

- 1) It considered contracts that had affirmative action components and thus, did not reflect "the performance capacity of DBEs in a race-neutral market."
- 2) While Washington DOT could only rely on a comparison of the proportion of State DBE firms/percentage of awards to DBEs on race-neutral contracts, this "oversimplified statistical evidence is entitled to little weight, however, because it does not account for factors that may affect the relative capacity of DBEs to undertake contracting work."
- 3) The State's analysis does not control for any capacity factors, such as size and experience.

The court noted that under 49 CFR Part 26, the US DOT has established that availability can be adjusted upward or downward, based on the capacity of DBEs to perform work, as measured by the volume of work allocated to DBEs in recent years. While it disagreed with the way that Washington DOT relied on capacity information to defend its DBE program, the court did find that Washington DOT had closely tracked US DOT regulations.²⁵⁶

²⁵³ *Concrete Works III* at 982.

²⁵⁴ *Id.* at 983.

²⁵⁵ *Id.*

²⁵⁶ *Id.* at 989.

The Ninth Circuit contrasted the analysis performed by the Washington DOT and that performed by Caltrans. In *Caltrans*, the Court found the statistical analysis valid, as *Caltrans* had adjusted availability for capacity and controlled for previously administered affirmative action programs.

As discussed earlier, in *Engineering Contractors*, the Eleventh Circuit found acceptable as a valid explanation for disparities found, Census data showing that, on average, non-MBE/WBE firms were larger than MBE/WBE firms. It found unreliable the data submitted by the County to explain disparities found. The County presented an analysis of a sample of 568 firms out of 10,462 that had filed a certificate of competency with Dade County as of January 1995. The County's expert collected data on these firms related to race, ethnicity, gender, as well as total sales and receipts and sought to determine if there was a meaningful relationship between the two pools of data. The expert conducted a regression analysis, using number of employees as a proxy for size.

The Eleventh Circuit found the statistical pool of firms relied upon by the County was significantly larger than the actual number of firms willing, able and qualified to do the work, particularly given that these firms represented those firms simply licensed as construction contractors.²⁵⁷ Further, the court held that, after controlling for firm size, neither BBE nor WBE data revealed statistically significant disparities and that the district court was not required to assign any disparities controlling weight.²⁵⁸

In *Rothe*, the court found the most reliable way for accounting for firm size, without changing the disparity-ratio methodologies, was to employ "regression analysis to determine whether there was a statistically significant correlation between the size of a firm and the share of contract dollars awarded to it."²⁵⁹

In *Rowe*, the court also found the State's regression analysis useful. In that study, the State studied the impact of certain business characteristics on a firm's gross revenues. These characteristics included company age, number of full-time employees, owner's years of experience, level of education, race, ethnicity and gender. The State supported the capacity analysis by reviewing the participation of minorities at different contract thresholds.²⁶⁰

²⁵⁷ *Engineering Contractors* at 921.

²⁵⁸ *Id.*

²⁵⁹ *Rothe* at 1045.

²⁶⁰ *Rowe* at 247.

2.3.6 ANECDOTAL

Croson indicated that some measure of anecdotal evidence could be supportive in a determination of discrimination. However, it did not provide a clear picture on the type and quantum of anecdotal evidence required. Many lower courts have reviewed and assessed the quality and quantity of anecdotal evidence submitted. In *Concrete Works I*, the District Court accepted the testimony of twenty-one people at a public hearing and the interview results of 38 M/WBEs as enough anecdotal evidence for *Croson* purposes.²⁶¹

In *Caltrans*, the consultant included twelve public hearings, received letters from business owners and trade associations and interviewed seventy-nine owners/managers of transportation firms. The Ninth Circuit found that “the statistical evidence from the disparity study is bolstered by anecdotal evidence supporting an inference of discrimination.”²⁶²

Rothe criticized the disparity analysis because it did not include direct testimony from MBEs regarding their experience with the U.S. Department of Defense (DOD) or its prime contractors.²⁶³ The court sought anecdotal testimony that demonstrated some link between the DOD’s spending practices and discrimination.

Opponents have long argued that anecdotal testimony should be verified. However, more and more circuits are concluding as *Concrete Works* did:

“Anecdotal evidence is nothing more than a witness’ narrative of an incident told from the witness’ perspective and including the witness’ perceptions. In this case, the anecdotal evidence was not subject to rigorous cross-examination...Denver was not required to present corroborating evidence and CWC was free to present its own witnesses to either refute the incidents described by Denver’s witnesses or to relate their own perceptions on discrimination in the Denver construction industry.”²⁶⁴

In *Caltrans*, the Ninth Circuit made it clear that anecdotal testimony did not need to be verified, particularly considering case law in the Fourth and Tenth Circuits. Additionally, the court rejected the AGC’s argument that *Caltrans* needed to show that every minority-owned business is discriminated

²⁶¹ *Concrete Works I* at 833-834.

²⁶² *Caltrans* at 1192.

²⁶³ *Rothe* at 1048.

²⁶⁴ *Concrete Works III* at 898. See also *Rowe* at 249, *Caltrans* at 1197.

against; “[i]t is enough that the anecdotal evidence supports Caltrans’ statistical data showing a pervasive pattern of discrimination.”²⁶⁵

In *Engineering Contractors*, the Eleventh Circuit considered the sufficiency of the anecdotal evidence submitted, which consisted of interviews with two county employees responsible for the M/WBE program, twenty-three M/WBE prime and sub-contractors and a survey of black-owned construction firms. While the Court found “the picture painted by the anecdotal evidence is not a good one,” the anecdotal evidence could not overcome the deficiencies of the statistical analysis and cannot alone support findings of discrimination sufficient to support the implementation of race and gender-conscious programs. “While such evidence can doubtless show the perception and, on occasion, the existence of discrimination, it needs statistical underpinnings or comparable proof to show that substantial amounts of business were actually lost to minority or female contractors as the result of the discrimination.”²⁶⁶

The District Court for the Northern District of Georgia, in *Webster v. Fulton County*²⁶⁷, examined anecdotal evidence presented by Fulton County. In that case, consultants for Fulton County conducted seventy-six one-on-one interviews, public hearings and a random survey of 183 M/WBEs. Like *Engineering Contractors*, the District Court found that, while the anecdotal evidence “reflects the honest and concerned beliefs of many in the Atlanta and Fulton County area that they have been or are the victims of discriminatory practices,” anecdotal evidence was “insufficient to offset the weaknesses of Fulton County’s statistical evidence.” Furthermore, much of the anecdotes referred to the firms’ experiences in the private sector, and not with Fulton County.

2.3.7 MARKETPLACE AND PRIVATE SECTOR ANALYSIS

The Marketplace and Private Sector Analysis seeks to determine if there are discriminatory practices or disparity in the private marketplace and if the public entity is a passive participant in any discrimination found. *Croson* speaks to the importance of the effects of private sector disparities for justifying M/WBE programs. In *Croson*, the Court suggested several ways that a public entity might be involved in private sector discrimination:

1. **Discrimination in subcontracting opportunities:** “If the City of Richmond had evidence before it that non-minority contractors were systematically excluding minority business from subcontracting opportunities, it could take action to end the discriminatory exclusion.”²⁶⁸

²⁶⁵ *Caltrans* at 1192.

²⁶⁶ *Engineering Contractors*, at. 925.

²⁶⁷ 51 F.Supp.2d 1354 (1999).

²⁶⁸ *Croson* at 729.

2. **Discrimination in the construction industry:** “[I]f the city could show that it had essentially become a passive participant in a system of racial exclusion practiced by elements of the local construction industry, we think it clear that the city could take affirmative steps to dismantle such a system.”²⁶⁹
3. **Discrimination in professional trade organizations:** “In such a case, the city would have a compelling interest in preventing tax dollars from assisting those organizations in maintaining a racially segregated construction market.”²⁷⁰
4. **Discrimination in the provision of credit or bonding by local suppliers and banks:** “[a]ct to prohibit discrimination in the provision of credit or bonding by local suppliers and banks. Business as usual should not mean business pursuant to the unthinking exclusion of certain members of our society from its rewards.”²⁷¹

Croson also implied that evidence in employment discrimination or discrimination in subcontracting would also strengthen the argument for an MBE program: “The city points to no evidence that its prime contractors have been violating the [city race discrimination] ordinance in either their employment or subcontracting practices.”²⁷²

*Webster v. Fulton County*²⁷³ suggests, however, that a nexus must exist between private sector discrimination and the public agency. The Eleventh Circuit rejected the consultant’s definition of passive participant as a public entity operating in a marketplace where there is discrimination. Per the court, “[i]t does not show that the County’s spending practices are exacerbating identified discrimination in the private sector. The County may rely upon a showing of discrimination in the private sector if it provides a linkage between private sector discrimination and the County’s contracting policies. *Concrete Works*, 36 F.3d at 1529. No such linkage is provided by the data in the Brimmer-Marshall Study.”²⁷⁴

In *Concrete Works III*, the Tenth Circuit found that Denver could meet its burden by showing marketplace or private sector discrimination and linking its spending practices to the private discrimination. This could be done through:

²⁶⁹ *Id.* at 720.

²⁷⁰ *Id.*, at 726.

²⁷¹ *Id.* at 729.

²⁷² *Id.* at 726, n.3.

²⁷³ 51 F.Supp.2d 1354 (1999) United States District Court, N.D. Georgia, Atlanta Division.

²⁷⁴ *Id.* at 1370.

- 1) Anecdotal evidence of City contractors subject to Denver’s goals who are not using M/WBEs on private sector contracts.
- 2) Evidence of discriminatory barriers to business formation by M/WBEs and unfair competition.
- 3) Evidence of lending discrimination.²⁷⁵

In *Rowe*, the Fourth Circuit found that the State failed to establish any correlation between public road construction subcontracting and private general construction subcontracting, thereby severely limiting the private data’s probative value.²⁷⁶

Standards for demonstrating private sector discrimination must be viewed considering the U.S Supreme Court’s ruling in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project*²⁷⁷. The U.S. Supreme Court indicated that private developers should be given “leeway to state and explain the valid interest served by their policies” and that disparate impact liability must be sure not to “displace valid governmental and private priorities, rather than solely “remov[ing]...artificial, arbitrary, and unnecessary barriers.”²⁷⁸

2.3.8 RACE NEUTRAL

As part of narrow tailoring, public entities are required to consider the efficacy of race neutral measures in addressing any disparity or discrimination. The race neutral analysis seeks to determine the ability of existing race neutral efforts in eliminating disparity in the marketplace.

Lower courts have considered what constitutes adequate consideration of race-neutral measures. For example, in *Coral Construction v. King County*, the Ninth Circuit considered race-neutral measures, but found them not to be feasible. The Court stated that, “*Associated General Contractors* requires only that a state exhaust race-neutral measures that the state is authorized to enact, and that it have a reasonable possibility of being effective. Here, the record reveals that King County considered alternatives, but determined that they were not available as a matter of law...King County cannot be required to engage in conduct that may be illegal; nor can it be compelled to expend U.S. precious tax dollars on projects where

²⁷⁵ *Concrete Works III* at 976-978.

²⁷⁶ *Rowe* at 257.

²⁷⁷ No. 13-1371, 576 U. S. ___ (2015)

²⁷⁸ *Inclusive Communities Project*, slip op., at 22.

potential for success is marginal at best.”²⁷⁹

In *Concrete Works I*, the City had already enacted several race-neutral measures, including breaking down projects to facilitate small business participation, outreach, a prompt payment ordinance, good faith measures, seminars on procurement procedures, bond guarantee, and contractor mentor and pre-apprenticeship programs. Certain race-neutral measures could not be implemented because of requirements for state bonds, lowest bidder and prevailing wages. The court noted, however, “strict scrutiny requires only good faith, not exhaustion of all alternatives.”²⁸⁰

In *Coalition for Economic Equity*, the Ninth Circuit found that race-neutral alternatives had been sufficiently considered, since San Francisco passed and enforced an ordinance prohibiting City contractors from discriminating against their employees. It noted that, in *Hillsborough County*, the MBE law was adopted when the MBE program failed to remedy the discrimination and the law included “all of the race-neutral measures suggested in *Croson*.”²⁸¹ In summary, the case law suggests:

- 1) If race-neutral programs and legislation were in place prior to the establishment of a race-conscious program, and yet M/WBE participation in public procurement remains low relative to availability, then an inference is created that race-neutral programs were inadequate to relieve the impact of past discrimination.
- 2) All race-neutral programs do not have to be considered.
- 3) Low participation by M/WBEs in race-neutral programs is evidence that the race-neutral programs do not provide an adequate remedy for past discrimination.

These standards have been buttressed in cases, such as *Western Paving v. Washington State Department of Transportation*, *Concrete Works of Colorado v. City and County of Denver*, and *AGC v. Caltrans*.

Important in California, the Ninth Circuit in *Caltrans*, for the purposes of narrowly tailoring, only requires “serious, good faith consideration of workable race-neutral alternatives[.]” *Grutter v. Bollinger*, 539 U.S. 306, 339 (2003). The court found that Caltrans program has considered an increasing number of race-neutral alternatives, starting at forty-five in 2008 and reaching 150 in 2010.”²⁸²

²⁷⁹*Coral Construction v. King County*, 941 F. 2d 910, 923 (1991).

²⁸⁰*Concrete Works I*, 823 F. Supp. 821 (D Colo 1993).

²⁸¹See also *AGC of California v. Coalition*, 950 F. 2d 1401, 1417 (1991).

²⁸²*Caltrans* at 1199.

In contrast, in *Engineering Contractors*, the Eleventh Circuit expressed concern that the County had not considered race-neutral alternatives. The types of initiatives that the Court believed that the County was obligated to attempt included:

- a) Adjusting its procurement processes and ferreting out instances of discrimination within its own contracting process; Take steps to “inform, educate, discipline, or penalize its own officials and employees responsible for the misconduct.”
- b) Passage of ordinances outlawing discrimination by local contractors, sub-contractors, suppliers, bankers, or insurers.
- c) Serious efforts at management, financial and technical assistance programs and evaluations of their effectiveness.

According to the Court, “The first measure every government ought to undertake to eradicate discrimination is to clean its own house and to ensure that its own operations are run on a strictly race- and ethnicity-neutral basis... Instead of turning to race and ethnicity-conscious remedies as a last resort, the County has turned to them as a first resort.”²⁸³

²⁸³ *Id.* at 929.

2.4 SUMMARY OF FINDINGS

2.4.1 CROSON STANDARDS

If M-DCPS chooses to continue to utilize race and gender-conscious techniques, it will need to meet the U.S. Supreme Court requirements of *Richmond v. Croson*. The U.S. Supreme Court established a two-pronged test: (1) that a governmental entity had to show a compelling governmental interest to utilize race and gender-conscious remedies and (2) that any such remedies must be narrowly tailored. A factual predicate or disparity study is utilized to show if there is a compelling governmental interest. Narrow tailoring is the crucial element in crafting appropriate *Croson* remedies.

Courts, for failure of local jurisdictions to narrowly tailor their remedies, have struck down many MBE programs. Once a factual predicate has been established, post-*Croson* case law presents several broad guidelines for crafting recommendations for MBE programs by a public entity, based on the factual predicate findings:

- Race and gender-conscious MBE programs should be instituted only after, or in conjunction with, race and gender-neutral programs.
- MBE programs should not be designed as permanent fixtures in a procurement system without regard to eradicating bias in standard procurement operations or in private sector contracting. Consequently, each MBE program should have a sunset provision, as well as provisions for regular review. Additionally, there is the implication that reform of procurement systems should be undertaken.
- MBE programs should have graduation provisions for the M/WBEs themselves.
- Rigid numerical quotas run a greater risk of being overturned by judicial review than flexible goals.
- Race and gender-conscious goals, if any, should be tied to M/WBE availability and to addressing identified discrimination.
- MBE programs should limit their impact on the rights and operations of third parties.
- MBE programs should be limited in scope to only that group(s) that has suffered from discrimination in the jurisdiction enacting the program.

Croson requirements were extended to federal programs in *Adarand v. Peña*.

2.4.2 ELEVENTH CIRCUIT STANDARDS

The Eleventh Circuit has developed several distinctive standards, as discussed above. The foundation of current Eleventh Circuit standards was established in 1997 in *Engineering Contractors*. The district court in *Webster v. Fulton County* summarized the Eleventh Circuit's standards as established in *Engineering Contractors* and we repeat much of that case summary here:

- At the forefront of standards established by the Eleventh Circuit is that race and gender-conscious initiatives should be utilized as a “last resort.”
- Race and ethnicity will be reviewed under strict scrutiny, with an evidentiary standard of strong basis in evidence.
- Gender will be reviewed under intermediate scrutiny, with an evidentiary standard of sufficient probative evidence.
- Both pre- and post-enactment evidence was admissible.
- The defendant bears the initial burden of satisfying the evidentiary standard, but that the ultimate burden of proof remained with the plaintiff. The plaintiff could rebut an inference of discrimination by demonstrating that: 1) Statistics are flawed; 2) Disparities are not significant; or 3) Presenting conflicting statistical data.
- Statistical analysis and anecdotal testimony should minimally address the following:
 - Disparity indices greater than 80 percent generally are not considered indications of discrimination by the Eleventh Circuit.
 - Study results showing M/WBE underutilization in the market without evidence of underutilization by the agency itself, is not prohibitive of discrimination.
 - An agency can rely on private sector discrimination as part of a factual predicate, if a link is shown between agency practices and private sector discrimination.
 - A factual predicate study needs to use regression analysis to control for size as a variable accounting for disparities in contracts.
 - A factual predicate study should consider bidding data for prime contracting analysis. This can be a bid analysis (the relative percentage of minority bids), or a bidder analysis (the relative percentage of minority bidders).

- A factual predicate study should not base its availability estimates on the availability measures taken from another agency; particularly another agency governing a population with very different demographic characteristics.
- Census data are of value for estimating M/WBE availability, but overstate M/WBE availability due to the absence of subchapter C Corporation data.
- A factual predicate study should consider the statistical significance of its results. Two standard deviations are a widely accepted measure of statistical significance.
- While anecdotal evidence is important to bolster statistical findings, it cannot alone support an inference of discrimination.

Lastly, in *Engineering Contractors*, the Eleventh Circuit utilized a four-pronged test to determine narrow tailoring and if race and gender-conscious initiatives are being utilized as a matter of last resort:

- The necessity for the relief and the efficacy of alternative remedies.
- The flexibility and duration of the relief, including the availability of waiver provisions.
- The relationship of numerical goals to the relevant labor market.
- The impact of the relief on the rights of innocent third parties.²⁸⁴

It is important to note that contrary to the viewpoint of some other circuits, the Eleventh Circuit interprets the first prong of the test to support its opinion on race and gender-conscious remedies being utilized as a matter of “last resort”.

2.4.3 ELEMENTS OF A FACTUAL PREDICATE

While *Croson* did not speak directly to the requirements of the factual predicate, lower courts interpreting *Croson* have suggested the following elements should be included:

- Relevant Market
- Availability
- Utilization
- Disparity with Statistical Significance

²⁸⁴ *Id.* at 927.

Chapter II Legal Analysis

- Capacity and Regression
- Anecdotal
- Private Sector Nexus
- Consideration of Race Neutral Efforts

As M-DCPS considers the findings of this disparity study and develops race and gender-conscious and race and gender-neutral programmatic initiatives in response to these findings, M-DCPS should ensure that the above legal parameters established by *Richmond v. Croson* and its progeny are fully considered.

CHAPTER 3: PROCUREMENT ANALYSIS

3.1 INTRODUCTION

This procurement analysis will determine if there are any systemic barriers within Miami-Dade Public School's (M-DCPS) procurement policies, procedures and processes, based on the business owner's race, ethnicity and/or gender that impact a qualified vendor's access to opportunities at M-DCPS. This assessment will assist in determining if there is inherent, unintended, or purposeful discrimination resulting from the manner M-DCPS procures goods and services.

M³ Consulting's analysis is a broad view that considers the impact of M-DCPS' procurement practices on all contracting opportunities. In support of this effort, M³ Consulting carried out a two-pronged analysis and review:

- A review of M-DCPS' procurement policies, procedures and practices, including organizational structure analysis and interviews with personnel in Procurement Management Services, Office of School Facilities and the Office of Economic Opportunity; and,
- A review of the impact of M-DCPS' procurement structure, policies, procedures and practices on the ability of small and micro business enterprises (SMBE), minority and women-owned business enterprises (M/WBE) and veteran-owned business enterprises (VBE) to do business with M-DCPS.

This procurement analysis is organized into the following sections:

3.2 Best Industry Practices Review

3.3 Review of M-DCPS' Organizational Structure and Procurement Process

3.4 Review of M-DCPS' SMBE, M/WBE and VBE Programs

3.5 Impact of M-DCPS' Procurement Process and SMBE, M/WBE and VBE Programs on M/WBE Participation

3.6 Conclusion

Operational characteristics within the procurement process that hinder the involvement of small and micro business enterprises (SMBE), minority and women-owned business enterprises (M/WBE) and

veteran-owned business enterprises (VBE) in M-DCPS procurement opportunities may necessitate fundamental changes to the overall procurement and contracting activities at M-DCPS to ensure inclusiveness, transparency, accountability and efficiency, as it relates to SBE and M/WBE participation and consistent with M-DCPS' strategic mission and vision. M³ Consulting may recommend changes in Chapter 12: Recommendations.

3.2 BEST PRACTICES IN PUBLIC SECTOR PROCUREMENT

3.2.1 INCLUSIVE AND SUSTAINABLE PROCUREMENT

Public procurement represents anywhere between 10-45 percent of a nation's GDP, with the average percentage in developed countries around 15-20 percent. This percentage only represents public sector procurement. When private sector procurement is added to the equation, institutional purchasing accounts for over 30-60 percent of a nation's GDP. That means that our economies are significantly driven by the decisions made by purchasing agents.²⁸⁵

Public sector procurement systems are responsible to the citizens within its jurisdiction. Prier, McCue and Bevis²⁸⁶ states that the public entity, through its procurement process, is responding to the "Triple Bottom Line – the simultaneous delivery of economic, environmental, and social policies that facilitate an integrated community development strategy."²⁸⁷ Within this focus, the procurement team is also responsible for the efficient and cost-effective procurement of goods and services. However, cost-effectiveness should not be achieved to the detriment of certain groups within a public entity's jurisdiction. Prier, McCue and Bevis states "continued participation by these targeted groups [small and historically underutilized business] is a necessary precursor to a robust community economic development strategy that leads to prosperity."²⁸⁸

²⁸⁵ "Playing the Game", Sherry J. Williams, Esq., MBE Magazine, July/August 2013.

²⁸⁶ "Making It Happen: Public Procurement's Role In Integrating Economic Development And Sustainability Strategies For Local Governments In The U.S.A.," Eric Prier, Clifford P. McCue and Michael E. Bevis*, 3rd International Public Procurement Conference Proceedings, 28-30 August 2008; *Eric Prier, Ph.D., is an Associate Professor, Department of Political Science, Florida Atlantic University. Clifford P. McCue, Ph.D., is Associate Professor, and Director, Public Procurement Research Center, School of Public Administration, Florida Atlantic University. Michael E. Bevis, CPPO, C.P.M., PMP, is Chief Procurement Officer, City of Naperville, Illinois, USA.*

²⁸⁷ *Ibid.* at 639.

²⁸⁸ *Ibid.*

The objective of the procurement operation therefore is one of inclusive and sustainable procurement and economic development (SPED).²⁸⁹ The execution and implementation of a public entity’s community economic development objectives commences with the procurement process. M³ Consulting asserts that the degree to which the public entity achieves its community economic development objectives through procurement depends on whether the public entity starts with a public policy approach, supported by project execution.

3.2.2 COMPREHENSIVE PROCUREMENT SYSTEMS

M³ Consulting has reviewed numerous public sector procurement operations and developed an overview of best practices as it relates to creating an inclusive and sustainable procurement environment that promotes SBE, M/WBE and VBE participation. A comprehensive procurement system includes the ten components listed below. M³ Consulting measured M-DCPS’ procurement environment against these ten features.

Figure 3.1 Ten Components of an Inclusive and Sustainable Procurement System	
1. Organizational Structure	Effective Organizational Structure provides for checks and balances and encourages collaboration and broad input from a variety of perspectives. An organizational analysis provides an assessment of the open and competitive nature of the procurement system. To make this determination, M ³ Consulting gauges the degree of centralization or decentralization of the procurement process, the sufficiency and interrelationship of the written policies and procedures, and the transparency of the procurement process.
2. Budgeting and Forecasting	Effective budgeting and forecasting are essential elements in the development of successful procurement programs that enhance bidder participation and utilization of SMBEs, M/WBEs and VBEs. Budgeting and forecasting allow greater and more in-depth planning for inclusion of SMBEs, M/WBEs and VBEs in a public entity’s opportunities at the prime and sub-contractor levels. M ³ Consulting reviews the degree to which an agency engages in procurement forecasting and determines how forecasting is utilized to promote inclusion.

²⁸⁹ *Ibid.* at 642.

<p>3. Informal Purchasing</p>	<p>Informal purchases provide the greatest opportunity for procurement personnel to impact the choice of vendors selected. These purchases are below a certain dollar threshold and are not subject to a formal contracting process or an advertised competitive bid process. M³ Consulting reviews the manner in which buyers or procurement agents utilize their discretion in the identification of those vendors from whom they will solicit quotes and who will be selected to receive the final award.</p>
<p>4. Formal Purchasing</p>	<p>Formal purchases usually allow procurement personnel less discretion in vendor selection, particularly in jurisdictions that must select the lowest bidder. Some discretion, however, typically does exist in formal purchasing, such as when a selection criterion, like the “lowest bidder,” can be modified to include terms such as the “lowest responsive and responsible” bidder. M³ Consulting reviews the formal procurement process to determine how available discretion is exercised.</p>
<p>5. Bid Opening and Evaluation</p>	<p>Objective and thorough bid opening and evaluation procedures ensure the fair and fully vetted consideration of bid and proposal submittals. Analysis of these procedures allows M³ Consulting to determine whether there is any subjectivity in the selection of contractors and vendors.</p>
<p>6. Contract Administration</p>	<p>Effective Contract administration includes comprehensive and consistent management of the contract, payment practices and reviews of contractor performance. A considerable amount of vendor contact occurs at this phase of the procurement process. A review of contract administration procedures allows M³ Consulting to determine overall fairness and consistency in contract execution and project management consistent with the terms and conditions of the contract.</p>

<p>7. Non-competitive Purchases</p>	<p>In some instances, non-competitive purchases are warranted for very specialized goods or services. However, in an effectual Procurement System, these instances are limited. M³ Consulting reviews sole source, emergency purchases, change orders and contract amendment policies to determine whether this component of the purchasing process is being used appropriately or competitive bidding procedures are being avoided inadvertently or intentionally.</p>
<p>8. Bonding and Insurance</p>	<p>Bonding and insurance are contract requirements that protect the interest of the owner. These contract requirements ensure that the Owner can complete the project regardless of nonperformance by a contractor and provide protection against site accidents and other mishaps that may occur during construction and/or during provision of services. M³ Consulting reviews rules and regulations regarding bonding and insurance to ensure that they are not overly burdensome to SMBEs, M/WBEs and VBEs.</p>
<p>9. Comprehensive and Efficient Enterprise Systems</p>	<p>Enterprise systems are critical to monitoring and tracking organizational performance. Without effective enterprise systems, the public entity cannot effectively monitor and evaluate organization procurement operations and decision-making, particularly in a decentralized procurement environment. M³ Consulting reviews these enterprise systems to ensure that procurement systems capture data to the degree necessary to not only track levels of participation, but also to determine areas of disparity real time.</p>
<p>10. M/WBE Program</p>	<p>See Figure 3.2</p>

Source: M³ Consulting

3.2.3 SMALL, MINORITY AND WOMEN-OWNED BUSINESS PROGRAMS

In addition to the above-mentioned components of an inclusive and sustainable procurement system, M³ Consulting has identified six essential program elements of successful and comprehensive SBE and M/WBE programs. These program elements should be fully integrated and work in collaboration with the overall procurement system, while supporting the tenants of the organization’s Mission and Strategic Plan and its community economic development objectives.

When these six essential program elements are consistently utilized, these elements tend to increase the opportunity for SBE and M/WBE success to participate in business and sustainable community economic development opportunities:

Figure 3.2 M³ Consulting Six Essential SBE and M/WBE Program Elements	
1. Outreach and Matchmaking	Efforts to increase the business community’s awareness of an entity’s procurement and contract opportunities and match SMBEs, M/WBEs and VBEs to specific contract opportunities at prime and subcontracting levels.
2. Certification	Eligibility criteria for SBE and M/WBE participants.
3. Technical Assistance	Informational and strategic support of businesses to meet the entity’s SMBE and M/WBE plan objectives.
4. M/WBE Inclusion in Bid Opportunities	The mechanism by which the entity assures that material consideration of M/WBE participation is given in the award of a contract.
5. Contract Compliance	Ensuring adherence to SMBE and M/WBE plan goals on all contracts after execution of the contract.
6. Organizational Performance Evaluation	A comparison of performance results to the entity’s goals to determine policy successes, strengths and weaknesses, and performance improvement areas.

Source: M³ Consulting

3.3 M-DCPS' ORGANIZATIONAL STRUCTURE AND PROCUREMENT PROCESS

Below is M³ Consulting's review of the organizational structure, procurement policies, procedures and practices for M-DCPS, as well as the laws and regulations of the State of Florida that apply to M-DCPS.

To conduct this analysis, M³ Consulting reviewed the following procurement policies, procedures, laws and regulations:

- Board Policies—6320, 6320.02, 6320.03, 6320.05 6320.06, 6325, 6334, 6465, 6610, 6835, 6840, 8150
- Procurement Management Procedures Manual
- Procedures for the Selection of Architectural/Engineering Projects Consultants (A/EPC) and Special Projects Consultants (SPC)
- Procedures for the Selection of Construction Management (CM), CM at Risk and Program Management Services
- Procedures for Selection of Design Criteria Professionals
- Procedure for Selection of Design Build Firms
- Office of Economic Opportunity Administrative Procedures Manual (2019)
- OEO Annual Report, 2015-2017, 2017/2018
- Capital Construction Budget & Control Management Payment Manual
- Independ Auditor's Report, Performance Audit of Miami-Dade County Public Schools General Obligation Bond Funded School Improvement Program for the Period from July 1, 2012 through June 30, 2018
- State Requirements for Educational Facilities, 2012, Office of Educational Facilities, Florida Board of Education
- Consultants' Competitive Negotiation Act, Fl. St. 255.087

In addition to reviewing the organizational structure and written policies and procedures, M³ Consulting conducted interviews with 14 staff members in Procurement Management Services and Office of Facilities.

These interviews assist M³ Consulting in determining the clarity of written policies and procedures and consistent execution in practice. This review of policies, procedures and practices provides an understanding of procurement operations to determine the impact of those operations on the inclusion of SMBEs, M/WBEs and VBEs. This analysis is not intended to be a procurement audit or personnel performance review. The following analysis reflects the results of the review of M-DCPS' procurement policies, procedures and practices as compared to the ten components outlined above.

3.3.1 ORGANIZATIONAL ANALYSIS

A. Organizational Structure

Miami-Dade County Public Schools is the largest school district in both the State of Florida and the Southeastern United States and is the fourth largest in the U.S. at 345,000 students. The district is also the second-largest minority-majority public school system in the country, with a student body consisting of sixty-two percent Hispanic origin (of any race), twenty-five percent Black, ten percent Non-Hispanic White, three percent other and multi-racial. Forty-five percent of students were enrolled in bilingual Spanish language programs, and an additional twenty-three percent were enrolled in other bilingual programs in French, German, Italian, Mandarin, Portuguese, and Haitian Creole. The School District consists of 392 public schools.

Procurement Management Services

The School District's procurement process is governed by Florida law, the State of Florida's Board of Education Rules, and School Board Policy. The Superintendent is responsible for the procurement of goods and services, based on Board Policy 6320. Purchases for all commodities, except Construction and Construction-Related Professional Services, are handled through the Department of Procurement Management Services, which is the Board's official purchasing agency and is headed by the Chief Procurement Officer. The Chief Procurement Officer reports directly to the Chief Financial Officer. There are fifteen employees, which includes one District Director, three Procurement Directors, one Fiscal Supervisor, two Procurement Specialists, four Analysts and one Furniture, Fixtures and Equipment Supervisor I. Each specializes in a specific commodity but are cross trained. There are two Procurement Specialists in Maintenance Materials Management.

Office of School Facilities

Construction and Construction-Related Services procurement is handled by the Office of School Facilities (OSF), which manages planning, design, construction, code compliance and building maintenance. OSF consists of the following departments:

- Capital Construction Budgets and Controls
- Capital Improvement Projects
- District Inspections and Operations
- Educational Facilities Code Compliance
- Facilities Operations-Maintenance
- Planning, Design and Sustainability
- Safety and Emergency Management

Chapter III

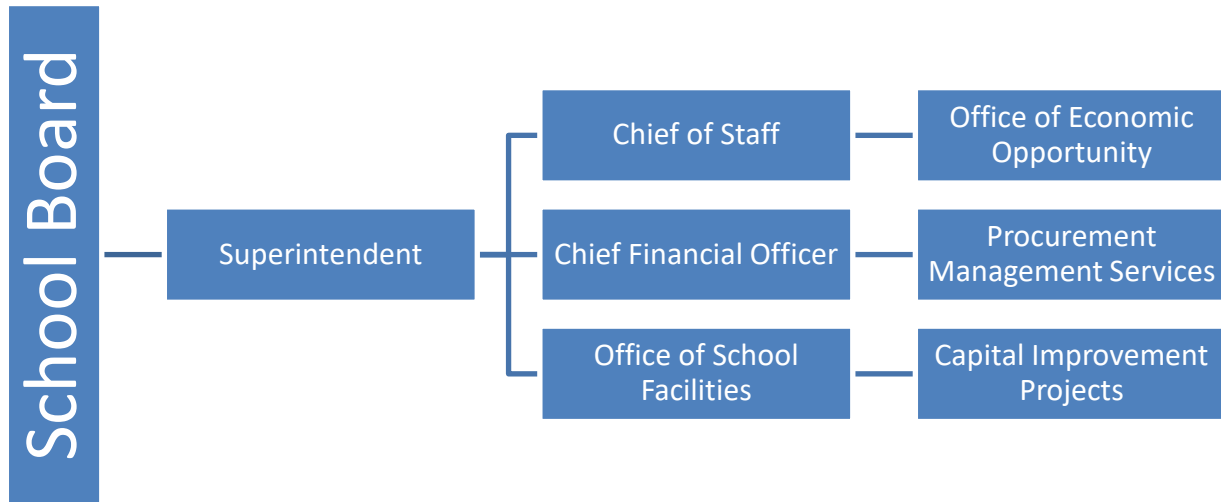
Procurement Analysis

Planning is handled primarily by the Planning, Design and Sustainability Unit. The Capital Improvement Projects Unit is responsible for negotiating the Guaranteed Maximum Price, determining construction delivery method and making award recommendations for Design-Building Bidding and Construction Manager at Risk projects, as well as reviewing and processing contract documents for hard bids. Within the Capital Improvement Projects Unit, the Department of A/E Selection & Negotiations is responsible for the management of the selection and negotiation process to hire design and construction professionals. A/E Selection develops solicitations, Requests for Qualifications (RFQ) and/or Requests for Proposals (RFP). Capital Construction Budget and Controls issues the project budget sheet and process pay applications. The Educational Facilities Code Compliance Unit performs building plan reviews, permitting and inspections.

Office of Economic Opportunity

The Office of Economic Opportunity (OEO) reports to the Chief of Staff. OEO is responsible for the oversight and management of the Small/Micro Business Enterprise, Minority/Women Business and the Veteran Business Enterprise programs in order “to provide expanded and equitable participation by small and micro businesses in School Board procurement of goods and services, construction, and professional services,” consistent with Board Policy 6320.02. It consists of various M-DCPS district staff as well as consultants. In total, there are 15 employees in the department that cover the following areas: Certification; Community Outreach; Technical Assistance; Prequalification; and Compliance.

Figure 3.3 M-DCPS Organization Hierarchy Outline



Source: M³ Consulting; All functions are not reflected on table; only those most relevant to purchasing and contracting, and SBE and M/WBE program operations.

B. Procurement Function

The procurement function for Goods & Supplies, Professional Services, Non-Professional Services and Maintenance and Maintenance-Related Services are procured mostly in a centralized manner, through Procurement Management Services. Construction and Construction-Related Services are procured mainly by the Office of School Facilities.

Procurement functions are provided below in Figure 3.4 for Procurement Management Services, User Departments, Office of School Facilities and OEO.

Figure 3.4 M-DCPS Procurement Functions	
Procurement Management Services Responsibilities	<ul style="list-style-type: none"> • Create bid package • Solicitation • Bid tabulation and review of bids for responsiveness • Determine most responsive and responsive bidder • Solicitation of vendors, based on procurement threshold • Assist in solicitation of vendors • Perform random sampling review of contracts to ensure compliance to contractual terms.²⁹⁰
User Department Responsibilities	<ul style="list-style-type: none"> • Prepare technical specifications and scope of work, identifying specific work elements • Establish evaluation criteria and evaluation points for RFPs • Solicitation of vendors, based on pre-approved vendors • Contract administration
Office of School Facilities	<ul style="list-style-type: none"> • Determine construction delivery method—CMR, CM, Design-Build, ITB • Create bid and RFP packages • Prepare technical specifications and scope of work, identifying specific work elements • Establish evaluation criteria and evaluation points for bids and RFPs • Solicitation of Design and Construction firms • Negotiate guaranteed maximum price • Bid tabulation and review of bids for responsiveness • Determine most responsive and responsive bidder • Contract administration

²⁹⁰ M-DCPS is in the process of hiring a Contract Compliance Administrator who will work with buyers when conducting review.

OEO Responsibilities	<ul style="list-style-type: none">• In conjunction with Goal Setting committee members, establish SMBE and M/WBE goals based on available SMBEs and M/WBEs and specification/ scope of work elements• Determining bidder compliance with SMBE and M/WBE goals• Reviewing specifications/scope of work to determine if opportunity can be broken into smaller units• Provide listing of certified firms for Goal Setting Committee members for review.• Determine post-award contractor/consultant compliance with SMBE and M/WBE goals• Conduct matchmaker and outreach sessions
-----------------------------	---

Source: M-DCPS Procurement Manual, M³ Consulting

C. Enterprise Systems Supporting the Procurement Functions

Procurement Management Services

Procurement Management Services utilizes SAP Finance Software. This software primarily tracks purchase order data. A PO number is issued once a contract is awarded. This PO number syncs with Accounts Payable data. While the project proceeds through the bid process, it is identified by a vendor number. Based on M³ Consulting's review, the vendor number does not sync with SAP data. M/WBE firms are identified within the system, however, these designations are not synced with Online Diversity Compliance System, which is tracking certified M/WBEs. Procurement Management Services is continuing its efforts to implement contract management software that allows data collection and tracking throughout the procurement lifecycle and not just at the time of award. Recently, PMS purchased Bid Sync, a bid and vendor management system.

Based on data from SAP, PMS staff will review *at least monthly*:²⁹¹

- Vendor statistics,
- Shopping cart to purchase order conversation activity,
- Spend activity,
- Warehouse metrics,
- Savings report,
- Contract awards to SMBE, M/WBE and VBE certified firms,

²⁹¹ Procurement Manual at 44.

- Contract extensions,
- Public forums/vendor workshops,
- Quarterly meetings held with District staff regarding bids and/or vendor performance,
- P-card activity
- Material testing and evaluation test types
- Any applicable fees.

Office of School Facilities

The Office of School Facilities relies on several systems in its efforts to implement and execute Construction and Construction-Related Services. Facilities utilizes MAPPs to log deficiencies within each school and other buildings. These deficiency reports from MAPPs are utilized to develop a needs assessment and scope of work for each building. Facilities utilizes Primavera for scheduling of Construction and Construction-Related projects. For tracking payments, Facilities utilizes Capital Payments System.

Office of Economic Opportunity

M-DCPS OEO began implementing the Online Diversity Compliance System in May of 2015. To date, all seven modules have been implemented: Certification; Outreach; Prequalification; Contract Compliance; Payment Analysis; Workforce Utilization and Goal Setting. This includes accurate collection of sub-contractor spending data from prime vendors. Procurement Management Services and OEO are continuing efforts to formalize and automate links between SAP and the Online Diversity Compliance System.

3.3.2 POLICIES AND PROCEDURES

In reviewing Board Policy 6320 and Procurement Management Services Procedures Manual to determine their consistency with the attributes of well-written policies, the following observations were made:

Figure 3.5 Analysis of Policies and Procedures	
1. Clearly defined functions of all personnel involved in procurement decisions	<p>The Procurement Policy, 6320 and Procedures Manual and Manuals utilized by Office of School Facilities (collectively Manuals) clearly establishes procurement authority. The Manual also delineates the tasks to be performed by personnel with procurement responsibilities in handling bids.</p> <p>The Procurement Manual does not address the post award relationship between Procurement and User Departments. We note that the Procurement Manual is presently being revised to reflect new practices and ERP processes.</p>
2. Clear protocol for how & when to utilize various procurement methods	Procurement methods are adequately discussed in the policies and procedures.
3. Clear definitions of procurement terms	Board policy 6320 has a limited list of definitions. The procurement manual does not contain a glossary of terms. Procurement Manual is currently being revised and will include a glossary.
4. Criteria for selection and evaluation of bidders by the major categories of procurement	Criteria for selection and evaluation of purchasing methods are outlined in detail in the Procurement Manual.
5. Criteria for evaluation of vendor/contractor performance after contract completion	Responsibilities of oversight of vendor performance and criteria for vendor performance evaluation post award are not outlined in Procurement Manual, but vendor evaluation form is included in each bid/proposal.
6. Clear delineation of the sources of procurement definitions, particularly if municipal, state or federal codes are involved	Delineation of the sources of procurement definitions is outlined in the Manuals.

Source: M³ Consulting

3.3.3 BUDGETING AND FORECASTING

A. Procurement Management Services

Based on the 2018 Procurement Procedures²⁹², PMS has developed Strategic Sourcing teams to conduct gap analysis, review historical data, market analysis and supplier capabilities to support the development of informed forecasting statistics. The purpose of the Strategic Sourcing team review is “to increase the usage of small, micro and minority firms, specifically African-American, Asian and Women-Owned, in upcoming and existing contracts, as described in Board Policy 6320.02, Small/Micro, Minority/Women-Owned, and Veteran Business Enterprise Programs.” The team consists of District staff, including but not limited to PMS, Budget, OEO and the responsible originating departments.

Procurement Management Services posts at <http://procurement.dadeschools.net/default.asp> Multi-Year forecast list of solicitations, as well as - month Business Opportunity Forecast Lists.

Procurement Management Services now meets monthly with User Departments to determine upcoming needs. Toward the end of the fiscal year, those meetings are increased to weekly or bi-weekly. Forecasts are approximately six months in advance.

Targeted matchmakers are completed on a quarterly basis for different commodity and industry categories. Matchmakers are primarily conducted with the User departments, PMS and vendors.

B. Office of School Facilities

The Office of School Facilities is responsible for planning of all construction activity for the District. Below in Figure 3.6 is a description of the Pre-design process, which represents the planning period prior to bid or solicitation.

²⁹² Id. At 45.

Chapter III Procurement Analysis

Figure 3.6 OSF Pre-Design and Design Process	
Timeframe (Months prior to construction bid/solicitation)	Activity
1-3 months	Advanced Planning (AP) unit develops a deficiency scope determination which determine a need for projects based on a campus or facility’s data housed in the Magellan database (MAPPs) and creates a pre-programming package
	The Capital Construction and Budget Control (CCBC) unit reviews documentation provided by AP and creates the project’s budget sheet.
	AP Unit and Design & Sustainability Unit (D+S) perform validation of scope for projects under \$2M
	AP Unit and Design & Sustainability Unit (D+S) perform validation of scope for projects over \$2M
3-6 months	Design projects under \$2M then assigned to competitively selected Architectural/Engineering Project Professionals and Construction Management at Risk Miscellaneous via work order
	Design projects over \$2M are competitively sourced.
	Schematic Design completed
	Design Development
	Construction Documents—50% Complete
	Construction Documents—100% Complete
	Permitting and final project approvals
1-3 months	Construction project bid or negotiated

Source: M³ Consulting

3.3.5 VENDOR REGISTRATION, NOTIFICATION, SOLICITATION AND BID OPENING

A. Vendor Registration

M-DCPS utilizes DemandStar and has initiated utilizing Bidsync, which allows vendors to register on-line to view and receive bid notifications and opportunities, based on commodity code. M-DCPS also requires vendors interested in bidding on its opportunities to register through DemandStar to receive a copy of the bid or RFP for formal quotes, ITBs and RFPs.²⁹³ M-DCPS requires all vendors interested in doing business with M-DCPS to complete a hard-copy signed vendor application. Forms are available at <http://forms.dadeschools.net/webpdf/3921.pdf>. The District is in the process of automating its vendor application.

PMS staff enters the hard-copy application data and generates a vendor number used for payment, tracking participation, monitoring vendor performance and preparing bid mailing lists. M-DCPS establishes a vendor emailing list that consists of vendors who have requested to be included in the competitive bid/quotation process for specific goods and/or services procurement by M-DCPS. The vendor list is also utilized for goal setting by the Goal-Setting Committee (GSC).

To ensure that vendors desirous of doing business with M-DCPS are properly licensed, the District requests the following information on the Vendor Application:

- IRS Form W-9
- Florida Division of Corps SUNBIZ Website screenshot
- Latest County Business Tax Receipts (required)
- Latest City Business Tax Receipts (optional)
- Occupational License

B. Notification and Solicitation

After the principal or department submits a requisition, the procurement process commences with the development of a solicitation and vendor registration lists/mechanisms. These mechanisms determine how the organization determines the pool of potential bidders to which it will provide specific notification of its opportunities.

²⁹³ Procurement Manual at 40.

M-DCPS has several mechanisms for notifying vendors of its opportunities:

- Electronic posting, at least seven days prior to bid opening date²⁹⁴—M-DCPS posts on www.demandstar.com and www.procurement.dadeschools.net ;
- Mailing to all vendors on the active vendor mailing list for the category of goods and services, which will include M/WBE vendors.
- Notice sent to organizations that assist M/WBEs.
- Advertising in one or more local newspapers, including minority focused newspapers, at least seven days prior to bid opening date.²⁹⁵
- Notice sent to M-DCPS Citizens Information Center.²⁹⁶

Advertising requirements for RFPs or ITNs are similar to those for the ITB.

3.3.6 INFORMAL PURCHASING—REQUEST FOR QUOTATIONS

Informal purchases or Request for Quotations are purchases valued at less than \$50,000. Purchases less than \$1,000 per month by individuals can be procured using a P-Card to district approved P-card holders. On purchases between \$1,000 and \$49,999, Procurement Management Services handles most of these purchases, using Request for Quotations.

A minimum of three quotes must be secured, with one being an M/WBE, if possible. School sites and user departments are able to access OEO's website and/or contact of OEO staff to obtain a list of currently certified firms. The award for informal purchases is made to the vendor who submits the lowest responsive and responsible bidder meeting bid specifications.

New vendors are identified by new applications to PMS' vendor registration list, as well as contact information from community outreach events and through networking with various community stakeholders. User Departments and school sites can also contact potential new vendors if they cannot identify appropriate vendors on PMS' vendor registration list, however, these potential vendors should complete a vendor application prior to any award. Quotes should be attached or included with the PO.²⁹⁷

²⁹⁴ Board Policy 6320, Competitive Bidding Requirement, B. (3) Invitation to Bid, pg. 7

²⁹⁵ *Ibid.*

²⁹⁶ Procurement Manual, Procedure 7-2.3.

²⁹⁷ Procedures Manual at 19.

Chapter III Procurement Analysis

Purchasing Cards (P-Cards) may be used for small dollar purchases and to acquire materials and supplies needed for operations. They shall not be utilized to “circumvent the general purchasing established by State law and Board policy.”²⁹⁸

All cardholders have limits that are defined by the worksite administrator for worksite groups: Elementary, Middle and K-8, Senior and 6-12, Adult, Alternative and Non-School site locations.²⁹⁹ 2018, 36-37. These limitations assigned to each card are:

- Amount charged in a single transaction
- Number of transactions charged in one (1) day
- Amount charged in one (1) day
- Amount charged in one (1) month
- Type of vendor purchases made

The maximum amount allowable is less than \$3,000. All purchases shall be in compliance with bid preferences, specifically purchases made with SDBE, M/WBE and VBE certified vendors.

Figure 3.7 summarizes the contract thresholds for Informal Purchases. Figure 3.8 summarizes signature authorities.

²⁹⁸ Board Policy 6320.

²⁹⁹ Procedures Manual at 36-37.

Figure 3.7 Informal Purchases				
Contract Amount	Solicitation Method Options	# of Quotes Required	Advertisement or Web Ad Required (Yes/No)	Purchasing Responsibility
Under \$1,000	Written, telephone or electronic	1 quote	No	Authorized District Staff
\$1,000--\$50,000	Written, telephone or electronic	3 quotes, 1 must be from M/WBE	No	Procurement Management Services and Authorized District Staff

Source: M-DCPS Procurement Manual; M³ Consulting

Figure 3.8 Signatory Authority on Purchase Orders	
Signatory	Amount
Chief Procurement Officer	• \$50,000+
Spec./Analyst/Director	• \$0-\$49,999

Source: M-DCPS Procurement Manual, Procedure 11-6; M³ Consulting

3.3.9 FORMAL PURCHASING

Formal purchasing or competitive purchasing is required for purchase contracts of \$50,000 and over. Formal purchasing at M-DCPS is done using Invitations to Bid, Requests for Proposals and Invitations to Negotiate.

A. Invitations to Bid (ITB)

Invitation to Bid is defined in Board Policy 6320 as “a written solicitation for competitive sealed bids used when the Board is capable of specifically defining the scope of work for which a construction services is required or when the Board is capable of establishing precise specifications defining the actual commodity or group of commodities required.”³⁰⁰ A minimum of three bids should be requested.³⁰¹

Procurement Management Services is responsible for issuing the Invitation to Bid and evaluating bids submitted. The procurement process will include the requirements by the Goal Setting Committee (GSC)

³⁰⁰ M-DCPS Board Policy 6320, pg. 1

³⁰¹ *ibid.* at 7.

for SBE, MBE, M/WBE and VBE participation on the project.³⁰² The originating department should provide Procurement Management Services with specifications and/or certify that specifications for an existing bid (to be re-bid) are still appropriate. The Chief Procurement Officer is responsible for ensuring that specifications do not “appear to limit the bidding process to a single vendor.”³⁰³

M-DCPS has created the Standard/Evaluation Committee for Equipment and Supplies which is responsible for determining acceptable standards and specifications to be included in bids for equipment and supplies regularly used by M-DCPS. The committee consists of appropriate persons from among end users, warehouse management (if applicable), Procurement Management Services and Materials Testing and Evaluation Department (if applicable).³⁰⁴

Vendors and contractors responding to an ITB are to submit their bids to Procurement Management Services, who will record and tabulate bids. Bid tabulations are to include the name of bidders, the prices submitted and other pertinent data.³⁰⁵ ITBs will be awarded to the lowest responsive and responsible bidder. If the low bidder is not awarded, notice must be provided to the vendor with the reason for non-award, prior to the award being submitted to Board.³⁰⁶ Multiple awards to the lowest responsive and responsible bidder is allowed if allowed by the bid solicitation documents.³⁰⁷

A bidder may be declared non-responsive for the following reasons:³⁰⁸

1. The bidder failed to complete required forms and certificates. PMS staff can allow bidders to provide missing documents within twenty (20) days. If the bidder does not provide the requested missing documents within the requested time frame, the bidder may be deemed non-responsive; and,
2. The bidder did not offer goods or services that compiled with the specifications of the bid.

A bidder may be declared non-responsible for the following reasons:

1. The bidder is not a regular dealer or supplier of the goods and services offered.

³⁰² *Ibid.*

³⁰³ *Ibid.* at 8.

³⁰⁴ Procedures Manual, Procurement Management, Procedure 7-2.2

³⁰⁵ Board Policy 6320 at 14.

³⁰⁶ Procedures Manual at 124.

³⁰⁷ Board Policy 6320.

³⁰⁸ Procedures Manual at 11-12.

Chapter III

Procurement Analysis

2. The bidder does not have the ability to comply with the required delivery or performance schedule.
3. The bidder does not have a satisfactory record performance as documented prior to the receipt of bids by the requesting school/department, the Division or other jurisdictions.
4. The bidder has been debarred by the District, by the State of Florida or the Federal Government. They may be considered non-responsible if they do not have a satisfactory record of integrity or if they are debarred or suspended by another governmental jurisdiction; and
5. The bidder does not have the necessary facilities, organization, experience, technical skills or financial resources to fulfill the terms of the purchase order or contract.

Responsiveness and responsibility are determined by Procurement Management Services. Prior to issuance of the ITB, PMS works with the User Department to determine the following elements of the scope of work:

- Details of work environment.
- Minimum or desired qualifications.
- Amount of service needed.
- Location of service.
- Definition of service unit.
- Time limitations.
- Travel regulations or restrictions.
- Special equipment required; and
- Other factors affecting working environment.

If identical prices/points are received from two or more vendors and all other factors are equal, priority shall be given to vendors/firms in the following order:

1. A business that certifies that it has implemented a drug-free workplace under F.S. 287.087.
2. Local vendor as defined by Board Policy 6320.05.
3. Certified Veteran business.
4. A certified Minority/Women Business Enterprise vendor.
5. The Miami-Dade County SBE/Micro/Minority/Women Business Enterprise Vendor.
6. The Broward, Palm Beach or Monroe County SBE/Micro/Minority/Women Business Enterprise Vendor.

7. The Broward, Palm Beach or Monroe County vendor, other than the SBE/Micro/Minority/ Women Business Enterprise vendor.
8. The Florida vendor who is an SBE/Micro/Minority/Women Business Enterprise vendor.
9. The Florida vendor, other than a Minority/Women Business Enterprise vendor.
10. The Minority/Women Business Enterprise vendor, who, because of lower prices, receives a larger dollar award for other items; and,
11. The SBE/Micro/non-Minority/Women Business Enterprise vendor, who, because of lower prices, receives a larger dollar award for other items.³⁰⁹

If there is no clear choice once these are applied, the District should toss a coin. Procurement Staff was unable to clearly articulate in interviews prioritization and scoring for the inclusive participation factors above.³¹⁰

The Notice of Intended Action should be posted on the District's website no later than the Friday preceding the week when the award is scheduled to be made by the Board or Superintendent.³¹¹

Term Contracts are definite quantity contracts for the procurement of certain goods or services for an established period and a not-to-exceed budget. Once a term contract is in place, buyers and departments can purchase the covered goods or services from the identified vendor(s) awarded the contract. When the not-to-exceed value is expended by seventy-five percent, the buyer will determine whether a supplemental award is needed, prior to the expiration date.³¹²

B. Request for Proposals (RFP)

Request for Proposals is defined in Board Policy 6320 as "a written solicitation for competitive sealed proposals used when it is not practicable for the Board to specifically define the scope of work for which the commodity, group of commodities, or contractual service is required and when the Board is requesting that a responsible vendor propose a commodity, group of commodities, or contractual service to meet the specifications of the solicitation document." ³¹³

³⁰⁹ *Ibid.* at 16.

³¹⁰ Note, all procurement items recommended for award go to OEO for verification of certification. Procurement staff do not have access to this information, excluding #2. PMS staff underwent training after this disparity study period.

³¹¹ Board Policy 6320 at 15.

³¹² *Ibid.* at 2.

³¹³ *Ibid.*

Prior to issuing the RFP, the Goal Setting Committee (GSC) will review the RFP to determine the possibility and level of SMBE, M/WBE and VBE participation on the project.³¹⁴ An implementation schedule is to be developed which includes:

1. GSC meetings
2. Mailing/posting date
3. Pre-proposal conference (if required)
4. Opening date and time evaluation criteria
5. Oral presentations (f required)
6. Recommendation of award process and to the Board
7. Award notification is provided to all awarded bidder(s).³¹⁵

Evaluation criteria is to include, but not be limited to:

1. Technical qualifications and conformance to the proposal requirements experience
2. Past performance
3. Price considerations
4. Small or micro-business, minority, and/or veteran business M/ participation and
5. Other instructions specific to RFP.

The evaluation committee should include:

1. At least two individuals from the originating department; however, not more than one of these individuals can be from the Requesting Department
2. Two individuals from outside the Requesting Department
3. One individual from the Office of Economic Opportunity
4. One individual from Procurement Management Services (non-voting)

The evaluation committee's recommendations must include the following for the master file within Procurement Management Services:

1. Clear objective of the RFP
2. Identification of the committee members
3. Committee meeting dates and brief synopsis of the general discussion
4. Dates of any or all interviews
5. Name and location of the offeror(s)
6. Evaluation criteria

³¹⁴ *Ibid.* at 9.

³¹⁵ *Ibid.* at 9-10.

7. Explanation of the basis for selection
8. Recommendation of acceptance of the offeror(s) proposal and
9. Committee member votes.

When the evaluation is complete, the Superintendent will forward the recommendations to the Board for approval.³¹⁶ Exceptions include Legal Services and exceptions considered and determined by the Professional Services Contract Committee (PSCC). PSCC consists of three representatives from senior staff, two representatives from education and curriculum, one representative from the GSC, one representative from the Office of Economic Opportunity, and a non-voting representative from Procurement Management Services, Board attorney's office and Management and Compliance Audits.³¹⁷ For contracts of \$50,000 or over, the Board must approve the exception recommendation by the PSCC.

C. Invitations to Negotiate (ITN)

Invitation to Negotiate is defined in Board Policy 6320 as "a written solicitation for competitive sealed replies to select one (1) or more vendors with which to negotiate for the procurement of commodities or contractual services used when the Board determines that negotiations may be necessary to receive the best value."³¹⁸ ITN follows the same process at RFPs.³¹⁹

D. Capital Construction

The Office of School Facilities is responsible for the procurement of construction and construction-related professional services. These services include construction, construction managers, construction managers at risk, program managers, design-build firms, architects, engineers, building code consultants and geotechnical consultants. A myriad of other construction trade specialty firm services are obtained at the sub-contractor level. Except under maintenance and maintenance-related services, these specialty construction trade services are not procured directly. Furthermore, maintenance and maintenance-related services are procured by Procurement Management Services, utilizing the procedures discussed previously.

The selection process for procuring the services of the above firms is similar for all firm types. M³ Consulting will make distinctions, where appropriate. A cadre of A&E firms are typically competitively selected for a contract term of four years to perform work on construction contracts whose costs do not

³¹⁶ *Ibid.* at 10.

³¹⁷ *Ibid.* at 11.

³¹⁸ *Ibid.* at 1.

³¹⁹ *Ibid.* at 10.

Chapter III

Procurement Analysis

exceed \$2 million. Projects are assigned to these firms using rotational criteria. Based on interviews, several factors are taken into consideration during the rotational determination, including, but not limited to prior experience at that particular school, projects worked on, performance and current workload. Each A&E firm's team should consist of the following disciplines: Architecture, Structural Engineering, Civil Engineering, Electrical Engineering, and Mechanical Engineering. For projects, whose costs are over \$2 million, the A&E services for each project are competitively bid. Projects under \$2 million may also be procured through SMBE sheltered market.

For construction, there are three delivery methods that are utilized: Construction Manager@Risk, Competitive Bid (ITB), or Job Order Contracting. Projects under \$2 million may also be procured through SMBE sheltered market.³²⁰ Similar to A&E, a cadre of CM@R firms are competitively selected to work on projects whose costs are under \$2 million. They are assigned projects via work order (Job Order Contracting). Each project whose cost exceeds \$2 million is competitively bid.

The selection process for construction and construction-related professional services includes the following elements:

- Advertisement
- Evaluation/Scoring & Final Ranking Process
- Initial Screening
- Final Evaluation
- Pre-Negotiations
- Negotiations
- Commissioning Recommendations to the Board
- Agreement Execution

Advertisement

The Department of Architect & Engineering (A/E) Selection and Negotiations will prepare the advertisement for CM@Risk projects, which will run as a legal notice for a minimum of one (1) week in a newspaper or publication having general distribution in Miami-Dade County, and in publications widely distributed in the African-American, Hispanic and Haitian/Caribbean communities. The advertisement will also be posted at <https://ae-solicitations.dadeschools.net>. If established, SMBE and M/WBE goals may also be placed in the advertisement. Capital Projects will do the same for ITBs. These projects will also be posted at <https://construction.dadeschools.net>.

³²⁰ In a joint venture, all partners must be certified as S/MBE by OEO.

Evaluation/Scoring & Final Ranking Process

Evaluation and Scoring occurs in two steps:

Step 1: Initial Screening: *Staff* will review, and score Qualifications Form 1 (Initial Screening) or Sheltered Market Form 1

Step 2: Final Screening—A *selection committee* will evaluate and score Selection Form 2 (Final Evaluation)

A local preference will be applied to the evaluation criteria.

Initial Screening

Proposers will be evaluated based on the information provided in their RFQs. A short-list will be developed based on a cut-off score established by staff. RFQ elements include the following:

- Letter of interest, signed by principal, which should include commitment to SMBE and M/WBE goals (pre-construction, construction, construction management), commitment to Local workforce Utilization goals, commitment to adhere to district policies, particularly, 6320.02, 6320.05, 6320.06, 6325, 6465 & 8150, statement attesting RFQ is current, complete and factual, notarized.
- Proposer's Profile.
- Related Project/Continuing Term Contract Experience (for last 15 years) of comparable scope, size and complexity (5 projects for A.1. and A.2; 5 projects for A-3)
 - A.1 Experience with Florida Public School systems, Projects K-20 (Max: 20 points)
 - A.2 Experience with this type of project; Under SMBE Sheltered Market, firms may submit project experiences that include continuing term contract experience with Florida Public School systems or other public agencies); (Max: 20 points)
 - A.3 Experience with Continue Term contracts (Max: 20 points)
 - *Note: Previous Performance Data will be scored (Max: 20 points) based on M-DCPS performance evaluation data, but not listed as part of RFQ submittal. If no experience, a score of 12 out of 20 points will be applied.*
- Professional and Technical staff, including specific experience with type of advertised project (Max: 5 points)—firms should provide brief resumes of key employees, which reflect depth of employee's experience with public educational projects (demonstration not required from sheltered market).
- On-site staff, including specific experience with type of advertised project (Max: 5 points).
- Distance to site (Max: 5 points).

Chapter III

Procurement Analysis

- References (Max: 10 points).
- EEO, SMBE (Max: 10 points for SMBE participation) and M/WBE participation (Max: 10 points for M/WBE participation).
- Indemnification/Bonds/Insurance Requirements.
- Florida State Licenses/Registrations.
- Joint Venture Agreement (if applicable).
- Contractor's pre-qualification certificate.
- Litigation/Major disputes.
- Local Business Affidavit of eligibility.
- Supporting documents, i.e. sub-consultants' professional and business licenses, sub-consultants' resumes. (Sub-consultant diversity mix,³²¹ Max: 13 points for up to 5 sub-consultants, SMBE sub-consultant diversity mix, Max: 4 points).

Final Evaluation

A/E Selection will serve as the facilitator of the selection committee. Voting selection committee members will consist of the following:

- One (1) from the Superintendent of Schools.
- Two (2) from the originating Office/Bureau.
- One (1) from Maintenance or Facilities Planning and Construction (non-originating Office).
- One (1) from Educational Facilities Code Compliance.
- One (1) from School Operations. Whenever possible, the representative should be from the corresponding regional center where the project is located.
- One (1) from the OEO.
- One (1) community representative appointed by the Superintendent of Schools.
- Alternate(s) - optional.

A representative from the Office of Management and Compliance Audits (Audit) may be invited to observe.

The selection committee will evaluate firms based on discussions, presentations and/or interviews. In determining a firm's final score, the highest and lowest scores will be dropped, and an average score taken based on the remaining scores.

³²¹ The supplier diversity mix seeks to ensure that prime contractors/consultants utilize a diverse mixture of underutilized firms, as opposed to concentration participation among one group.

Final evaluation scoring includes the following elements:

- Knowledge of Local Conditions (Max: 20 points)—knowledge of the local design and/or construction industry, local sub-contractors and suppliers, as an indication of their ability to deliver quality workmanship in an effective and timely manner. In addition, firms with previous M-DCPS experience should address their experience with those projects as an indication of their ability to deliver quality workmanship
- Proposed Project Staff and functions (Max: 30 points)
- Familiarity with Projects (Max: 90 points)
 - Overall Approach and Methodology (Max: 40 points)
 - Code and Regulations compliance (Max: 10 points)
 - Constructability (Max: 15 points)
 - Cost control/Value Engineering/Schedule (Max: 15 points)
 - Quality control/Assurance (Max: 10 points)
- SMBE and M/WBE (Max: 30 points)
 - SMBE and M/WBE Utilization Plan (20 points)
 - Commitment to Team Diversity (10 points)
- Workload (Max: 20 points)
 - Recent, current and Projected Projects (Max: 10 points)
 - Volume of work with M-DCPS (Max: 10 points) Work over last 3 years; excluded in consideration under Sheltered Market
- Note: It is the intent of the Board to create an additional scoring factor related to internship/apprenticeship and community-outreach program(s) as will be established in future related OEO Board procedures. At such time as the procedures are approved the appropriate scoring factor will be added.

Pre-Negotiations

A/E Selections will conduct pre-negotiations and act as Chief Negotiator for M-DCPS. A/E Selection will establish a maximum fee (fee structure) for each project. A negotiating committee will be established, consisting of at least two members, the Chief Negotiator and one or more from the Originating Bureau (preferably from selection committee). A representative from Audit may observe. The negotiating committee will meet with each selected firm to discuss type and extent of services required, continuing/term contract elements and any other documentation that support the scope of the project.

Negotiations

The Chief Negotiator and the negotiating committee will start negotiations with the highest ranked firm on the highest priority project. The team cannot exceed the M-DCPS fee schedule. Each firm is required to submit a fee schedule, which will include (1) a letter that states the firm understands all of the necessary requirements, obligations and commitments associated with the project and (2) staffing plans with sub-consultants, including SDBEs and M/WBEs, tasks, hours per discipline and individual for each task, summary of hours per individual per phase, summation of cost for personnel per phase. Negotiations will continue for succeeding projects based on the priority of the project and the rank of the firm. If the negotiation committee is unable to reach satisfactory agreement, additional firms may be selected for negotiations.

Commissioning Recommendations to the Board

Upon completion of negotiations. A/E Selection will submit a recommendation(s) to the Board that will include basic services and support fees, hourly rates, payment schedule(s), scope of work, construction budget(s), whether the prime firm is SDBE and/ M/WBE and a list of SDBE and M/WBE sub-consultants. If recommended commission(s) is/are approved, then A/E Selection enters into an agreement with the selected firms. This agreement is for “pre-construction” services.

If an agreement is needed for actual construction, then a Guaranteed Maximum Price would be required. The Originating office would then bid and negotiate the GMP and prepare a recommendation for award.

Based on interviews, in negotiating the Guaranteed Maximum Price, the contractor will bring sealed bids to the District Offices and the bids are open in the presence of the Chief Negotiator, Project Manager, Architect and Construction Manager. Bids are open in order of the 16 Divisions, to the degree possible. The Architect maintains notes of the bid opening. If there is only one bid, the District requires the contractor to secure more participation. M/WBE participation is including in these bids. Once the bids are opens and reviewed, the contractor will then put together an initial GMP book. M-DCPS will negotiate with the contractor. Upon completion of the negotiation, the contractor will prepare a final GMP book. Letters of intent and Memorandums of Understanding are secured from sub-contractors. Certification documents are also attached.

Successful firms are required to have the proper indemnification, bonds and insurance. Agreement Execution is the final step.

Consultant Competitive Negotiations Act (CCNA)

MDCPS' construction procurement activity is government by State Requirements for Educational Facilities, Chapter 4, Professional Services and Construction Techniques and the Consultant Competitive Negotiations Act, (FS Section 287.055). Below is a summary of the relevant requirements of the CCNA

Figure 3.9	CCNA Requirements
	<ul style="list-style-type: none">• For those construction projects exceeding Category 5 (greater than \$500,000) threshold and planning or study activity exceeding Category 2 (greater than \$10,000, but not to exceed \$25,000), the Agency must provide public notice which must include basic description and how a contractor can apply for consideration.• Any firm desiring to provide professional services must first be pre-qualified based on capabilities, adequacy of personnel, past record, experience, whether certified MBE.• In selecting the top three bidders, the Agency may use the following criteria: ability of professional personnel; certified MBE; past performance; willingness to meet time and budget requirements; location; recent, current and projected workloads of the firms; volume of work previously awarded to each firm by the Agency.<ul style="list-style-type: none">○ Objective is effective equitable distribution of contracts among qualified firms, as long as doing so does not violate the principle of selecting the most highly qualified firms.• The Agency must negotiate with the most qualified firm for professional services at compensation that the Agency determines to be fair, competitive and reasonable. If the Agency is unable to negotiate a contract with the most qualified firm, it must formally terminate negotiations and proceed to the next most qualified firm. If it is unable to negotiate with any of the top three most qualified firms, it will select additional firms in order of their competence and qualification and proceed with negotiations.

- School Boards will award design-build contracts using the competitive proposal selection process below or by the use of a qualifications-based selection process where the selected firm will, subsequent to competitive negotiations, establish a guaranteed maximum price and guaranteed completion date. Minimum criteria for a competitive proposal selection process are:
 - Preparation of a design criteria package
 - Encourage firms to submit statements of qualifications annually
 - Qualification and selection of no fewer than three design-build firms as the most qualified, based on qualifications, availability and past work of firms
 - Criteria, procedures, and standards for the evaluation of design-build contract proposals or bids based on weighted price, technical, and design aspects
 - Solicitation of competitive proposals from the qualified design-build firms and evaluation of responses or bids based on evaluation criteria established prior to the solicitation
 - Available and approved detailed working drawings of the project, for discussion with the retained professional and for evaluation of compliance of the project construction with the design criteria package
 - In case of emergencies, Agency head must declare emergency and authorize negotiations with the best qualified design-build firm at that time

Source: FS Section 287.055; M³ Consulting

3.3.11 NON-COMPETITIVE PURCHASING

A. Exceptions

- Professional Services, which include artistic services, academic program reviews, lectures by individuals, auditing services not subject to FS. 218.391, legal services, including attorney, paralegal, expert witness, court reporting, appraisal or mediator services, and health services involving examination, diagnosis, treatment prevention, medical consultation or administration.
- Educational services and copyrighted materials including educational tests, textbooks, printed instructional materials, computer software, films, filmstrips, videotapes, DVS, disc or tape recordings, digital recordings, or similar audio-visual materials, and for library and reference books, and printed library cards where these materials are purchased directly from the producer or publisher, the owner of the copyright, an exclusive agent with the State, a governmental agency or a recognized educational institution.
- Food products, except milk, required for the School Service Program.³²²
- If fewer than 3 proposals received, and the Board finds that there are no valid or acceptable firm proposals submitted.

³²² Based on interviews, exceptions from bidding for food products are rarely used.

- If mandated by State or Federal law or State or Federal agency contracts that determines with whom the Board must contract or the rate of payment to be used.
- Regulated utilities or government-franchised services.
- Maintenance and/or service contracts on various types of technical equipment that are offered and/or supplied only by the original manufacturer or its representative, or that are required to maintain the integrity of the manufacturer's warranty, or that are part of the manufacturer's rental/lease/lease purchase agreements terms and conditions;
- Information Technology.³²³
- Insurance.
- Emergency Purchases.
- Non-Purchase Order Invoice Funds Reservation Purchases include:
 - Additional services where a professional services contract is not required or no bid is in places (i.e. polygraph, transcribing).
 - Employee related admission/registration fees.
 - Association fees, professional association dues, academy certification requirements and District membership to organizations.
 - Internal distribution of funds to school athletic programs, vending machine commissions, diplomas, and savings programs.
 - District rental/lease of facilities.
 - All utility service, connection charges and fees.
 - Graduation program fees.
 - Student related field trips not handled through a tour company or travel agency.
 - Groceries and supplies for educational used.
 - Insurance policies payments/reimbursements, State fees, tax related payments, legal settlements payments and bonds, license fees and agreements, permit fees, property loss payment.
 - Media advertising.
 - Grant authorized workshop reimbursements including refreshments.
 - Petty cash replenishment.
 - Postage requisitions; and,
 - Toll charges for authorized District departments.³²⁴

³²³ Based on interviews, PMS has been competitively bidding technology and insurance opportunities.

³²⁴ *Ibid.* at 3-6.

B. Cooperative Purchases/Piggybacking

M-DCPS may purchase from contracts awarded by other city or county governments, other school boards, other states or from State university cooperative bid agreements if economically advantageous to the Board.³²⁵ Pursuant to policy 6320, Board approval is required for purchases greater than \$50,000. The Superintendent may approve or reject purchases under the following scenarios:

- Cooperative Agreement—Participate in, sponsor, conduct or administer a cooperative purchasing agreement with one or more other public entities in order to combine requirements, increase efficiency or reduce administrative expenses. This is also known as Piggybacking.
- State Contracts—Florida Department of Management Services, Division of Purchasing, State Contracts to purchase supplies, materials or equipment when such actions will serve the best interest of the District.
- Piggybacking—Competitively bid contract from another jurisdiction.

Piggybacking requires utilization of the contract at the same terms and conditions by the awarding government agency. If SBE/M/WBE and VBE is part of the award, then staff can review contract awarded by the agency to ensure compliance.

C. Emergency Purchases

Emergency purchases are necessary when there is “an immediate danger to the public health, safety, or welfare or other substantial loss to the School District.”³²⁶ The Superintendent must make such finding in writing. All emergency purchases \$50,000 and over require the signature of the initiating administrator, recommendation by the Assistant Superintendent or above, or his/her designee(s) and approval by Superintendent or designee.³²⁷ Emergency purchases of less than \$50,000 can require the signature of the initiating administrator, recommendation by Director or above and approval by the Assistant Superintendent or above.³²⁸ Buyers must obtain pricing from a minimum of two prospective vendors, unless the Superintendent determines in writing that the time required to do so will increase the immediate danger.³²⁹ Emergency purchase spend with SMBE, M/WBE and VBE certified firms should be reviewed on a regular basis, no less than quarterly, to ensure adherence to 6320.02.

³²⁵ *Ibid.* at 3.

³²⁶ *Ibid.* at 4.

³²⁷ Procurement Manual at 23.

³²⁸ Procurement Manual, Procedure 4-14.

³²⁹ Board Policy 6320 at 4.

D. Sole Source

Sole source purchases should only be utilized in “extenuating circumstances.” When a user department requests a sole source item, the buyer must electronically post a description of the goods or services sought for seven business days. The notice must include that interested vendors provide information that reflects their ability to offer the good or service described. If the Board receives a response, then the Board must develop a written response as to whether the good or services are available from more than one source. If from one source, the Board should proceed with a Notice of Intent Decision; if from more than one source, PMS should proceed to competitive purchasing process.³³⁰

³³⁰ Procurement Manual, Procedure 4-17.

3.3.12 BONDING AND INSURANCE

M-DCPS requires bonding, insurance and liquidated damages clauses in many of its contracts. Below are the requirements as outlined in M-DCPS' Procurement Manual.

A. Bonding, Bid Sureties and Liquidated Damages

Bid bonds are requested on construction bids and awards in the amount of five percent of the total bid amounts. In order to encourage participation of SMBEs and M/WBEs, no bid security is required on bids less than \$200,000. Bids \$200,000 or greater require a 100 percent performance and payment security of the award amount. The performance and payment bonds must be delivered no later than twenty days after the date of award of the contract or approval of the Guaranteed Maximum Price by the Board. Bid security can be in the form of certified check, cashier's check, Treasurer's check, bank draft, or bid bond acceptable to the Board.

On contracts other than construction, performance security is not required unless specified in the bid specification.

B. Insurance

Procurement Policies and Procedures do not address insurance requirements.

3.3.13 CONTRACT ADMINISTRATION

Procurement Policies and Procedures do not address contract administration, which covers the following areas relevant to this analysis:

- Responsibilities
- Progress and Advanced Payments
- Change Orders, Contract Amendments and Work Directives/Task Orders
- Substitutions
- Contract Close-Out

During the course of this study, M-DCPS has hired a Contract Compliance Administrator and the current manual has been revised and updated accordingly.

3.4 ANALYSIS OF M-DCPS SMBE, M/WBE AND VBE PROGRAMS

3.4.1 DESCRIPTION OF SMBE, M/WBE AND VBE PROGRAMS

A. History of M-DCPS Race/Gender-Conscious and Race/Gender-Neutral Programs

Board Policies 6320.02 and 6320.06 govern M-DCPS' Small/Micro and Minority/Women-owned Business Enterprise Programs. M-DCPS commenced its M/WBE program efforts in 1985. It conducted an analysis of contracting expenditures and economic and sociological studies in 1985 and 1990 that showed that a disparity existed in contract awards to M/WBEs and that the disparity was a result of past discriminatory practices. Based on the 1990 study, M-DCPS instituted race/gender-conscious initiatives in construction, construction support services, professional services, and commodities and services, along with race- and gender-neutral initiatives.

On November 21, 2012, the Board determined a new study was needed. It repealed its Business Development and Assistance Program Policy, with the understanding that a new policy would be developed based on the new study findings. The Phase 1 Disparity Study and a subsequent Sub-contractor Disparity Study, which addressed construction and construction-related professional services, was completed and adopted by the Board in 2015.³³¹ The Phase 2 Disparity Study, which addressed goods & supplies, maintenance & maintenance related services and services, was completed and adopted by the Board in 2019.

³³¹ Board Policy 6320.02, p. 1-2

Based on the two studies, the Board found that:

Based upon the entirety of the factual predicate that has been gathered and presented to the Board since 1990, the Board continues to find that the District has a compelling interest in remedying the ongoing effects of discrimination that is occurring in the broader relevant market and adversely affecting the District's utilization of ready, willing and able minority- and women-owned businesses in District construction and construction-related, professional services, and goods and services contracts. The Board also concludes that it needs to take action to avoid becoming a passive participant in private sector discrimination.

The Board has further concluded that race- and gender-neutral remedies, in and of themselves, are not likely to be sufficient to fully eliminate the effects of the identified forms of discrimination, and that a narrowly tailored combination of race- and gender-neutral and race and gender-conscious remedies are warranted. Accordingly, this policy specifically authorizes the establishment of a narrowly tailored combination of race and gender-neutral and race and gender-conscious programs that address discrimination in the Board's procurement processes and business operations.

B. Purpose of Office of Economic Opportunity and M-DCPS Race/Gender-Conscious and Race/Gender-Neutral Programs

A. M-DCPS Diversity Statement

M-DCPS commitment to diversity is reflected in School Board Policy 6320.06, Diversity, Equity and Inclusion in Business Operations and Practices, which states,

“The School Board encourages and fosters an environment of diversity, equity, and inclusion in all of its business operations and practices. Inherent in this policy is the Board's commitment to ensuring that the rich tapestry of diversity, inclusion of varying ideas, backgrounds, and perspectives, if collectively recognized, creates cultural value and endorses the Board's obligation to eliminating perceived, artificial, or actual barriers to business engagements with the District and flourish without the impediments or barriers of discrimination.”

B. OEO Mission Statement

In keeping with Policy 6320.02 and the District's mission and values, OEO promotes the formation, economic inclusion, and growth of SDBEs, M/WBEs, and VBEs. Moreover, OEO's Administrative Procedures outlined four stated purposes for the District's activities:

- Stimulate the local economy by providing equitable and expanded contracting opportunities for local businesses within the area served by M-DCPS.
- Increase the capacity of SDBE, M/WBE and VBE firms in the community by affording the opportunity to grow and become more competitive with more established businesses.
- Remove barriers within the District's control that affects the formation, growth, and equitable participation of minority and women business enterprises in Board contracts through both a race/gender-neutral and race/gender-conscious means; and
- Maximize the participation of underutilized groups, as identified in the most recent disparity studies.³³²

C. Overview and Definition of M-DCPS Race/Gender-Conscious and Race/Gender-Neutral Programs

M-DCPS administers three programs targeted to promote inclusion in M-DCPS procurement and contracting opportunities:

- Small/Micro Business Enterprise Program.
- Minority/Women Business Enterprise Program.
- Veteran Business Enterprise Program.

An overview of each program is provided below.

i. Small/Micro Business Enterprise Program

The Small/Micro Business Enterprise Program (SDBE Program) is a race- and gender-neutral program designed to provide "greater SDBE availability, capacity development and contract participation in Board contracts, to advance the Board's compelling interest in ensuring that it is neither an active nor passive

³³² 2019 Office of Economic Opportunity Administrative Procedures Manual at 7.

participant in private sector marketplace discrimination, and to promote equal opportunity for all segments of the contracting community to participate in Board contracts.”³³³

ii. Minority/Women Business Enterprise Program

The Minority/Women Business Enterprise Program is a race- and gender-conscious program designed to “enhance the bidding and selection opportunities for M/WBEs on certain contracts and to address findings in the 2014 Disparity Study and 2015 Sub-contractor Disparity Study.”³³⁴

iii. Veteran Business Enterprise Program

The Veteran Business Enterprise Program is a race- and gender-neutral program designed to benefit all veteran businesses. M-DCPS provides a vendor preference of three percent of the total value of all prime contract/subcontract awards for each fiscal year to certified VBEs. When two identical prices are received from two or more vendors and all other factors are equal, priority will be given to the certified services-disabled veteran business enterprise per F.S. 295.187. The Superintendent is also authorized to develop and implement other affirmative procurement initiatives to increase VBE participation in M-DCPS procurement processes.

iv. Other Vendor Preferences

State Preference—State law requires M-DCPS to provide a preference to the lowest responsive and responsible vendor that has a principal place of business in the State of Florida.³³⁵

Local Preference—M-DCPS will also provide a preference to the lowest responsive and responsible vendor that has a principal place of business in Miami-Dade County, Florida.³³⁶ On Competitive Bids, if the local firm’s price is within five percent of a non-local firm, a local firm will be provided the opportunity to submit a best and final bid equal to or lower than the amount of the low responsible, responsive bid from the non-local business. On Request for Proposals, the local vendor will be considered further if its price is within five percent of the non-local vendor.

³³³ *Ibid.* at 20.

³³⁴ *Ibid.* at 24.

³³⁵ Board Policy 6320.05

³³⁶ *Ibid.*

Businesses Implementing a Drug-Free Workplace—M-DCPS will provide a preference to a business that certifies that it has implemented a drug-free workplace program in accordance with the provisions of F.S. 287.087.

D. OEO Responsibilities

As a result of the Board Policy, the Office of Economic Opportunity became responsible for the administration and implementation of the SMBE, M/WBE and VBE Business programs. OEO’s responsibilities, along with those of the Small/Micro and Minority/Women-Owned Business Enterprise Advisory Committee and the Goal Setting Committee, are outlined below in Figure 3.10.

Figure 3.10

Responsibilities of Office of Economic Opportunity, Small/Micro and Minority/Women-Owned Business Enterprise Advisory Committee and the Goal Setting Committee

Office of Economic Opportunity

- Enforce the Board’s commercial anti-discrimination Policy 6465 in the award of contracts for construction projects, procurement of goods and services, and professional services and implement the measures developed pursuant to Policy 6320.06 to increase diversity, equity and inclusion in business practices and operations;
- Provide maximum legally permissible opportunities for SMBEs and M/WBEs to participate in the award and performance of all Board contracts, including construction, professional services including A/E and non-A/E, and goods and services.
- Monitor, track, and certify small/micro businesses and minority/women business enterprises.
- Develop procedures and processes to enforce compliance with this policy for all Board vendors, including construction, professional A/E and non-A/E services and goods and services and when applicable, to recommend appropriate sanctions.
- Develop and implement necessary administrative procedures to fully implement these programs.
- Establish insurance requirements which, although providing appropriate protection, are not more restrictive than necessary to protect the public’s interest.
- Establish economic incentives that encourage the waiver of bonds and enhance the bonding technical assistance program.
- Establish administrative procedures to expeditiously resolve monetary disputes and motivate prime contractors to make timely payments.
- Establish a comprehensive contract reporting and monitoring system to evaluate the effectiveness of these programs in increasing contracting opportunities for small/micro and minority/women-owned businesses.
- Serves as chair of the Goal-Setting Committee and staff liaison to the Small/Micro and Minority/Women-Owned Business Enterprise Advisory Committee.
- Monitor, coordinate, and provide support for any disparity study that may be conducted regarding minority/women-owned business participation in Board procurement for construction, professional A/E and non-A/E services, and goods and services.

- Develop and coordinate any recommendations as a result of any such disparity study findings.
- Maintain, distribute, and publish a directory of certified SBE, MBE, and M/WBE firms.
- Report annually through the Superintendent to the Board regarding the effectiveness of these programs; and,
- Monitor local workforce Development initiatives and or goals, through community-based agreements with reputable and reliable referral agencies for Board construction, professional A/E and non-A/E services, and goods and services.
- Serves as staff liaison to the Contractor Pre-qualification Review Committee.

Small/Micro and Minority/Women and Veteran Business Enterprise Advisory Committee

- Provide guidance on the implementation of the SMBE, M/WBE and VBE Programs and to promote the participation and use of SBESMBEs, M/WBEs and VBEs in all procurement activities of the Board.
- Identify and evaluate issues related to economic opportunities within the Board for SMBE, M/WBE and VBE.
- Provide recommendations to the Board to improve the SMBE, M/WBE and VBE programs.
- Annually evaluate and report to the Board on the effectiveness of the SMBE, M/WBE and VBE programs in increasing minority and women owned business participation in the Board's Procurement Process.
- Monitor any disparity study that may be conducted by the Board and make recommendations based on the results of any such study.

Goal Setting Committee

- Establish SMBE and M/WBE Program goals
- Select appropriate incentives to apply to specific contracts based upon industry categories, vendor availability, and project-specific characteristics

Source: Board Policy 6320.02 pg. 4-5, 10.

OEO carries out its duties by engaging in certification, contractor pre-qualification, compliance, community outreach and technical assistance.

3.4.2 REVIEW OF M-DCPS SMBE, M/WBE AND VBE PROGRAMS

Within the current organizational and legislative construct, M³ Consulting sought to analyze M-DCPS' current SMBE and M/WBE Programs programmatic initiatives. As discussed previously, M³ Consulting reviewed M-DCPS' M/WBE efforts to determine its effectiveness in the context of the Six Essential SBE and M/WBE Program Elements. Unless specifically delineated, efforts will be discussed as it relates to all three programmatic initiatives.

Figure 3.11 M³ Consulting Six Essential SBE and M/WBE Program Elements	
1. Outreach and Matchmaking	Efforts to increase the business community's awareness of an entity's procurement and contract opportunities and match SMBEs, M/WBEs and VBEs to specific contract opportunities.
2. Certification	Eligibility criteria for SMBE and M/WBE participants.
3. Technical Assistance	Informational and strategic support of businesses to meet the entity's SMBE and M/WBE plan objectives.
4. SBE and M/WBE Inclusion in Bid Opportunities	The mechanism by which the entity assures that material consideration of SBE and M/WBE participation is given in the award of a contract.
5. Contract Compliance	Ensuring adherence to SMBE and M/WBE plan goals on all contracts after execution of the contract.
6. Organizational Performance Evaluation	A comparison of performance results to the entity's goals to determine policy successes, strengths and weaknesses, and performance improvement areas.

Source: M³ Consulting

A. Outreach and Matchmaking

Outreach and Matchmaking

OEO has developed several means of community outreach. Below is a list of the types of activities in which OEO and the District is engaged:

Figure 3.12 Outreach and Matchmaking	
	Designed to provide information on registering with the District as a vendor, getting certified and/or prequalified with the District.
Doughnuts and Dialogue	A series of networking and informational events that offers experts on various topics requested by our small businesses. Marketing and Promotion, Lending, and Insurance and Bonding were a few of the frequently requested topics. Doughnuts and Dialogue helps business owners’ network with each other and meet M-DCPS staff to discuss opportunities for doing business with the District.
Program Assessment and Stakeholder Survey	Assisted the District to identify, focus and connect the local business owners and community stakeholders to up-to date information and business opportunities to help support the growth of small business.
Communications and Social Media Dashboard	Utilize Twitter, Instagram and Facebook to actively promote community seminars, workshops and opportunities. In 2018, OEO saw an increase in activity from the previous year of 51.45 percent for Facebook, 7.66 percent for Twitter and 82.47 percent for Instagram.

Source: OEO Annual Report, 2017-2018; M³ Consulting

During interviews, PMS staff also reported participating in M/WBE outreach sessions and How to do Business with the District workshops.

Matchmaking

OEO has been focusing on matchmaking sessions by providing events to connect Principal Consultants to certified SMBEs and M/WBE subconsultants and Prime Contractors to certified SMBEs and M/WBE sub-contractors.

B. Certification

M-DCPS certification requirements are different for the SBE, Micro Business Enterprise (MBE), M/WBE and VBE programs as detailed in Figure 3.11.

Figure 3.13 Certification Requirements for M-DCPS SMBE and M/WBE Programs	
SMBE Program	
SMBE Definition	<ul style="list-style-type: none"> • Small Business Enterprise—any contractor, sub-contractor, manufacturer or service company (a) that has been doing business under the same ownership or management and has maintained its principal place of business in Miami-Dade County, Florida, for a period of at least one (1) year immediately prior to the date of application for certification under this section, (b) that had annual gross revenues not exceeding the thresholds identified in this policy for each industry, and (c) at least fifty-one percent (51%) of the ownership of which is held by a person or persons who exercise operational authority over the daily affairs of the business and have the power to direct the management and policies and receive the beneficial interests of the company. • Micro-Business Enterprise—any contractor, sub-contractor, manufacturer or service company (a) that has been doing business under the same ownership or management and has maintained its principal place of business in Miami-Dade County, Florida, for a period of at least one (1) year immediately prior to the date of application for certification under this section, (b) that had annual gross revenues not exceeding the thresholds for a Micro-Business Enterprise as identified in this policy for each industry, and (c) at least fifty-one percent (51%) of the ownership of which is held by a person or persons who exercise operational authority over the daily affairs of the business and have the power to direct the management and policies and receive the beneficial interests of the company
Certification Requirements	<ul style="list-style-type: none"> • Independently owned and operated business that is not dominant in its field of operation and is performing a commercially useful function • Actual place of business in Miami-Dade County for at least one (1) year preceding the application and be registered as a vendor with the District • Has been established for at least one (1) year or the principals of the business have at least three (3) years of relevant experience prior to forming or joining the business • Has an applicable local business tax receipt and all required professional licenses, contractor qualifier licenses, and/or Certificate of Competency • Owner must have the required professional license(s) and contractor qualification license

Chapter III Procurement Analysis

	<ul style="list-style-type: none"> The Board may honor a valid Small Business Enterprise Certification and/or Micro Business Enterprise Certification granted by another agency if the agency’s requirements are consistent with the District’s SBE/MBE certification criteria.
Gross Revenue Requirements	<ul style="list-style-type: none"> SBE—Gross Revenues over the previous three years <ul style="list-style-type: none"> Professional Services A/E—Greater than \$500,000 and not to exceed \$1 million (Tier 1) or \$2 million (Tier 2) Professional Services Non-A/E—Greater than \$1 million and not to exceed \$2,000,000 (Tier 1) or \$4,000,000 (Tier 2) Goods and Services (Procurement Program)—Greater than \$1 million and not to exceed \$2,000,000 (Tier 1) or \$4,000,000 (Tier 2) Construction and Construction-Related Specialty Trades—Greater than \$1 million and not to exceed \$3,000,000 (Tier 1) or \$6,000,000 (Tier 2) MBE—Gross Revenues over the previous three years <ul style="list-style-type: none"> Professional Services A/E—Not to exceed \$300,000 (Tier 1) or \$500,000 (Tier 2) Professional Services Non-A/E— Not to exceed \$300,000 (Tier 1) or \$1 million (Tier 2) Goods and Services (Procurement Program)—Not to exceed \$300,000 (Tier 1) or \$1 million (Tier 2) Construction and Construction-Related Specialty Trades— Not to exceed \$300,000 (Tier 1) or \$1 million (Tier 2)
SBE/MBE Program Graduation	<ul style="list-style-type: none"> An SBE will be permanently graduated after 3 fiscal year average gross revenues exceeds <ul style="list-style-type: none"> \$6 million for construction and construction-related specialty trades \$4 million for goods and services \$2 million for professional services A/E \$4 million for professional services—Non-A/E An MBE exceeds its eligibility certification thresholds An SBE exceeds the size standards for the Small Business Program during any fiscal year, it will be allowed to complete any pending contractual obligations for the year and its participation counted in the goals

Chapter III Procurement Analysis

M/WBE Program	
Definitions	<ul style="list-style-type: none"> • Minority Ownership <ul style="list-style-type: none"> • Sole proprietorship—minority person or woman. • Partnership—a minority/woman individual’s interest must include at least 51% of the ownership, profit/loss, voting control, and capital of the partnership. • Corporation—minority-women must own at least 51% of all voting stock, issued by a corporation. • Limited Liability Company—minority/women must control the management and operations, as well as hold at least 51% of the company’s ownership interest. • Minority Person, a person born or naturalized in the US (citizen or lawful permanent resident). <ul style="list-style-type: none"> • African American • Hispanic American. • Asian American. • Native American. • American born or naturalized woman. • Women Ownership—Non-minority woman. • OEO captures data on both minority and non-minority women.
Certification and Eligibility	<ul style="list-style-type: none"> • Employ 200 or fewer permanent full-time employees and has a net worth of not more than \$5 million. • Owned and controlled by a least 51% minority person(s) who are members of an insular group that is of a specific racial, ethnic, or gender makeup or national original which has been subjected historically to disparate treatment due to identification in and with that group resulting in an underrepresentation of commercial enterprises under the group’s control, and whose management and daily operations are controlled by such persons • Place of business in the Miami-Dade Metropolitan Statistical Area (Miami-Dade County, Broward County, and Palm Beach County, Florida) for at least one (1) year preceding the application and be registered as a vendor with the District. • Applicable local business tax receipt and all required professional licenses, contractor qualifier licenses, and/or Certificate of Competency • Owner of the business must have the required professional license(s) and contractor qualification license. • Other factors to be considered: <ul style="list-style-type: none"> • Whether minority/women owners are entitled to share in the profits of the business. • Whether minority/women owners shared in all the risks of the business. • No transfer of ownership from a non-minority person to a minority person within a related immediate family group if the combined total net asset value of all members of such family group exceeds \$1 million.

Chapter III Procurement Analysis

	<ul style="list-style-type: none"> Minority/women owners must also demonstrate control over the affairs, management and operations of the business.
Veteran Enterprise Program	
<p>Certification and Eligibility</p>	<ul style="list-style-type: none"> Employs 200 or fewer permanent full-time employees. With its affiliates has a net worth of \$5 million or less or, if a sole proprietorship, has a net worth of \$5 million or less including both personal and business investments. Organized to engage in commercial transactions. Domiciled in this state; and At least fifty-one (51%) owned and controlled by one or more veterans. Actual place of business in the MSA for at least one (1) year preceding the application and be registered as a vendor with the District. Applicable local business tax receipt in the MSA and all required licenses. Owner of the business must have the required professional license(s). The management and daily business operation are controlled by one or more veterans or service-disabled veterans, or, for a service-disabled veteran having a permanent and total disability, by the spouse or permanent caregiver of the veteran; and Must submit a DD-214 form issued by the United States Department of Veteran Affairs or the United States Department of Defense or evidence of veteran status.

Source: Board Policy 6320.02; M³ Consulting

M-DCPS has interlocal certification agreements with:

- Small/Micro—U.S. Small Business Administration, Miami-Dade County, Miami-Dade College.
- M/WBE—Florida Office of Supplier Diversity
- VBE—Florida Office of Supplier Diversity

Based on the 2018/2019 OEO Annual Report, OEO certified 50 MBEs, 472 MWBEs, 296 SBEs and 27 VBEs. These firms were broken down by race/gender/ethnicity in Table 3.14 below. Five firms had unidentified procurement category and are not reflected in the table below.

Chapter III Procurement Analysis

Figure 3.14
OEO Certified M/WBEs, SMBEs and VBEs
By Race/Ethnicity/Gender
2018/2019

	A&E		Construction		Goods and supplies		Non-professional services		Professional Services		Total	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
Non-M/WBE	4	5.19	11	5.56	21	6.31	10	6.76	1	1.19	47	5.60
African American	18	23.38	65	32.83	110	33.03	62	41.89	48	57.14	303	36.07
Asian	1	1.30	0	0.00	3	0.90	0	0.00	0	0.00	4	0.48
Asian American	4	5.19	2	1.01	4	1.20	2	1.35	2	2.38	14	1.67
Hispanic American	45	58.44	111	56.06	177	53.15	68	45.95	27	32.14	428	50.95
Native American	0	0.00	0	0.00	1	0.30	0	0.00	0	0.00	1	0.12
WBE	5	6.49	9	4.55	17	5.11	6	4.05	6	7.14	43	5.12
Grand Total	77	100.00	198	100.00	333	100.00	148	100.00	84	100.00	840	100.00

Source: M³ Consulting; M-DCPS OEO Certification List

Pre-qualification of Prime Contractors

Since 1998, the State of Florida has required bidders to be pre-qualified to build educational facilities. (Senate Bill 482/HB 3063, State Requirements for Educational Facilities, chapter 4.1) “The purpose of the prequalification process is to have a pool of qualified contractors available to local school districts to construct school projects and to avoid problems during the construction process by ensuring that contractors meet certain standards.”³³⁷

The district has pre-qualified bidders since the passage of the State law with the intent of qualifying contractors, as opposed to disqualifying contractors. “The District, through pre-determined criteria, eliminates candidates who do not demonstrate that they have the necessary financial capacity, technical expertise, managerial ability, project success, and relevant experience for the project at hand. Prequalification also simplifies the award of the contract process by allowing only qualified contractors from a pool of available pre-qualified contractors to bid on a project.”³³⁸ OEO has the responsibility for pre-qualifying contractors.

Eligibility criteria are as follows:

³³⁷ OEO Manual at 53.

³³⁸ *Ibid.* at 53-54.

- Information that demonstrates the firm’s competence, past performance, experience, financial resources, and capability including a Public Entity Crime Statement and references.
- Evidence that the contactor has the financial ability to successfully complete the construction work such as:
 - audited financial statements,
 - balance sheet,
 - income statement,
 - statement of cash flows.
 - all schedules and notes, on a reporting that ended not more than twelve (12) months prior to the date of the firm’s application date.
 - a Surety Letter of Intent to verify that in the event the contractor successfully bids Board work the surety will issue the contractor a performance and payment bond for the work (*The maximum bid limits for a prequalified contractor will be determined by the contractor’s bonding capacity or ten (10) times the contract’s net quick assets as determined from the contractor’s audited financial statements*);
- Information about the organization, ownership, and management of the firm.
- Information regarding all state and local licenses that are held by the firm.
- Information related to projects that the firm has completed within the past five (5) years. The information shall include, but not limited to, project dates, delivery methods, locations, construction costs, scope, contact and actual completion dates as well as whether there were delays and whether liquidated damages were assessed against the firm.
- Qualifier/Qualifying Agent, a person(s) who submits an application for the firm seeking contractor prequalification certification approval and provides a State of Florida contractor license in the specified construction category.
- Information that demonstrates that the firm has the appropriate insurances required by the District such as worker’s compensation, public liability, and property damage insurance.
- Information regarding all claims and/or litigation to which the firm has been a party for the past five (5) years, including an explanation of each. Claims or litigation that were or have been initiated by the contractor to protect the contractor’s legal rights shall not be used as a basis for rejecting the contractor; and
- A notarized affidavit that attests to the completeness and accuracy of the information. The affidavit shall be attested to, signed, and notarized by an authorized officer, owner, or agent of the firm.

Contractor Prequalification Review Committee

A Contractor Prequalification Review Committee has been established to support OEO in the review of prequalification applications. The CPRC is to:

- Evaluate applications for contractor prequalification.
- Recommend acceptance or rejection.
- Forward the recommendation to the Superintendent who will forward to the Board for approval.
- Determine denial, delinquency, suspension, or revocation of a contractor prequalification certificate and then recommend such action to the Superintendent for Board approval.
- Recommend contractors for prequalification based on the criteria set forth by SREF Chapter 4.1 and Board Policy 6334; and
- Provide recommendations to the Board to improve the Prequalification Program.

The CPRC membership is comprised of seven (7) voting members and two (2) non-voting members for a term of two (2) years. The CPRC will based its decisions on the following criteria:

- Proof that the contractor holds a valid Florida contractor's license that authorizes the contractor to supervise the work within the scope of a construction project.
- Evidence that the firm has financial resources to commence the project and to respond to damages in case of default.
- Evidence of experience with construction techniques, trade standards, quality workmanship, project scheduling, cost control, management of projects, and building codes for similar projects as shown by the successful completion of at least two (2) projects, within the past-consecutive five (5) years, that are similar in size or scope of the largest project that the firm is requesting prequalification to bid.
- Evidence of satisfactory resolution of claims and litigation that was initiated by or against the contractor which was asserted on a project of the same or similar size within the last five (5) years preceding the submission of the application.

The CPRC will decide and forward its decision to the Prequalification Administrator, who will then update the applicant firm's prequalified checklist, preparing a Board Agenda item, and updating the ODCS status of the firm after School Board approval. Within 60 days, the Board will vote on the contractor's prequalification recommendation. If the Board accepts the recommendation, the Administration will prepare the contractor's prequalification certification, which will be valid for one year.

Issuance of Contractor Prequalification Certificate

Upon Board Approval, the Administration will update the contractor's prequalification report which will include and can be found at

<http://prequalification.dadeschools.net/pdf/ContractorPrequalificationRpt.pdf>:

- the type of firm prequalified (if applicable, SMBE, M/WBE, and VBE).
- an updated prequalification status.
- the firm's discipline.
- the firm name.
- the expiration date of the certificate.
- the Board approved single and aggregate limits; and
- firm email.

The Contractor Prequalification Certificate should include:

- A statement that a contractor is authorized to bid for projects during a specific time period.
- If a firm provides experience in a specific area of work (general contractor, demolition services only), the CPRC may request that the prequalification certificate specify that the prequalified firm is only allowed to engage in that specific area of work.
- A statement establishing the maximum dollar values (single and aggregate) of work that a contractor will be permitted to have under contract with the Board at any one time.
- A statement establishing the maximum dollar value of each individual project that a contractor will be permitted to have under contract with the Board at any one time. The District single bid limit may be up to twice the value of the largest project that was previously completed or written verification of bonding capacity equal to the single limit. This shall not exceed the contractor's aggregate bonding capacity or ten (10) times the net quick assets.

- A statement establishing the type of work that a contractor will be permitted to provide; and
- The expiration date of the contractor’s prequalification certificate.

Based on interviews with Office of Facilities Staff, there are 16 disciplines or trade categories for which firms can be pre-qualified to work as a prime contractor on M-DCPS construction projects. Several persons interviewed indicated that pre-qualification impacts competition and M/WBE participation. These interviewees were desirous of seeing more firms pre-qualified within the different disciplines; they further noted that they did not see any M/WBEs completing in some of the disciplines. At the time of this analysis, of 123 pre-qualified firms in 2017-2018, 5 were SMBEs, 78 were M/WBEs and 78 were not certified.³³⁹

- Of 97 pre-qualified firms, 23 were SBEs, 15 were MBEs, and 46 were M/WBEs; 12 are African American, 1 is Asian American, 44 are Hispanic American, 21 are Women and 29 are Non-M/WBEs (Other minorities not included in counts).
- Of 56 general contractors, 7 are African American, 1 is Asian American, 19 are Caucasian, 23 are Hispanic American, 4 are NM, and 2 are Other Minority.
- Only 12 of the 16 Disciplines are represented on the pre-qualification list.
- Only 1 of the 16 Disciplines has more than 10 firms; 10 disciplines have less than 5 firms available.

Table 3.1.			
OEO Pre-Qualified Firms			
By Race/Ethnicity			
	Ethnic Group	Total No. Of Apps	Percentages
AA	African American	12	13
AS	Asian American	1	1
C	Caucasian	29	3
HA	Hispanic American	44	49
NA	Native American	0	0
OM	Other Minority	3	3
SDV	Veteran	0	0
Total		89	100

Source: M³ Consulting; M-DCPS OEO Pre-Qualification List

³³⁹ By the end of the study, the number of pre-qualified firms had increased to 155.

Chapter III Procurement Analysis

Gender	Total No. Of Apps	Percentages
Female	21	22
Male	63	65
Unknown	13	13
Total	97	100

Source: M³ Consulting; M-DCPS OEO Pre-Qualification List

	Discipline	Percentage
Unknown	1	1.04
Alarm System Contractor	3	3.13
Asbestos Contractor	2	2.08
Building CB	1	1.04
Class A Air Conditioning	4	4.17
Electrical Contractor	8	8.33
General CG	54	56.25
General Contractor	2	2.08
Irrigation Specialty Contractor	1	1.04
Mechanical CM	7	7.29
Mold Remediation	1	1.04
Plumbing	2	2.08
Plumbing Contractor	1	1.04
Roofing CC	8	8.33
Specialty - Drywall	1	1.04
Total	96	100.00

Source: M³ Consulting; M-DCPS OEO Pre-Qualification List

Pre-qualification Single and Aggregate Bid and Bond Limits provides an indication of firm capacity. Below are the limits by race/ethnicity/gender:

Table 3.4. OEO Pre-qualification Bid and Bond Limits								
	Single \$ Bid Limit Range		Aggregate \$ Bid Limit Range		Single \$ Bond Limit Range		Aggregate \$ Bond Limit Range	
	Low	High	Low	High	Low	High	Low	High
African American	84K	15M	400K	60M	400K	20M	400K	60M
Asian American	260K	N/A	750K	N/A	500K	N/A	750K	N/A
Caucasian American	153K	200M	1.5M	3B	500K	1B	2M	3B
Hispanic American	74K	35M	400K	80M	200K	35M	400K	80M
Women	83K	46M	200K	60M	200K	50M	200K	60M

Source: M³ Consulting; M-DCPS OEO Pre-Qualification List

C. Technical Assistance

OEO sponsors technical assistance workshops aimed at assisting SMBEs, M/WBEs and VBEs to grow and develop their companies. Technical Tuesday provide one-on-one assistance to vendors on certification or pre-qualification. Further, Procurement Management Services provides in-depth monthly vendor workshops to assist small and M/WBE firms increase business opportunities with the District.

D. SMBE and M/WBE Inclusion in Bid Opportunities

Outreach and Matchmaking, Certification and Technical Assistance set the stage for the actual bid process. This section reviews M-DCPS’ efforts in including SMBEs and M/WBEs in M-DCPS procurement and contracting opportunities.

Notification and Solicitation

As discussed earlier, M-DCPS engages in the following efforts to ensure that SMBEs and M/WBEs are included in M-DCPS’ pool of potential bidders:

- Electronic posting, at least seven days prior to bid opening date³⁴⁰—M-DCPS posts on DemandStar.

³⁴⁰ Board Policy 6320, Competitive Bidding Requirement, B. (3) Invitation to Bid, pg. 7

Chapter III Procurement Analysis

- Mailing to all vendors on the active vendor mailing list for the category of goods and services, which will include M/WBE vendors.
- Notice sent to organizations that assist M/WBEs.
- Advertising in one or more local newspapers, including minority focused newspapers, at least seven days prior to bid opening date.³⁴¹
- Notice sent to M-DCPS Citizens Information Center.³⁴²

M-DCPS also encourages diversity, equity and inclusion in subcontracting pursuant to Goal Setting. Board Policy 6320.06 Fair Subcontracting Practices, by encouraging prime bidders to:

- Notify the broadest number of local sub-contractors of the opportunity to be awarded a subcontract.
- Invite local sub-contractors to submit bids in a practical, expedient manner.
- Provide local sub-contractors access to the information necessary to prepare and formulate a subcontracting bid.
- Allow local sub-contractors to meet with the bidder to discuss the bidder's requirements and
- Award subcontracts based on full and complete consideration of all submitted proposals and in accordance with the bidder's stated objectives.

Goal Setting

Goals are established by the goal setting committee for sub-contractor participation. The OEO Compliance area reviews all submitted proposals for compliance with the established goals on each project.

³⁴¹ *Ibid.*

³⁴² Procurement Manual, Procedure 7-2.3.

Chapter III

Procurement Analysis

Table 3.5. M-DCPS Procurement Types on Which Goals or Preferences Can Be Established

	SMBE Goals	M/WBE Goals	State Preference	Local Preference	Veteran Preference	Drug Free Workplace Preference
Construction	Yes	Yes	Yes	Yes	Yes	Yes
Construction Management	Yes	Yes	Yes	Yes	Yes	Yes
A&E	Yes	Yes	Yes	Yes	Yes	Yes
Professional Svcs*	Yes	Yes	Yes	Yes	Yes	Yes
Maintenance Related Services*	Yes	Yes	Yes	Yes	Yes	Yes
Procurement*	Yes	Yes	Yes	Yes	Yes	Yes

Source: Board Policies 6320, 6320.02, 6320.05, M³ Consulting; *Subject to outcome of Phase 2 Disparity Study

SMBE and M/WBE goals are established by the goal setting committee, which is chaired by OEO and consist of procurement personnel and other Board departments affected by these programs. The size and appointees of the committee are determined by the Superintendent. “Annual goals are intended as an administrative guide only to assist the District in its annual policy review to determine whether the use of more aggressive or less aggressive remedies are warranted in the future. Annual goals shall not be routinely applied to specific contracts absent independent availability analysis demonstrating that they are appropriate for application to a specific contract.” Local vendor and employment preferences for SBE, MBEs, M/WBEs or VBEs cannot be applied to competitive solicitations for construction services in which fifty percent or more of the cost will be paid from State-appropriated funds.

Goals are established on a project-by project or contract-by-contract basis. The project goal setting methodology utilized is as follows:

1. Subcontracting/Sub consulting Goals

Subcontracting/Sub consulting Goals--applicable to Construction, Construction-related Professional Services, Non-Professional Services, Maintenance, Goods & Services and any other area under Procurement).

Chapter III

Procurement Analysis

The Goal Setting Committee (GSC) utilizes the following criteria to determine whether goals are applicable:

1. **Scope of Services**-The scope of services for the solicitation shall be examined to determine the areas where SBE/MBE Participation is possible.
2. **Budget**-The dollar value of the solicitation or cost for services/product being procured.
3. **Availability**-The availability of SBE, MBE or VBE firms in the commodity/scope which is being solicited. The GSC will also consider the number of vendors currently registered under the specific commodity code with the Office of Procurement and Management Services.
4. **Capacity**- *If available the current capacity of SBE, MBE or VBE firms in the commodity/scope which is being solicited.
5. **Complexity of Scope/Services**-The complexity or specialized nature of the services will be reviewed to determine the ability of SBE, MBE or VBE firms to complete the work.

The Goal Setting Formula used to calculate subcontracting and/or sub consulting goals consists of two parts: The weight of the scope/discipline and the availability of firms within the scope/discipline.

Calculating the Weight:

The weight of the scope/discipline is determined by calculating the Dollar Value of the Scope of the work/discipline divided by the dollar value of the project.

Ex.

Construction Goals

Dollar Value of the Scope of Work

÷

Dollar Value of Project

=

Weight of Scope of Work

Architecture and Engineering Goals

Dollar Value of Discipline

÷

Dollar Value of Project

=

Discipline Weight

Calculating the availability:

The Availability of M/WBE is determined by dividing the number of M/WBE Firms in that particular scope of work/discipline by all firms in that particular scope of work/discipline.

Ex.

Construction Goals	Architecture and Engineering Goals
M/WBE Firms in Scope of Work	M/ in Discipline WBE Firms
÷	÷
All Firms in Scope of Work	All firms in Discipline
=	=
Availability of M/WBE	Availability of M/WBE

Calculating the M/WBE Goals

After calculating the weight and availability, multiply the Weight of Scope of Work/Discipline times the Availability of M/WBE.

Ex.

Weight of Scope * Availability of M/WBE= M/WBE Goal for a particular scope of work/discipline for the project.

Add all of the M/WBE Goal for each scope of work/discipline for that particular project to calculate the total M/WBE Goal for that particular project.

2. Sheltered Markets (Set-Aside Contracts)

The OEO and GSC may select certain contracts for award to a SBE, MBE, M/WBE or VBE or a joint venture with an SBE, MBE or VBE through the Sheltered Market Program. In addition to GSC considering the same five criteria as goal programs, contracts that are eligible for the Sheltered Market Program must consider:

- Whether there are at least three (3) SBEs, MBEs, M/WBEs or VBEs that are capable and available to participate in the Sheltered Market Program for that contract.
- The degree of underutilization of the SBE, MBE, M/WBE or VBE prime contractors in the specific industry categories; and
- The extent to which the Board’s SBE, MBE, M/WBE or VBE prime contractor utilization goals are being achieved.

If a responsive and responsible bid or response is not received for a contract that has been designated for the Sheltered Market Program, or the apparent low bid is determined to be too high in price, the contract shall be removed from the Sheltered Market Program.

3. Other Preference Programs

In addition to goals, M-DCPS may also utilize the following measures:

- Bond Waivers of \$200,000 or less.
- Bid preference to lowest responsive, responsible bidder meeting SMBE or M/WBE subcontracting goals, when that bidder's price does not exceed the lowest bidder's price by an amount greater than the dollar percentage amount set by the Goal Setting Committee;
- Evaluation Preference Points up to 20 percent of the total points available to a SMBE or M/WBE.
- Mandatory Subcontracting up to 40 percent of a specific contract to eligible SMBEs or M/WBEs; and,
- Local Workforce Participation Goals, utilizing zip codes, targeted boundaries and county boundaries to stipulate which residents qualify as local residents. All local hiring on M-DCPS projects must be in compliance with the Jessica Lunsford Act. Local workforce participation goals shall apply to all M-DCPS Capital Construction contracts and work orders for school facilities, as determined by the Goal Setting Committee.

A partial or complete waiver of diversity requirements may be granted for reasons such as:

- Emergency procurement
- Non-M/WBE is sole source
- Good faith efforts have proven unsuccessful.

M-DCPS's good faith effort requirements are only necessary if established goals are not achieved. OEO Form 7539 Best Faith Noncompliance Documentation, outlines specific steps which must be completed by vendors.

1. Attendance at pre-bid conference.
2. Whether and when the bidder provided written notice to all certified SMBEs and M/WBEs listed in M-DCPS OEO Directory qualified to perform the type of work to be subcontracted and advising the SMBEs and M/WBEs of the specific work the bidders intend to subcontract; acknowledgement of SMBE and M/WBE interest in the contract being solicited; and how to obtain information for the review and inspection of contract plans and specifications;
3. Has the bidder selected feasible portions of the work to be performed by SMBEs and M/WBEs, including, where appropriate, breaking contracts or combining elements of work into feasible units? The ability of the bidder to perform work with its own work force will not in itself excuse a bidder from making positive efforts to meet established goals.
4. Has bidder considered all quotations received from SMBEs and M/WBEs and for those quotations not accepted the bidder shall provide an explanation of why the SMBEs and M/WBEs will not be

used during the course of the contract? Receipt of lower quotation from non- SMBE and M/WBE will not itself excuse a bidder's failure to meet project goals.

5. Has the bidder provided interested SMBE and M/WBE assistance in reviewing the contract plans and specifications?
6. Whether the bidder advertised in general circulation, trade association and/or minority/women – focused media concerning the subcontracting opportunities.
7. Has the bidder followed up on initial solicitations of interest by contacting SMBEs and M/WBEs to determine with certainty whether the SMBE and M/WBE was interested?
8. Has the bidder negotiated in good faith with interest SMBEs and M/WBEs, not rejecting SMBEs and M/WBEs as unqualified without sound reason and based on a thorough investigation on their capabilities?
9. Has the bidder effectively used the services of available/minority community organizations; minority/women contractors' groups; local, state and federal minority/women business assistance offices; and other organizations that provide assistance in the recruitment and placement of minority/women business enterprises?
10. Describe an additional efforts or circumstances which may assist the School District in determining "Best Faith Efforts."

E. Contract Compliance

OEO's Contract Compliance Division conducts contract compliance monitoring, on-site monitoring and SMBE, M/WBE, VBE and Workforce Utilization reporting to determine if a firm is compliant with Policy 6320.02, maintains non-discriminatory employment and contracting practices, and promotes equal opportunity for all segments of the contracting community. This includes monitoring compliance with goals established by the M-DCPS Goal Setting Committee and enforcing compliance on construction, professional services, A/E, and goods and services contracts. SBE Compliance Managers monitor and conduct on-site project visits. A valid Certificate of Compliance will be issued upon review completion.

OEO utilizes a comprehensive Online Diversity Compliance System (ODCS) to support its efforts, which consists of seven modules accessible from any internet browser, Certification Management, Contract Compliance, Goal Setting, Outreach, Contractor Prequalification, Spend Analysis and workforce. OEO has conducted 50 trainings for Staff and Vendors.

Contract Compliance Review

A contract compliance review is scheduled and conducted when notified that the firm has been selected for award on a district contract for construction, goods and services and professional services, or at the discretion of the OEO. Elements of the compliance review includes:

- Desk audits
- On-site review
- Contract utilization analysis,
- Findings and recommendations,
- Close-out conference; and
- Corrective action plan (if required) including any follow up action needed to address identified deficiencies.

The desk audit consists of a comprehensive compliance analysis of the firm's contracts, policy & procedures, local workforce hiring utilization & goals, SDBE, M/WBE, and VBE utilization & goals and any supporting documentation to determine compliance with the OEO policies and procedures outlined in Policy 6320.02, including all reporting requirements. In on-site workforce reviews, OEO interviews prime and sub-contractor workers, inspect vendor badges for compliance with Jessica Lunsford Act, verify sub-contractors and sub-consultants reported in the M-DCPS ODCS, document local workforce on the project through daily logs, interviews and pictures, and complete on-site workforce reports for each project site visited.

OEO also has a formal Compliant and Feedback process. Complaints are investigated by the Compliance Department.

Anti-discrimination Policy

Under Board Policy 6465,³⁴³ M-DCPS prohibits M-DCPS employees and vendors from discriminating in both employment and contracting in M-DCPS procurement process based on sex, race, color, ethnic or national origin, religion, marital status, disability, genetic information, age, political beliefs, sexual orientation, gender, gender identification, social and family background, linguistic preference, regency and any other legally prohibited basis. The policy also prohibits discrimination as it relates to Board Policies 6320.02 and 6320.06.

Any person, business entity or district-approved vendor who has in good-faith believe that they have been discriminated against consistent with the Anti-discrimination policy may seek resolution to filing a

³⁴³ Date adopted, 11/19/14, date revised, 9/9/15. When revised, contractors doing business with M-DCPS were required to submit anti-discrimination certificate.

complaint. These complaints can be filed against a District employee or a Business Entity/District-Approved Vendor in writing to the Civil rights Compliance Office. Anonymous complaints will not be accepted.

The CRC will investigate all allegations within a complaint containing the required information:

- Submitted within 180 days after the prohibited conduct occurred; Untimely complaints may result in abandonment of the claim; unwillingness by a business to voluntarily cooperate with the investigation may subject the business to available sanctions.
- Complaint must include:
 - Identity of the individual or business believed to have engaged in, or is engaging in, prohibited discrimination under this policy.
 - A detailed description of the facts upon which the complaint is based upon.
 - A list of potential witnesses.
 - Identification of the resolution the complainant seeks.
- Compliance officer will conduct the following review/investigation upon receiving the written complaint:
 - Determine, in conjunction with the head of the division or department, whether further action should be taken in the initial investigatory phase to protect the complainant from further discrimination.
 - Within five days of receipt of complaint, the compliance officer will initiate a formal investigation and inform the individual or business that the complaint has been received. An oral interview will be conducted, and a written summary of oral interview developed, verified and signed by complainant.
 - If CRC determines that the complaint alleged prohibited discrimination, an investigation will be conducted within 45 days of receiving the written complaint. The investigation will include interviews with the complainant, respondent, other witnesses, and consideration of any other documentation or evidence.
 - At the conclusion of the investigation, a written report of findings along with the final determination of the case, will be provided to the respondent and complainant. If a finding of probable cause is determined, the CRC will submit the investigative report to the Superintendent for a review of the findings, a recommendation of sanctions and final disposition of the case.
 - Sanctions may include suspension, vendor default, and cancellation of the contract and/or debarment.

Sub-contractor Substitution

After the submission of a solicitation response, when a prime contractor becomes aware that a sub-contractor or sub-consultant, whether certified or non-certified, is unavailable, the prime contractor is required to notify and obtain written approval from the Office of School Facilities—Capital Improvement Projects. Furthermore, the prime contractor must obtain the same written approval prior to any reduction of a sub-contractor’s or sub-consultant’s scope, termination or substitution. Failure to do so will be considered a material breach of contract. OEO must confirm the decision in writing and the prime contractor’s good faith efforts to substitute a sub-contractor with a certified SMBE, M/WBE and VBE sub-contractor to perform the work and to meet established utilization goals. A waiver of the goals will only be granted if OEO determines that the contractor demonstrated a good faith effort to obtain certified SMBEs, M/WBEs and VBEs.

F. Organizational Performance Evaluation

OEO is to report to the Superintendent and the Board on M-DCPS’ progress in achieving the goals and objectives established for awards to certified SMBE and M/WBE firms, both awards and expenditures. OEO achieves this objective by:

- Provide annual reports to the Superintendent and Board on goal achievement in both dollars awarded and expended.
- Provide regular updates and reports including tracking, monitoring and reporting activity to the SMBE, M/WBE, and VBE Advisory Committee and other stakeholders.
- Conduct continuous program evaluations and assessment of programs and initiatives.
- Publish or make readily available a listing of all certified firms by program and/or industry.

OEO is also to report on M-DCPS’ efforts to meet the program objectives of enhancing competition, establishing and business new business capacity, and removing barriers to and eliminating disparities in the utilization of available M/WBEs on Board contracts. The Board will review these programs annually to determine whether programs and procedures need to be adjusted to achieve program objectives.

The Board will also determine, three to five years, if there is a need for a continuing M/WBE program through an updated factual predicate. The district will maintain a data capture system that allows the following analysis:

- Availability Analysis
 - Overall availability based on all the vendors and contractors that register in the automated and mandatory centralized bidder registration system.
 - SMBE Availability which is the proportion of the RWA vendors that are certified as SBE or MBE by industry code and relevant market.
 - M/WBE Availability which is the proportion of the RWA vendors that are certified as M/WBEs by industry code and relevant market
- Utilization analysis will be based on total dollar amount paid in a given year to vendors and contractors registered in the automated and mandatory centralized bidder registration system.
- Disparity Analysis will be based on the 80% statistical significance rule.
- Remedy Analysis to any disparity found which will seek remedies that are most likely to be effective in promoting fair and equitable contract participation by all segments of the relevant vendor population, but without undue burden on third parties.

3.5 INTERVIEW OBSERVATIONS

During the course of interviews, staff identified several issues that impact the ability of M/WBEs and SMBEs to do business with the District. These issues are identified below:

1. State requirements of pre-qualification and Jessica Lunsford Act reduces the number of firms that can compete on M-DCPS contracts; Staff understands the need for these requirements but acknowledges the impact on availability.
2. Many small, minority and women owned firms do not have the ability to meet District-wide performance or strict supply requirement, i.e. food, or have the flexibility to operate within the District's schedule requirements around its student population; that said, some interviewees said they have been able to do some things to promote M/WBE involvement, such as breaking down projects and encouraging teaming relations;
3. PMS has experienced some staffing issues with inadequately trained staff and lack of public sector procurement certification; these issues are currently being addressed.
4. Departments work in silos, which makes it difficult to coordinate and come up with innovative solutions to issues, particularly those impacting M/WBEs.
5. In the past, the relationship between PMS and OEO was not collaborative, which led to an adversarial environment that did not lead to solutions for M/WBEs; this environment is being improved under current leadership in both departments.
6. In a few instances, M/WBE goals established on projects did not always meet market realities and thus were too high to be achievable.

7. M/WBEs do not always have the ability to address M-DCPS' bureaucracy and paperwork.
8. M-DCPS is a tough environment and is very aggressive in trying to save money and optimize funds.
9. Prime contractors work with the same sub-contractors because they know these sub-contractors can get the work done; that extends to M/WBEs. When they find an M/WBE that can do the work, they tend to use that sub repeatedly.
10. There are not enough construction trades represented among M/WBEs and among some other procurement categories. Some interviewees stated that they have seen a few firms grow and expand. However, the opportunity to utilize the GOB to build capacity has all but passed, as the vast majority of construction has already occurred.
11. There are limitations on crossing from sub-contractor to prime contractor. Sub-contractor must be able to become a licensed General Contractor and get pre-qualified. A roofer or electrician may be able to do work for the Maintenance Department as a prime contractor, but large projects are handled by General Contractors and Construction Managers at Risk. So, to truly become a Prime Contractor, smaller firms should be looking to grow up to become a General Contractor.

3.6 IMPACT OF M-DCPS POLICIES, PROCEDURES AND PRACTICES ON SMBES AND M/WBES

Based on the foregoing discussion and findings, below are the Procurement, SMBE and M/WBE Program policies, procedures and practices that may impact the ability of M/WBEs to participate in M-DCPS' procurement and contracting opportunities.

M-DCPS has developed a sound infrastructure for promoting M/WBE participation in its opportunities. The Superintendent has shown his commitment to ensuring M/WBE participation. Procurement Management Services and the Office of Economic Opportunity are resolving personnel issues noted in the Phase 2 Disparity study. Collaboration between the two departments has increased markedly. M-DCPS has invested in bid/vendor management systems, M/WBE contract compliance software and construction management systems. The Goal Setting Committee has significant involvement from appropriate department heads.

As such, the observations below are focused on identifying those areas that may inhibit M-DCPS efforts and therefore, impact the ability of M/WBEs to do business with the District.

A. M/WBE Goal Attainment vs. Inclusive Procurement

The infrastructure that M-DCPS has built is mainly focused on M/WBE goal attainment, as opposed to building an inclusive procurement environment. Focusing primarily on goal attainment makes M/WBE participation vulnerable to the legalities and continuing political will for race/gender-conscious goals. Furthermore, areas impacting the disparity analysis and continuing participation in an inclusive procurement environment are not fully addressed and explored:

- M/WBE bidder availability in the various trade and procurement categories is not openly addressed. OEO, Procurement Management and Facilities staff recognize the impact that certified M/WBE firm availability or the lack thereof has on meeting goals, which can lead to employing the same certified M/WBEs repeatedly.
- Procurement buyers and Facilities staff with detailed knowledge of their commodity areas and the available vendors acknowledged that they could be more creative in bidding and procuring in a manner that promotes inclusion of M/WBEs without sacrificing or jeopardizing M-DCPS procurement objectives. However, it does not appear that the creative planning process is being fully engaged by PMS, Facilities or OEO; and
- The Goal Setting Committee and OEO has not optimized construction planning and scheduling and PMS forecasting to provide the maximum amount of lead time for M/WBE planning, outreach and matchmaking.

B. Limits on Transparency

While Finance, PMS, OEO and Facilities have invested in ERP and other software to assist them to more efficiently execute their tasks, the various systems have not been integrated to maximize organizational and operational transparency. Based on interviews, the various departments continue to operate in silos, thus further limiting organizational transparency. This lack of transparency impacts real-time decision making at senior levels and reduces collaboration among departments and schools, as it relates to including M/WBEs in M-DCPS' opportunities.

C. Impact of Pre-Qualification and M/WBE Certification

While pre-qualification of prime-level construction contractors is a State of Florida requirement and M/WBE certification is needed in the operation of an effective M/WBE program, both can have an exclusionary impact on M/WBE participation and limit the level of competition on M-DCPS opportunities. Pre-qualification reduces the number of firms that can bid on M-DCPS opportunities at the prime level. This requirement also reduces the number of firms available in the various trade categories, further exacerbating issues of low M/WBE availability. Stringent M/WBE certification requirements can reduce the pool of available M/WBEs even further. While some agency certifications are accepted, M-DCPS has

Chapter III

Procurement Analysis

not yet created broad interlocal certification agreements with other public sector jurisdictions, such as Broward Schools, Palm Beach Schools, South Florida Minority Supplier Development Council and Florida DOT.

D. Capacity Building

Given the constraints of pre-qualification on construction opportunities, i.e. bidding dollar limits, and District requirements in terms of quantities, on-site school requirements, i.e. Jessica Lunsford Act, utilizing M-DCPS opportunities to build capacity can be challenging. Based on interviews, staff recognized that, because most construction under the bond has been executed, the opportunity to do so has all but passed.

CHAPTER 4: STATISTICAL METHODOLOGY

4.1 INTRODUCTION

This chapter discusses the statistical methodology employed by M³ Consulting in the Miami-Dade County Public School's (M-DCPS) Disparity Study in two parts:

- 4.2 Statistical Methodology**—The first part is a conceptual discussion of the statistical methodology for analysis of minority- and woman-owned business enterprises (M/WBEs).
- 4.3 Data Sources Utilized in Statistical Analysis for M-DCPS**—The second part is a discussion of data sources, data collection procedures, data gaps and implications of the gaps on the statistical analysis for M-DCPS.

4.2 STATISTICAL METHODOLOGY

The statistical methodology discusses availability, utilization, and disparity. It includes a presentation of the two types of availability: *“actual availability”* and *“potential availability”*; various definitions of availability; and M³ Consulting's *“Ready, Willing and Able” (RWASM)* model. M³ Consulting has adapted this model to the specific M-DCPS data sources available for this study. Also discussed are the types of utilization analysis that will be performed. The statistical methodology section concludes by defining the disparity ratio and significance tests, crucial for drawing conclusions regarding any disparity in M-DCPS' recent history of contracting with M/WBEs.

4.2.1 Disparate Impact Analysis

The statistical analysis conducted in this Disparity Study is a key component of the Disparate Impact Analysis to determine if there is any discrimination against M/WBEs by a public entity. Under a *Crosby* Disparate Impact Analysis, a public entity may be involved in *“active discrimination”*, which is caused by its own direct action, or *“passive discrimination”* which involves participating in the discriminatory or exclusive actions of other agents in the public and private sector.

Disparate Impact is defined as a policy or practice that, although neutral on its face, falls more harshly on a protected group. This impact may be viewed as discriminatory behavior in certain instances. The statistical analysis seeks to determine if there is any disparate impact of an agency's policy(ies) or practice(s), intended or unintended, on protected classes.

In response to *Croson*, statistical methodologies related to the analysis of procurement and contracting policies and practices continue to evolve as litigation occurs. Because the legal cases are fact-specific and the courts can only review evidence put before them, it is useful to review *Croson* statistical methodologies against the well-tested and even more extensively litigated disparate impact analysis established under EEO law, from which the disparate impact and disparate treatment tests and analysis evolved. The comparison will reveal the course that the two-disparate impact analysis have taken.

- EEO Disparate Impact Analysis requires a deeper analysis and testing of an institution's specific EEO policies, procedures and practices, with emphasis on active participation in discrimination;
- *Croson* Disparate Impact Analysis is moving toward broader analysis, with ever increased focus on passive participation, as opposed to active participation in discrimination, therefore with a lesser focus on the actual decision-making policies, procedures and practices of the public entity itself and its vendors.

M³ Consulting's statistical methodology includes an analysis of active and passive participation and the methodology is compared to the more evolved active participation requirements of EEO analysis.

A. Brief Overview of EEO Disparate Impact Analysis

A disparate impact analysis under EEO involves three distinct analyses. Below is a brief overview of the analysis, as stated in "The Role of Two Statistical Approaches in EEO Cases," and a comparison to methodologies deployed under *Croson* disparate impact analysis.

In the first burden of a disparate impact analysis, up to three tests are performed to determine adverse impact:

1. The "threshold" analysis (also called the initial inquiry) to see if gender and racial composition (i.e., percentages) of the at-issue job is underutilized compared to the composition of the qualified population in the relevant labor market;
2. A "barriers" analysis to see if there are barriers or practices which disproportionately deter gender or racial group members from applying; and,
3. The "selection" analysis to see if a practice, procedure or test is disproportionately impacting a gender or racial group, unless the practices, procedures or tests are not capable of separation for analysis, then the entire decision-making process can be evaluated as one practice.

If a practice, procedure, or test is found to be a "barrier" as defined above, an adverse impact finding could be expected on the cause of the barrier. However, even if the cause of the "barrier" to an at-issue job is not involved in the action, it still can be a "barrier" for statistical purposes. If a barrier is found, a binomial statistical test will be needed in the "selection" analysis and a "proxy" group will be needed in the "selection" analysis. If a barrier is not found (i.e., applicant flow is very similar to availability), then actual applicants can be used in the "selection" analysis and a hypergeometric statistic is used.³⁴⁴

B. Threshold Analysis

Under a *Crososn* Analysis, the EEO threshold analysis is akin to a disparity analysis in contracting. A disparity ratio is computed by comparing available firms, as determined by ready, willing and able firms, to firms utilized by a public entity. This is an important inquiry that sets the stage to determine if there is cause for additional disparate impact analysis to determine if the inference of discrimination resulting from this analysis is remedial. As such, the methodology utilized for the computation of the pool of ready, willing and able firms takes on significant importance in disparity analysis. Under U.S. DOT 49 CFR Part 26, this threshold analysis could be considered Step 1: Baseline Availability.

While relying on a threshold-type analysis appears straight-forward, under *Crososn* analysis, it is not, principally due to the issues of willingness and qualifications of the firms in question. Firms in the marketplace may be ready, but not willing and/or able.

As it relates to Marketplace availability, firms may not be "able", despite efforts to refine the Marketplace or Custom Census availability to firms in NAICS or NIGP codes representing goods and services procured by the public entity. Regressions and capacity analysis not conducted on the pool of firms bidding with or awarded contracts by the public entity indirectly provides some indication of capacity, but does not directly relate to the individual firm's qualifications or to the determinations of firm's qualification by the public entity during the bidding process. Relying solely on Marketplace availability does not adequately reveal a pool of firms that are "ready, willing and able" to do business with M-DCPS. Thus, a comparison of Marketplace availability to M-DCPS utilization does not conclusively reveal if M-DCPS and its prime vendors' "policies or practices" are impacting prime and sub-contractor selection.

In *Crososn* disparity analysis, many consultants forego any consideration of bidder data and simply establish a basis for race- and gender-conscious goals on disparity from Marketplace or Custom Census Availability (for DBE programs, adjusted under Step 2 of the U.S. DOT's availability analysis).

³⁴⁴ Richard E. Biddle, "The Role of Two Statistical Approaches in EEO Cases", 1995. See also 29 CFR Ch. XIV, Part 1607, §1607.17(2)

The U.S. Supreme Court has shown increasing impatience with this lack of specificity in disparate impact analysis. It is worth repeating here, from the legal chapter, the Court’s opinion regarding disparate impact claims in the June 2015 U.S. Supreme Court case, *Texas Department of Housing and Community Affairs v. Inclusive Communities Project*.³⁴⁵ In upholding the applicability of the disparate impact liability to the Fair Housing Act,

In a similar vein, a disparate-impact claim that relies on a statistical disparity must fail if the plaintiff cannot point to a defendant’s policy or policies causing that disparity. A robust causality requirement ensures that “[r]acial imbalance . . . does not, without more, establish a prima facie case of disparate impact” and thus protects defendants from being held liable for racial disparities they did not create. *Wards Cove Packing Co. v. Antonio*, 490 U. S. 642, 653 (1989), superseded by statute on other grounds, 42 U. S. C. §2000e–2(k).³⁴⁶

...Were standards for proceeding with disparate-impact suits not to incorporate at least the safeguards discussed here, then disparate-impact liability might displace valid governmental and private priorities, rather than solely “remov[ing] . . . artificial, arbitrary, and unnecessary barriers.” *Griggs*, 401 U. S., at 431. And that, in turn, would set our Nation back in its quest to reduce the salience of race in our social and economic system.³⁴⁷

The U.S. Supreme Court’s analysis is applicable to the current state of most disparity analysis. However, under EEO, this type of analysis is not normally used for the establishment of race- and gender-conscious EEO goals. The barrier analysis and selection analysis are usually performed prior to that determination.

C. Barrier Analysis

A barrier analysis, using the EEO definition, would result in a comparison between M³ Consulting’s Marketplace Analysis and M³ Consulting’s RWASM analysis. This analysis may also be akin to the elusive “but-for discrimination” analysis pursued and attempted under *Croson* analysis. While the barrier analysis computation is simple, interpreting the causes of any differences is quite complex.

For example, RWASM Availability often yields higher percentages or proportions of availability than a Marketplace or Custom Census analysis. The differences may be caused simply by the differences in the

³⁴⁵ No. 13-1371, 576 U. S. ___ (2015)

³⁴⁶ Slip Op., at 19-20.

³⁴⁷ Slip Op., at 22.

two sample sizes. For M-DCPS, if InfoUSA were used for Marketplace Analysis, the pool would contain 43.33 percent M/WBEs of a total of 79,577 firms after refining the sample to extract relevant NAICS codes and limiting it to the relevant market; the M-DCPS bidder pool (inclusive of awardees for which bid data was not available) consists of 27.66 percent M/WBEs in comparison.

Some argue that the cause for larger RWASM availability measures could be the impact of race- and gender-conscious programs on the bidder pool. However, in some instances, public entities with mature race- and gender-conscious programs have discouraged M/WBE bidders due to the continuous and repeated use of the same vendors or continued discriminatory policies and practices, even in light of the existence of race- and gender-conscious goals.³⁴⁸ M/WBE bidders often view this type of procurement environment as a “closed-shop.”

Alternatively, M/WBEs often pursue opportunities in the public sector, because public entities are often seen as more inclusive, based on their mission and their diverse make-up of political representatives, and not simply the presence of race- and gender-conscious goals. For example, in reviewing building permits data for Palm Beach County, we found that only 2.16 percent of building permits were obtained by M/WBEs in the private sector, as opposed to 21.17 percent of the public sector firms for the period of FYs 2009-13.

Additionally, after the Recession of 2008, many large private sector firms around the country, including those who rarely worked in the public sector, turned to the public sector for opportunities, pushing many M/WBEs out of contention for opportunities in the competitive bidding process. The marketplace is now responding to the economic impact of COVID-19.

As such, findings from a barrier analysis under *Croson* would necessitate a **deep dive** into the public entity’s procurement operation and selection processes to determine whether the barriers are caused by internal or external factors or active vs. passive discrimination. This deep dive also encompasses the public entity’s prime vendors who select sub-vendors to participate on the public entity’s opportunities. This deep dive into the procurement and contracting activity of prime vendors is a direct means of measuring “passive participation” in private sector discrimination. Under 49 CFR Part 26, a barrier analysis is somewhat anticipated under Step 2: Adjusted Baseline Availability.

³⁴⁸ In response to the *Western Paving* case, DOT appears to have addressed this concern by stating that “the study should not rely on numbers that may have been inflated by race-conscious programs that *may not have been narrowly tailored.*” Emphasis added.

D. Selection Analysis

M³ Consulting's RWASM Availability analysis, a primarily bidder-based analysis, is most akin to the Selection Analysis under EEO, established to determine if the public entity's policies and procedures are producing any noted disparity. M³ Consulting draws conclusions of disparity that the public entity may need to address through race- and gender-conscious goals from this analysis, not its Marketplace Analysis. In the EEO environment, if disparity is found under the Selection Analysis and an employer:

“...has reason to believe that its selection procedures have the exclusionary effect described in paragraph 2 above, it should initiate affirmative steps to remedy the situation. Such steps, which in design and execution may be race, color, sex, or ethnic “conscious,” include, but are not limited to, the following: (a) the establishment of a long-term, and short-range, interim goals and timetables for specific job-classifications, all of which should take into account the availability of basically qualified persons in the relevant job market...”

While some would argue that Marketplace or Custom Census represents a proxy group under a Selection Analysis for incomplete bidder data or bidder data impacted by discrimination, these firms do not meet the ready, willing and able definition. Furthermore, Marketplace Availability can also be impacted by discrimination and exclusion, particularly in the construction industry. M³ Consulting's RWASM Availability Model, discussed supra, is a cascading model, designed to be extended beyond ready, willing and able firms (actual availability) only when necessary. If earlier levels were deemed completely unreliable, prior to moving to Public Sector or Marketplace Availability augmented by MWDBE lists (firms that are “ready”), M³ Consulting would focus on a public entity's vendor registration list augmented by its M/WBE lists (firms that are “ready and willing.”). U.S. DOT seeks to address this issue through Step 2: Adjusted Baseline Availability.

Further, when calculating a disparity ratio using RWASM Availability, M³ Consulting is using Actual Utilization compared to Actual Availability. If Potential Availability is utilized instead of Actual Availability, the resulting disparity ratio assumes that, if outreach was done, more available firms would be included in Actual Availability. This could be akin to “but-for-discrimination”, but it could also be “but-for-outreach” and have nothing to do with discrimination. Furthermore, it is possible that they were not included purely due to random chance, which is the essence of the significance tests.

Given that M³ Consulting computes disparity based on RWASM Availability (actual availability reflecting M-DCPS' selection process), if disparity is found using RWASM Availability, M-DCPS' legal staff would then determine if M-DCPS **may or must** utilize race- and gender-conscious goals to remedy this disparity.

4.2.2 RELEVANT MARKET MEASUREMENTS

The *Croson* statistical analysis begins with the identification of the relevant market. The relevant market establishes geographical limits to the calculation of M/WBE availability and utilization. Most courts and disparity study consultants characterize the relevant market as the geographical area encompassing most of a public entity's commercial activity. The *Croson* Court required that an MBE program cover only those groups that have been affected by discrimination within the public entity's jurisdiction.³⁴⁹

Two methods of establishing the relevant market area have been used in disparity studies. The first utilizes vendor and contract awardee location of dollars expended by an entity in the relevant industry categories. In the second method, vendors and contractors from an entity's vendor or bidder list are surveyed to determine their location. The former is based on approaches implemented under the U.S. Justice Department guidelines for defining relevant geographic markets in antitrust and merger cases. M³ Consulting has developed an alternative method for determining an entity's relevant market by combining the above methods and using an entity's bidder lists, vendor lists, and awardee lists as the basic foundation for market definition.

By examining the locations of bidders, vendors, and winners of contract awards, M³ Consulting seeks to determine the area containing a preponderance of commercial activity pertaining to an entity's contracting activity. While case law does not indicate a specific minimum percentage of vendors, bidders, or contract awardees that a relevant market must contain, M³ Consulting has determined a reasonable threshold is somewhere around 70 percent, each, for bidders, vendors, and contract award winners. Further analysis may be necessary if there are "large" differences in the percentages of these three measures.

4.2.3 AVAILABILITY ANALYSIS

The fundamental comparison to be made in disparity studies is between firms owned by minorities and/or women ("M/WBEs") and other firms ("Non-(M/W/SMBEs)") *ready, willing and able* to perform a specific service (i.e., are "available"), and the number of such businesses being utilized by the locality or its prime contractors. This section presents a discussion of the availability estimates for M/WBEs who are *ready, willing and able* to perform work on contracts for M-DCPS.

Availability is the most problematic aspect of the statistical analysis of disparity. It is intrinsically difficult to estimate the number of businesses in the marketplace that are ready, willing and able to perform contracts for or provide services to a specific public entity. In addition to determining an accurate head

³⁴⁹ *Richmond v. Croson*, at 725.

count of firms, the concomitant issues of capacity, qualification, willingness, and ability complicate the production of accurate availability estimates.

A. Miller³ Consulting, Inc. Availability Model

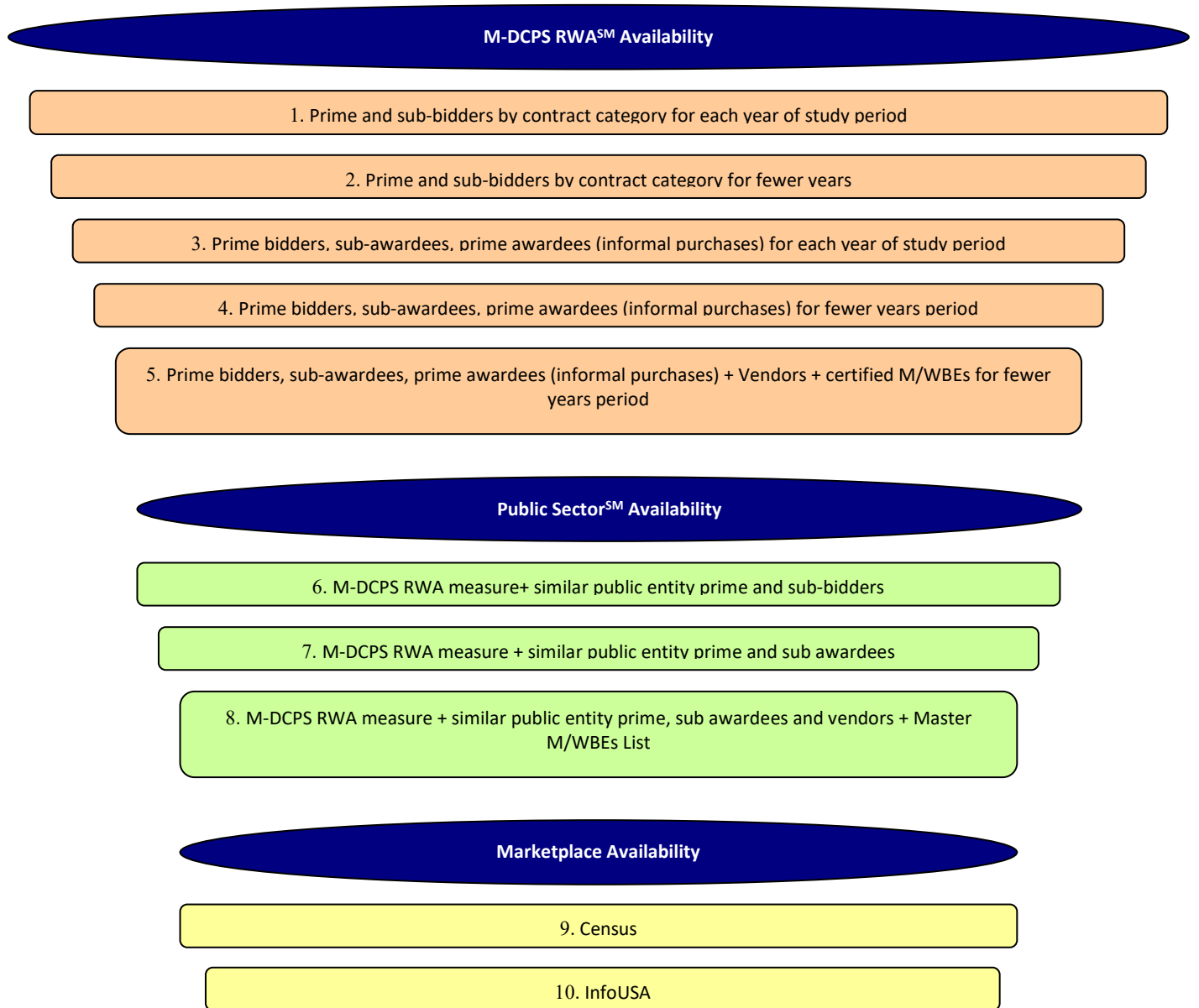
M³ Consulting employs two general approaches to measuring availability: the Ready, Willing and Able (RWASM) Model, and Marketplace Availability. In summary, the Availability measures can fall into the following categories:

- **RWASM**—Those firms who are ready, willing and able to do business with M-DCPS;
- **Public Sector Availability**—Those firms who are ready, willing and able to do business with similar public sector agencies within M-DCPS' marketplace³⁵⁰; and,
- **Marketplace Availability**—All firms' available in M-DCPS' marketplace, as measured by data sources such as U.S. Census Annual Survey of Entrepreneurs, InfoUSA, Dun & Bradstreet, Business License, Building Permits.

The Availability matrix below in Figure 4.1 outlines M³ Consulting's Availability Model. The matrix starts with the optimum availability measure of those firms "ready, willing and able" to do business with M-DCPS and cascades down to less optimum measures. Factors that determine which level of availability best suits M-DCPS' environment include quality of available data, legal environment, and previous levels of inclusion of M/WBE in bidding and contracting activity.

³⁵⁰ This analysis requires inter-governmental cooperation between public entities providing bidder, vendor and awardee data, thus is not performed, unless such agreement is developed for individual agencies or a consortium of agencies conducted a consortium disparity study.

Figure 4.1
RWASM Availability Model



Source: M³ Consulting, Inc.

When refined to M-DCPS' data, the RWASM Availability Model levels are defined as follows:

Table 4.1	
M-DCPS Specific RWASM Availability Levels	
RWASM Availability Level	RWASM Availability Definition
Level 1	M-DCPS Bidders and Sub-bidders
Level 2	M-DCPS Bidders and Sub-bidders + AP/PO Firms
Level 3	M-DCPS Bidders and Sub-bidders + AP/PO Firms + Vendors*

Source: M³ Consulting; M-DCPS Contracts Data, M-DCPS SAP Data, *All firms certified by M-DCPS are included on the Vendors List

B. Ready, Willing and Able (RWASM) Model³⁵¹

The concept of the “Ready, Willing and Able” (RWASM) estimate model is derived from the U.S. Supreme Court’s statement that:

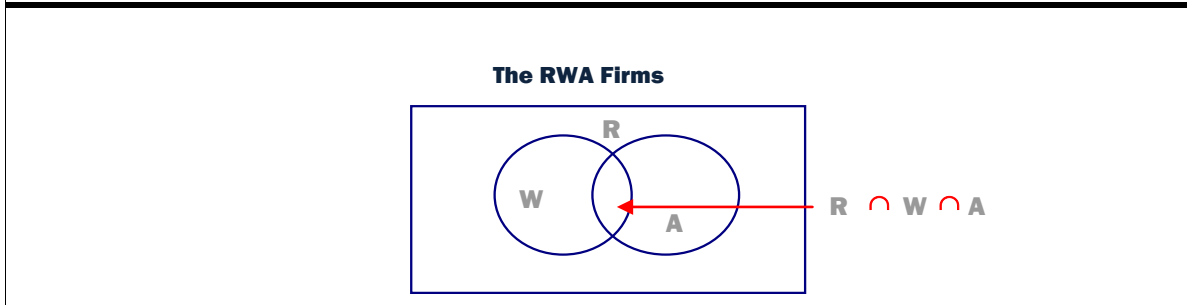
Where there is a significant statistical disparity between the number of qualified minority contractors willing and able to perform a particular service and the number of such contractors actually engaged by the locality or the locality’s prime contractors, an inference of discriminatory exclusion could arise.³⁵²

The basic assumption underpinning RWASM estimates is that a business must exist and actively seek to do business with a specific entity, and have the capacity to perform contracts of the types that M-DCPS awards, to be included in the pool of businesses “actually available” to perform on the entity’s contracts. The M³ Consulting RWASM estimate is illustrated in Figure 4.2.

³⁵¹ M³ Consulting developed the RWASM model in 1992.

³⁵² *City of Richmond v. J.A. Croson*, 109 S.Ct. 706, at 729 (1989).

Figure 4.2
RWASM Availability Estimate Venn Diagram



Source: M³ Consulting, Inc.

The first component of the model, “ready”, simply means a business exists in the market area. The second component, “willing”, suggests a business understands the requirements of the work being requested, and wants to perform the work. The third component, “able”, defines the group of firms with capacity to do the job.

Readiness

“Readiness”, as used in M-DCPS’ Disparity Study, is an indication that a firm is present in the market area studied. M³ Consulting uses Census Annual Survey of Entrepreneurs (ASE) and InfoUSA estimates of the number of firms in a specific area to measure firms “ready” to do business with M-DCPS.

Willingness

“Willingness” to engage in procurement opportunities with a public entity, as understood for purposes of this study, is a concept that cannot be observed directly, but must be inferred through volitional behavior on the part of a firm. It is possible that not all existing (ready) firms want to contract in the public sector, in general and with M-DCPS, specifically. The “willing” requirement reduces the Census ASE and InfoUSA estimate to the number of firms interested in doing business with M-DCPS, as discussed later in this chapter. Willingness can be affected greatly by the type of service area under which a potential project may be classified, the general level of market demand, previous contracting and management practices utilized by a contracting entity, legal and other administrative requirements that must be adhered to, as well as other factors.

Ability

The third component, “*able*”, defines the group of firms with the capacity to perform the tasks necessary to complete the job. The “*able*” requirement further reduces the number of firms available to do business with an entity. “*Ability*”, as used in this study, is synonymous with “capacity,” and refers to the measure of additional work a firm can take on at a given point in time.³⁵³ Ability is only imperfectly observable directly, and must also largely be inferred through external proxies such as number of employees, size of past revenues, and number of years in business. A firm may have the “ability” to perform a contract:

- Either because it already has the staff and resources to perform the work,
- Or because it can readily hire sufficient staff and acquire sufficient resources for that purpose.

Parties who are seeking to explain what the Supreme Court meant usually raise the capacity issue of qualified minorities. In *Concrete Works v. Denver Fd.* 823 F. Supp. 821 (D.Colo.1993), the Colorado district court reviewed the challenged availability/utilization analysis submitted by the City and County of Denver. The Concrete Works Company challenged the use of availability measures and suggested that the appropriate standard was capacity. The court provided a lengthy discussion of the capacity arguments, stating that:

“Capacity is a function of many subjective, variable factors. Second, while one might assume size reflects capacity, it does not follow that smaller firms have less capacity; most firms have the ability and desire to expand to meet demand. A firm’s ability to break up a contract and subcontract its parts make capacity virtually meaningless.”³⁵⁴

In *Rothe Development Co. v. U.S. Department of Defense and the U.S. Department of the Air Force*, the Federal District Court found the most reliable way for accounting for firm size, without changing the disparity-ratio methodologies was to employ “regression analysis to determine whether there was a statistically significant correlation between the size of a firm and the share of contract dollars awarded to it.”³⁵⁵ Utilizing survey data, M³ Consulting conducts regression analysis to buttress its RWASM Availability and Disparity findings.

³⁵³ The appropriate definition of capacity should be closely related to objective criteria used to determine qualifications, as discussed above. Ideally, one wants to identify and use “discrimination-free” measures of capacity in determining the pool of available firms.

³⁵⁴ *Concrete Works v. Denver*, 823 F. Supp. 821 (D.Colo.1993)

³⁵⁵ 2008-1017, Federal Circuit at 36.

M³ Consulting's RWASM model focuses on firms "actually available" to do business with M-DCPS. The overriding consideration for specifying availability estimates for M-DCPS' disparity analysis is to include firms that have actively sought to contract or provide goods and services to M-DCPS. "Actual availability" refers to firms that have affirmatively shown interest in doing business with M-DCPS in one or more of the following ways: bidding for a M-DCPS contract; being awarded a M-DCPS contract; or, being included on M-DCPS' vendor or plan holder's list. Additionally, M³ Consulting's RWASM methodology seeks to define similarly those M/WBEs, SMBEs, and Non-(M/W/SMBEs) to be included in the availability analysis.

The RWASM estimates define availability conservatively and include only those firms that have presented themselves to M-DCPS as *ready, willing* and *able* to conduct the work requested by M-DCPS.

In the arena of M-DCPS contracting, based on available data, M³ Consulting conducted an RWASM availability analysis (*i.e.*, an analysis of "actual availability") using lists of prime bidders, prime awardees, sub bidders and sub-awardees for FY 2013 - FY 2018.

C. Potential Availability Calculations

In contrast to "actually available" firms, M³ Consulting also defines firms that may exist in the relevant market and may in the future express an interest in doing business with M-DCPS. Hence, we treat these firms as "potentially available."

"Potential availability" refers to firms present in M-DCPS' market beyond those "actually available," to include those that have not bid on M-DCPS work or taken other affirmative steps toward doing business specifically with M-DCPS (as opposed to other public and private sector clients) during the study period.

M³ Consulting discusses two types of "*potential availability*"—"public sector availability"³⁵⁶ and "*marketplace availability*." These measures may be used as benchmarks in setting targets or in developing outreach initiatives to encourage firms to come forward and express an interest in M-DCPS contracting opportunities. M³ Consulting primarily focuses on Marketplace Availability because of the limitations of Public Sector Availability.³⁵⁷

4. **Public Sector AvailabilitySM** – Includes lists of available firms known to various public sector agencies, including, but not limited to, M-DCPS in the relevant market region. These firms are closer to RWASM, having expressed an interest in contracting opportunities with other public

³⁵⁶ M³ Consulting developed the "Public Sector Availability" Model in 2006.

³⁵⁷ Public Sector Availability requires intergovernmental cooperation, thus M³ Consulting performs this analysis only upon the request of the client and the proper implementation of appropriate agreements among affected public entities.

sector agencies with similar standards and limitations as M-DCPS. This availability measure includes a compilation of:

- a. Lists of public agencies' bidders, vendors and awardees; and,
 - b. List of S/M/WBEs certified by other public agencies.
5. **Marketplace Availability** – Including these firms in the availability measure expresses the 'universe' of all firms in the relevant market. These firms may or may not be considered RWASM. The lists that represent this availability measure are:
- a. Census Data
 - b. InfoUSA Data
 - c. Business License Data

U.S. Census Bureau Potential Availability Data

Measures of “potential availability” may be found in data provided by the Bureau of the Census. The standard source of evidence for firms owned by minorities and women is the 2016 Economic Census – Annual Survey of Entrepreneurs (ASE).

M³ Consulting typically develops census-based availability estimates using data provided by the Bureau of the Census (U.S. Census Bureau). The U.S. Census Bureau estimates are determined by firms with paid employees, which are a more conservative estimate of availability than the set of total firms (*i.e.*, including firms without employees) and ensures a better baseline level of firm capacity in comparison to an analysis based upon a total of all U.S. Census Bureau firms. The Census database utilized is the ASE Survey that is broken down by category descriptions into the appropriate industry, using the North American Industry Classification System (NAICS). The 2016 ASE data, which replaced the 2012 Survey of Business Owners (SBO), the most recent data, by race/gender is utilized for this analysis.

2. InfoUSA Potential Availability Data

In lieu of Census ASE data, InfoUSA is a good alternate source that reports on micro-business data. M³ Consulting analyzes this data set as a potential availability measure that reflects all businesses. The InfoUSA data includes capacity data, such as average sales revenues and average full-time employees. We will discuss the availability of firms in Chapter V and the capacity data in Chapter VIII.

Both the U.S. Census Bureau and InfoUSA lists have been compiled through statistically significant survey techniques conducted by the U.S. Census Bureau and InfoUSA, respectively. As such, these lists include the “universe” of firms in the Tri-County Area potentially available to do business with M-DCPS and are statistically reliable.

3. Other Lists

Other lists, such as certification lists, chamber of commerce lists, and licensing lists are often not compiled by any statistical technique and are not reliable in the accuracy of the information presented. Therefore, M³ Consulting does not rely upon these lists for availability measurement. The information provided, however, can be used to identify the race and gender of available firms.

D. “Actual Availability” vs. “Potential Availability”

In summary, the difference between “*actual availability*” and “*potential availability*” may help identify and narrow down the area of availability that may be affected by discrimination, lack of outreach, lack of interest, lack of specific expertise required by the public entity, and lack of capacity. See also Barriers Analysis above.

4.2.4 UTILIZATION ANALYSIS

A. Numbers of Contracts, Dollar Value of Contracts or Numbers of Firms

Utilization represents the contracting and subcontracting history of Non-(M/W/SMBEs) and M/WBEs with M-DCPS. In developing the contract database to be used as the basis for determining utilization, there are three alternative measures of utilization that can be taken in each procurement category. These are:

1. The numbers of contracts awarded;
2. The dollar value of contracts received; and,
3. The raw numbers of firms receiving contracts.

The current report presents two of the three measures of utilization: the number of contracts awarded and the dollar value of the contract awards. Both dollars and counts are reported to determine if there are any outliers or large single contracts that cause utilization dollar values to be at reported levels. These were preferred over the third measure—the number of firms, which is less exact and more sensitive to errors in measurement.

For instance, if a single firm, owned by a Non-(M/W/SMBE), received thirty contracts for \$5 million, and ten African American-owned firms received one contract each worth \$100,000, measured by the number of firms, African American-owned firms would appear to be over utilized, and Non-(M/W/SMBEs) underutilized. Using the number of contracts and the dollar value of contracts awarded, the aforementioned result would reverse (depending on relative availability).

M³ Consulting’s position in regards to percentage estimates of utilization, by the dollar value of contracts and number of contracts, is that discrimination would be more likely to affect the dollars awarded than

the number of contracts awarded to M/WBEs or the number of M/WBEs utilized, particularly if there are stereotypical attitudes that M/WBEs cannot handle larger contracts, and the largest volume of contracts awarded are smaller contracts.

B. Prime Contracting and Subcontracting

Because prime contractors, especially in Construction and Construction-related Services and Architecture and Engineering, often subcontract work to other contractors/consultants and because the utilization of M/WBEs in the absence of a set-aside or goal provision usually occurs at the subcontract level, assembling data on subcontract work is critical to utilization analysis.

In the area of Construction and Construction-related Services and Architecture and Engineering contracting, the standard presentation of utilization data by M³ Consulting is to show Total “Pure Prime + Sub-contractor” utilization and Sub-contractor utilization in separate tables, if data allows. “Pure prime utilization” based on dollar value of contracts is defined here differently from “prime contract award value” due to the necessity to avoid double-counting of subcontract awards when examining sub-contractor utilization. “Pure prime utilization” is correctly defined as the value of prime contracts *net of subcontract value*. This magnitude, when added to the value of sub-contractor utilization, results in a correct measurement of “total” utilization, by the M/WBE category.

We note that, for this Comprehensive Disparity Study, subcontracting data, is relevant to the procurement categories Architectural & Engineering and Construction and Construction-related Services. There is limited subcontracting data for the procurement types of Goods & Supplies, Maintenance and Maintenance-Related Services and Services.

4.2.5 DISPARITY ANALYSIS

A. The Notion of Disparity: The Concept and Its Measurement

A straightforward approach to establishing statistical evidence of disparity between the availability of M/WBEs and the utilization of M/WBEs by M-DCPS is to compare the utilization *percentage* of M/WBEs with their availability *percentage* in the pool of total businesses in the relevant market area. M³ Consulting’s specific approach, the “Disparity Ratio,” consists of a ratio of the percentage of dollars spent with M/WBEs (utilization), to the percentage of those businesses in the market (availability).³⁵⁸

Disparity ratios are calculated by actual availability measures. The following definitions are utilized in the M³ Consulting ratio:

³⁵⁸See DJMA, A Fact Finding Study Prepared for the New York Metropolitan Transit Authority (January 1990).

Chapter IV Statistical Methodology

A	=	Availability proportion or percentage
U	=	Utilization proportion or percentage
D	=	Disparity ratio
Nw	=	Number of women-owned firms
Nm	=	Number of minority-owned firms
Nt	=	Total number of firms

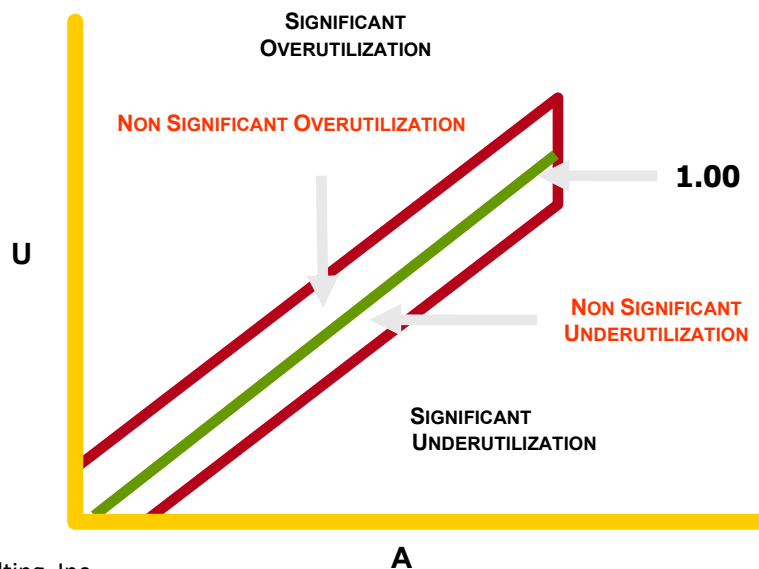
Availability (A) is calculated by dividing the number of minority and/or women-owned firms by the total number of firms. Utilization (U) is calculated by dividing total dollars expended with minority and women-owned firms by the total expenditures.³⁵⁹

Aw	=	Nw / Nt
Am	=	Nm / Nt
D	=	U / A

When $D=1$, there is no disparity, (*i.e.*, utilization equals availability). As D approaches zero, the implication is that utilization is disproportionately low compared to availability. As D gets larger (and greater than one), utilization becomes disproportionately higher compared to availability. Statistical tests are used to determine whether the difference between the actual value of D and 1 are statistically significant, (*i.e.*, whether it can be stated with confidence that the difference in values is not due to chance (see Figure 4.3).

³⁵⁹ Alternative utilization measures based on numbers of firms and numbers of contracts can be calculated in a similar fashion.

Figure 4.3
Disparity Ratio Indicating Areas of Significant and Non-Significant Disparity and Overutilization



Source: M³ Consulting, Inc.

The statistical disparity ratio used in this study measures the difference between the proportion of available firms and the proportion of dollars those firms received. Therefore, as the proportion of contract dollars received becomes increasingly different than the proportion of available M/WBEs, an inference of discrimination can be made.

1. Statistical Significance

The concept of statistical significance as applied to disparity analysis is used to determine if the difference between the utilization and availability of M/WBEs could be attributed to chance. Significance testing often employs the t-distribution to measure the differences between the two proportions. The number of data points and the magnitude of the disparity affect the robustness of this test. The customary approach is to treat any variation greater than two standard deviations from what is expected as statistically significant.

A statistically significant outcome or result is one that is unlikely to have occurred as the result of random chance alone. The greater the statistical significance, the smaller the probability that it resulted from random chance alone. P-value is a standard measure used to represent the level of statistical significance. It states the numerical probability that the stated relationship is due to chance alone. For example, a p-value of 0.05 or five percent indicates that the chance a given statistical difference is due purely to chance is one in twenty.

2. Practical Significance

The concept of statistical significance should not be confused with practical significance. According to Mansfield, even if there is a statistically significant difference between a sample value and a postulated value of a parameter, the difference may not really matter.³⁶⁰ This means disparities not statistically significant are not necessarily caused by chance. It also means that chance cannot be ruled out as a cause.

The most commonly used practical significance measure in the EEO context is the 4/5th or eighty percent rule, which indicates how large or small a given disparity is. An index less than one hundred percent indicates that a given group is being utilized less than would be expected based on its availability, and courts have adopted the Equal Employment Opportunity Commission's "80 percent" rule, that is, that a ratio less than eighty percent presents a prima facie case of discrimination³⁶¹.

Under the EEOC's "four-fifths" rule, a disparity ratio is substantively significant if it is 0.8 or less on a scale of zero to one or eighty or less on a scale of one to one hundred (i.e., Group A selection rate divided by Group B selection rate). Codified in the Uniform Guidelines on Employee Selection Procedures (UGESP, section 4D), the rule is described as follows:

"A selection rate for any race, sex, or ethnic group which is less than four-fifths (4/5) (or eighty percent) of the rate for the group with the highest rate will generally be regarded by the Federal enforcement agencies as evidence of adverse impact, while a greater than four-fifths rate will generally not be regarded by Federal enforcement agencies as evidence of adverse impact. Smaller differences in selection rate may nevertheless constitute adverse impact, where they are significant in both statistical and practical terms and where a user's actions have discouraged applicants disproportionately on grounds of race, sex, or ethnic group. Greater differences in selection rate may not

³⁶⁰ Mansfield, Edwin, *Statistics for Business and Economics*, p. 322. Two standard deviations imply 95 percent confidence level which is the norm of the courts.

³⁶¹ *Engineering Contractors II*, 122 F3d at 914; see 29 C.F.R. § 1607.4(D) ("A selection rate for any race, sex, or ethnic group which is less than four-fifths (4/5) (or eighty percent) of the rate for the group with the highest rate will generally be regarded by the Federal enforcement agencies as evidence of adverse impact, while a greater than four-fifths rate will generally not be regarded by Federal enforcement agencies as evidence of adverse impact.")

constitute adverse impact where the differences are based on small numbers and are not statistically significant.”

Thus, the 4/5th rule is a measure of the size of the disparity, but may need to be interpreted in light of particular context (e.g., sample size, in combination with statistical significance testing). However, case law suggests that the 4/5th rule can be interpreted as adequate stand-alone evidence in some situations, although it is unclear exactly what circumstances warrant such interpretation. The eighty percent rule is a general rule, and other factors such as statistical significance, sample size, discouraged applicants, etc., should be analyzed. The rationale for combining practical and statistical significance results is an intuitive one. In situations where the measures come to identical conclusions, the analyst can usually feel very confident in a finding of meaningful impact or no impact. In other situations, context may play an important role when statistical and practical significance measures produce different conclusions (i.e., when a standard deviation analysis is greater than 2.0 but the 4/5th rule is not violated)³⁶².

4.3 DATA SOURCES UTILIZED FOR STATISTICAL ANALYSIS FOR M-DCPS

In order to conduct the statistical analysis, M³ Consulting collected and analyzed data from M-DCPS for the period covering FY 2013 through FY 2018. M-DCPS’ fiscal extends from July 1 to June 30, so, for example, FY 2013 covers a period of July 1, 2012 to June 30, 2013. Each additional fiscal year, 2014-2018, begins on July 1st and ends June 30th the following year. This section discusses the degree of completeness of the data source, data sources used, and the data collection process, including the issues, if any, M³ Consulting encountered with these data sources. For this disparity study, M³ Consulting collected and analyzed electronic and hard-copy files.

M³ Consulting sought to verify data provided, to the degree possible, within the time constraints of the study. Under employment discrimination law, a finding of adverse impact and inference of discrimination may be issued, if data is not maintained in formats that allow for on-going analysis of decisions made that may be impacted by race, gender, or ethnicity.³⁶³ The question remains if a similar holding of adverse impact and inference of discrimination, based on poor data tracking systems or lack of data required for disparity analysis, may be issued under a *Croson* analysis. This question should be viewed with the understanding that M-DCPS has a mature M/WBE program in existence for almost thirty years and has conducted multiple disparity studies.

³⁶² See Tables 1 and 2 that explain this in, “A Consideration of Practical Significance in Adverse Impact Analysis,” Eric M. Dunleavy, July 2010, <http://dciconsult.com/whitepapers/PracSig.pdf>

³⁶³ 29 CFR §1607.4.D.—“Where the user has not maintained data on adverse impact as required by the documentation section of applicable guidelines, the Federal enforcement agencies may draw an inference of adverse impact of the selection process from the failure of the user to maintain such data, if the user has an underutilization of a group in the job category, as compared to the group’s representation in the relevant labor market or, in the case of jobs filled from within, the applicable work force.”

4.3.1 DATA SOURCES FOR RELEVANT MARKET

In calculating relevant market, M³ Consulting sought to determine where approximately 70 percent of firms were located. We utilized the following market areas by procurement type to determine inclusively where the bulk of commercial activity by M-DCPS occurs.

- Tri-County Area—consists of the following three counties: Miami-Dade County, Broward County and Palm Beach County;
- State of Florida; and,
- Nationwide.

Within these market areas, M³ Consulting determine the percentage of firms meeting the 70 percent threshold based on:

- Bidder and Awardees—Number of bidders, sub-bidders, awardees and sub-awardees; and,
- PO and AP data—Dollar values and counts of PO and Payments.

4.3.2 DATA SOURCES FOR AVAILABILITY

A. RWASM Data Sources

1. Bidders

By bidding, firms demonstrate that they are “ready”, “willing” and assert that they are “able.” M-DCPS, in its bid review, ranking and decision-making process of responsive and responsible bidders determines “ability.”

In order to identify projects bid by M-DCPS, M³ Consulting queried M-DCPS regarding two potential sources of bidder data:

- Bidders and Sub-bidders on Formal Purchases; and,
- Quotes on Informal Purchases.

Unlike most public agencies, where bid tabulations are strictly maintained in hard copy format, M-DCPS’ Procurement Management Services (PMS) posts hard copy bid tabulations and board agenda items on the PMS website. The website identifies and isolates solicitations into two categories, (1) construction and (2) non-construction. PMS also maintains hard-copy bid tabulations and copy records of bid and contract award data. Again, unlike many other public agencies, M-DCPS does track quotes—written or verbal—on informal contracts. However, the data was not in electronic format and not easily transferable to electronic form.

M³ Consulting collected data on bidder activity and award activity using the PMS website. Bid tabulations are provided for each of the construction and non-construction solicitations. Further, each project contained a board agenda item that detailed the awarded firm(s), with sub-contractors in some instances, for each solicitation let during the study period of FY 2013—FY 2018. Several solicitations during this period were rejected, rescinded or simply withdrawn. Data on these bids, provided a bid tabulation was listed, was captured to ensure bidder availability robustness.

M³ Consulting initially assigned procurement types to construction and non-construction projects. These assignments were submitted to M-DCPS' PMS for review and confirmation. Collaboratively, M³ Consulting and PMS made appropriate adjustments where needed.

M³ Consulting used the defined procurement types as the basis for allocating bidder and award activity into the procurement types of Architecture & Engineering, Construction and Construction-Related Services, Goods & Supplies, Maintenance & Maintenance-Related Services and Services. The bidders and sub-bidders were cross-matched against the Master M/WBE/SBE file,³⁶⁴ which included the MDCPS certification list, to identify the race, gender or ethnicity of firms.

2. Awardees

Awardees satisfy the same RWASM criteria as bidders. However, the availability pool is smaller because it only includes bidders who received an award on formal contracts. The awardees availability pool was determined using the awarded bidder in the contract awards data (see above, 1. Bidders), as well as purchase order and accounts payable data. Awardees were identified by their representation on the PMS website board agenda item, and on a purchase order and/or payment captured in the SAP financial management system.

All vendors to whom a purchase order is issued and a payment is made against formal or informal contracts, are inherently considered awardees. SAP data includes both informal awardees and formal awardees based on contracts let during the study period of FY 2013—FY 2018. As part of the data submission, M³ Consulting requested the removal of all activity related to non-commercial vendors (i.e. non-profits, governmental entities and employees). M³ Consulting also reviewed the contracts let by M-DCPS to ensure all non-commercial activity was excluded from the analysis.

M³ Consulting deemed the Purchase Order data in the financial management system as the most comprehensive source of firm award/commitment data at the formal and informal level. While Payments data is accurate based on actual disbursements, because of the nature of M-DCPS' contracting, it may undercount or over-count M/WBE utilization.

3. Vendors

³⁶⁴ See discussion of Master S/M/WBE List below.

Enrollment as a vendor is an additional criterion that may be used to measure availability. Companies included on the vendor list (“vendors”) are a broader measure of availability of firms than bidders and awardees. While vendors meet the “*ready*” and “*willing*” test, they may not have the capability to perform. While vendors are a less desired dataset to measure RWASM availability, capacity proxies could be established if M-DCPS captured relevant data on its vendor registration application, which may be useful for future analysis.³⁶⁵

M-DCPS maintains an official vendor list that details vendor service/product lines. Data provided for this analysis consisted of a directory of firms who have come forward to M-DCPS seeking to do business with the District. PMS maintains the vendor list and individual buyers/contract specialists in PMS utilize the list as a method to send prospective vendors notification of upcoming procurement activity.

In calculating vendor availability, M³ Consulting categorized each vendor into the disparity study’s procurement types using the NIGP codes listed during at the time of application. M³ Consulting notes that not all applicants selected category codes that identify the products and services the vendor applicant would supply/provide to M-DCPS. In scenarios where a vendors’ products/services crossed procurement types, the vendor is counted as available once for each procurement type. Conversely, if multiple category codes provided all fall within the same procurement type, that vendor is counted only once. M³ Consulting includes vendors at Level 3 of the availability model, as these firms were ready and willing to do business with M-DCPS.

³⁶⁵ DOT requires capacity proxies to be captured on bidder and sub-bidder data. We do note, that, firms, unless required as part of the bid evaluation process, do not tend to voluntarily provide financial data.

4. M-DCPS Certified Firms

M-DCPS' Office of Equal Opportunity (OEO) maintains a list of certified firms who seek to work for M-DCPS and have taken the additional step to be certified as a SMBE or M/WBE firm. OEO has the responsibility of vetting firms to confirm they are owned and operated by minority and/or female persons. While firms on the certification list meet the *"ready, willing and able"* criteria, the problem lies in the fact that only SMBEs and M/WBEs are subject to the certification process. While the certification listing is one measure of SMBEs and M/WBE availability, there is no such equivalent listing of Non-(M/W/SMBEs). Using the certification list alone to measure availability would cause bias in the availability measurement.

5. Master M/WBE/SBE List

M³ Consulting sought useable certified lists from public agencies in the South Florida business area. M³ Consulting particularly, focused on local directories from the tri-county area of Miami-Dade, Palm Beach and Broward counties. State directories narrowed to the Tri-County Area of M/W/DBEs were also sought from the State of Florida and included in the master list of M/WBE/SBEs. From agency responses, M³ Consulting created the Master M/WBE/SBE List for this study by combining agency certified lists from Broward County, School Board of Broward County, Miami-Dade County, State of Florida, Florida DOT, School District of Palm Beach County and M-DCPS.

When using the Master M/WBE/SBE list to identify the race, ethnicity or gender of a business owner, for firms with multiple agency certifications, M-DCPS certification took precedence.

The following lists the information that was generated from the collected directories:

- Company Name
- Company Address (and City, State, Zip Code)
- Contact Name (when available)
- Company Telephone and Fax Numbers
- Ethnicity and gender of ownership
- Procurement Type (when available)
- Relevant Market Location
- Certifying Agency
- NAICS code

This Master M/WBE/SBE List was then used to identify the race or gender of firm owners in other databases where such information was missing.

B. Potential Availability Data Sources

1. U.S. Census Bureau Annual Survey of Entrepreneurs Data

The U.S. Census Bureau conducts an Annual Survey of Entrepreneurs (ASE). The most recently published data for Miami-Dade County are the results of the 2016 survey and is discussed previously.

2. InfoUSA

InfoUSA provided a customized list of firms for the Tri-County South Florida Area. The InfoUSA database consists of observations for registered firms in Miami-Dade Palm Beach MSA by SIC and NAICS code, and MBE and WBE status. M³ Consulting removed SIC and NAICS codes that were not relevant to M-DCPS procurement activity, such as agriculture and mining. M³ Consulting sorted the SIC codes into the categories of Architecture and Engineering, Construction & Construction-Related Services, Services, Goods & Supplies availability tables. InfoUSA database also provided data for these same firms on firm sales and employees. M³ Consulting utilized this data as a measure of firm capacity.

InfoUSA is not updated daily and so at any point in time, there may be some businesses that are not included, thus possibly undercounting the number of small businesses. In addition, InfoUSA firms are listed for a fee.

Also, while InfoUSA includes small and micro home-based businesses, these are difficult to identify and are thus somewhat less likely than other businesses to be included in InfoUSA listings. A large number of small and micro, home-based businesses are more likely than large businesses to be minority- or women-owned, which suggests that M/WBEs might be underrepresented in the availability database.

4.3.3 DATA SOURCES FOR UTILIZATION

Utilization measures the distribution of dollars and contracts to commercial M/WBEs and Non-(M/W/SMBEs) by M-DCPS. The sources of data sought from M-DCPS on M/WBE utilization for this report were Contract Awards Prime & Sub-contractor Data, Purchase Orders (PO), and Accounts Payables (AP) data. The following are descriptions of utilization databases.

A. Contract Awards and Sub-contractor Data

M³ Consulting obtained M-DCPS' contract awards data from solicitations advertised by M-DCPS during the study period of FY 2013 – FY 2018. The Construction and Non-Construction solicitations listed on the Districts' PMS website served as the contract log for this effort and a guide to data collection efforts. The solicitation data detailed the bidder and contract activity at M-DCPS. This list of solicitations is referred to as the contract log and represent the universe of formal M-DCPS competitive contracts. Any contract valued greater than \$50,000 is required to be procured using formal competitive procurement methods. Board items associated with each solicitation included information regarding the pricing and/or value of

contract award and the awarded firm. Additional data fields contained vendor contact information, solicitation identification number and, in most cases, the purpose for the contract.

Based on the solicitation name, M³ Consulting classified the non-construction solicitations into the procurement types of Goods & Supplies, Services and Maintenance & Maintenance-Related Services and construction solicitations into Architect & Engineering and Construction. M³ Consulting provided the classification to the District for review to. Adjustments were made where necessary.

For construction solicitations, M³ Consulting used the bid tabulation to capture each bidder for the solicitation and where available any subcontract award data contained in files maintained by PMS. The winning bidder or awardee was identified. The PMS authorized amount detailed in the board agenda item is the basis for the utilization amount for each non-construction solicitation. For construction contracts, the Guaranteed Maximum Price (GMP), as negotiated between the District and the awarded construction manager at-risk firm, served as the basis for the award amount. M³ Consulting collected prime and sub-contractor data from the final GMP book, housed in the Facilities Department, based on the projects with a notice to proceed (NTP) during the study period. For Architecture & Engineering, the board agenda items' Section F (Facilities) served as the identifier of awarded prime and subs for A&E services. In the case of single awarded firm for the procurement categories, and the award amount is detailed on the board item, the listed amount was used in the contract awards analysis. In the case of multiple awards, PMS advised, the authorized amount would be distributed across the number of awardees.

The contract awarded firm would subsequently have a purchase order issued for the contracted amount. M³ Consulting collected purchase order data from the District for the study period FY 2013 – FY 2018. A discussion of the purchase order is below.

B. Purchase Orders

Purchase Orders (POs) represent, in certain terms, the total value of a specific good or service for which payments may be made against. These are contract commitments representing the actual firm with which M-DCPS executed a contract, as compared to contract award, which represents vendors identified as the winning bidder, resulting from the bid and evaluation process. Unless there is a justifiable and legitimate business reason (i.e. negotiations with winning bidder that may have caused changes in scope and final cost), the winning bidder and winning bid amount, and contracted firm and contracted amount, should be the same. Differences may necessitate a deeper dive and further analysis to ensure that these differences are not due to discriminatory reasons. M³ Consulting leaned toward relying upon PO data commitments, as it included all change orders, informal purchases commitments and other procurement opportunities not competitively bid.

Classification of the purchase into the procurement types was completed utilizing the material group coding scheme attached to the purchase order. For each purchase order, the District utilizes the material group code to define the type of goods or services being procured. M³ Consulting, along with input from the District, worked to ensure each material group definition was allocated accurately across the procurement types. This allocation serves as the basis of purchase order distribution presented in the statistical chapters.

C. Accounts Payable

Accounts Payable data, provided by M-DCPS' IT department, permitted utilization analysis based on actual payments to M-DCPS' vendors. M³ Consulting historically allocates payments using commodity codes or object codes. Given each payment by the District must have an underlying purchase order, the material group classifications were used to allocate payments into the procurement types. Thus, the material group codes were utilized for allocation of both POs and payments into procurement types. In the relatively small number of cases where a material group was not available, M³ Consulting relied on the general ledger account number and description for classification of procurement types.

M³ Consulting requested that all non-commercial payments to vendors be excluded from the analysis. To ensure that the non-commercial transactions were not included, M³ Consulting randomly selected vendors to ensure they were not governmental entities, non-profit entities or employees to the degree possible. In cases where some non-profits or governmental entities were included in the accounts payable data, M³ Consulting labeled those vendors as non-commercial entities and did not include them in the analysis.

4.3.4 DATA SOURCES FOR CAPACITY

A. U.S. Census Bureau

The U.S. Census Bureau conducts the Annual Survey of Entrepreneurs, which replaced the Survey of Business Owners. The most recently published data are the results of the 2016 survey. A measure of capacity, M³ Consulting calculated number of employees and sales receipts for firms by race/gender.

B. InfoUSA

InfoUSA provided firm sales and employee data by Minority and WBE status. Both sales and employees were broken down into different thresholds.

C. Survey

M³ Consulting conducted a survey of firms on the M-DCPS vendor registry and Master M/WBE/SBE list, with a focus on gathering capacity data for the regression analysis. The process involved creating a questionnaire, sample design, data collection and coding, analysis and interpretation. Questions were designed with the specific purpose of collecting information about the availability of firms seeking to do business with M-DCPS and the private sector and their capacity.

Typically, a sampling frame is defined by vendors registered to do business with M-DCPS and a random sample drawn enabling M³ Consulting to obtain information to make inferences about capacity of vendors in the analyzed population. M³ Consulting relied primarily on the combined vendor lists and the Master M/WBE/SBE list to run the survey. Due to the cost-effectiveness and implementation of online surveys, M³ Consulting emailed the survey link to the entire population of firms in these two aforementioned lists to maximize sample size. 429 surveys were received.

4.4 SUMMARY OF FINDINGS

This statistical methodology and data collection discussion provides the foundation for subsequent statistical chapters. It details the types of analysis used in disparate impact studies, as well as disparity analysis in contracting.

The basic comparison to be made in disparity studies is between firms owned by minorities and/or women (“M/WBEs”) and other firms (“Non-(M/W/SMBEs)”) *ready, willing and able* to perform a specific service (or, available firms) and the actual utilization of such businesses within the geographic parameters of both its prime contractors and the political and legal jurisdiction for M-DCPS. The chapter details the method of defining the geographic market area for M-DCPS, outlines the Availability model used by M³ Consulting, and provides a detailed explanation of alternate measures of utilization of firms in contracting by M-DCPS.

Following the model, a thorough discussion of the data sources used in the study, starting with the data collection process, the issues encountered in the process and the caveats that presented itself due to data limitations are laid out. This section discusses the degree of completeness of the data source and the limitation in analysis that result from the same.

CHAPTER 5: STATISTICAL ANALYSIS OF RELEVANT MARKET AND M/WBE AVAILABILITY

5.1 INTRODUCTION

This chapter presents data on M/WBE availability in the Miami-Dade County Public Schools (hereafter, M-DCPS) relevant market. The conceptual issues in measuring availability are discussed in detail in Chapter IV, Statistical Methodology. The accurate calculation of availability is critical in disparity analysis. *“Actual availability,”* as defined by M³ Consulting for purposes of this study, provides the measure of the number of M/WBEs who are *ready, willing and able* to do business with M-DCPS. An overcount or undercount of the pool of available M/WBEs can significantly alter findings of disparity. As such, M³ Consulting has developed an availability model that best captures those M/WBEs who are available to M-DCPS.

The first section of this chapter discusses the determination of the relevant market for M-DCPS. The second section presents the estimates of M/WBE availability for five procurement categories: Architecture and Engineering; Construction and Construction-Related Services; Maintenance and Maintenance-Related Services; Services; and, Goods & Supplies;. The following availability measures are presented for each procurement category:

- **Ready, Willing and Able Availability (*RWASM*)**
 - Level 1: Bidders and Sub-bidders
 - Level 2: Bidders, Sub-bidders, Formal and Informal Awards from SAP Data
 - Level 3: Bidders, Sub-bidders, Formal and Informal Awards form SAP Data, Vendors³⁶⁷
- **Marketplace Availability**
 - InfoUSA

The chapter summarizes availability findings in the Summary of Findings section.

³⁶⁷ All M-DCPS certified M/WBEs and SMBEs are included on the vendors list.

5.2 RELEVANT MARKET

In the context of disparity studies, the relevant market establishes the geographical boundaries where a bulk of commercial transactions by the agency is conducted. The analysis of M/WBE availability and utilization are examined within this defined geographical market area. Based on the U.S. Supreme Court requirement that a M/WBE program covers only those groups that have actually been affected by discrimination within the public entity's jurisdiction,³⁶⁸ most courts and disparity study consultants characterize the relevant market as the geographical area encompassing the majority of a public entity's commercial activity, commonly determined by a representation of over seventy percent of an entity's contract dollars.

The Supreme Court's *Croson* decision did not provide specific guidance on the estimation of relevant market for the purposes of constructing a factual predicate study. Based upon lower court rulings, however, there are two requirements for determining the relevant market that have emerged:

1. the boundaries of the relevant market must be geographically close to that of the political jurisdiction enacting the program; and,
2. the relevant market must include the bulk of the commercial activity of the said political jurisdiction.

Consequently, many disparity studies of local areas have identified the metropolitan statistical area (Tri-County) as the relevant market.³⁶⁹ Certain other entities, however, (*e.g.*, Dallas and Los Angeles) have restricted the relevant market to those firms within their jurisdictional boundaries.

Relevant Market for M-DCPS

In order to estimate availability, the marketplace in which M-DCPS purchases from vendors needs to be defined. This enables a practical count of "available" firms and also facilitates policy implementation.

Based on the data provided for this study, three relevant markets were defined and are presented below in Tables 5.1 and 5.2. M³ Consulting examined the Tri-County MSA and the State of Florida.

- Tri-County MSA—consists of the following three counties: Miami-Dade, Broward and Palm Beach Counties;

³⁶⁸ *Richmond v. Croson*, 488 U.S. 469, 109 S.Ct. 706, 725 (1989).

³⁶⁹ See, for example, *Concrete Works v. Denver*, 823 F Supp 821, at 836, n. 11; rev'd on other grounds, 36 F3d 1513 (10th Cir. 1994). Some earlier studies followed antitrust precedent in using an 85 percent benchmark as the relevant market. See, *e.g.*, DJMA, *Disparity Study for the Orange County Consortium* (1993). The 2nd circuit has not provided any substantive guidance on the calculation of the relevant market for disparity studies.

Chapter V

Statistical Analysis of Relevant Market and M/WBE Availability

- State of Florida
- Nationwide

The relevant market for each industry category is summarized in Table 5.1, for each procurement type by location because of the commercial activity that M-DCPS conducts with its vendors in different procurement areas. The summary table represents the percentage of bidders, vendors and awardees for each industry category by the relevant market determinations outlined in Tables 5.2 through 5.6.

1. Architecture and Engineering, Construction and Construction Related Services, Maintenance and Maintenance Related Services Relevant Market—Tri-County MSA

All measures – Location of firms that are bidders or awardees, as well as purchase order and payments, point to the majority of commercial activity from within the Tri-County for this procurement type, thus defining the Tri-County as the relevant market (see Tables 5.2—5.4).

2. Services, Goods & Supplies Relevant Market—Nationwide

For Services, only bidders/sub-bidders and PO counts reached the 70 percent threshold for Services; only bidders/sub-bidders reached the 70 percent threshold for Goods & Supplies. However, PO and Payment dollars represent a more reliable measure for both Services and Goods & Supplies, as these measures capture informal contracts and requirements contracts. Payments and Purchase Order counts and dollars, point to the Nation as the relevant market, as reflected in Tables 5.5 and 5.6.

Chapter V

Statistical Analysis of Relevant Market and M/WBE Availability

Table 5.1. Summary of Relevant Market Determination			
	Tri-County	State	Nationwide
Architecture and Engineering	✓		
Construction and Construction-Related Services	✓		
Maintenance and Maintenance-Related Services	✓		
Services			✓
Goods and Supplies			✓

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data, M-DCPS Vendor data;

Table 5.2. Relevant Market Summary: Architecture and Engineering FY 2013 - FY 2018			
	Tri-County	State	Nationwide
	%	%	
Bidders/Sub-bidders	92.31	95.10	143
Bidders/Awardees	86.23	89.22	167
PO Dollars	93.62	93.82	60,156,849
PO Counts	94.91	95.02	5,602
Payment Dollars	93.00	93.26	46,013,428
Payment Counts	89.27	89.34	10,324

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data, M-DCPS Vendor data; P-Card data

Chapter V

Statistical Analysis of Relevant Market and M/WBE Availability

Table 5.3.
Relevant Market Summary: Construction and Construction-Related Services
FY 2013-FY 2018

	Tri-County	State	Nationwide
	%	%	
Bidders/Sub-bidders	74.17	83.51	1,928
Bidders/Awardees	71.50	81.07	2,298
PO Dollars	88.58	94.13	712,526,345
PO Counts	85.39	86.24	38,998
Payment Dollars	86.85	93.30	573,081,636
Payment Counts	82.49	84.78	65,908

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data, M-DCPS Vendor data; P-Card data

Table 5.4.
Relevant Market Summary: Maintenance and Maintenance-Related Services
FY 2013-FY 2018

	Tri-County	State	Nationwide
	%	%	
Bidders/Sub-bidders	83.46	91.34	254
Bidders/Awardees	76.06	83.54	1,136
PO Dollars	85.40	89.82	86,997,699
PO Counts	75.99	79.52	10,693
Payment Dollars	76.79	84.35	48,179,764
Payment Counts	76.57	84.42	27,822

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data, M-DCPS Vendor data; P-Card data

Chapter V

Statistical Analysis of Relevant Market and M/WBE Availability

Table 5.5. Relevant Market Summary: Services FY 2013-FY 2018			
	Tri-County	State	Nationwide
	%	%	
Bidders/Sub-bidders	62.48	71.86	661
Bidders/Awardees	57.22	66.29	2,314
PO Dollars	31.37	34.44	759,931,427
PO Counts	64.17	71.39	28,575
Payment Dollars	29.23	32.42	672,550,134
Payment Counts	60.96	62.84	144,312

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data, M-DCPS Vendor data; P-Card data

Table 5.6. Relevant Market Summary: Goods & Supplies FY 2013-FY 2018			
	Tri-County	State	Nationwide
	%	%	
Bidders/Sub-bidders	58.70	71.43	385
Bidders/Awardees	47.53	57.09	2,990
PO Dollars	21.24	40.31	\$ 1,307,378,006
PO Counts	41.85	51.29	226,305
Payment Dollars	21.54	42.95	\$ 1,135,660,381
Payment Counts	17.17	20.89	1,776,636

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data, M-DCPS Vendor data; P-Card data

Chapter V

Statistical Analysis of Relevant Market and M/WBE Availability

Miami-Dade County Public Schools
Comprehensive Disparity Study
Final Report
October 26, 2020
Page 5-171 of 5-450

5.3 AVAILABILITY DEFINITION

The availability measure is often in dispute and critical to defining disparity. One must be careful not to include all businesses as *ready, willing and able*, as such a calculation could produce a very broad pool of available firms, including those who are not interested or able to provide goods or services purchased by M-DCPS. Similarly, a very narrowly tailored measure of availability may exclude some potential bidders, by falsely classifying them as unable to perform the requirements of contracts. A detailed discussion about the availability model and measurement of Availability are provided in Chapter 4: Statistical Methodology.

The Ready, Willing and Able (RWASM) Availability Model levels are defined as follows:

Figure 5.1
RWASM Availability Model

M-DCPS RWASM Availability

1. Prime and sub-bidders by contract category for each year of study period

2. Prime and sub-bidders by contract category for fewer years

3. Prime bidders, sub-awardees, prime awardees (informal purchases) for each year of study period

4. Prime bidders, sub-awardees, prime awardees (informal purchases) for fewer years period

5. Prime bidders, sub-awardees, prime awardees (informal purchases) + Vendors + certified M/W/DBEs for fewer years period

Public SectorSM Availability

6. M-DCPS RWA measure+ similar public entity prime and sub-bidders

7. M-DCPS RWA measure + similar public entity prime and sub awardees

8. M-DCPS RWA measure + similar public entity prime, sub awardees and vendors + Master M/W/DBEs List

Marketplace Availability

9. Census

10. InfoUSA

Source: M³ Consulting. Inc.

Chapter V

Statistical Analysis of Relevant Market and M/WBE Availability

M³ Consulting’s RWASM Availability Model is further tailored to the robustness of M-DCPS’ specific databases available for analysis. RWASM availability is defined at Level 2 for the FY 2013 – FY 2018 period that includes prime and sub bidders, informal and non-competitive awardees and prime and sub awardees to comprise this availability pool. Level 2 RWASM Availability will be compared to utilization when determining disparity in Chapter 7, Statistical Analysis of M/WBE Disparity in Contracting.

Levels 1-3 are presented independently and cumulatively in Figure 5.2, as three measures of RWASM availability, with Level 2 being a combined pool of discrete available firms across these measures and Level 3 further including M-DCPS Vendors who may or may not have bid with M-DCPS. In addition, the Total Available Firms are presented below, followed by availability by procurement type.

Figure 5.2. M-DCPS Specific RWASM Availability Levels	
RWASM Availability Level	RWASM Availability Definition
Level 1	M-DCPS Bidders and Sub-bidders
Level 2	M-DCPS Bidders and Sub-bidders + AP/PO Firms
Level 3	M-DCPS Bidders and Sub-bidders + AP/PO Firms + Vendors*

Source: M³ Consulting; *All firms certified by MDCPS are included on the Vendors List

As a benchmark to RWASM availability, marketplace availability is reflected in table A.1 in Volume II, Appendix Tables.

5.4 RWASM TOTAL AVAILABILITY

RWASM availability measures are presented in Table 5.7 for the study period. M-DCPS bidders and sub-bidders reflected a total of 3,141 available firms, including 1,901 (60.52 percent) Non-(M/W/SMBE) firms and 1,143 (36.39 percent) M/WBE. Expanding the availability pool to Level 2 to include informal and non-competitive awardees and prime and sub-contractors resulted in a larger pool of 4,566 available firms, which included 3,184 Non-(M/W/SMBE) (69.73 percent) and 1,263 M/WBE firms (27.66 percent) of total available firms. M/WBEs include 221 (4.84 percent) African American-owned firms, 28 (0.61 percent) Asian American-owned firms, 638 (13.97 percent) Hispanic American-owned firms, 3 (0.07 percent) Native American-owned firms and 50 (1.10 percent) Other Minority, along with 257 (5.63 percent) Caucasian Woman-owned (WBE) firms. It may be noted that most M/WBEs largely bid via the formal process, as M/WBEs are a greater proportion of bidders and awardees (Level 1), but adding informal payments reduces their proportion overall (Level 2). At Level 3, there was a total of 11,111 vendors that registered

Chapter V

Statistical Analysis of Relevant Market and M/WBE Availability

to receive solicitations, of which 8,940 (80.46 percent) were Non-(M/W/SMBE) firms and 2,025 (18.23 percent) were M/WBEs.

Table 5.7.
RWASM Availability: Levels 1-3
Total Availability
Miami-Dade County Public Schools
Nationwide, FY 2013 - FY 2018

Race/Ethnicity/Gender	Level 1		Level 2		Level 3	
	#	%	#	%	#	%
Non-(M/W/SMBE)	1,901	60.52	3,184	69.73	8,940	80.46
African American	203	6.46	221	4.84	357	3.21
Asian American	26	0.83	28	0.61	42	0.38
Hispanic American	585	18.62	638	13.97	937	8.43
<i>Native American</i>	3	0.10	3	0.07	5	0.05
<i>Other Minority</i>	42	1.34	50	1.10	242	2.18
<i>Total Minority</i>	<i>859</i>	<i>27.35</i>	<i>940</i>	<i>20.59</i>	<i>1,583</i>	<i>14.25</i>
WBE	231	7.35	257	5.63	314	2.83
Unknown M/WBE	53	1.69	66	1.45	128	1.15
Total M/WBE	1,143	36.39	1,263	27.66	2,025	18.23
SMBE	95	3.02	117	2.56	142	1.28
Veterans	2	0.06	2	0.04	4	0.04
Grand Total	3,141	100.00	4,566	100.00	11,111	100.00

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data, M-DCPS Vendor data; Other Minority is a firm identified as MBE, with no specific race/ethnicity identified; Unknown M/WBE is a firm identified as M/WBE, with no specific race/ethnicity/gender identified.

Chapter V

Statistical Analysis of Relevant Market and M/WBE Availability

5.5 RWASM AVAILABILITY IN ARCHITECTURE AND ENGINEERING

Using Level 2 to define availability as reflected in Table 5.8, the relevant market includes a total of 144 A&E firms that attempted to or presently do business with M-DCPS. The majority of available firms are Hispanic American-owned at 60 or 41.67 percent, followed by Non-(M/W/SMBEs) at 30 or 20.56 percent and African American-owned firms at 19 or 13.19 percent. WBEs and Asian American-owned firms did not reach 7 percent, at 6.94 percent (10 firms) and 5.56 percent (8 firms) respectively. SMBE firms showed a higher level of Availability than WBEs and Asian American-owned firms at 14 firms or 9.72 percent. The higher level of availability at Level 2 over Level 3 suggests that Minority-owned firms and WBEs are actually bidding at a higher rate on M-DCPS opportunities, compared to Non-(M/W/SMBEs).

Table 5.8.						
RWASM Availability: Levels 1-3						
Architecture and Engineering						
Miami-Dade County Public Schools						
Tri-County MSA, FY 2013-FY 2018						
	Level 1		Level 2		Level 3	
Race/Ethnicity/ Gender	#	%	#	%	#	%
Non-(M/W/SMBE)	20	15.15	30	20.83	184	45.89
African American	19	14.39	19	13.19	30	7.48
Asian American	8	6.06	8	5.56	11	2.74
Hispanic American	60	45.45	60	41.67	112	27.93
<i>Other Minority</i>	1	0.76	1	0.69	31	7.73
<i>Total Minority</i>	88	66.67	88	61.11	184	45.89
WBE	10	7.58	10	6.94	14	3.49
Unknown M/WBE	1	0.76	2	1.39	3	0.75
Total M/WBE	99	75.00	100	69.44	201	50.12
SMBE	13	9.85	14	9.72	16	3.99
Veterans	0	0.00	0	0.00	0	0.00
Grand Total	132	100.00	144	100.00	401	100.00

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data, M-DCPS Vendor data; Relevant Market—Tri-County MSA; Other Minority is a firm identified as MBE, with no specific race/ethnicity identified; Unknown M/WBE is a firm identified as M/WBE, with no specific race/ethnicity/gender identified.

Chapter V

Statistical Analysis of Relevant Market and M/WBE Availability

5.6 RWASM AVAILABILITY IN CONSTRUCTION

Total M/WBE firms represent almost 49 percent of Level 2 RWASM available firms, as show in Table 5.9. This level of availability is driven by 26.96 percent availability (443 firms) of Hispanic American-owned firms. African American-owned firms reached 7.91 percent or 130 firms and WBEs reached 9.43 percent or 155 firms. Asian American-owned and Native American-owned firms did not reach one percent, at 0.55 percent and 0.12 percent, respectively. It appears that Total M/WBE firms are bidding and being awarded contracts (Level 2) at a higher rate than they are registering to receive notice of construction opportunities. We note that Level 3 Availability, based on M-DCPS vendors, is closer to potential availability than actual availability. Vendors represent those firms that have shown that they are ready and willing, but ability has not yet been vetted by M-DCPS.

Table 5.9.						
RWASM Availability: Levels 1-3						
Construction and Construction-Related Services						
Miami-Dade County Public Schools						
Tri-County MSA, FY 2013 - FY 2018						
	Level 1		Level 2		Level 3	
Race/Ethnicity/ Gender	#	%	#	%	#	%
Non-(M/W/SMBE)	605	42.31	777	47.29	3,200	67.47
African American	125	8.74	130	7.91	248	5.23
Asian American	8	0.56	9	0.55	26	0.55
Hispanic American	426	29.79	443	26.96	742	15.64
<i>Native American</i>	2	0.14	2	0.12	4	0.08
<i>Other Minority</i>	23	1.61	27	1.64	105	2.21
<i>Total Minority</i>	584	40.84	611	37.19	1,125	23.72
WBE	151	10.56	155	9.43	237	5.00
Unknown M/WBE	36	2.52	38	2.31	64	1.35
Total M/WBE	771	53.92	804	48.93	1,426	30.07
SMBE	54	3.78	62	3.77	116	2.45
Veterans	0	0.00	0	0.00	1	0.02
Grand Total	1,430	100.00	1,643	100.00	4,743	100.00

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data, M-DCPS Vendor data; Relevant Market—Tri-County MSA; Other Minority is a firm identified as MBE, with no specific race/ethnicity identified; Unknown M/WBE is a firm identified as M/WBE, with no specific race/ethnicity/gender identified.

5.7 RWASM AVAILABILITY IN MAINTENANCE AND MAINTENANCE-RELATED SERVICES

Maintenance and Maintenance-Related Services (M&MRS) consist primarily of small construction opportunities and some service opportunities, as reflected in Table 5.10. Most M&MRS construction opportunities fall into the category of \$2 million or less. In this category, Minority-owned firms and WBEs should be more available. Interestingly, Level 2 Total M/WBE availability for M&MRS at 31.47 percent (271 firms) is lower than Level 2 Total M/WBE availability for Construction at 48.93 percent (804 firms). This may reflect that M/WBEs are less aware of these opportunities. It could also reflect M/WBE lack of willingness to bid on small prime level opportunities, which would suggest that M/WBE firms believe they are better suited for or better able to secure M-DCPS subcontract opportunities. Further research is required to determine whether M/WBEs consider M-DCPS a “closed shop” at the prime level.

Similar to Construction, Hispanic American-owned firms have the highest availability among Minority-owned firms and WBEs at 17.59 percent, followed by African American-owned firms at 4.28 percent and Other Minority-owned firms at 4.51 percent. WBEs and Asian American-owned firms trailed at 3.47 percent and 0.46 percent respectively.

Chapter V

Statistical Analysis of Relevant Market and M/WBE Availability

Table 5.10.
RWASM Availability: Levels 1-3
Maintenance and Maintenance-Related Services
Miami-Dade County Public Schools
Tri-County MSA, FY 2013 - FY 2018

	Level 1		Level 2		Level 3	
Race/Ethnicity/ Gender	#	%	#	%	#	%
Non-(M/W/SMBE)	104	49.06	553	64.00	2,025	70.17
African American	23	10.85	37	4.28	97	3.36
Asian American	2	0.94	4	0.46	11	0.38
Hispanic American	48	22.64	152	17.59	345	11.95
<i>Other Minority</i>	5	2.36	39	4.51	289	10.01
Total Minority	78	36.79	232	26.85	742	25.71
WBE	12	5.66	30	3.47	46	1.59
Unknown M/WBE	5	2.36	9	1.04	20	0.69
Total M/WBE	95	44.81	271	31.37	808	28.00
SMBE	12	5.66	39	4.51	52	1.80
Veterans	1	0.47	1	0.12	1	0.03
Grand Total	212	100.00	864	100.00	2,886	100.00

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data, M-DCPS Vendor data; Relevant Market—Tri-County MSA; Other Minority is a firm identified as MBE, with no specific race/ethnicity identified; Unknown M/WBE is a firm identified as M/WBE, with no specific race/ethnicity/gender identified.

Chapter V

Statistical Analysis of Relevant Market and M/WBE Availability

5.8 RWASM AVAILABILITY IN SERVICES

Level 2 RWASM M/WBE Availability for Services shown in Table 5.11 is less than Level 1. This reflects a significant increase in the number of Non-(M/W/SMBE) awardees added to available firms in Level 2, expanding from 530 firms to 2,056 firms, as compared to Minority-owned firms and WBEs. Except for Hispanic American-owned firms at 4.11 percent, no M/WBE group reached 2 percent, with African American-owned firms at 1.82 percent, Asian American-owned firms at 0.52 percent, Other Minority-owned firms at 0.82 percent and WBEs at 1.90 percent.

Table 5.11.						
RWASM Availability: Levels 1-3						
Services						
Miami-Dade County Public Schools						
Nationwide, FY 2013-FY 2018						
	Level 1		Level 2		Level 3	
Race/Ethnicity/ Gender	#	%	#	%	#	%
<i>Non-(M/W/SMBE)</i>	530	80.18	2,056	88.85	5,218	84.97
African American	27	4.08	42	1.82	137	2.23
Asian American	9	1.36	12	0.52	26	0.42
Hispanic American	51	7.72	95	4.11	280	4.56
<i>Native American</i>	0	0.00	0	0.00	1	0.02
<i>Other Minority</i>	9	1.36	19	0.82	288	4.69
Total Minority	96	14.52	168	7.26	732	11.92
WBE	16	2.42	44	1.90	89	1.45
Unknown M/WBE	9	1.36	18	0.78	57	0.93
Total M/WBE	121	18.31	230	9.94	878	14.30
<i>SMBE</i>	10	1.51	27	1.17	42	0.68
<i>Veterans</i>	0	0.00	1	0.04	3	0.05
<i>Grand Total</i>	661	100.00	2,314	100.00	6,141	100.00

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data, M-DCPS Vendor data; Relevant Market—Nationwide; Other Minority is a firm identified as MBE, with no specific race/ethnicity identified; Unknown M/WBE is a firm identified as M/WBE, with no specific race/ethnicity/gender identified.

Chapter V

Statistical Analysis of Relevant Market and M/WBE Availability

5.9 RWASM AVAILABILITY IN GOODS & SUPPLIES

Results for Goods & Supplies is similar to Services, reflected in Table 5.12. There is a significant increase in Non-(M/W/SMBE) awardees from Level 1 bidders/sub-bidders to Level 2 bidders/sub-bidders/awardees. WBEs did top two percent at 2.34 percent, while Asian American-owned firms at 0.33 percent and African American-owned firms at 1.47 percent did not reach two percent.

Table 5.12.						
RWASM Availability: Levels 1-3						
Goods & Supplies						
Miami-Dade County Public Schools						
Nationwide, FY 2013 - FY 2018						
	Level 1		Level 2		Level 3	
Race/Ethnicity/Gender	#	%	#	%	#	%
Non-M/WBE/SBE	306	79.48	2,622	87.69	7,842	88.65
African American	16	4.16	44	1.47	134	1.51
Asian American	3	0.78	10	0.33	25	0.28
Hispanic American	37	9.61	151	5.05	373	4.22
<i>Native American</i>	0	0.00	0	0.00	1	0.01
<i>Other Minority</i>	3	0.78	20	0.67	194	2.19
Total Minority	59	15.32	225	7.53	727	8.22
WBE	7	1.82	70	2.34	116	1.31
Unknown M/WBE	5	1.30	20	0.67	91	1.03
Total M/WBE	71	18.44	315	10.54	934	10.56
SMBE	7	1.82	51	1.71	66	0.75
Veterans	1	0.26	2	0.07	4	0.05
Grand Total	385	100.00	2,990	100.00	8,846	100.00

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data, M-DCPS Vendor data; Relevant Market—Nationwide; Other Minority is a firm identified as MBE, with no specific race/ethnicity identified; Unknown M/WBE is a firm identified as M/WBE, with no specific race/ethnicity/gender identified.

5.10 SUMMARY OF FINDINGS

Table 5.13 below summarizes the availability estimates for M/WBE and SMBE firms within the relevant market for M-DCPS. It provides the estimates, along with the source of the information. M³ Consulting places emphasis on the availability estimates, based on bidders, sub-bidders and awardees data at Level 2 of the RWASM model. The tables and the discussion are presented for the relevant markets by procurement type for all industries.

M³ Consulting's typically places credence on RWASM estimates derived from bidders, sub-bidders and awardees in that order of importance. Marketplace availability measures, based on InfoUSA, are presented in Table A.1, Appendix as a benchmark of minority- and women-owned firm availability and for M-DCPS to consider potentially available firms for outreach purposes.

Within the Tri-County MSA, M/WBE RWASM availability in Architecture and Engineering was at 69.44 percent. Hispanic American-owned firms led M/WBE participation at 41.67 percent, followed by WBEs at 6.94 percent. African American-owned firm reflected 5.56 percent.

Construction and Construction-Related Services reflected 48.93 percent M/WBE participation, with 26.96 percent showing to Hispanic American-owned firms. African American-owned firms had RWASM availability of 7.91 percent, compared to 9.43 percent for WBEs and 0.55 percent for Asian American-owned firms.

In Maintenance and Maintenance-Related industries, the availability of M/WBEs was at 31.37 percent based on RWASM availability estimates. Minority-owned contractors were at 26.85 percent, with Hispanic American-owned firms leading this group at 17.59 percent. African American-owned firms and WBEs were at 4.28 percent and 3.47 percent respectively in the Tri-County marketplace.

For Services, M/WBE availability based on RWASM availability was only at 9.94 percent. Minority-owned firms came in at 7.26 percent and Woman-owned firms at 1.90 percent, based on RWASM availability. Hispanic American-owned firms led Minority-owned Service firms at 4.41 percent.

For Goods & Supplies, Minority-owned firm RWASM availability percentage was about 7.53 percent, most of which was from Hispanic American-owned suppliers at 5.05 percent, followed by African American-owned firms at 1.42 percent. WBE availability in this industry was at 2.34 percent available based on the RWASM availability measure.

Chapter V

Statistical Analysis of Relevant Market and M/WBE Availability

Table 5.13.
Summary Table - RWASM Level 2 Availability Percentage Participation
Miami-Dade County Public Schools
Relevant Market; FY 2013 – FY 2018

Ethnicity	Architecture and Engineering ²		Construction and Construction-Related Services ²		Maintenance and Maintenance-Related Services ²		Services ¹		Goods & Supplies ¹		Total Firms ¹	
	#	%	#	%	#	%	#	%	#	%	#	%
Non-(M/W/SMBE)	30	20.83	777	47.29	553	64.00	2,056	88.85	2,622	87.69	3,184	69.73
African American	19	13.19	130	7.91	37	4.28	42	1.82	44	1.47	221	4.84
Asian American	8	5.56	9	0.55	4	0.46	12	0.52	10	0.33	28	0.61
Hispanic American	60	41.67	443	26.96	152	17.59	95	4.11	151	5.05	638	13.97
Native American	1	0.69	2	0.12	0	0.00	19	0.82	20	0.67	3	0.07
Other Minority	0	0.00	27	1.64	39	4.51	0	0.00	0	0.00	50	1.10
Total Minority	88	61.11	611	37.19	232	26.85	168	7.26	225	7.53	940	20.59
WBE	10	6.94	155	9.43	30	3.47	44	1.90	70	2.34	257	5.63
Unknown M/WBE	2	1.39	38	2.31	9	1.04	18	0.78	20	0.67	66	1.45
Total M/WBE	100	69.44	804	48.93	271	31.37	230	9.94	315	10.54	1,263	27.66
SMBE	14	9.72	62	3.77	39	4.51	27	1.17	51	1.71	117	2.56
Veterans	0	0.00	0	0.00	1	0.12	1	0.04	2	0.07	2	0.04
Grand Total	144	100.00	1,643	100.00	864	100.00	2,314	100.00	2,990	100.00	4,566	100.00

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data, M-DCPS Vendor data; * Services include Professional and Non-Professional Services; Other Minority is a firm identified as MBE, with no specific race/ethnicity identified; Unknown M/WBE is a firm identified as M/WBE, with no specific race/ethnicity/gender identified.

¹Nationwide

²Tri-County Area

³State of Florida

CHAPTER 6: STATISTICAL ANALYSIS OF M/WBE UTILIZATION

6.1 INTRODUCTION

This chapter presents the utilization of M/WBEs by the Miami-Dade County Public Schools (M-DCPS) in the procurement categories of Architecture and Engineering, Construction and construction-Related Services, Maintenance and Maintenance-Related Services, Services, and Goods & Supplies,. Utilization is measured and analyzed using contract awards, purchase order awards, and payments to M/WBEs from M-DCPS for the period FY 2013—FY 2018.³⁶⁹ This covers the universe of all dollars and contracts awarded by M-DCPS.

M/WBE utilization in each of the major procurement categories listed above are discussed separately. Utilization tables are presented for the relevant market in each procurement category. The overall tables are presented in the Appendix A. Within each procurement category section, tables and discussions are presented to cover the data source, upon which M³ Consulting relies for conclusions and recommendations; tables representing other data sources considered are reflected in Appendix A. M/WBE utilization is also broken down by specific race, ethnicity and gender and is hereinafter referred to in text and tables as M/WBEs when discussing overall levels of participation for M/WBEs.

Contract awards data reflects both prime and sub-contractor award dollars, to the degree available.³⁷⁰ Accounts payable and purchase order payments reflect prime vendor/contractor payments only.

The final section of this chapter covers threshold analysis and top ten awardees to further decipher any patterns in utilization of M/WBEs.

The following are some salient features of the overall chapter presentation:

- Utilization will be presented using the data collected from M-DCPS Procurement Management Services, Accounts Payable, Facilities and Maintenance Departments.
- The tables and discussions within the body of the chapter cover data pertaining to firms located within the relevant market for each procurement type.

³⁶⁹ M-DCPS' fiscal years run from July 1 to June 30, so FY 2013 runs from July 1, 2013 to June 30, 2014.

³⁷⁰ The calculation of "prime + sub-contractor awards data" reflects a reduction of the Prime Contractor award dollars by any sub-contractor dollars. Sub-contractor dollars are placed into the appropriate race/ethnicity/gender category.

6.2 TOTAL UTILIZATION BASED ON CONTRACT AWARDS, PURCHASE ORDERS AND PAYMENTS

This section provides a summary of total contract awards (Table 6.1), purchase orders (POs) (Table 6.2) and payments (AP) (Table 6.3) by race/ethnic/gender group for the period FY 2013—FY 2018, regardless of procurement category. This view provides an overall picture of utilization of M/WBEs by M-DCPS. The analysis is then detailed by each procurement type.

Architecture and Engineering

Based on Contract Awards, a total of \$23.2 million was contracted in A&E; 82.68 percent of this total was awarded to M/WBEs, with Hispanic American-owned firms receiving 62.96 percent of the total, WBEs, 3.76 percent of total, Asian American-owned firms, 1.72 percent and African American-owned firms receiving 14.23 percent of total dollars for the five-year study period.

A&E firms received \$60.2 million in purchase orders for the five-year period, of which \$35.3 million (58.72 percent of total) went to M/WBEs. Of the \$35.3 million, over \$27.1 million of the purchase orders were from Hispanic American-owned firms (45.10 percent of total), \$6.5 million from African American-owned firms (10.82 percent of total), and \$1.7 million from WBEs (2.79 percent).

A total of \$46 million was paid out in A&E for FYs 2013-2018. The pattern remained similar for contract awards and purchase orders, with the majority of the dollars going to Hispanic American-owned firms at 53.45 percent or \$24.6 million. Non-(M/W/SMBEs) had the next highest proportion at \$11.7 million or 25.44 percent of Total PO dollars. Among other M/WBE firms, African American-owned firms received 11.58 percent and WBEs received 3.09 percent of the dollars paid out in A&E.

Construction and Construction-Related Services

M/WBEs accounted for 79.62 percent of the \$450.66 million in Construction and Construction-Related Services Contract Awards. Hispanic American-owned firms received 60.53 percent, WBEs, 7.25 percent, and African American-owned contractors, 10.62 percent of total dollars. Other Minority-owned and Asian American-owned firms received less than one percent respectively.

Chapter VI

Statistical Analysis of M/WBE Utilization

Over \$712 million in POs were cut during the study period. Unlike Contract Awards, where Hispanic American-owned firms had the highest level of participation, in Purchase Orders, Non-(M/W/SMBEs) received the most PO dollars at 48.61 percent or about \$346 million. M/WBE firms received over \$344 million or 48.37 percent in purchase orders for the five-year period; Minority-owned contractors represented 44.87 percent of the total dollars, and WBEs 3.44 percent. Of the \$344 million, over \$274 million of the purchase orders were to Hispanic American-owned firms (38.51 percent of total), African American-owned firms at \$44.75 million (6.28 percent of total). Asian American-owned firms received only 0.01 percent and Other Minority-owned firms, 0.07 percent.

For the study period, contractors were paid about \$573 million. Non-(M/W/SMBEs) received 44.76 percent, compared to M/WBEs at 51.83 percent. Among M/WBEs, Hispanic American-owned firms received \$238.6 million (41.64 percent), the largest proportion to Minority-owned firms, and WBEs received \$22 million (3.85 percent). Asian American-owned firms received near zero percent of the dollars, while African American-owned firms received 6.13 percent or \$35.1 million of the dollars paid out in Construction and Construction-Related Services.

Maintenance and Maintenance-Related Services

Contract awards in Maintenance and Maintenance-Related Services was at \$66.1 million in the five-year period, with 45.54 percent of the total awards to M/WBEs. Hispanic American-owned firms received 25.11 percent of the total awards, with African American-owned firms, Asian American-owned firms and Other Minority-owned firms receiving 7.76 percent, 5.98 percent and 2.83 percent respectively. WBEs received 3.36 percent of the contract dollars.

Almost \$87 million in purchase orders were to Maintenance and Maintenance-Related Services contractors for the five-year study period. Over 26 percent (\$23.01 million) of these dollars was paid to Minority-owned firms and \$337,224 (0.39 percent) to WBEs. The majority of the \$23 million in purchase orders were to Hispanic American-owned firms (\$21.6 million or 24.9 percent of total). African American-owned firms received 1.24 percent or a little over \$1 million.

Of the \$48 million in payments made to Maintenance and Maintenance-Related Service contractors, Minority-owned firms received 34.47 percent; 31.48 percent of payments went to Hispanic American-owned firms. African American-owned firms received 1.89 percent, while WBEs and Asian American-owned firms received less than one percent.

Chapter VI

Statistical Analysis of M/WBE Utilization

Services

Non-(M/W/SMBEs) received over 88.99 percent of the total \$391.93 million dollars. Of the remaining dollars, 7.09 percent was awarded to Hispanic American-owned firms and 1.03 percent to WBEs. African American-owned firms received \$1.5 million (0.38 percent), Asian American-owned firms, \$1.6 million (0.41 percent) and Other Minority-owned firms, \$1.2 million (0.31 percent).

Over 90 percent of POs were to Non-(M/W/SMBE) firms. Hispanic American-owned firms at 4.96 and WBEs at 1.77 percent were the only M/WBEs to reach over one percent of PO dollars in Services.

Payments painted a similar picture for M/WBEs with Hispanic American-owned firms receiving 4.94 percent and WBEs 1.75 percent of \$672.5 million in Service payments over the five-year study period. The remaining Minority-owned firms received less than one percent of the payments.

Goods & Supplies

The majority of Goods & Supplies contract award dollars went to Non-(M/W/SMBEs) at 86.07 percent or \$431.77 million of a total \$501.64 million. M/WBEs accounted for 11.05 percent or \$55 million. Hispanic American-owned suppliers received 6.25 percent of the total or \$31.36 million, WBEs, 2.03 percent, African American-owned suppliers, 1.11 percent. Other Minority groups received less than one percent.

Goods & Supplies' firms received over \$1.3 billion in purchase orders for the five-year period; M/WBE suppliers received \$232.2 million or 17.76 percent of the total PO dollars. Of the \$232.2 million, over \$207 million of the purchase orders were to Hispanic American-owned firms (15.86 percent of total). All other M/WBEs received less than one percent.

Payments reflected a similar picture, with M/WBE firms receiving 20 percent of \$1.13 billion in payments, of which 17.93 percent went to Hispanic American-owned firms and 1.05 percent to WBEs. All other M/WBEs received less than one percent.

Chapter VI

Statistical Analysis of M/WBE Utilization

Table 6.1.
Total Utilization
Contract Awards—Dollars
Miami-Dade County Public Schools
Nationwide, FY 2013 – FY 2018

Race/Ethnicity/Gender	Architecture and Engineering		Construction and Construction-Related Services		Maintenance and Maintenance-Related Services		Services		Goods & Supplies		Total	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
Non-(M/W/SMBE)	3,208,075	13.80	82,179,964	18.24	33,237,432	50.25	348,794,945	88.99	431,772,961	86.07	899,193,377	62.18
African American	3,308,953	14.23	47,882,448	10.62	5,131,670	7.76	1,492,159	0.38	5,574,744	1.11	63,389,974	4.38
Asian American	400,693	1.72	1,601,222	0.36	3,957,778	5.98	1,608,000	0.41	4,195,238	0.84	11,762,931	0.81
Hispanic American	14,636,419	62.96	272,792,887	60.53	16,609,296	25.11	27,804,056	7.09	31,365,768	6.25	363,208,426	25.12
Native American	0	0.00	79,130	0.02	0	0.00	0	0.00	0	0.00	79,130	0.01
<i>Other Minority</i>	0	0.00	2,595,428	0.58	1,872,246	2.83	1,206,667	0.31	3,691,781	0.74	9,366,122	0.65
Total Minority	18,346,065	78.92	324,951,115	72.10	27,570,990	41.68	32,110,882	8.19	44,827,531	8.94	447,806,583	30.97
WBE	874,836	3.76	32,675,877	7.25	2,222,074	3.36	4,054,728	1.03	10,192,667	2.03	50,020,182	3.46
Unknown M/WBE	0	0.00	1,215,717	0.27	325,098	0.49	5,441,667	1.39	393,456	0.08	7,375,938	0.51
Total M/WBE	19,220,901	82.68	358,842,709	79.62	30,118,162	45.54	41,607,277	10.62	55,413,654	11.05	505,202,703	34.94
SMBE	818,539	3.52	9,643,884	2.14	2,771,382	4.19	1,533,333	0.39	14,414,396	2.87	41,586,452	2.88
Veteran	0	0.00	0	0.00	15,143	0.02	0	0.00	37,375	0.01	52,518	0.00
Grand Total	23,247,515	100.00	450,666,557	100.00	66,142,119	100.00	391,935,555	100.00	501,638,386	100.00	1,446,035,050	100.00

Source: M-DCPS Contracts Data, M³ Consulting

Chapter VI

Statistical Analysis of M/WBE Utilization

Table 6.2.
Total Utilization
Purchase Orders—Dollars
Miami-Dade County Public Schools
Nationwide, FY 2013 – FY 2018

Race/Ethnicity/Gender	Architecture and Engineering		Construction and Construction-Related Services		Maintenance and Maintenance-Related Services		Services		Goods & Supplies		Total	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
Non-(M/W/SMBE)	22,012,576	36.59	346,337,409	48.61	59,279,973	68.14	685,605,548	90.22	1,040,078,597	79.55	2,153,314,103	73.57
African American	6,509,849	10.82	44,756,085	6.28	1,075,035	1.24	7,466,488	0.98	2,727,605	0.21	62,535,062	2.14
Asian American	0	0.00	54,453	0.01	184,297	0.21	5,419,230	0.71	7,320,829	0.56	12,978,809	0.44
Hispanic American	27,129,613	45.10	274,370,535	38.51	21,662,464	24.90	37,671,098	4.96	207,397,617	15.86	568,231,327	19.41
Other Minority	0	0.00	502,942	0.07	94,893	0.11	484,909	0.06	854,824	0.07	1,937,568	0.07
Total Minority	33,639,462	55.92	319,684,015	44.87	23,016,689	26.46	51,041,725	6.72	218,300,875	16.70	645,682,766	22.06
WBE	1,677,013	2.79	24,498,044	3.44	337,224	0.39	13,431,525	1.77	12,749,606	0.98	52,693,412	1.80
Unknown M/WBE	9,850	0.02	435,878	0.06	41,315	0.05	8,634,327	1.14	1,167,902	0.09	10,289,271	0.35
Total M/WBE	35,326,325	58.72	344,617,937	48.37	23,395,228	26.89	73,107,577	9.62	232,218,383	17.76	708,665,450	24.21
SMBE	2,817,948	4.68	21,570,999	3.03	4,322,498	4.97	1,198,638	0.16	35,065,999	2.68	64,976,082	2.22
Veteran	0	0.00	0	0.00	0	0.00	19,665	0.00	15,027	0.00	34,692	0.00
Grand Total	60,156,849	100.00	712,526,345	100.00	86,997,699	100.00	759,931,427	100.00	1,307,378,006	100.00	2,926,990,327	100.00

Source: M-DCPS Contracts Data, M³ Consulting

Chapter VI Statistical Analysis of M/WBE Utilization

**Table 6.3.
Total Utilization
Accounts Payable—Dollars
Miami-Dade County Public Schools
Nationwide, FY 2013 – FY 2018**

Race/Ethnicity/Gender	Architecture and Engineering		Construction and Construction-Related Services		Maintenance and Maintenance-Related Services		Services		Goods & Supplies		Total	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
Non-(M/W/SMBE)	11,705,008	25.44	256,497,783	44.76	27,762,799	57.62	608,623,087	90.49	881,311,675	77.60	1,785,900,352	72.14
African American	5,329,925	11.58	35,154,849	6.13	911,207	1.89	5,203,914	0.77	2,434,468	0.21	49,034,363	1.98
Asian American	0	0.00	9,276	0.00	125,579	0.26	5,242,333	0.78	6,442,253	0.57	11,819,441	0.48
Hispanic American	24,593,139	53.45	238,626,414	41.64	15,166,063	31.48	33,204,962	4.94	203,645,654	17.93	515,236,231	20.81
Other Minority	0	0.00	502,942	0.09	403,381	0.84	426,098	0.06	1,292,770	0.11	2,625,191	0.11
Total Minority	29,923,064	65.03	274,293,480	47.86	16,606,229	34.47	44,077,307	6.55	213,815,145	18.83	578,715,226	23.38
WBE	1,422,936	3.09	22,058,528	3.85	307,594	0.64	11,768,773	1.75	11,877,222	1.05	47,435,052	1.92
Unknown M/WBE	9,850	0.02	692,670	0.12	66,146	0.14	6,914,588	1.03	1,474,321	0.13	9,157,574	0.37
Total M/WBE	31,355,850	68.14	297,044,678	51.83	16,979,969	35.24	62,760,668	9.33	227,166,687	20.00	635,307,852	25.66
SMBE	2,952,570	6.42	19,539,175	3.41	3,436,997	7.13	1,146,714	0.17	27,166,992	2.39	54,242,447	2.19
Veteran	0	0.00	0	0.00	0	0.00	19,665	0.00	15,027	0.00	34,692	0.00
Grand Total	46,013,428	100.00	573,081,636	100.00	48,179,764	100.00	672,550,134	100.00	1,135,660,381	100.00	2,475,485,343	100.00

Source: M-DCPS Contracts Data, M³ Consulting

Chapter VI

Statistical Analysis of M/WBE Utilization

6.3 UTILIZATION BY PROCUREMENT TYPE

The tables on the following pages summarize the relevant contract award, purchase order and payments data by procurement type within the relevant market. The relevant market or the geographic area where M-DCPS vendors are located is the Tri-County Area (Miami-Dade County, Broward County and Palm Beach County), the State of Florida and Nationwide (All Counties). The relevant market, as was discussed in the Availability Section, is the Tri-County Area for Architecture and Engineering, Construction and Construction-Related Services, Maintenance and Maintenance-Related Services; and Nationwide for Services and Goods & Supplies. The table below summarizes this information for each procurement type:

Table 6.4. Summary of Relevant Market Determination			
	Tri-County	State	Nationwide
Architecture and Engineering	✓		
Construction and Construction-Related Services	✓		
Maintenance and Maintenance-Related Services	✓		
Services			✓
Goods and Supplies			✓

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data, M-DCPS Vendor data;

6.4 ARCHITECTURE AND ENGINEERING UTILIZATION

For Architecture and Engineering utilization, M/WBE utilization is presented in this section using dollars for contract awards by year and for the study period (Table 6.5), as well as a comparison of contract awards, purchase orders and payments for the study period (Table 6.7). Counts of purchase orders, contract awards and payments are reflected in Appendix A. The relevant market for Architecture and Engineering is the Tri-County Area.

6.4.1 Architecture and Engineering Utilization Based on Contract Awards and Purchase Orders

Typically, M³ Consulting relies on Contract Awards for Architecture and Engineering utilization because contract awards data includes sub-contractors. However, for M-DCPS, POs capture more transactions. As such, we are providing the yearly detail for both measures here. To fully interpret A&E contract awards, it is important to understand how M-DCPS procures A&E services. A pool of firms is selected and ranked at contract award. However, in most instances, specific contract amounts are not determined. Based on that ranking, the selected firms are commissioned projects.

The result is lower dollars reflected in Contract Awards than POs. Based on the yearly detail in Table 6.5, contract awards were particularly low for FY 2013 and FY 2014. Overall, there were \$23 million in contract awards for the study period in the Tri-County MSA, with a reported \$2.5 million for FY 2013 and \$600,000 for FY 2014. Of the \$23 million, M/WBEs are reported to have received 82.68 percent or \$19.2 million. Of this amount, 62.96 percent or \$14.6 million were awarded to Hispanic American-owned firms.

Comparatively, Purchase Orders, reflected in Table 6.6, show that, overall, \$56 million in POs were cut for the study period. Of this amount, M/WBE firms received 62.73 percent or about \$35 million. \$27.1 million or 48.17 percent of the \$35 million went to Hispanic American-owned firms. Except for FY 2013 at 14.43 percent, Hispanic American-owned firms participation ranged from a low of 43.33 percent in FY 2014 to a high of 67.10 percent in FY 2018. Overall, African American-owned firms received 11.56 percent in POs (\$6.5 million), with a low of 7.05 percent in FY 2013 and a high of 17.99 percent in FY 2017. Asian American-owned firms received no POs for the study period. WBEs received \$1.67 million in POs for the period, representing 2.98 percent. WBEs received no POs in FY 2013 and FY 2014.

SMBE firms received 5.00 percent of POs, or \$2.82 million. Veteran-owned businesses received no A&E POs.

Chapter VI

Statistical Analysis of M/WBE Utilization

Table 6.5.
Architecture and Engineering Utilization
Contract Awards—Dollars
Pure Prime + Sub-contractors
Miami-Dade County Public Schools
Tri-County MSA, FY 2013 – FY 2018

Race/Ethnicity/Gender	FY 2013		FY 2014		FY 2015		FY 2016		FY 2017		FY 2018		Period	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
Non-(M/W/SMBE)	0	0.00	600,000	100.00	357,000	5.07	325,598	7.21	1,480,433	27.25	445,045	14.29	3,208,075	13.80
African American	0	0.00	0	0.00	844,418	12.00	807,441	17.89	1,353,733	24.92	303,361	9.74	3,308,953	14.23
Asian American	0	0.00	0	0.00	0	0.00	8748	0.19	337995	6.22	53950.4	1.73	400,693	1.72
Hispanic American	2,550,000	100.00	0	0.00	5,129,340	72.88	3,070,418	68.03	1,743,796	32.10	2,142,865	68.82	14,636,419	62.96
Other Minority	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Total Minority	2,550,000	100.00	0	0.00	5,973,758	84.88	3,886,607	86.11	3,435,524	63.25	2,500,176	80.29	18,346,066	78.92
WBE	0	0.00	0	0.00	176,113	2.50	291,017	6.45	263,323	4.85	144,383	4.64	874,836	3.76
Unknown M/WBE	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Total M/WBE	2,550,000	100.00	0	0.00	6,149,871	87.38	4,177,624	92.56	3,698,847	68.09	2,644,559	84.93	19,220,901	82.68
SMBE	0	0.00	0	0.00	531,250	7.55	10,298	0.23	252,770	4.65	24,221	0.78	818,539	3.52
Veteran	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Grand Total	2,550,000	100.00	600,000	100.00	7,038,121	100.00	4,513,520	100.00	5,432,050	100.00	3,113,825	100.00	23,247,516	100.00

Source: M-DCPS Purchase Order Data, M³ Consulting

Chapter VI

Statistical Analysis of M/WBE Utilization

Table 6.6.
Architecture and Engineering Utilization
Purchase Order—Dollars
Miami-Dade County Public Schools
Tri-County MSA, FY 2013 – FY 2018

Race/Ethnicity/Gender	FY 2013		FY 2014		FY 2015		FY 2016		FY 2017		FY 2018		Period	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
Non-(M/W/SMBE)	6,552,525	76.47	3,286,269	40.27	2,701,530	25.93	1,624,478	15.56	3,182,546	26.14	824,767	12.59	18,172,115	32.27
African American	604,458	7.05	660,105	8.09	1,382,105	13.27	1,114,855	10.68	2,191,006	17.99	557,320	8.51	6,509,849	11.56
Asian American	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Hispanic American	1,236,673	14.43	3,535,620	43.33	5,538,743	53.16	6,818,017	65.29	5,604,810	46.03	4,395,751	67.10	27,129,613	48.17
Other Minority	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Total Minority	1,841,131	21.49	4,195,725	51.42	6,920,848	66.43	7,932,872	75.97	7,795,815	64.03	4,953,071	75.61	33,639,462	59.73
WBE	0	0.00	0	0.00	387,132	3.72	432,445	4.14	714,226	5.87	143,210	2.19	1,677,013	2.98
Unknown M/WBE	0	0.00	0	0.00	9,850	0.09	0	0.00	0	0.00	0	0.00	9,850	0.02
Total M/WBE	1,841,131	21.49	4,195,725	51.42	7,317,830	70.24	8,365,317	80.11	8,510,041	69.89	5,096,281	77.79	35,326,325	62.73
SMBE	174,997	2.04	677,891	8.31	399,083	3.83	452,418	4.33	483,507	3.97	630,051	9.62	2,817,948	5.00
Veteran	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Grand Total	8,568,653	100.00	8,159,885	100.00	10,418,444	100.00	10,442,213	100.00	12,176,094	100.00	6,551,099	100.00	56,316,388	100.00

Source: M-DCPS Purchase Order Data, M³ Consulting

6.4.2 Architecture and Engineering Utilization Comparison

While Contract Awards data reflects fewer dollars than Purchase Order, it is a better measure, and perhaps more accurate measure, than Purchase Order and Payments data. M³ Consulting reports in Table 6.7 the Contract Awards dollars identified in Board Agenda Items, Section F., after a specific design or engineering firm has been selected from the pool of board approved A&E firms and assigned a project. On the other hand, Purchase Order and Payments A&E dollars had to be extrapolated based on firm name from a general NIGP code of Building Construction, making it a less precise process.

Purchase Orders and Payments appear to largely corroborate Contract Award findings. POs reflect \$56 million, compared to \$42 million in Payments. While there is a difference in the total amounts, this could be caused by project scheduling from the time of contract execution (PO issued) to project completion through phased activity (Payments). Even so, M/WBE participation was reasonably similar at 62.73 percent for POs and 73.27 percent for Payments. For the different Minority groups and WBEs, their percentage participation is actually higher for Payments than POs, indicating that M/WBE prime contractors are being paid for work they have been contracted to perform.

Chapter VI Statistical Analysis of M/WBE Utilization

Table 6.7.
Architecture and Engineering Utilization
Comparison Contract Awards, Purchase Orders, Payments—Dollars
Miami-Dade County Public Schools
Tri-County MSA, For the Period FY 2013 – FY 2018

Race/Ethnicity/Gender	Contract Awards		Purchase Orders		Payments	
	\$	%	\$	%	\$	%
Non-(M/W/SMBE)	3,208,075	13.80	18,172,115	32.27	8,483,718	19.83
African American	3,308,953	14.23	6,509,849	11.56	5,329,926	12.46
Asian American	400,693	1.72	0	0.00	0	0.00
Hispanic American	14,636,419	62.96	27,129,613	48.17	24,593,139	57.47
Other Minority	0	0.00	0	0.00	0	0.00
<i>Total Minority</i>	<i>18,346,066</i>	<i>78.92</i>	<i>33,639,462</i>	<i>59.73</i>	<i>29,923,065</i>	<i>69.93</i>
WBE	874,836	3.76	1,677,013	2.98	1,422,936	3.33
Unknown M/WBE	0	0.00	9,850	0.02	9,850	0.02
Total M/WBE	19,220,901	82.68	35,326,325	62.73	31,355,851	73.27
SMBE	818,539	3.52	2,817,948	5.00	2,952,570	6.90
Veteran	0	0.00	0	0.00	0	0.00
Grand Total	23,247,516	100.00	56,316,388	100.00	42,792,138	100.00

Source: M-DCPS SAP Data, M³ Consulting,

6.5 CONSTRUCTION AND CONSTRUCTION-RELATED SERVICES UTILIZATION

In the area of Construction and Construction-Related Services, M/WBE utilization is presented in this section using dollars for contract awards by year and for the study period (Table 6.8), as well as a comparison of contract awards, purchase orders and payments for the study period (Table 6.9). Counts of purchase orders, contract awards and payments are reflected in Appendix A. The relevant market for Construction and Construction-Related Services is the Tri-County Area.

6.5.1 Construction and Construction-Related Services Utilization Based on Contract Awards

Pure Prime + Sub-contractor dollars for Construction and Construction-Related Services utilization is shown in Table 6.8. Pure Prime dollars are prime dollars net of sub-contractor dollars. Once we add those pure prime dollars to sub-contractor dollars, it provides an accurate reflection of M/WBE participation (see also Table 6.10). Contract Awards dollars was collected from M-DCPS' GMP books, which reflects negotiated prime and sub-contractor amounts. A total of \$439 million was reported in M-DCPS' GMP books for the study period. Of this amount, \$348.2 million or 79.31 percent was awarded to M/WBE prime contractors and sub-contractors.

60.03 percent or \$263.5 million was award to Hispanic American-owned firms. Over the study period, Hispanic American-owned firms saw their share of Contract Awards increase each year from 43.38 percent in FY 2013 to 72.79 percent in FY 2017 and 70.09 percent in FY 18. Conversely, Non-(M/W/SMBEs) saw their levels of participation decrease over the study period from 33.42 percent in FY 2013 to 5.17 percent in FY 2017 and 8.25 percent in FY 2018. Overall, Non-(M/W/SMBE) participation was 18.52 percent (\$81.3 million).

African American-owned firms received 10.69 percent of Contract Awards or \$46.9 million. Their highest levels of participation were in FY 2016 and FY 2018, where they reached over 13 percent for each year; their lowest levels of participation were in FY 2013 and FY 2014, with only about 5.25 percent for each year. WBEs were awarded \$32.6 million or 7.43 percent of Contract Awards, with a high of 13.80 percent in FY 2013. Asian American-, Native American- and Other Minority-owned firms did not reach one percent for the period at 0.36 percent, 0.02 percent and 0.49 percent respectively.

SMBE firms received \$9.5 million or 2.17 percent for the period. Veteran-owned businesses received no Contract Award dollars for the study period.

Chapter VI

Statistical Analysis of M/WBE Utilization

Table 6.8.
Construction and Construction-Related Services Utilization
Contract Awards—Pure Prime + Sub-contractor Dollars
Miami-Dade County Public Schools
Tri-County MSA, FY 2013 – FY 2018

Race/Ethnicity/Gender	FY 2013		FY 2014		FY 2015		FY 2016		FY 2017		FY 2018		Period	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
Non-Minority/ WBE/SMBE	5,458,844	33.42	18,513,401	39.80	31,524,103	28.28	17,040,823	12.98	3,752,159	5.17	5,023,381	8.25	81,312,711	18.52
African American	857,344	5.25	2,438,290	5.24	11,324,798	10.16	17,311,639	13.19	6,638,834	9.15	8,366,146	13.74	46,937,051	10.69
Asian American	432,212	2.65	196,150	0.42	635,944	0.57	119,803	0.09	98,043	0.14	119,070	0.20	1,601,222	0.36
Hispanic American	7,085,901	43.38	20,585,000	44.25	58,597,745	52.56	81,832,329	62.33	52,802,438	72.79	42,669,367	70.09	263,572,780	60.03
Native American	0	0.00	0	0.00	39,250	0.04	39,880	0.03	0	0.00	0	0.00	79,130	0.02
Other Minority	31,060	0.19	500,955	1.08	619,494	0.56	207,748	0.16	9,847	0.01	797,790	1.31	2,166,893	0.49
Total Minority	8,406,517	51.47	23,720,395	50.99	71,217,231	63.88	99,511,399	75.80	59,549,163	82.09	51,952,372	85.34	314,357,076	71.60
WBE	2,253,716	13.80	2,383,752	5.12	7,608,117	6.82	10,037,533	7.65	7,008,777	9.66	3,335,632	5.48	32,627,526	7.43
Unknown M/WBE	141,548	0.87	190,520	0.41	262,377	0.24	278,715	0.21	154,633	0.21	187,924	0.31	1,215,717	0.28
Total M/WBE	10,801,781	66.13	26,294,667	56.52	79,087,725	70.94	109,827,646	83.66	66,712,572	91.97	55,475,928	91.13	348,200,320	79.31
SMBE	73,570	0.45	1,712,046	3.68	878,218	0.79	4,415,506	3.36	2,074,552	2.86	377,662	0.62	9,531,554	2.17
Veteran	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Grand Total	16,334,195	100.00	46,520,114	100.00	111,490,046	100.00	131,283,975	100.00	72,539,283	100.00	60,876,972	100.00	439,044,585	100.00

Source: M-DCPS Purchase Order Data, M³ Consulting

6.5.2 Construction and Construction-Related Services Utilization Comparison

Table 6.10 shows a comparison of Contract Awards, Purchase Orders and Payments. It is important to note that Contract Awards does not reflect the original award amount, because of the adjustments made for subcontracting activity. The original award amounts are reflected in Table 6.11. Purchases Orders and Payments do not reflect sub-contractor data.

Purchase Order and Payments data buttress each other, with similar findings, although Purchase Order total dollars at \$631 million are higher than Payments at \$497 million. Like A&E, the difference could be attributable to project phasing and scheduling. M/WBE participation is fairly similar with 49.42 percent for Purchase Orders and 53.51 percent for Payments, which is lower than the 79.31 percent for Contract Awards.

When viewing Contract Awards Pure Prime dollars and Sub-contractor dollars separately in Table 6.11, Non-(M/W/SMBE) prime contractors subcontracted out over 65 percent of their original prime amount. WBEs subcontracted out the highest level of dollars at 96.2 percent, followed by Hispanic American-owned firms at 81 percent and African American-owned firms at 74 percent.

The largest beneficiary of these subcontracting opportunities were Hispanic American-owned firms at \$221.5 million or 68.20 percent of all subcontracting opportunities. African American-owned contracts and WBEs received almost the same amount at \$32.4 million (9.98 percent) and \$32.3 million (9.94 percent) respectively. Asian American-owned firms and Native American-owned firms received less than one percent, at 0.49 percent (\$1.6 million) and 0.02 percent (\$79,130). SMBE sub-contractors received \$2.94 million or 0.91 percent. We note that, unlike Prime Contractors, sub-contractors do not have to be pre-qualified to participate on M-DCPS prime contractor opportunities. M-DCPS also does not encourage prime contractors to extend their bonding requirements to sub-contractors.

In reviewing specific contractor detail, M³ Consulting observed that one African American-owned contractor, D. Stephenson, won 88 percent or \$48.8 million of the \$55.5 million awarded to African American-owned contractors. (See Table 6.11, GPM Contract Award Original Award Amount). Albeit a small amount, this same contractor was also awarded a few subcontracts. No other race/ethnic/gender group exhibited this degree of concentration of awards in one firm. In fact, for other race/ethnic/gender groups, prime contracts were distributed among several contractors. The distribution of contracts is discussed in more detail under Section 6.7. Utilization Thresholds. We calculated overall utilization, after removing D. Stephenson from the analysis. African American-owned contractor utilization dropped overall from 10.69 percent to 7.13 percent and the prime awards for African American-owned firms dropped from \$48.8 million to \$6.7 million for the study period.

Chapter VI

Statistical Analysis of M/WBE Utilization

Only prime contractors that have been pre-qualified can bid on M-DCPS construction contracts. As such, we reviewed the pre-qualification list provided by M-DCPS during the data collection period (Table 6.9). While both Non-(M/W/SMBEs) at \$1.2 billion and WBEs at \$33.4 million had higher average aggregate bond and bid limits than Hispanic American-owned firms at \$30.3 million, Hispanic American-owned firms significantly outpaced awards to these two groups. Furthermore, there were eight African American-owned contractors pre-qualified in the General Contractor category with an average aggregate bid and bond limit of \$17.4 million. Among these contractors, D. Stephenson had the largest aggregate bid limit at \$60 million and largest surety bond limit at \$60 million. However, two other African American-owned contractors had significant bid and bond capacity, one at \$20 million for both categories and the other at \$30 million for both categories.

Race/Ethnicity/ Gender	Number of Firms	%	Average of AGGREGATE Bond Limit (\$)	Average of AGGREGATE Bid Limit (\$)
Non-(M/W/SMBE)	19	26.76	1,191,036,842	1,194,984,211
African American	8	11.27	17,375,000	17,375,000
Asian American	1	1.41	750,000	750,000
Hispanic American	33	46.48	30,315,152	30,315,152
Other Minority	2	2.82	31,000,000	31,000,000
WBE	8	11.27	33,437,500	33,437,500
Average	71	100.00	339,427,465	340,483,803

Source: M³ Consulting, OEO Prequalification List

Chapter VI Statistical Analysis of M/WBE Utilization

Table 6.10.
Construction and Construction-Related Services Utilization
Comparison
Contract Awards, Purchase Orders, Payments—Dollars
Miami-Dade County Public Schools
Tri-County MSA, For the Period FY 2013 – 2018

Race/Ethnicity/Gender	Contract Awards		Purchase Orders		Payments	
	\$	%	\$	%	\$	%
Non-(M/W/SMBE)	81,312,711	18.52	316,441,086	48.69	211,867,821	42.57
African American	46,937,051	10.69	44,756,085	6.89	35,154,849	7.06
Asian American	1,601,222	0.36	54,453	0.01	9,276	0.00
Hispanic American	263,572,780	60.03	251,551,885	38.70	217,668,996	43.73
Native American	79,130	0.02	0	0.00	0	0.00
Other Minority	2,166,893	0.49	501,937	0.08	501,937	0.10
<i>Total Minority</i>	<i>314,357,076</i>	<i>71.60</i>	<i>296,864,360</i>	<i>45.68</i>	<i>253,335,058</i>	<i>50.90</i>
WBE	32,627,526	7.43	14,752,841	2.27	12,319,225	2.48
Unknown M/WBE	1,215,717	0.28	339,210	0.05	641,796	0.13
Total M/WBE	348,200,320	79.31	311,956,411	48.00	266,296,078	53.51
SMBE	9,531,554	2.17	21,570,999	3.32	19,539,175	3.93
Veteran	0	0.00	0	0.00	0	0.00
Grand Total	439,044,585	100.00	649,968,496	100.00	497,703,074	100.00

Source: M-DCPS SAP Data, M³ Consulting

Chapter VI

Statistical Analysis of M/WBE Utilization

Table 6.11.
Construction and Construction-Related Services Utilization
Contract Awards
GMP Detail
Tri-County MSA, FY 2013 – FY 2018

Race/Ethnicity/Gender	GMP Construction Original Award Amount		GMP Construction Pure Prime Contractors (net of sub-contractors)		GMP Construction Sub-contractors Only		GMP Construction Pure Prime + Sub-contractors	
	\$	%	\$	\$	\$	%	\$	%
Non-(M/W/SMBE)	142,831,020	32.60	50,698,524	44.39	30,614,187	9.42	81,312,711	18.52
African American	55,535,076	12.67	14,531,130	12.72	32,405,921	9.98	46,937,051	10.69
Asian American	0	0.00	0	0.00	1,601,222	0.49	1,601,222	0.36
Hispanic American	211,011,315	48.16	42,034,604	36.81	221,538,176	68.20	263,572,780	60.03
Native American	0	0.00	0	0.00	79,130	0.02	79,130	0.02
Other Minority	0	0.00	0	0.00	2,166,893	0.67	2,166,893	0.49
<i>Total Minority</i>	<i>266,546,391</i>	<i>60.83</i>	<i>56,565,734</i>	<i>49.53</i>	<i>257,791,342</i>	<i>79.36</i>	<i>314,357,076</i>	<i>71.60</i>
WBE	9,148,330	2.09	349,599	0.31	32,277,927	9.94	32,627,526	7.43
Unknown M/WBE	0	0.00	0	0.00	1,215,717	0.37	1,215,717	0.28
Total M/WBE	275,694,721	62.92	56,915,333	49.84	291,284,987	89.67	348,200,320	79.31
SMBE	19,663,646	4.49	6,586,841	5.77	2,944,713	0.91	9,531,554	2.17
Veteran	0	0.00	0	0.00	0	0.00	0	0.00
Grand Total	438,189,387	100.00	114,200,698	100.00	324,843,887	100.00	439,044,585	100.00

Source: M-DCPS JOC data, Board Items, GMP Books (Guaranteed Maximum Price), M³ Consulting

6.6 MAINTENANCE AND MAINTENANCE-RELATED SERVICES UTILIZATION

In the area of Maintenance and Maintenance-Related Services, M/WBE utilization is presented in this section using dollars for purchase orders by year and for the study period, as well as for contract awards and payments for the study period. Counts of purchase orders, contract awards and payments are reflected in Appendix A. The relevant market for Maintenance and Maintenance-Related Services is the Tri-County Area.

6.6.1 Maintenance and Maintenance-Related Services Utilization Based on Purchase Orders

Purchase Orders represent a better measure of Maintenance and Maintenance-Related Services (M&MRS), as both formal and informal dollars are captured. M&MRS consists of primarily construction-type projects and some services contracts. The value of these procurements is largely under \$2 million, where capacity for M/WBE firms is more available.

As detailed in Table 6.12, over \$55 million in POs were cut by M-DCPS by Maintenance and Maintenance-Related Service contractors for the study period, with the highest amount in FY 2013 at \$16.1 million and lowest in FY 2016 at about \$3.8 million. M/WBE participation was 37.27 percent for the period, with a high of 67.31 percent in FY 2015 and a low of 19.09 percent in FY 2016. Hispanic American-owned firms led M/WBE firm participation, with 34.25 percent or \$19 million. African American-owned firms had only 1.94 percent or a little over \$1 million. No other M/WBE group reached one percent.

SBME firms received 7.79 percent or \$4.32 million for the period, while Veteran-owned businesses received no POs.

Chapter VI Statistical Analysis of M/WBE Utilization

**Table 6.12.
Maintenance and Maintenance-Related Services Utilization
Purchase Order—Dollars
Miami-Dade County Public Schools
Tri-County MSA, FY 2013 – FY 2018**

Race/Ethnicity/Gender	FY 2013		FY 2014		FY 2015		FY 2016		FY 2017		FY 2018		Period	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
Non-(M/W/SMBE)	10,186,703	63.26	5,187,423	49.07	1,683,813	28.17	2,292,376	60.36	7,177,391	66.50	3,967,317	48.03	30,495,023	54.94
African American	108,026	0.67	63,356	0.60	38,841	0.65	206,405	5.43	483,378	4.48	175,030	2.12	1,075,035	1.94
Asian American	10,373	0.06	11,824	0.11	1,030	0.02	0	0.00	0	0.00	161,069	1.95	184,297	0.33
Hispanic American	5,268,339	32.72	4,865,720	46.03	3,821,730	63.93	486,989	12.82	1,993,845	18.47	2,576,123	31.19	19,012,746	34.25
Other Minority	0	0.00	0	0.00	94,893	1.59	0	0.00	0	0.00	0	0.00	94,893	0.17
<i>Total Minority</i>	<i>5,386,738</i>	<i>33.45</i>	<i>4,940,900</i>	<i>46.74</i>	<i>3,956,494</i>	<i>66.19</i>	<i>693,394</i>	<i>18.25</i>	<i>2,477,223</i>	<i>22.95</i>	<i>2,912,222</i>	<i>35.26</i>	<i>20,366,971</i>	<i>36.69</i>
WBE	28,555	0.18	48,762	0.46	66,801	1.12	31,835	0.84	106,843	0.99	8,828	0.11	291,624	0.53
Unknown M/WBE	550	0.00	0	0.00	0	0.00	0	0.00	15,655	0.15	11,267	0.14	27,472	0.05
Total M/WBE	5,415,843	33.63	4,989,662	47.20	4,023,295	67.31	725,229	19.09	2,599,721	24.09	2,932,317	35.51	20,686,067	37.27
SMBE	499,740	3.10	394,495	3.73	271,023	4.53	780,212	20.54	1,016,205	9.42	1,360,824	16.47	4,322,498	7.79
Veteran	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Grand Total	16,102,286	100.00	10,571,580	100.00	5,978,131	100.00	3,797,817	100.00	10,793,317	100.00	8,260,458	100.00	55,503,588	100.00

Source: M-DCPS Purchase Order Data, M³ Consulting

6.6.2 Maintenance and Maintenance-Related Services Utilization Comparison

When comparing POs to Contract Awards and Payments, shown in Table 6.13, M/WBE participation based on contract awards is higher than POs and Payments for African American-, Asian American-owned firms and Other Minority-owned firms, as well as WBEs. Based on conversations with PMS staff, on maintenance contracts with multi-awardees, M³ Consulting evenly spread the award amount across all awardees, which included several M/WBEs. As such, contract awards reflect the value of awards that M/WBE should receive. PO values reflect the contracts that awardees, including M/WBEs, actually received. It appears that M/WBEs under multi-awardee contracts are not actually receiving POs at the rate anticipated under contract awards.³⁷¹ M³ Consulting was unable to verify this observation, as the bid number is not reflected in PO data, thus limited our ability to track specific projects with certainty from contract award to PO to payment.

³⁷¹ While M/WBE participation levels were much smaller in Goods and Supplies and Services for both contract awards and purchase orders, similar observations were noted on multi-awardee contracts in these procurement categories.

Chapter VI Statistical Analysis of M/WBE Utilization

**Table 6.13.
Maintenance and Maintenance-Related Services Utilization
Comparison
Contract Awards, Purchase Orders, Payments—Dollars
Miami-Dade County Public Schools
Tri-County MSA, FY 2013 – FY 2018**

Race/Ethnicity/Gender	Contract Awards		Purchase Orders		Payments	
	\$	%	\$	%	\$	%
Non-(M/W/SMBE)	24,678,827	42.99	30,495,023	54.94	19,113,097	51.66
African American	4,959,246	8.64	1,075,035	1.94	911,206	2.46
Asian American	3,957,778	6.89	184,297	0.33	125,579	0.34
Hispanic American	16,609,296	28.93	19,012,746	34.25	12,694,627	34.31
Other Minority	1,872,246	3.26	94,893	0.17	403,381	1.09
Total Minority	27,398,566	47.72	20,366,971	36.69	14,134,793	38.20
WBE	2,482,908	4.32	291,624	0.53	261,994	0.71
Unknown M/WBE	325,098	0.57	27,472	0.05	52,303	0.14
Total M/WBE	30,206,572	52.61	20,686,067	37.27	14,449,090	39.05
SMBE	2,510,549	4.37	4,322,498	7.79	3,436,996	9.29
Veteran	15,143	0.03	0	0.00	0	0.00
Grand Total	57,411,091	100.00	55,503,588	100.00	36,999,184	100.00

Source: M-DCPS SAP Data, M³ Consulting

6.7 SERVICES UTILIZATION

Services includes both Professional and Non-Professional Services. M/WBE utilization is presented in this section using dollars for Purchase Orders by year and for the study period; For contract awards, purchase orders and payments, a comparison of dollars for the study period is shown. The relevant market for Services is Nationwide.

6.7.1 Services Utilization Based on Purchase Orders

Over \$759 million in Purchase Orders were issued for the study period, reflected in Table 6.14. Overall, 9.62 percent of POs (\$73.1 million) were issued to M/WBEs, with 6.72 percent (\$51 million) to Minority-owned firms and 1.77 percent (\$13.43 million) to WBEs. Of the \$51 million to Minority-owned firms, over \$37.6 million in POs were cut to Hispanic American-owned firms, with over \$4 million in any given year. While 1.77 percent for the period, WBEs saw their participation increase after FY 2014, above 2 percent for each year of the remaining study period years or at above \$2.6 million a year.

African American- and Asian American-owned firms did not reach one percent for the study period, at 0.98 percent and 0.71 percent. African American-owned firms saw their highest level of participation in FY 2013 at 1.96 percent or \$3.1 million; their participation was slightly above one percent in FY 2017 and FY 2018, at 1.10 percent and 1.12 percent, respectively. Asian American-owned firms reached their highest levels of participation in FY 2014 at 1.13 percent (\$1.39 million) and FY 2016 at 1.18 percent (\$1.33 million). They did not reach one percent in any other year.

SMBE Businesses only reached 0.16 percent (\$1.19 million) for the period. Veteran-owned businesses had \$19,665 in POs, which registered as 0.00 percent.

We note that one firm, Arthur Gallagher Risk Management, a Non-(M/W/SMBE), accounted for 22.12 percent of PO dollars.

Chapter VI

Statistical Analysis of M/WBE Utilization

Table 6.14.
Services Utilization
Purchase Order—Dollars
Miami-Dade County Public Schools
Nationwide, FY 2013 – FY 2018

Race/Ethnicity/Gender	FY 2013		FY 2014		FY 2015		FY 2016		FY 2017		FY 2018		Period	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
Non-(M/W/SMBE)	147,229,227	91.23	112,877,528	91.92	97,768,923	91.07	102,173,908	90.60	105,490,397	88.67	120,065,566	87.87	685,605,548	90.22
African American	3,158,451	1.96	924,528	0.75	294,572	0.27	250,754	0.22	1,308,527	1.10	1,529,655	1.12	7,466,488	0.98
Asian American	703,497	0.44	1,392,880	1.13	489,582	0.46	1,330,213	1.18	1,023,888	0.86	479,170	0.35	5,419,230	0.71
Hispanic American	6,045,517	3.75	5,575,818	4.54	4,473,966	4.17	4,621,836	4.10	6,979,513	5.87	9,974,448	7.30	37,671,098	4.96
Other Minority	304,130	0.19	65,329	0.05	30,450	0.03	30,000	0.03	30,000	0.03	25,000	0.02	484,909	0.06
<i>Total Minority</i>	<i>10,211,596</i>	<i>6.33</i>	<i>7,958,555</i>	<i>6.48</i>	<i>5,288,570</i>	<i>4.93</i>	<i>6,232,803</i>	<i>5.53</i>	<i>9,341,929</i>	<i>7.85</i>	<i>12,008,273</i>	<i>8.79</i>	<i>51,041,725</i>	<i>6.72</i>
WBE	1,195,891	0.74	1,105,226	0.90	2,833,833	2.64	2,776,054	2.46	2,674,239	2.25	2,846,282	2.08	13,431,525	1.77
Unknown M/WBE	2,536,127	1.57	701,524	0.57	1,350,000	1.26	1,376,447	1.22	1,269,400	1.07	1,400,829	1.03	8,634,327	1.14
Total M/WBE	13,943,614	8.64	9,765,305	7.95	9,472,403	8.82	10,385,304	9.21	13,285,568	11.17	16,255,383	11.90	73,107,577	9.62
SMBE	215,737	0.13	158,139	0.13	117,067	0.11	197,614	0.18	196,357	0.17	313,724	0.23	1,198,638	0.16
Veteran	0	0.00	2,065	0.00	0	0.00	17,600	0.02	0	0.00	0	0.00	19,665	0.00
Grand Total	161,388,577	100.00	122,803,037	100.00	107,358,393	100.00	112,774,425	100.00	118,972,322	100.00	136,634,673	100.00	759,931,427	100.00

Source: M-DCPS Purchase Order Data, M³ Consulting

Note: Arthur Gallagher accounts for 22.12 percent of Services dollars.

6.7.2 Services Utilization Comparison

In comparing contract awards, purchase orders and payments in Table 6.15, contract awards diverge from the findings of Purchase Orders and Payments, in terms of M/WBE participation at 10.62 percent. Contract awards captures fewer dollars (\$392 million) than POs (\$759 million). On contract awards, requirements contracts reflect unit prices, as opposed to total dollars awarded, which results in contract award values of \$0 at the point of award.

Payments reflect similar findings as POs, with a total pool of payments at \$679 million. M/WBE participation is also similar for both POs and Payments, at 9.62 percent and 9.33 percent. This suggests that those M/WBEs who are being issued POs are in large part completing and being paid for their services.

Chapter VI Statistical Analysis of M/WBE Utilization

**Table 6.15.
Services Utilization
Comparison
Contract Awards, Purchase Orders, Payments—Dollars
Miami-Dade County Public Schools
Nationwide, For the Period FY 2013 – FY 2018**

Race/Ethnicity/Gender	Contract Awards		Purchase Orders		Payments	
	\$	%	\$	%	\$	%
Non-(M/W/SMBE)	348,794,945	88.99	685,605,548	90.22	608,623,087	90.49
African American	1,492,159	0.38	7,466,488	0.98	5,203,914	0.77
Asian American	1,608,000	0.41	5,419,230	0.71	5,242,333	0.78
Hispanic American	27,804,056	7.09	37,671,098	4.96	33,204,962	4.94
Other Minority	1,206,667	0.31	484,909	0.06	426,098	0.06
Total Minority	32,110,881	8.19	51,041,725	6.72	44,077,307	6.55
WBE	4,054,728	1.03	13,431,525	1.77	11,768,773	1.75
Unknown M/WBE	5,441,667	1.39	8,634,327	1.14	6,914,588	1.03
Total M/WBE	41,607,276	10.62	73,107,577	9.62	62,760,668	9.33
SMBE	1,533,333	0.39	1,198,638	0.16	1,146,714	0.17
Veteran	0	0.00	19,665	0.00	19,665	0.00
Grand Total	391,935,554	100.00	759,931,427	100.00	672,550,134	100.00

Source: M-DCPS SAP Data, M³ Consulting

6.8 GOODS & SUPPLIES UTILIZATION

In the area of Goods & Supplies, M/WBE utilization is presented in this section using dollars for Purchase Orders by year and for the study period; For contract awards, purchase orders and payments, a comparison of dollars for the study period is shown. The relevant market for Services is Nationwide.

6.8.1 Goods & Supplies Utilization Based on Purchase Orders

As shown in Table 6.16, the majority of the Purchase Orders in Goods & Supplies were to Non-(M/W/SMBEs) at 79.55 percent or just over \$1 billion, but over time the share of contract awards to M/WBEs increased from 7.70 percent of the total in FY 2013 to 26.10 percent in FY 2016. After peaking in FY 2016, M/WBE participation dropped in FY 2017 to 21.84 percent and then again in FY 2018 to 14.04 percent. Overall M/WBE participation was 17.76 percent or \$232 million of \$1.3 billion.

Of the \$232 million M/WBE dollars, most was attributable to Hispanic American-owned firms at 15.86 percent or \$207 million. No other group reached one percent for the study period, although WBEs reached 0.98 percent or \$12.7 million. WBEs had a little over one percent for FYs 2015-2018. African American-owned firms received a mere \$2.7 million for the study period. Asian American-owned firms fared slightly better at \$7.3 million.

SMBE businesses were issued \$35 million in POs or 2.68 percent. Veteran-owned businesses only received \$15,027.

We note that one firm, U.S. Foods, a Non-(M/W/SMBE) supplier, accounts for 26.75 percent of Goods & Supply POs.

Chapter VI

Statistical Analysis of M/WBE Utilization

Table 6.16.
Goods & Supplies Utilization
Purchase Order—Dollars
Miami-Dade County Public Schools
Nationwide, FY 2013 – FY 2018

Race/Ethnicity/Gender	FY 2013		FY 2014		FY 2015		FY 2016		FY 2017		FY 2018		Period	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
Non-(M/W/SMBE)	245,820,503	91.84	164,246,380	85.05	154,235,685	74.91	155,105,838	69.33	164,362,679	73.44	156,307,514	80.92	1,040,078,597	79.55
African American	202,767	0.08	192,537	0.10	326,859	0.16	535,005	0.24	884,648	0.40	585,789	0.30	2,727,605	0.21
Asian American	802,157	0.30	96,623	0.05	414,231	0.20	1,286,030	0.57	2,299,264	1.03	2,422,525	1.25	7,320,829	0.56
Hispanic American	17,149,367	6.41	25,165,321	13.03	46,738,234	22.70	53,812,927	24.05	43,067,327	19.24	21,464,440	11.11	207,397,617	15.86
Other Minority	39,192	0.01	491,610	0.25	71,565	0.03	235,567	0.11	3,267	0.00	13,624	0.01	854,824	0.07
<i>Total Minority</i>	<i>18,193,483</i>	<i>6.80</i>	<i>25,946,090</i>	<i>13.44</i>	<i>47,550,889</i>	<i>23.10</i>	<i>55,869,528</i>	<i>24.97</i>	<i>46,254,506</i>	<i>20.67</i>	<i>24,486,378</i>	<i>12.68</i>	<i>218,300,875</i>	<i>16.70</i>
WBE	2,119,136	0.79	953,329	0.49	2,489,539	1.21	2,391,658	1.07	2,407,155	1.08	2,388,790	1.24	12,749,606	0.98
Unknown M/WBE	289,704	0.11	121,990	0.06	162,882	0.08	133,891	0.06	221,547	0.10	237,887	0.12	1,167,902	0.09
Total M/WBE	20,602,323	7.70	27,021,409	13.99	50,203,310	24.38	58,395,078	26.10	48,883,208	21.84	27,113,055	14.04	232,218,383	17.76
SMBE	1,235,545	0.46	1,849,526	0.96	1,451,573	0.71	10,219,282	4.57	10,568,001	4.72	9,742,073	5.04	35,065,999	2.68
Veteran	0	0.00	0	0.00	0	0.00	15,027	0.01	0	0.00	0	0.00	15,027	0.00
Grand Total	267,658,370	100.00	193,117,315	100.00	205,890,567	100.00	223,735,224	100.00	223,813,888	100.00	193,162,642	100.00	1,307,378,006	100.00

Source: M-DCPS Purchase Order Data, M³ Consulting

Note: U.S. Foods accounts for 26.75 percent of Goods & Supply dollars.

6.8.2 Goods & Supplies Utilization Comparison

Purchase orders may better reflect utilization of Goods & Supplies, as most contracts in this procurement type are multi-year requirements contracts and the purchase order invoices may better reflect the dollar awards within a year. In Table 6.17, PO and Payments reflect similar findings, with M/WBEs receiving 17.76 percent of POs and 20 percent of Payments. Hispanic American-owned firms received 15.86 percent of POs and 17.93 percent of Payments. African American-owned firms, Other Minority-owned firms and Veteran-owned firms appear to have been awarded more dollars than they were issued POs. Similar to Maintenance and Maintenance-Related Services, this result may reflect the difference between expected participation on multi-awardee contracts (contract awards) and actual participation (POs). Further research is required.

Chapter VI Statistical Analysis of M/WBE Utilization

Table 6.17.
Goods & Supplies Utilization
Comparison
Contract Awards, Purchase Orders, Payments—Dollars
Miami-Dade County Public Schools
Nationwide, FY 2013 – FY 2018

Race/Ethnicity/Gender	Contract Awards		Purchase Orders		Payments	
	\$	%	\$	%	\$	%
Non-(M/W/SMBE)	431,772,961	86.07	1,040,078,597	79.55	881,311,675	77.60
African American	5,574,744	1.11	2,727,605	0.21	2,434,468	0.21
Asian American	4,195,238	0.84	7,320,829	0.56	6,442,253	0.57
Hispanic American	31,365,768	6.25	207,397,617	15.86	203,645,654	17.93
Other Minority	3,691,781	0.74	854,824	0.07	1,292,770	0.11
Total Minority	44,827,531	8.94	218,300,875	16.70	213,815,145	18.83
WBE	10,192,667	2.03	12,749,606	0.98	11,877,222	1.05
Unknown M/WBE	393,456	0.08	1,167,902	0.09	1,474,321	0.13
Total M/WBE	55,413,654	11.05	232,218,383	17.76	227,166,687	20.00
SMBE	14,414,396	2.87	35,065,999	2.68	27,166,992	2.39
Veteran	37,375	0.01	15,027	0.00	15,027	0.00
Grand Total	501,638,386	100.00	1,307,378,006	100.00	1,135,660,381	100.00

Source: M-DCPS SAP Data, Contract Awards data, M³ Consulting

6.9 UTILIZATION THRESHOLDS

Below are utilization thresholds presented for each procurement type. Purchase order dollars are utilized to calculate threshold values. Thresholds presented are: “Below \$5k”; “\$5k-\$10k”; “\$10k-\$50k”; “\$50k-\$100k”; “\$100k-\$250k”; “\$250k-\$500k”; “\$500k-\$1M”; “\$1M-\$5M”; “\$5M-\$10M”; and “Above \$10M”.

A. Architecture and Engineering Thresholds

Table 6.18 presents A&E utilization dollars by race/ethnicity/gender by thresholds. There were no POs cut above \$5M. Notably, Hispanic American-owned firms received over 50 percent of all A&E POs cut in every threshold, up to \$1M, except “Below \$5k”, where they received 47.18 percent and “\$250k-\$500k”, where they received 41 percent of POs. Non-(M/W/SMBE) firms received about 20 to 30 percent of the dollars for all thresholds, except “\$250k-\$500k”, where they received almost 43 percent and “\$500k-\$1M”, where they received 100 percent. In the thresholds where they received POs, African American-owned firms had their lowest level of participation in the “Below \$5k”, at 6.09 percent. For thresholds from “\$5k-\$10k” up to “\$500k-\$1M”, their participation ranged from about 11 percent in most categories to a little over 15 percent for “\$10k-\$50k” and about 13 percent for “\$100k-\$250k”. WBEs participated in PO activity up to “\$250k-\$500k”, ranging from 1.36 percent for “Below \$5k” to 7.63 percent in the “\$50k-\$100k” threshold. They hovered around 2.5 percent in most threshold categories. SMBE business participated up to “\$100k-\$250k”, with a low of 5.81 percent for “\$100k-\$250k” and a high of 13.11 percent for “Below \$5k”.

B. Construction and Construction-Related Services Thresholds

In Table 6.19, the largest threshold category was “\$1M-\$5M”, with \$206 million. Non-(M/W/SMBE) contractors were awarded 92.08 percent of POs “Below \$5k”. Their participation ranged from 40-47 percent up to the “\$100k-\$250k”, dropped to about 30 percent for thresholds up to “\$1M-\$5M” and then increased to 76.37 percent for “\$5M-\$10M” and 100 percent for “Above \$10M”. These findings are supported by M-DCPS’ pre-qualification list, which shows that Non-(M/W/SMBE) contractors on average have higher bid and bond limits than other contractors, including Hispanic American-owned contractors.

Hispanic American- and African American-owned contractors participated in every threshold up to “\$5M-\$10M”. Hispanic American-owned firms received 5.84 percent of POs “Below \$5k”. However, their level of participation steadily increased thereafter, with 34.26 percent in the “\$5k-10k” range; 40 to 42 percent from “\$10k-\$50k” up to “\$100k-\$250k”; 51-57 percent from “\$250k-\$500k” to “\$1M-\$5M” and 12.15 percent in “\$5M-\$10M”. As discussed earlier, one African American-owned contractor, D. Stephenson won a majority of the dollars for this group, 88 percent based on Contract Awards and 83 percent based

on POs. The threshold analysis provides further insight into the impact of D. Stephenson on African American-owned contractor participation in the various thresholds. For thresholds of “\$10k-\$50k”, “\$100k-\$250k”, “\$250k-\$500k”, D. Stephenson represented 43.26 percent, 44.24 percent and 48.41 percent of African American-owned firms in these thresholds, respectively. For “\$500k-\$1M”, D. Stephenson represented 79.10 percent of these POs. For “\$1M-\$5M” and “\$5M-\$10M”, D. Stephenson represented 100 percent of African American-owned contractor participation.

WBEs and SMBE contractors participated up to “\$1M-\$5M”. WBEs received 0.40 percent of POs in the “Below \$5k” range. Their level of participation was slightly above 3.5 percent in the ranges of “\$5k-10k” to “\$10k-50k”. Participation increased again, ranging from 5.07 percent to 5.64 percent in the ranges of \$50-\$100k to “\$250k-\$500k”. It then declined to 3.59 percent in “\$500k-\$1M” and to 0.96 percent in “\$1M-\$5M”. SMBE contractors reflected a low of 0.82 percent in “Below \$5k” to a high of 8.55 percent in the range of “\$5k-\$10k”.

C. Maintenance and Maintenance-Related Services Thresholds

Non-(M/W/SMBE) firms participated up to “Above \$10M”, as reflected in Table 6.20. Hispanic American-owned firms participated up to “\$1M-\$5M”. SMBE firms participated up to “\$250k-\$500k”, followed by African American-owned firms that participated up to “\$100k-\$250k”. WBEs and Asian American-owned firms only participated up to “\$10k-\$50k”.

After securing 58.92 percent of POs “Below \$5k”, Non-(M/W/SMBE) firms received 40 to 48 percent of POs in the categories of “\$5k-\$10k” to “\$100k-\$250k”. Participation continued to rise to 56.95 percent for “\$250k-\$500k”, about 74 percent for “\$500k-\$1M” and “\$1M-\$5M” and 100 percent for “Above \$10M”.

Hispanic American-owned firms participation ranged about 25 to 35 percent, except in the “\$10k-\$50k” and “\$50k-\$100k”, where participation was 43.67 percent and 46.60 percent respectively. African American-owned firms had their highest level of participation in the ranges of “Below \$5k” at 5.63 percent and “\$5k-\$10k” at 4.67 percent. WBEs did not reach more than 2.19 percent participation in the range “\$5k-\$10k”, while SMBE firms averaged about 10-13 percent in the thresholds where they were represented.

D. Services Thresholds

Table 6.21 reflects Services Thresholds. Non-(M/W/SMBE) firms participated in all thresholds; Hispanic American-owned firms participated up to “\$1M-\$5M”; African American-owned firms and WBEs participated up to “\$500k-\$1M”, Asian American-, Other Minority-owned firms and SMBE firms up to “\$100k-\$250k” and Veteran-owned firms up to “\$10k-\$50k”.

Non-(M/W/SMBE) firms received between 70 to 90 percent of POs, except in the thresholds of “\$5M-\$10M” and “Above \$10M”, where they received 100 percent. Hispanic American-owned firms saw a fairly steady decline in participation as threshold levels increase, reflecting a high of 16.82 percent for “Below \$5k” to a low of 2.70 percent for “\$1M-\$5M”. African American-owned firms reached their highest levels of participation at 3.43 percent for “\$10k-\$50k” and 3.09 percent for “\$50k-\$100k”. Asian American-owned firms saw a drop from 4.52 percent for “Below \$5k” to 0.68 percent for “\$100k-\$250k”. SMBE firms had their highest level of participation a 3.09 percent for “Below \$5k” and then, did not reach 0.50 percent in the remaining categories in which they showed participation. Veteran-owned firms reflected 0.03 percent for “\$10k-\$50k”.

E. Goods & Supplies Thresholds

In Table 6.22, Non-(M/W/SMBE) suppliers received 70 to 80 percent of POs in thresholds up to “\$500k-\$1M”, 84.51 percent for “\$1M-\$5M” and 92.54 percent for “Above \$10M”. Their lowest level of participation was in the range of “\$5M-\$10M” at 42.14 percent. Hispanic American-owned firms participated in all thresholds, including “Above \$10M”, with a high of 32.22 percent for “\$5M-\$10M” and a low of 7.46 percent in “Above \$10M”. African American-owned firms received POs up to the range “\$100k-\$250k”, but never reach one percent in any threshold. Asian American-owned firms also received POs up to the “\$100k-\$250k” range, with a high of 2.37 percent in “\$100k-\$250k” and a low of 0.13 percent in “Below \$5k”. WBEs participated up to “\$250k-\$500k” range, with a high of 2.97 percent for “\$5M-\$10M” and allow of 0.42 percent for “\$250k-\$500k”. SMBE suppliers received POs up to the range of “\$5M-\$10M”, and this range reflected 25.64 percent. Veteran-owned firms participated in “Below \$5k” and “\$10k-\$50k” at 0.01 percent.

Chapter VI
Statistical Analysis of
M/WBE Utilization

Table 6.18. (1 of 2)
Architecture and Engineering Utilization Thresholds
Purchase Orders—Dollars
Miami-Dade County Public Schools
Tri-County MSA, FY 2013 – FY 2018

	Below 5K		5K-10K		10K-50K		50K-100K		100K-250K	
Race/Ethnicity/ Gender	\$	%	\$	%	\$	%	\$	%	\$	%
Non- (M/W/SMBE)	655,494	32.26	622,249	21.78	2,413,363	20.43	1,317,189	17.58	3,360,807	26.37
African American	123,844	6.09	316,226	11.07	1,796,757	15.21	905,075	12.08	1,662,697	13.04
Asian American	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Hispanic American	958,685	47.18	1,462,528	51.19	6,551,812	55.45	3,962,811	52.90	6,648,809	52.16
Other Minority	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<i>Total Minority</i>	<i>1,082,529</i>	<i>53.28</i>	<i>1,778,754</i>	<i>62.26</i>	<i>8,348,569</i>	<i>70.66</i>	<i>4,867,886</i>	<i>64.98</i>	<i>8,311,506</i>	<i>65.21</i>
WBE	27,629	1.36	96,798	3.39	325,746	2.76	571,883	7.63	332,957	2.61
Unknown M/WBE	0	0.00	9,850	0.34	0	0.00	0	0.00	0	0.00
Total M/WBE	1,110,157	54.64	1,885,402	65.99	8,674,315	73.42	5,439,769	72.62	8,644,463	67.82
SMBE	266,300	13.11	349,321	12.23	727,261	6.16	734,183	9.80	740,883	5.81
Veteran	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Grand Total	2,031,952	100.00	2,856,973	100.00	11,814,940	100.00	7,491,140	100.00	12,746,153	100.00

Source: M-DCPS Purchase Order Data, M³ Consulting

Chapter VI

Statistical Analysis of M/WBE Utilization

Table 6.18 cont. (2 of 2)
Architecture and Engineering Utilization Thresholds
Purchase Orders—Dollars
Miami-Dade County Public Schools
Tri-County MSA, FY 2013 – FY 2018

Race/Ethnicity/ Gender	250K-500K		500K-1M		1M-5M		5M-10M		Above 10M		TOTAL	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
Non- (M/W/SMBE)	3,868,066	42.92	1,451,600	24.69	4,483,346	100.00	0	0.00	0	0.00	18,172,115	32.27
African American	1,048,250	11.63	657,000	11.18	0	0.00	0	0.00	0	0.00	6,509,849	11.56
Asian American	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Hispanic American	3,774,918	41.88	3,770,051	64.13	0	0.00	0	0.00	0	0.00	27,129,613	48.17
Other Minority	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<i>Total Minority</i>	<i>4,823,168</i>	<i>53.51</i>	<i>4,427,051</i>	<i>75.31</i>	<i>0</i>	<i>0.00</i>	<i>0</i>	<i>0.00</i>	<i>0</i>	<i>0.00</i>	<i>33,639,462</i>	<i>59.73</i>
WBE	322,000	3.57	0	0.00	0	0.00	0	0.00	0	0.00	1,677,013	2.98
Unknown M/WBE	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	9,850	0.02
Total M/WBE	5,145,168	57.08	4,427,051	75.31	0	0.00	0	0.00	0	0.00	35,326,325	62.73
SMBE	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	2,817,948	5.00
Veteran	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Grand Total	9,013,234	100.00	5,878,651	100.00	4,483,346	100.00	0	0.00	0	0.00	56,316,388	100.00

Source: M-DCPS Purchase Order Data, M³ Consulting

Chapter VI
Statistical Analysis of
M/WBE Utilization

Table 6.19. (1 of 2)
Construction and Construction-Related Services Utilization Thresholds
Purchase Orders—Dollars
Miami-Dade County Public Schools
Tri-County MSA, FY 2013 – FY 2018

Race/Ethnicity/ Gender	Below 5K		5K-10K		10K-50K		50K-100K		100K-250K	
	\$	%	\$	%	\$	%	\$	%	\$	%
Non- (M/W/SMBE)	23,622,963	92.08	2,031,795	47.69	14,898,277	40.50	14,588,327	41.88	25,735,647	45.18
African American	182,854	0.71	222,313	5.22	1,895,300	5.15	1,567,458	4.50	2,189,743	3.84
Asian American	1,179	0.00	0	0.00	0	0.00	53,274	0.15	0	0.00
Hispanic American	1,497,109	5.84	1,459,784	34.26	15,653,891	42.56	14,619,547	41.97	23,256,564	40.83
Other Minority	21,477	0.08	25,009	0.59	201,213	0.55	147,624	0.42	106,615	0.19
<i>Total Minority</i>	<i>1,702,618</i>	<i>6.64</i>	<i>1,707,105</i>	<i>40.07</i>	<i>17,750,403</i>	<i>48.26</i>	<i>16,387,903</i>	<i>47.05</i>	<i>25,552,922</i>	<i>44.86</i>
WBE	103,485	0.40	150,677	3.54	1,422,443	3.87	1,965,783	5.64	2,985,141	5.24
Unknown M/WBE	16,671	0.06	6,446	0.15	171,693	0.47	144,400	0.41	0	0.00
Total M/WBE	1,822,774	7.10	1,864,228	43.76	19,344,538	52.59	18,498,086	53.11	28,538,063	50.10
SMBE	209,680	0.82	364,405	8.55	2,539,733	6.90	1,745,459	5.01	2,683,527	4.71
Veteran	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Grand Total	25,655,417	100.00	4,260,428	100.00	36,782,548	100.00	34,831,873	100.00	56,957,237	100.00

Source: M-DCPS Purchase Order Data, M³ Consulting

Chapter VI
Statistical Analysis of
M/WBE Utilization

Table 6.19 cont. (2 of 2)
Construction and Construction-Related Services Utilization Thresholds
Purchase Orders—Dollars
Miami-Dade County Public Schools
Tri-County MSA, FY 2013 – FY 2018

Race/Ethnicity/ Gender	250K-500K		500K-1M		1M-5M		5M-10M		Above 10M		TOTAL	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
Non- (M/W/SMBE)	19,622,529	32.73	25,395,637	29.23	63,780,479	30.93	37,761,532	76.37	70,214,272	100.00	297,651,458	47.16
African American	3,561,176	5.94	6,930,265	7.98	22,530,158	10.93	5,676,818	11.48	0	0.00	44,756,085	7.09
Asian American	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	54,453	0.01
Hispanic American	33,146,358	55.29	49,965,048	57.51	105,948,079	51.38	6,005,506	12.15	0	0.00	251,551,885	39.85
Other Minority	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	501,937	0.08
<i>Total Minority</i>	<i>36,707,534</i>	<i>61.22</i>	<i>56,895,313</i>	<i>65.49</i>	<i>128,478,237</i>	<i>62.31</i>	<i>11,682,324</i>	<i>23.63</i>	<i>0</i>	<i>0.00</i>	<i>296,864,360</i>	<i>47.03</i>
WBE	3,037,132	5.07	3,115,801	3.59	1,972,380	0.96	0	0.00	0	0.00	14,752,841	2.34
Unknown M/WBE	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	339,210	0.05
Total M/WBE	39,744,666	66.29	60,011,114	69.08	130,450,617	63.26	11,682,324	23.63	0	0.00	311,956,411	49.42
SMBE	588,168	0.98	1,467,303	1.69	11,972,725	5.81	0	0.00	0	0.00	21,570,999	3.42
Veteran	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Grand Total	59,955,363	100.00	86,874,055	100.00	206,203,821	100.00	49,443,856	100.00	70,214,272	100.00	631,178,868	100.00

Source M-DCPS Purchase Order Data, M³ Consulting

Chapter VI
Statistical Analysis of
M/WBE Utilization

Table 6.20. (1 of 2)
Maintenance and Maintenance-Related Services Utilization Thresholds
Purchase Orders—Dollars
Miami-Dade County Public Schools
Tri-County MSA, FY 2013 – FY 2018

	Below 5K		5K-10K		10K-50K		50K-100K		100K-250K	
Race/Ethnicity/ Gender	\$	%	\$	%	\$	%	\$	%	\$	%
Non- (M/W/SMBE)	3,837,795	58.92	1,629,419	46.14	5,369,871	42.97	2,177,967	40.06	3,297,181	48.17
African American	366,735	5.63	164,787	4.67	285,601	2.29	68,065	1.25	189,848	2.77
Asian American	13,176	0.20	24,200	0.69	146,921	1.18	0	0.00	0	0.00
Hispanic American	1,455,109	22.34	1,269,772	35.96	5,456,942	43.67	2,533,745	46.60	2,467,901	36.05
Other Minority		0.00	5,921	0.17	29,022	0.23	59,950	1.10		0.00
<i>Total Minority</i>	<i>1,835,020</i>	<i>28.17</i>	<i>1,464,680</i>	<i>41.48</i>	<i>5,918,486</i>	<i>47.36</i>	<i>2,661,760</i>	<i>48.96</i>	<i>2,657,749</i>	<i>38.83</i>
WBE	41,611	0.64	77,202	2.19	172,811	1.38	0	0.00	0	0.00
Unknown M/WBE	5,341	0.08	10,000	0.28	12,131	0.10	0	0.00	0	0.00
Total M/WBE	1,881,972	28.89	1,551,882	43.95	6,103,428	48.84	2,661,760	48.96	2,657,749	38.83
SMBE	793,889	12.19	350,019	9.91	1,023,503	8.19	597,098	10.98	889,989	13.00
Veteran	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Grand Total	6,513,657	100.00	3,531,319	100.00	12,496,802	100.00	5,436,824	100.00	6,844,919	100.00

Source: M-DCPS Purchase Order Data, M³ Consulting

Chapter VI
Statistical Analysis of
M/WBE Utilization

Table 6.20 cont. (2 of 2)
 Maintenance and Maintenance-Related Services Utilization Thresholds
 Purchase Orders—Dollars
 Miami-Dade County Public Schools
 Tri-County MSA, FY 2013 – FY 2018

Race/Ethnicity/ Gender	250K-500K		500K-1M		1M-5M		5M-10M		Above 10M		TOTAL	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
Non- (M/W/SMBE)	3,820,402	56.95	4,012,075	74.60	6,350,313	73.89	0	0.00	18,789,628	100.00	49,284,651	66.34
African American	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	1,075,035	1.45
Asian American	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	184,297	0.25
Hispanic American	2,219,747	33.09	1,366,074	25.40	2,243,455	26.11	0	0.00	0	0.00	19,012,746	25.59
Other Minority	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	94,893	0.13
<i>Total Minority</i>	<i>2,219,747</i>	<i>33.09</i>	<i>1,366,074</i>	<i>25.40</i>	<i>2,243,455</i>	<i>26.11</i>	<i>0</i>	<i>0.00</i>	<i>0</i>	<i>0.00</i>	<i>20,366,970</i>	<i>27.41</i>
WBE	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	291,624	0.39
Unknown M/WBE	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	27,472	0.04
Total M/WBE	2,219,747	33.09	1,366,074	25.40	2,243,455	26.11	0	0.00	0	0.00	20,686,066	27.84
SMBE	668,000	9.96	0	0.00	0	0.00	0	0.00	0	0.00	4,322,498	5.82
Veteran	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Grand Total	6,708,148	100.00	5,378,150	100.00	8,593,768	100.00	0	0.00	18,789,628	100.00	74,293,215	100.00

Source: M-DCPS Purchase Order Data, M³ Consulting

Chapter VI
Statistical Analysis of
M/WBE Utilization

Table 6.21. (1 of 2)
Services Utilization Thresholds
Purchase Orders—Dollars
Miami-Dade County Public Schools
Nationwide, FY 2013 – FY 2018

Race/Ethnicity/ Gender	Below 5K		5K-10K		10K-50K		50K-100K		100K-250K	
	\$	%	\$	%	\$	%	\$	%	\$	%
Non- (M/W/SMBE)	16,529,456	69.58	11,311,336	74.47	40,998,903	74.40	29,257,876	84.14	82,147,699	89.90
African American	336,769	1.42	260,927	1.72	1,891,001	3.43	1,074,054	3.09	1,738,754	1.90
Asian American	1,074,760	4.52	705,162	4.64	2,194,286	3.98	820,245	2.36	624,778	0.68
Hispanic American	3,995,204	16.82	2,305,387	15.18	6,840,405	12.41	2,129,318	6.12	5,325,471	5.83
Other Minority	60,137	0.25	29,500	0.19	161,113	0.29	0	0.00	234,158	0.26
<i>Total Minority</i>	<i>5,466,870</i>	<i>23.01</i>	<i>3,300,976</i>	<i>21.73</i>	<i>11,086,806</i>	<i>20.12</i>	<i>4,023,616</i>	<i>11.57</i>	<i>7,923,161</i>	<i>8.67</i>
WBE	1,011,074	4.26	504,534	3.32	2,595,072	4.71	1,435,133	4.13	496,205	0.54
Unknown M/WBE	12,922	0.05	30,025	0.20	138,400	0.25	55,642	0.16	660,000	0.72
Total M/WBE	6,490,866	27.32	3,835,535	25.25	13,820,277	25.08	5,514,390	15.86	9,079,365	9.94
SMBE	734,127	3.09	43,067	0.28	270,748	0.49	0	0.00	150,696	0.16
Veteran	2,065	0.01	0	0.00	17,600	0.03	0	0.00	0	0.00
Grand Total	23,756,514	100.00	15,189,937	100.00	55,107,528	100.00	34,772,267	100.00	91,377,760	100.00

Source: M-DCPS Purchase Order Data, M³ Consulting

Chapter VI

Statistical Analysis of M/WBE Utilization

Table 6.21 cont. (2 of 2)
 Services Utilization Thresholds
 Purchase Orders—Dollars
 Miami-Dade County Public Schools
 Nationwide, FY 2013 – FY 2018

Race/Ethnicity/ Gender	250K-500K		500K-1M		1M-5M		5M-10M		Above 10M		TOTAL	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
Non-(M/W/SMBE)	70,866,785	86.49	78,048,026	85.85	176,109,260	94.41	38,049,095	100.00	142,287,113	100.00	685,605,548	90.22
African American	1,107,780	1.35	1,057,204	1.16	0	0.00	0	0.00	0	0.00	7,466,488	0.98
Asian American	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	5,419,230	0.71
Hispanic American	5,925,608	7.23	6,115,105	6.73	5,034,600	2.70		0.00		0.00	37,671,098	4.96
Other Minority	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	484,909	0.06
<i>Total Minority</i>	<i>7,033,388</i>	<i>8.58</i>	<i>7,172,309</i>	<i>7.89</i>	<i>5,034,600</i>	<i>2.70</i>	<i>0</i>	<i>0.00</i>	<i>0</i>	<i>0.00</i>	<i>51,041,725</i>	<i>6.72</i>
WBE	3,274,625	4.00	3,094,183	3.40	1,020,700	0.55	0	0.00	0	0.00	13,431,525	1.77
Unknown M/WBE	764,717	0.93	2,601,684	2.86	4,370,938	2.34	0	0.00	0	0.00	8,634,327	1.14
Total M/WBE	11,072,730	13.51	12,868,176	14.15	10,426,238	5.59	0	0.00	0	0.00	73,107,577	9.62
SMBE	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	1,198,638	0.16
Veteran	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	19,665	0.00
Grand Total	81,939,515	100.00	90,916,201	100.00	186,535,497	100.00	38,049,095	100.00	142,287,113	100.00	759,931,427	100.00

Source: M-DCPS Purchase Order Data, M³ Consulting

Chapter VI
Statistical Analysis of
M/WBE Utilization

Table 6.22. (1 of 2)
Goods & Supplies Utilization Thresholds
Purchase Orders—Dollars
Miami-Dade County Public Schools
Nationwide, FY 2013 – FY 2018

Race/Ethnicity/ Gender	Below 5K		5K-10K		10K-50K		50K-100K		100K-250K	
	\$	%	\$	%	\$	%	\$	%	\$	%
Non- (M/W/SMBE)	97,746,940	79.25	38,853,324	74.58	101,478,179	68.63	55,208,004	71.96	53,431,023	69.93
African American	904,637	0.73	330,585	0.63	840,079	0.57	61,435	0.08	590,870	0.77
Asian American	163,525	0.13	186,173	0.36	1,201,808	0.81	1,026,168	1.34	1,813,960	2.37
Hispanic American	15,631,544	12.67	9,374,317	17.99	37,833,788	25.59	18,213,794	23.74	17,906,732	23.44
Other Minority	104,774	0.08	22,962	0.04	171,410	0.12	119,878	0.16		0.00
<i>Total Minority</i>	<i>16,804,480</i>	<i>13.62</i>	<i>9,914,037</i>	<i>19.03</i>	<i>40,047,085</i>	<i>27.09</i>	<i>19,421,275</i>	<i>25.32</i>	<i>20,311,562</i>	<i>26.58</i>
WBE	5,209,973	4.22	1,548,482	2.97	3,054,033	2.07	1,206,784	1.57	1,435,214	1.88
Unknown M/WBE	188,036	0.15	104,570	0.20	691,796	0.47	183,500	0.24	0	0.00
Total M/WBE	22,202,490	18.00	11,567,088	22.20	43,792,913	29.62	20,811,559	27.13	21,746,776	28.46
SMBE	3,393,442	2.75	1,676,241	3.22	2,571,459	1.74	698,770	0.91	1,226,088	1.60
Veteran	4,027	0.00	0	0.00	11,000	0.01	0	0.00	0	0.00
Grand Total	123,346,898	100.00	52,096,652	100.00	147,853,551	100.00	76,718,333	100.00	76,403,887	100.00

Source: M-DCPS Purchase Order Data, M³ Consulting

Chapter VI

Statistical Analysis of M/WBE Utilization

Table 6.22 cont. (2 of 2)
 Goods & Supplies Utilization Thresholds
 Purchase Orders—Dollars
 Miami-Dade County Public Schools
 Nationwide, FY 2013 – FY 2018

Race/Ethnicity/Gender	250K-500K		500K-1M		1M-5M		5M-10M		Above 10M		TOTAL	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
Non-(M/W/SMBE)	55,567,193	78.28	76,154,176	80.31	101,674,810	84.51	36,984,390	42.14	422,980,558	92.54	1,040,078,597	79.55
African American	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	2,727,605	0.21
Asian American	1,547,465	2.18	1,381,730	1.46	0	0.00	0	0.00	0	0.00	7,320,829	0.56
Hispanic American	13,136,287	18.51	14,285,137	15.07	18,633,199	15.49	28,275,793	32.22	34,107,025	7.46	207,397,617	15.86
Other Minority	435,800	0.61		0.00		0.00		0.00		0.00	854,824	0.07
Total Minority	15,119,552	21.30	15,666,867	16.52	18,633,199	15.49	28,275,793	32.22	34,107,025	7.46	218,300,875	16.70
WBE	295,120	0.42	0	0.00	0	0.00	0	0.00	0	0.00	12,749,606	0.98
Unknown M/WBE	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	1,167,902	0.09
Total M/WBE	15,414,672	21.72	15,666,867	16.52	18,633,199	15.49	28,275,793	32.22	34,107,025	7.46	232,218,383	17.76
SMBE	0	0.00	3,000,000	3.16	0	0.00	22,500,000	25.64	0	0.00	35,065,999	2.68
Veteran	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	15,027	0.00
Grand Total	70,981,865	100.00	94,821,044	100.00	120,308,009	100.00	87,760,183	100.00	457,087,583	100.00	1,307,378,006	100.00

Source: M-DCPS Purchase Order Data, M³ Consulting

6.10 TOP TEN BIDDERS AND AWARDEES

In trying to decipher patterns of utilization of firms by their race, ethnicity and/or gender within each procurement type, the analysis below seeks to determine whether the same awardees repeatedly received M-DCPS contracts, as well as the success rate of M-DCPS' top ten bidders in obtaining M-DCPS contracts.

A. Top Ten Bidders and Awardees for Architecture and Engineering

Of the ten firms reported in Table 6.23, eight were Hispanic American-owned firms, one was African American-owned and one Non-(M/W/SMBE), which was located outside of the State of Florida. Comparing these firms to Table 6.24, Top Ten Awardees, we see that seven of the Top Ten Bidder firms, were among the Top Ten Awardees. The Top Ten Awardees represented 86.54 percent of Architecture and Engineering contract dollars. Three of the Top Ten Bidders, 2 Hispanic American-owned and one African American-owned firm, had a success rate of close to 50 percent. The out of state firm won one contract, while one Hispanic American-owned firm was not successful in winning any awards (Table 6.25).

Table 6.23.				
Top Ten Bidders				
Architecture and Engineering				
Tri-County MSA; FY 2013 - FY 2018				
	Count of Bids	% of Counts	Race/Ethnicity/Gender	Location
Rodriguez Architects Inc	22	5.06	Hispanic American	MSA
Laura M. Perez & Associates Inc	21	4.83	Hispanic American	MSA
Silva Architects LLC	20	4.60	Hispanic American	MSA
KVH Architects P.A.	20	4.60	Hispanic American	MSA
LIVS Associates	18	4.14	Hispanic American	MSA
M.C. Harry & Associates Inc	17	3.91	African American	MSA
Sr Architects P.A.	16	3.68	Hispanic American	MSA
SBLM Architects P.C.	16	3.68	Non-(M/W/SMBE)	Nationwide
R. E. Chisholm Architects Inc	16	3.68	Hispanic American	MSA
Wolfberg Alvarez & Partners Inc	15	3.45	Hispanic American	MSA
A&E	435	53.44		

Source: M-DCPS Contracts Data, M³ Consulting

Chapter VI

Statistical Analysis of M/WBE Utilization

Table 6.24.
Top Ten Awardees
Architecture and Engineering
Contract Awards
Tri-County MSA; FY 2013 - FY 2018

	Dollars	% of Dollars	Count	% of Counts	Race/ Ethnicity/ Gender	Location
Zyscovich, Inc.	4,213,000	18.12	6	6.90	Non-(M/W/SMBE)	MSA
Silva Architects, LLC	3,233,216	13.91	8	9.20	Hispanic American	MSA
M.C. Harry & Associates, Inc.	2,414,234	10.38	8	9.20	African American	MSA
Rodriguez Architects, Inc.	2,328,660	10.02	12	13.79	Hispanic American	MSA
Wolfberg Alvarez & Partners, Inc.	2,131,093	9.17	5	5.75	Hispanic American	MSA
Carreno & Partners, Inc.	1,650,000	7.10	1	1.15	Hispanic American	MSA
KVH Architects, PA	1,464,030	6.30	5	5.75	Hispanic American	MSA
Laura M. Perez & Associates, Inc.	1,313,953	5.65	9	10.34	Hispanic American	MSA
Saltz Michelson Architects, Inc.	706,000	3.04	3	3.45	SBE	MSA
LIVS Associates	663,203	2.85	4	4.60	Hispanic American	MSA
Grand Total	23,247,366					

Source: M-DCPS SAP Data, M³ Consulting, Highlighted firms represent outliers

Chapter VI

Statistical Analysis of M/WBE Utilization

Table 6.25.
Success Rate of Top Ten Bidders: Architecture and Engineering
Tri-County MSA; FY 2013 - FY 2018

Architecture and Engineering		% of Bids	Race/Ethnicity/Gender	Location	# of Awards	% Success rate	Dollar Value of Awards	% of Dollar Value
TOTAL	435	100.00					23,247,366	
Rodriguez Architects Inc	22	5.06	Hispanic American	MSA	11	50.00	2,328,660	10.02
Laura M. Perez & Associates Inc	21	4.83	Hispanic American	MSA	10	47.62	1,313,953	5.65
Silva Architects LLC	20	4.60	Hispanic American	MSA	6	30.00	3,233,216	13.91
KVH Architects P.A.	20	4.60	Hispanic American	MSA	5	25.00	1,464,030	6.30
LIVS Associates	18	4.14	Hispanic American	MSA	4	22.22	663,203	2.85
M.C. Harry & Associates Inc	17	3.91	African American	MSA	8	47.06	2,414,234	10.38
Sr Architects P.A.	16	3.68	Hispanic American	MSA	3	18.75	304,500	1.31
SBLM Architects P.C.	16	3.68	Non-(M/W/SMBE)	Nationwide	1	6.25	0	0.00
R. E. Chisholm Architects Inc	16	3.68	Hispanic American	MSA	0	0.00	0	0.00

Source: M-DCPS Contracts and SAP Data, M³ Consulting

Chapter VI Statistical Analysis of M/WBE Utilization

B. Top Ten Bidders and Awardees for Construction and Construction-Related Services

The top ten bidders in Construction and Construction-Related Services included six Hispanic American-owned contractors, as shown in Table 6.26. There were two Non-(M/W/SMBE) firms, one SBE and one African American-owned contractor. Half of the top ten bidders were also top ten awardees in Table 6.27. Additionally, the top ten awardees represented 73.07 percent of Construction PO dollars.

Of the Top Ten Bidders, D. Stephenson had the highest success rate at 66.67 percent, winning 10 of 15 bids, as shown in Table 6.28. Hispanic American-owned success rates ranged from 16.67 percent to 40 percent. Two Non-(M/W/SMBEs) had success rates between 20 and 25 percent.

	Count of Bids	% of Counts	Race/Ethnicity/Gender	Location
Veitia Padron Inc	24	6.33	Hispanic American	MSA
Thornton Construction Company Inc	16	4.22	Hispanic American	MSA
Link Construction Group Inc	15	3.96	Hispanic American	MSA
Stobs Bros. Construction Co	15	3.96	Non-(M/W/SMBE)	MSA
D. Stephenson Construction Inc	15	3.96	African American	MSA
Unitech Builders Corp	14	3.69	Hispanic American	MSA
T & G Constructors	13	3.43	Hispanic American	MSA
H.A. Contracting Corporation	13	3.43	SBE	MSA
G.E.C. Associates Inc	12	3.17	Hispanic American	MSA
Turner Construction Company	12	3.17	Non-(M/W/SMBE)	MSA
Grand Total	379			

Source: M-DCPS Contracts Data, M³ Consulting

Chapter VI

Statistical Analysis of M/WBE Utilization

Table 6.27.
Top Ten Awardees
Construction and Construction-Related Services
Contract Awards
Tri-County MSA; FY 2013--FY 2018

	Dollars	% of Dollars	Counts	% of Counts	Race/Ethnicity/ Gender	Location
James B. Pirtle Construction Co., Inc.	66,787,856	14.85	4	1.22	Non-(M/W/SMBE)	MSA
D. Stephenson Construction, Inc.	48,804,115	10.85	21	6.38	African American	MSA
Thornton Construction Company, Inc.	36,444,176	8.10	15	4.56	Hispanic American	MSA
MCM- Munilla Construction Management	34,906,960	7.76	15	4.56	Non-(M/W/SMBE)	MSA
Link Construction Group, Inc.	33,523,710	7.45	21	6.38	Hispanic American	MSA
Veitia Padron, Inc.	33,465,483	7.44	42	12.77	Hispanic American	MSA
T&G Constructors	19,669,045	4.37	12	3.65	Hispanic American	MSA
Stobs Bros. Construction Co.	19,349,199	4.30	21	6.38	Non-(M/W/SMBE)	MSA
BDI Construction Company	18,657,018	4.15	23	6.99	Hispanic American	MSA
Unitech Builders Corp.	17,108,735	3.80	15	4.56	Hispanic American	MSA
Grand Total	449,811,360		329			

Source: M-DCPS SAP Data, M³ Consulting; Highlighted firms represent outliers

Chapter VI

Statistical Analysis of M/WBE Utilization

Table 6.28.
Success Rate of Top Ten Bidders: Construction and Construction-Related Services
Tri-County MSA; FY 2013 - FY 2018

		% of Bids	Race/Ethnicity/Gender	Location	# of Awards	% Success rate	Dollar Value of Awards	% of Dollar Value
Goods & Supplies								
TOTAL	379	100.00					449,811,360	
Veitia Padron Inc	24	6.33	Hispanic American	MSA	8	33.33	33,465,483	7.44
Thornton Construction Company Inc	16	4.22	Hispanic American	MSA	5	31.25	36,444,176	8.10
Link Construction Group Inc	15	3.96	Hispanic American	MSA	6	40.00	33,523,710	7.45
Stobs Bros. Construction Co	15	3.96	Non-(M/W/SMBE)	MSA	3	20.00	19,349,199	4.30
D. Stephenson Construction Inc	15	3.96	African American	MSA	10	66.67	48,804,115	10.85
Unitech Builders Corp	14	3.69	Hispanic American	MSA	5	35.71	17,108,735	3.80
T & G Constructors	13	3.43	Hispanic American	MSA	3	23.08	19,669,045	4.37
H.A. Contracting Corporation	13	3.43	SBE	MSA	2	15.38	14,329,085	3.19
G.E.C. Associates Inc	12	3.17	Hispanic American	MSA	2	16.67	15,387,233	3.42
Turner Construction Company	12	3.17	Non-(M/W/SMBE)	MSA	3	25.00	12,611,694	2.80

Source: M-DCPS Contracts and SAP Data, M³ Consulting

C. Top Ten Bidders and Awardees for M&MRS

In M&MRS, several firms submitted four bids, and thus are represented here, expanding the pool from 10 to 13. The pool of firms, shown in Table 6.29, is more varied with three Non-(M/W/SMBEs), four Hispanic American-owned firms, a WBE, two African American-owned firm, two SBE, one Minority-owned firm and one M/WBE. The Top Ten Awardees who received payments are shown in Table 6.30 and show that four Hispanic American-owned firms, one SBE and five Non-(M/W/SMBE) are included in this list. However, only one firm on the Top Ten Bidders list was on the list Top Ten Awardees. The top ten awardees account for 52.28 percent of M&MRS dollars, of which MCM Corporation had 21.60 percent.

The success rates in Table 6.31 were broad ranging, from 0 percent to 100 percent. Two firms—an African American-owned firm and an SBE—had no awards; in contrast, one African American-owned firm had 83.3 percent and one SBE had 100 percent with 4 awards. Three Hispanic American-owned firms had 75 percent success rate and one had 40 percent. There were two Non-(M/W/SMBEs) with a success rate around 30 percent and one at 75 percent. The only WBE had a success rate of 20 percent.

Chapter VI

Statistical Analysis of M/WBE Utilization

Table 6.29.
Top Ten Bidders
Maintenance and Maintenance-Related Services
Tri-County MSA; FY 2013 - FY 2018

	Count of Bids	% of Counts	Race/Ethnicity/ Gender	Location
Kasas Construction, Inc.	8	1.79	Micro	MSA
Superior Landscaping & Lawn Services, Inc.	7	1.57	Non-(M/W/SMBE)	MSA
SFM Services, Inc.	6	1.35	Non-(M/W/SMBE)	MSA
Thomas Maintenance Services, Inc.	6	1.35	African American	MSA
Crodon, Inc.	5	1.12	SBE	MSA
Mitchell's Lawn Maintenance Corp.	5	1.12	WBE	MSA
Florida Turf & Landscape Horticulture, Inc.	5	1.12	Hispanic American	MSA
Premier Air Conditioning & Refrigeration, Inc.	4	0.90	Hispanic American	MSA
Temptrol Air Conditioning, Inc.	4	0.90	Hispanic American	MSA
Florida Coast Services, Inc.	4	0.90	M/WBE	MSA
M.A.C. Construction, Inc.	4	0.90	WBE	MSA
Bannerman Landscaping, Inc.	4	0.90	African American	MSA
Dade Restaurant Repair Shop, Inc.	4	0.90	Non-(M/W/SMBE)	MSA
Air Contracting & Refrigeration, Inc.	4	0.90	Hispanic American	MSA
A Native Tree Service, Inc.	4	0.90	SBE	MSA
Total	446			

Source: M-DCPS Contracts Data, M³ Consulting

Chapter VI

Statistical Analysis of M/WBE Utilization

Table 6.30.
Top Ten Awardees
Maintenance and Maintenance-Related Services Utilization
Purchase Orders
Tri-County MSA; FY 2013 - FY 2018

	Dollars	% of Dollars	Counts	% of Counts	Race/Ethnicity/ Gender	Location
MCM Corporation	18,789,628	21.60	1	0.02	Non-(M/W/SMBE)	MSA
Stobs Brothers Construction Co	4,578,983	5.26	42	0.64	Non-(M/W/SMBE)	MSA
Veitia Padron Inc	4,218,144	4.85	20	0.31	Hispanic American	MSA
Mexal Corporation	4,180,263	4.81	50	0.77	Hispanic American	MSA
Coastal Construction Company	3,664,357	4.21	2	0.03	Non-(M/W/SMBE)	MSA
United Data Technologies Inc	2,297,546	2.64	15	0.23	Hispanic American	State of Florida
Kasas Construction Inc	2,063,199	2.37	56	0.86	SBE	MSA
Cap Government Inc	2,021,273	2.32	157	2.41	Hispanic American	MSA
Parsons Brinckerhoff Inc	1,972,671	2.27	306	4.69	Non-(M/W/SMBE)	MSA
Providence Elevator Inc	1,699,505	1.95	24	0.37	Non-(M/W/SMBE)	MSA
M&MRS	86,997,699					

Source: M-DCPS SAP Data, M³ Consulting; Highlighted firms represent outliers

Chapter VI
Statistical Analysis of
M/WBE Utilization

Table 6.31.
Success Rate of Top Ten Bidders:
Maintenance and Maintenance-Related Services
Tri-County MSA; FY 2013 - FY 2018

M&MRS		% of Bids	Race/Ethnicity/Gender	Location	# of Awards	Success rate	Dollar Value of Awards	% of Dollar Value
TOTAL	446	100.00					67,669,393	7.04
Kasas Construction, Inc.	8	1.79	MBE	MSA	5	62.50	1,837,778	2.72
Superior Landscaping & Lawn Services, Inc.	7	1.57	Non-(M/W/SMBE)	MSA	2	28.57	136,364	0.20
SFM Services, Inc.	6	1.35	Non-(M/W/SMBE)	MSA	2	33.33	136,364	0.20
Thomas Maintenance Services, Inc.	6	1.35	African American	MSA	5	83.33	596,364	0.88
Crodon, Inc.	5	1.12	SBE	MSA	0	0.00	0	0.00
Mitchell's Lawn Maintenance Corp.	5	1.12	WBE	MSA	1	20.00	36,364	0.05
Florida Turf & Landscape Horticulture, Inc.	5	1.12	Hispanic American	MSA	2	40.00	136,364	0.20
Premier Air Conditioning & Refrigeration, Inc.	4	0.90	Hispanic American	MSA	3	75.00	1,092,424	1.61
Temptrol Air Conditioning, Inc.	4	0.90	Hispanic American	MSA	3	75.00	1,092,424	1.61
Florida Coast Services, Inc.	4	0.90	M/WBE	MSA	2	50.00	136,364	0.20
M.A.C. Construction, Inc.	4	0.90	WBE	MSA	4	100.00	499,167	0.74
Bannerman Landscaping, Inc.	4	0.90	African American	MSA	0	0.00	0	0.00
Dade Restaurant Repair Shop, Inc.	4	0.90	Non-(M/W/SMBE)	MSA	3	75.00	470,856	0.70
Air Contracting & Refrigeration, Inc.	4	0.90	Hispanic American	MSA	3	75.00	1,092,424	1.61
A Native Tree Service, Inc.	4	0.90	SBE	MSA	2	50.00	436,364	0.64

Source: M³ Consulting, M-DCPS SAP Data and Contracts Data; Highlighted firms represent outliers

Chapter VI

Statistical Analysis of M/WBE Utilization

D. Top Ten Bidders and Awardees for Services

Top Ten Services Bidders include one Hispanic American-owned firm, one African American-owned firm, one WBE, one M/WBE firm and six Non-(M/W/SMBEs) and (Table 6.32). However, none of the Top Ten Bidders were among the Top Ten Awardees (Table 6.33), which included only Non-(M/W/SMBEs). The Top Ten Awardees garnered 45.84 percent of Services POs, with Arthur Gallagher Risk Management representing 22.12 percent.

Table 6.34 presents the success rate of the Top Ten Bidders in the Services' procurement. One Non-(M/W/SMBE) and one M/WBE had success rate of 83.33 percent. All other bidders had success rates ranging between 40 percent and 66.67 percent.

Table 6.32. Top Ten Bidders Services Nationwide; FY 2013 - FY 2018				
	Count of Bids	% of Counts	Race/Ethnicity/ Gender	Location
Air B School Bus Transportation, Inc.	15	1.24	Hispanic American	MSA
Carlos & Susanne School Bus Service	13	1.07	Non-(M/W/SMBE)	MSA
Maria Gamboa Bus Service, Inc	10	0.83	Non-(M/W/SMBE)	MSA
Catapult Learning, Inc.	9	0.74	Non-(M/W/SMBE)	Nationwide
Bass United Fire & Security Systems, Inc.	6	0.50	Non-(M/W/SMBE)	MSA
Waste Management Inc. of Florida	6	0.50	Non-(M/W/SMBE)	Nationwide
Nationwide Interpreter Resource, Inc	6	0.50	M/WBE	MSA
Franmar Corporation	6	0.50	WBE	MSA
ADT Transportation, Inc.	6	0.50	Non-(M/W/SMBE)	MSA
King's College Tours, Inc.	6	0.50	African American	MSA
Total	1,211			

Source: M-DCPS Contracts Data, M³ Consulting

Chapter VI

Statistical Analysis of M/WBE Utilization

Table 6.33.
Top Ten Awardees
Services
Purchase Orders
Nationwide; FY 2013 - FY 2018

	Dollars	% of Dollars	Counts	% of Counts	Race/Ethnicity/ Gender	Location
Arthur J Gallagher Risk mgmt.	168,084,662	22.12	102	0.49	Non-(M/W/SMBE)	Nationwide
Integrity Health Services	48,514,626	6.38	13	0.06	Non-(M/W/SMBE)	MSA
Gallagher Bassett Ins Serv	31,735,801	4.18	6	0.03	Non-(M/W/SMBE)	Nationwide
Catapult Learning LLC	18,592,153	2.45	7	0.03	Non-(M/W/SMBE)	Nationwide
Cigna 38679	14,827,000	1.95	10	0.05	Non-(M/W/SMBE)	Nationwide
E B S Healthcare Inc	14,597,594	1.92	10	0.05	Non-(M/W/SMBE)	Nationwide
Ricoh USA Inc	13,617,616	1.79	627	3.02	Non-(M/W/SMBE)	Nationwide
City Year Inc	13,487,491	1.77	10	0.05	Non-(M/W/SMBE)	Nationwide
SHI International Corp	13,140,783	1.73	53	0.26	Non-(M/W/SMBE)	Nationwide
Curriculum Associates LLC	11,768,797	1.55	16	0.08	Non-(M/W/SMBE)	Nationwide
Total	794,418,492					

Source: M-DCPS SAP Data, M³ Consulting; Highlighted firms represent outliers

Chapter VI

Statistical Analysis of M/WBE Utilization

Table 6.34.
Success Rate of Top Ten Bidders: Services Nationwide; FY 2013 - FY 2018

Services		% of Bids	Race/Ethnicity/Gender	Location	# of Awards	Success rate	Dollar Value of Awards	% of Dollar Value
TOTAL	1,211	100.00					392,040,817	
Air B School Bus Transportation, Inc.	15	1.24	Hispanic American	MSA	6	40.00	1,115,965	0.28
Carlos & Susanne School Bus Service	13	1.07	Non-(M/W/SMBE)	MSA	6	46.15	195,570	0.05
Maria Gamboa Bus Service, Inc	10	0.83	Non-(M/W/SMBE)	MSA	6	60.00	1,115,965	0.28
Catapult Learning, Inc.	9	0.74	Non-(M/W/SMBE)	Nationwide	6	66.67	1,810,292	0.46
Bass United Fire & Security Systems, Inc.	6	0.50	Non-(M/W/SMBE)	MSA	4	66.67	14,768,962	3.77
Waste Management Inc. of Florida	6	0.50	Non-(M/W/SMBE)	Nationwide	5	83.33	12,603,724	3.21
Nationwide Interpreter Resource, Inc	6	0.50	M/WBE	MSA	5	83.33	4,241,667	1.08
Franmar Corporation	6	0.50	WBE	MSA	3	50.00	1,115,965	0.28
ADT Transportation, Inc.	6	0.50	Non-(M/W/SMBE)	MSA	4	66.67	195,570	0.05
King's College Tours, Inc.	6	0.50	African American	MSA	3	50.00	0.00	0.00

Source: M-DCPS Contracts and SAP Data, M³ Consulting, *Services includes both Professional and Non-Professional Services; Highlighted firms represent outliers

Chapter VI

Statistical Analysis of M/WBE Utilization

E. Top Ten Bidders and Awardees for Goods & Supplies

Four suppliers bid 8 times and thus, are reported here. Top Ten Services Bidders for Goods & Supplies include two Hispanic American-owned firm, ten Non-(M/W/SMBEs) and one Asian American-owned supplier (Table 6.35). Those firms that are the Top Ten Bidders who are also on the Top Ten Awardees (Table 6.36) include three firms, one Hispanic American-owned firm and two Non-(M/W/SMBEs). The Top Ten Awardees represented 60.44 percent of the \$1.3 billion in POs, with U.S. Food Service at 26.75 percent of that amount.

Table 6.37 presents the success rate of the top ten bidders in the Good and Supplies procurement. No supplier had a success rate over 54.55 percent and three firms had success rates of 50 percent. These firms were Non-(M/W/SMBEs). Two Hispanic American bidders had success rates of 12.50 percent and 35.71 percent. An Asian American-owned bidder had a success rate of 26.67 percent.

Table 6.35. Top Ten Bidders Goods & Supplies Nationwide; FY 2013 - FY 2018				
	Count of Bids	% of Counts	Race/Ethnicity/ Gender	Location
Structured Cabling Solutions, Inc.	15	1.70	Asian American	MSA
United Data Technologies, Inc.	14	1.58	Hispanic American	MSA
Graybar Electric Company Inc	13	1.47	Non-(M/W/SMBE)	MSA
Windstream Corporation	12	1.36	Non-(M/W/SMBE)	Nationwide
JDL Technologies, Inc.	12	1.36	Non-(M/W/SMBE)	MSA
The Produce Connection, Inc.	11	1.24	Non-(M/W/SMBE)	MSA
CDW Government, LLC	10	1.13	Non-(M/W/SMBE)	Nationwide
Daboter, Inc.	9	1.02	Non-(M/W/SMBE)	MSA
All Florida Paper	9	1.02	Non-(M/W/SMBE)	MSA
Total Pack, Inc.	8	0.90	Hispanic American	MSA
Freedom Fresh, LLC	8	0.90	Non-(M/W/SMBE)	MSA
National Chemical Laboratories, Inc.	8	0.90	Non-(M/W/SMBE)	Nationwide
AFP Industries, Inc.	8	0.90	Non-(M/W/SMBE)	MSA
Total	884			

Source: M-DCPS Contracts Data, M³ Consulting

Chapter VI

Statistical Analysis of M/WBE Utilization

Table 6.36.
Top Ten Awardees
Goods & Supplies
Purchase Orders
Nationwide; FY 2013 - FY 2018

	Dollars	% of Dollars	Counts	% of Counts	Race/Ethnicity/ Gender	Location
US Foodservice	350,802,954	26.75	26	0.03	Non-(M/W/SMBE)	Outside MSA
United Data Technologies Inc	163,637,273	12.48	3,572	4.53	Hispanic American	Outside MSA
Borden Dairy Company	81,539,213	6.22	8	0.01	Non-(M/W/SMBE)	Outside MSA
Mansfield Oil Company	55,670,791	4.24	71	0.09	Non-(M/W/SMBE)	Outside MSA
The Produce Connection Inc	30,297,462	2.31	11	0.01	Non-(M/W/SMBE)	MSA
Florida Transportation Systems	27,007,610	2.06	68	0.09	Non-(M/W/SMBE)	Outside MSA
Mac Edwards Produce & Co Inc	25,500,000	1.94	6	0.01	SBE	MSA
CDW Government Inc	24,853,586	1.89	365	0.46	Non-(M/W/SMBE)	Outside MSA
The College Board	18,645,713	1.42	30	0.04	Non-(M/W/SMBE)	Outside MSA
Bass-United Fire &	14,866,871	1.13	1,042	1.32	Non-(M/W/SMBE)	MSA
Goods & Supplies	1,311,585,478					

Source: M-DCPS SAP Data, M³ Consulting; Highlighted firms represent outliers

Chapter VI

Statistical Analysis of M/WBE Utilization

Table 6.37.
Success Rate of Top Ten Bidders: Goods & Supplies
Nationwide; FY 2013 - FY 2018

Services		% of Bids	Race/Ethnicity/Gender	Location	# of Awards	Success rate	Dollar Value of Awards	% of Dollar Value
TOTAL	884	100.00					251,930,703	
Structured Cabling Solutions, Inc.	15	1.70	Asian American	MSA	5	26.67	2,728,571	0.54
United Data Technologies, Inc.	14	1.58	Hispanic American	MSA	2	35.71	3,829,412	0.76
Graybar Electric Company Inc	13	1.47	Non-(M/W/SMBE)	MSA	2	7.69	100,000	0.02
Windstream Corporation	12	1.36	Non-(M/W/SMBE)	Nationwide	2	0.00	0	0.00
JDL Technologies, Inc.	12	1.36	Non-(M/W/SMBE)	MSA	2	16.67	800,000	0.16
The Produce Connection, Inc.	11	1.24	Non-(M/W/SMBE)	MSA	0	54.55	22,250,000	4.44
CDW Government, LLC	10	1.13	Non-(M/W/SMBE)	Nationwide	4	40.00	3,829,412	0.76
Daboter, Inc.	9	1.02	Non-(M/W/SMBE)	MSA	4	33.33	204,042	0.04
All Florida Paper	9	1.02	Non-(M/W/SMBE)	MSA	4	22.22	1,803,351	0.36
Total Pack, Inc.	8	0.90	Hispanic American	MSA	1	12.50	333,333	0.07
Freedom Fresh, LLC	8	0.90	Non-(M/W/SMBE)	MSA	4	50.00	2,500,000	0.50
National Chemical Laboratories, Inc.	8	0.90	Non-(M/W/SMBE)	Nationwide	4	50.00	3,802,482	0.76
AFP Industries, Inc.	8	0.90	Non-(M/W/SMBE)	MSA	4	50.00	566,667	0.11

Source: M-DCPS Contracts and SAP Data, M³ Consulting, *Services includes both Professional and Non-Professional Services; Highlighted firms represent outliers

6.11 SUMMARY OF FINDINGS

Table 6.38 summarizes utilization of M/WBEs by the three utilization measures – Purchase Orders, Accounts Payables and Contract Awards. Overall, utilization of M/WBEs is highest in Architecture and Engineering, as high as 82.68 percent if measured by Contract Awards, over 76 percent based on Payables and over 62 percent based on POs. However, the majority of the M/WBE utilization is based on Minority-owned firm utilization and not WBEs. WBEs never exceed 7.43 percent utilization based on any of the measures of utilization. While it appears that Minority-owned firms are utilized substantially, most of the dollars are going to Hispanic American-owned firms.

When viewing results by race/ethnicity/gender in Table 6.39, Hispanic American-owned firms had the highest M/WBE participation rates in all A&E, Construction and Construction-Related Services and Maintenance and Maintenance-Related Services. In A&E (62.96 percent) and Construction and Construction-Related Services (60.03 percent), Hispanic American-owned firm participation levels were higher than Non-(M/W/SMBEs). M³ Consulting took a deeper dive into these categories and made the following observations:

- Non-(M/W/SMBE) and WBE pre-qualification aggregate bonding and bidding limits at \$1.2 billion and \$33.4 million, respectively, on average were higher than Hispanic American-owned firms at \$30.3 million. Even so, Hispanic American-owned firms were awarded contracts at higher rates than these two groups.
- One African American-owned firm represented over 88 percent of prime contract awards for this group. No other group reflected this level of concentration of awards in one firm. While this firm had the highest aggregate bonding and bidding limits for African American-owned GCs at \$60 million, at least two of African American-owned GCs had bonding and bidding limits (\$20 million and \$30 million) that would allow them to perform on many of the District's construction contracts at the prime level.
- In Maintenance and Maintenance-Related Services, it appears that M/WBEs represented on multi-awardee contracts (contract awards) are not actually receiving any POs under those contracts (POs). Because of data limitations, M³ Consulting was unable to conclusively verify this observation. We note that, while the differences are not as stark, because of low participation rates, similar observations can be made in Goods & Supplies.

Based on the Utilization Threshold analysis and Top Ten Analysis, M-DCPS' results may reflect limited competition, with Hispanic American-owned firms and Non-(M/W/SMBEs) garnering the majority of M-DCPS contract and procurement opportunities. Additionally, particularly in Architecture and Engineering

Chapter VI

Statistical Analysis of M/WBE Utilization

and Construction and Construction-Related Services, these opportunities are concentrated in a small number of firms. This concentration is further exacerbated by limited opportunities for M/WBEs, even in procurement thresholds where capacity is not an issue. While the District has a race/gender-conscious program, competition, bidding and participation levels may still be limited by the appearance of a “closed shop” or the belief by the bidding community that only certain firms will be awarded contracts by the District.

Table 6.38.
M/WBE Utilization in Percent of Dollars of Purchase Orders, Payments and Contract Awards
Miami-Dade Public Schools
Summary of M/WBE Utilization; FY 2013 - FY 2018
By Relevant Market

Procurement Category	M/WBE Utilization Based on Purchase Orders			M/WBE Utilization Based on Accounts Payables			M/WBE Utilization Based on Contract Dollars		
	(in percent)			(in percent)			(in percent)		
	Minority	WBE	M/WBE ⁴	Minority	WBE	M/WBE ⁴	Minority	WBE	M/WBE ⁴
Architecture and Engineering ²	59.73	2.98	62.73	69.93	3.33	73.27	78.92	3.76	82.68
Construction and Construction-Related Services ²	47.03	2.34	49.42	50.90	2.48	53.51	71.60	7.43	79.31
Maintenance and Maintenance-Related Services ²	27.41	0.39	27.84	38.20	0.71	39.05	47.72	3.87	52.16
Services ³	6.72	1.77	9.62	6.55	1.75	9.33	8.19	1.03	10.62
Goods & Supplies ¹	16.70	0.98	17.76	18.83	1.05	20.00	8.94	2.03	11.05

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data, M-DCPS Vendor data; * Services include Professional and Non-Professional Services

¹Nationwide

²Tri-County Area

³State of Florida

⁴Includes unknown M/WBEs

Chapter VI

Statistical Analysis of M/WBE Utilization

Table 6.39.
Summary Table - Utilization Percentage Participation
By Race/Gender/Ethnicity
Miami-Dade County Public Schools
Relevant Market; FY 2013 – FY 2018

Race/Ethnicity/ Gender	Architecture and Engineering ² (contract awards)		Construction and Construction-Related Services ² (contract awards)		Maintenance and Maintenance-Related Services ² (purchase orders)		Services ¹ (purchase orders)		Goods & Supplies ¹ (purchase orders)		Total Firms ¹ (purchase orders)	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
Non-(M/W/SMBE)	3,208,075	13.80	81,312,711	18.52	30,495,023	54.94	685,605,548	90.22	1,040,078,597	79.55	2,153,314,103	73.57
African American	3,308,953	14.23	46,937,051	10.69	1,075,035	1.94	7,466,488	0.98	2,727,605	0.21	62,535,062	2.14
Asian American	400,693	1.72	1,601,222	0.36	184,297	0.33	5,419,230	0.71	7,320,829	0.56	12,978,809	0.44
Hispanic American	14,636,419	62.96	263,572,780	60.03	19,012,746	34.25	37,671,098	4.96	207,397,617	15.86	568,231,327	19.41
Native American	0	0.00	79,130	0.02	0	0.00	484,909	0.06	0	0.00	0	0.00
Other Minority	0	0.00	2,166,893	0.49	94,893	0.17	51,041,725	6.72	854,824	0.07	1,937,568	0.07
Total Minority	18,346,066	78.92	314,357,076	71.60	20,366,971	36.69	13,431,525	1.77	218,300,875	16.70	645,682,766	22.06
WBE	874,836	3.76	32,627,526	7.43	291,624	0.53	8,634,327	1.14	12,749,606	0.98	52,693,412	1.80
Unknown M/WBE	0	0.00	1,215,717	0.28	27,472	0.05	73,107,577	9.62	1,167,902	0.09	10,289,271	0.35
Total M/WBE	19,220,901	82.68	348,200,320	79.31	20,686,067	37.27	1,198,638	0.16	232,218,383	17.76	708,665,450	24.21
SMBE	818,539	3.52	9,531,554	2.17	4,322,498	7.79	19,665	0.00	35,065,999	2.68	64,976,082	2.22
Veterans	0	0.00	0	0.00	0	0.00	759,931,427	100.00	15,027	0.00	34,692	0.00
Grand Total	23,247,516	100.00	439,044,585	100.00	55,503,588	100.00	685,605,548	90.22	1,307,378,006	100.00	2,926,990,327	100.00

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data.; * Services include Professional and Non-Professional Services; Other Minority is a firm identified as MBE, with no specific race/ethnicity identified; Unknown M/WBE is a firm identified as M/WBE, with no specific race/ethnicity/gender identified.

¹Nationwide

²Tri-County Area

³State of Florida

CHAPTER 7: STATISTICAL ANALYSIS OF M/WBE DISPARITY IN CONTRACTING

7.1 INTRODUCTION

This chapter begins by reporting the statistical evidence of disparities between M/WBE availability in the relevant market of the Miami-Dade County Public Schools (M-DCPS) and M/WBE utilization by year, using the measure relied upon for decision-making. Additional disparity ratios based on contract awards, purchase orders and payments, as well as using InfoUSA Availability (Marketplace Availability) are provided in the Appendix A.

M³ Consulting presents the disparity ratios for M-DCPS' ready, willing and able (RWASM) availability. For all industries, RWASM availability will consist of firms that have bid for prime contracts awarded by M-DCPS during the study period; firms awarded prime contracts during the study period and; firms that have been awarded subcontracts during the study period. The measure of availability used to calculate disparity is the M-DCPS RWASM availability, Level 2, consisting of bidders, prime awardees and sub awardees.

Utilization for each industry is measured via Purchase Order, Accounts Payables and Contract Award data as maintained by M-DCPS's procurement department. The utilization percentage used to calculate the disparity ratios are based on formal and informal purchases by race and gender.

Disparities are presented as follows:

- Architecture and Engineering—RWA Level 2 Availability and Contract Awards Utilization
- Construction and Construction-Related Services—RWA Level 2 Availability and Contract Awards Utilization
- Maintenance and Maintenance-Related Services—RWA Level 2 Availability and Purchase Order Utilization
- Services—RWA Level 2 Availability and Purchase Order Utilization
- Goods & Supplies—RWA Level 2 Availability and Purchase Order Utilization

7.2 DISPARITY RATIOS METHODOLOGY

Disparity ratios compare the percentage utilization of various race and gender groups to the percentage availability of these same groups. The disparity ratio is calculated by dividing the former percentage by the latter. A resulting ratio greater than one indicates overutilization; conversely, a ratio less than one indicates underutilization. The methodologies for calculating availability, utilization, disparity and significance testing, specifically for this study are presented in Chapter IV, Statistical Methodology.

7.3 DISPARITIES IN ARCHITECTURE AND ENGINEERING

Contract Awards (Table 7.1) represent the best measure of utilization for Architecture and Engineering. As shown in Table 7.1, Contract Awards utilization for Architecture and Engineering reflected statistically significant disparity for WBEs and Asian American-owned firms. WBEs showed disparity for every year of the study period, although not significant. Asian American-owned firms also reflected disparity for every year of the study period, except for 2017. Hispanic American-owned firm disparity was reflected in FY 2014 and FY 2017, but no disparity overall. African American-owned firms reflected no disparity for the period, and it was not significant.

Chapter VII
Statistical Analysis of M/WBE
Disparity in Contracting

Table 7.1
Contract Awards Utilization vs. *RWA*SM Availability Level 2
Architecture and Engineering
Miami-Dade County Public Schools
Tri-County MSA; FY 2013—FY 2018

Ethnicity	FY 2013		FY 2014		FY 2015		FY 2016		FY 2017		FY 2018		Period	
	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.
Non-(M/W/SMBE)	0.00	NS	4.80	S	0.24	S	0.35	S	1.31	NS	0.69	NS	0.66	S
African American	0.00	NS	0.00	NS	0.91	NS	1.36	NS	1.89	S	0.74	NS	1.08	NS
Asian American	0.00	NS	0.00	NS	0.00	S	0.03	S	1.12	NS	0.31	NS	0.31	S
Hispanic American	2.40	NS	0.00	NS	1.75	S	1.63	S	0.77	S	1.65	S	1.51	S
Native American	ND	S	ND	S	ND	S	ND	S	ND	S	ND	S	ND	S
Other Minority	0.00	S	0.00	S	0.00	S	0.00	S	0.00	S	0.00	NS	0.00	S
Total Minority	1.64	NS	0.00	NS	1.39	S	1.41	S	1.03	NS	1.31	S	1.29	S
WBE	0.00	NS	0.00	NS	0.36	NS	0.93	NS	0.70	NS	0.67	NS	0.54	S
Unknown M/WBE	0.00	S	0.00	S	0.00	S	0.00	S	0.00	S	0.00	NS	0.00	S
Total M/WBE	1.44	NS	0.00	S	1.26	S	1.33	S	0.98	NS	1.22	S	1.19	S
SMBE	0.00	NS	0.00	S	0.78	NS	0.02	S	0.48	S	0.08	S	0.36	S
Veterans	ND	S	0.00	S	ND	S	0.00	S	0.00	S	0.00	S	0.00	S

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data; M³ Consulting
 Ratio is Less than 1 – Statistically Significant Underutilization;
 Significance is NS and Ratio is Greater than 1—Overutilized, but not Statistically Significant; Significance is NS and Disparity Ratio is Less than 1 – Disparity, but not Statistically Significant;
 ND: Not Defined

7.4 DISPARITIES IN CONSTRUCTION AND CONSTRUCTION-RELATED SERVICES

Contract Awards represent the best measure of utilization and are presented in Table 7.2. Based on Contract Awards, Non-(M/W/SMBE) contractors reflect disparity for every year of the study period and overall, while Hispanic American-owned contractors reflect no disparity for every year of the study period and overall. Hispanic American-owned contractor non-disparity increased every year, except FY 2018. These findings reflect the utilization outcomes. Contractors at the prime level must be pre-qualified. While Non-(M/W/SMBE) contractor aggregate bid limits and aggregate bond limits on the pre-qualification list are significantly higher than Hispanic American-owned firms, the latter was awarded contracts at a significantly higher rate than Non-(M/W/SMBE) contractors.

Other than Hispanic American-owned firms, African American-owned firms are the only other M/WBE group reflecting no disparity overall and for 4 of the 6 years of the study period. As we discussed in Chapter VI, one contractor, “D. Stephenson”, represented over 88 percent of prime utilization dollars for African American-owned firms. No other group reflected this level of concentration in one firm. When this contractor is removed from the analysis, African American-owned contractors reflect disparity for the period, but it is not statistically significant.

Asian American-owned contractors and WBEs showed no disparity in FY 2013, and disparity in every other year and overall, except FY 2017 for WBEs. Native American-owned contractors reflect activity only in FYs 2015 and 2016, which resulted in disparity for those years and overall. SMBE contractors and Other Minority contractors reflected disparity in every year and overall.

Chapter VII
Statistical Analysis of M/WBE
Disparity in Contracting

Table 7.2
Contract Award Utilization vs. *RWA*SM Availability Level 2
Construction and Construction-Related Services
Miami-Dade County Public Schools
Tri-County MSA; FY 2013—FY 2018

Ethnicity	FY 2013		FY 2014		FY 2015		FY 2016		FY 2017		FY 2018		Period	
	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.
<i>Non-(M/W/SMBE)</i>	0.71	S	0.84	S	0.60	S	0.27	S	0.11	S	0.17	S	0.39	S
African American	0.66	S	0.66	NS	1.28	S	1.67	S	1.16	NS	1.74	S	1.35	S
Asian American	4.84	S	0.77	NS	1.04	NS	0.16	NS	0.26	NS	0.37	NS	0.66	NS
Hispanic American	1.61	S	1.64	S	1.95	S	2.31	S	2.70	S	2.60	S	2.23	S
Native American	0.00	NS	0.00	NS	0.33	NS	0.25	NS	0.00	NS	0.00	NS	0.16	NS
Other Minority	0.12	S	0.66	S	0.34	S	0.10	S	0.01	S	0.80	NS	0.30	S
<i>Total Minority</i>	1.24	S	1.23	S	1.44	S	1.68	S	1.96	S	1.93	S	1.64	S
WBE	1.46	S	0.54	S	0.72	S	0.81	NS	1.02	NS	0.58	S	0.79	S
Unknown M/WBE	0.38	S	0.18	S	0.10	S	0.09	S	0.09	S	0.13	S	0.12	S
<i>Total M/WBE</i>	1.24	S	1.05	NS	1.24	S	1.44	S	1.69	S	1.58	S	1.40	S
<i>SMBE</i>	0.12	S	0.98	NS	0.21	S	0.89	NS	0.76	S	0.16	S	0.58	S
<i>Veterans</i>	ND	S	ND	S	ND	S	ND	S	ND	S	ND	S	ND	S

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data; M³ Consulting

Ratio is Less than 1 –Statistically Significant Underutilization;

Significance is NS and Ratio is Greater than 1—Overutilized, but not Statistically Significant; Significance is NS and Disparity Ratio is Less than 1 – Disparity, but not Statistically Significant;

ND: Not Defined

*0.90 (NS) without D. Stephenson

7.5 DISPARITIES IN MAINTENANCE AND MAINTENANCE-RELATED SERVICES

Purchase orders represent the best measure of utilization for Maintenance and Maintenance-Related Services (M&MRS) and are presented in Table 7.3. Non-(M/W/SMBEs), Hispanic American-owned firms and SMBE firms reflected no disparity for the period. M&MRS consists primarily of smaller dollar construction projects. Hispanic American-owned firms showed no disparity in 5 of the 6 years of the study period. SMBE firms reflected no disparity in the 4 years of the study period, while Non-(M/W/SMBEs) reflected no disparity in one year but was close to parity in 2 years.

WBEs showed disparity for every year of the study period and overall. African American-owned firms showed disparity in all years, except FY 2016 and FY 2017. Asian American-owned firms showed disparity in all years, except FY 2018.

Chapter VII

Statistical Analysis of M/WBE

Disparity in Contracting

Table 7.3
Purchase Order Utilization vs. RWASM Availability Level 2
Maintenance and Maintenance-Related Services
Miami-Dade County Public Schools
Tri-County MSA; FY 2013—FY 2018

Ethnicity	FY 2013		FY 2014		FY 2015		FY 2016		FY 2017		FY 2018		Period	
	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.
Non-(M/W/SMBE)	0.99	NS	0.77	S	0.44	S	0.94	NS	1.04	NS	0.75	S	1.12	S
African American	0.16	S	0.14	S	0.15	S	1.27	NS	1.05	NS	0.50	S	0.18	S
Asian American	0.13	NS	0.24	NS	0.04	NS	0.00	NS	0.00	S	4.21	S	0.35	S
Hispanic American	1.86	S	2.62	S	3.63	S	0.73	S	1.05	NS	1.77	S	1.51	S
Other Minority	0.00	S	0.00	S	0.35	S	0.00	S	0.00	S	0.00	S	0.07	S
Total Minority	1.25	S	1.74	S	2.47	S	0.68	S	0.85	S	1.31	S	1.00	NS
WBE	0.05	S	0.13	S	0.32	S	0.24	S	0.29	S	0.03	S	0.09	S
Unknown M/WBE	0.00	S	0.00	S	0.00	S	0.00	S	0.14	S	0.13	S	0.02	S
Total M/WBE	1.07	NS	1.50	S	2.15	S	0.61	S	0.77	S	1.13	S	0.83	S
SMBE	0.69	NS	0.83	NS	1.00	NS	4.55	S	2.09	S	3.65	S	1.38	S
Veterans	0.00	S	0.00	NS	0.00	S	0.00	S	0.00	S	0.00	S	0.00	S

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data; M³ Consulting

Ratio is Less than 1 –Statistically Significant Underutilization;

Significance is NS and Ratio is Greater than 1—Overutilized, but not Statistically Significant; Significance is NS and Disparity Ratio is Less than 1 – Disparity, but not Statistically Significant;

ND: Not Defined

7.6 DISPARITIES IN SERVICES

Based on Purchase Order data shown in Table 7.4, only African American-owned firms and Other-Minority-owned firms showed statistically significant disparity overall. Other Minority-owned firms showed disparity in every year and overall. African American-owned firms showed disparity in 5 of the 6 years of the study period and overall.

While near parity, Non-(M/W/SMBE) firms showed no disparity overall and hovered near parity for each year of the study period. Hispanic American-owned firms reflected no disparity for 5 of the 6 years of the study period and overall. Asian American-owned firms reflected no disparity in only 2 of the 6 years, yet it resulted in no disparity overall. WBEs reflected disparity in FYs 2013 and 2014 and no disparity in the remaining years, which resulted in overall non-significant disparity for the period.

Chapter VII

Statistical Analysis of M/WBE Disparity in Contracting

Table 7.4
Purchase Order Utilization vs. RWASM Availability Level 2
Services
Miami-Dade County Public Schools
Nationwide; FY 2013—FY 2018

Ethnicity	FY 2013		FY 2014		FY 2015		FY 2016		FY 2017		FY 2018		Period	
	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.
Non-(M/W/SMBE)	1.03	S	1.03	S	1.02	S	1.02	S	1.00	NS	0.99	NS	1.02	S
African American	1.08	NS	0.41	S	0.15	S	0.65	S	0.61	S	0.62	S	0.54	S
Asian American	0.85	NS	2.18	S	0.89	NS	0.42	S	1.66	S	0.67	NS	1.37	S
Hispanic American	0.91	NS	1.11	NS	1.02	NS	1.00	NS	1.43	S	1.78	S	1.21	S
Other Minority	0.23	S	0.06	S	0.04	S	0.04	S	0.04	S	0.02	S	0.07	S
<i>Total Minority</i>	0.60	S	0.79	S	0.64	S	0.76	S	0.93	NS	1.06	NS	0.79	S
WBE	0.39	S	0.47	S	1.39	S	1.29	S	1.18	NS	1.09	NS	0.93	NS
Unknown M/WBE	2.02	S	0.73	S	1.62	S	1.57	S	1.38	S	1.32	NS	1.47	S
Total M/WBE	0.67	S	0.72	S	0.86	S	0.93	NS	1.01	NS	1.08	NS	0.87	S
SMBE	0.11	S	0.11	S	0.09	S	0.15	S	0.15	S	0.20	S	0.14	S
Veterans	0.00	NS	0.00	NS	0.00	NS	0.46	NS	0.00	NS	0.00	S	0.00	S

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data; M³ Consulting

Ratio is Less than 1 –Statistically Significant Underutilization;

Significance is NS and Ratio is Greater than 1—Overutilized, but not Statistically Significant; Significance is NS and Disparity Ratio is Less than 1 – Disparity, but not Statistically Significant;

ND: Not Defined

Chapter VII

Statistical Analysis of M/WBE Disparity in Contracting

Miami-Dade County Public Schools
Comprehensive Disparity Study
Final Report
October 26, 2020
Page 7-255 of 7-450

7.7 DISPARITIES IN GOODS & SUPPLIES

For Goods & Supplies shown in Table 7.5, Purchase Order data better reflects utilization. POs capture units and dollars under requirements contracts and informal purchases. Utilizing PO data, Hispanic American-owned, Asian American-owned and SMBE suppliers reflect significant non-disparity. African American-, Other Minority and WBEs reflected significant disparity, as did Non-(M/W/SMBE) suppliers. Asian American-owned suppliers and SMBE suppliers reflected non-disparity in FY 2016 through FY 2018, while Hispanic American-owned suppliers reflected non-disparity in every year of the study period, and overall. African American- and Other Minority-owned suppliers, along with WBEs reflected significant disparity in every year of the study period and overall.

Chapter VII

Statistical Analysis of M/WBE

Disparity in Contracting

Table 7.5
Purchase Order Utilization vs. RWASM Availability Level 2
Goods & Supplies
Miami-Dade County Public Schools
Nationwide; FY 2013—FY 2018

Ethnicity	FY 2013		FY 2014		FY 2015		FY 2016		FY 2017		FY 2018		Period	
	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.
Non-(M/W/SMBE)	1.05	S	0.97	S	0.85	S	0.79	S	0.84	S	0.92	S	0.91	S
African American	0.05	S	0.07	S	0.11	S	0.16	S	0.27	S	0.20	S	0.14	S
Asian American	0.90	NS	0.15	S	0.60	S	1.70	S	3.08	S	3.74	S	1.67	S
Hispanic American	1.27	S	2.58	S	4.49	S	4.76	S	3.81	S	2.20	S	3.14	S
Other Minority	0.01	S	0.37	S	0.04	S	0.16	S	0.00	S	0.01	S	0.10	S
<i>Total Minority</i>	0.89	S	1.77	S	3.05	S	3.29	S	2.69	S	1.64	S	2.19	S
WBE	0.34	S	0.21	S	0.52	S	0.46	S	0.46	S	0.53	S	0.42	S
Unknown M/WBE	0.16	S	0.09	S	0.12	S	0.09	S	0.15	S	0.18	S	0.13	S
Total M/WBE	0.72	S	1.32	S	2.30	S	2.45	S	2.04	S	1.30	S	1.67	S
SMBE	0.27	S	0.56	S	0.42	S	2.68	S	2.77	S	2.95	S	1.57	S
Veterans	0.00	NS	0.00	NS	0.00	NS	0.15	NS	0.00	NS	0.00	S	0.00	S

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data; M³ Consulting

Ratio is Less than 1 –Statistically Significant Underutilization;

Significance is NS and Ratio is Greater than 1—Overutilized, but not Statistically Significant; Significance is NS and Disparity Ratio is Less than 1 – Disparity, but not Statistically Significant;

ND: Not Defined

Chapter VII

Statistical Analysis of M/WBE Disparity in Contracting

7.8 SUMMARY OF FINDINGS

Table 7.11 summarizes the disparity ratios discussed in this chapter for each procurement categories at the race/ethnic/gender group level, for M-DCPS procurements for the period FY 2013-FY 2018. Based on the foregoing analysis and the summary below, findings of statistically significant disparity are made for the following groups in the following procurement categories:

- Architecture and Engineering—Asian American-owned firms, WBEs
- Construction and Construction-Related Services—WBEs
- Maintenance and Maintenance-Related Services—African American-owned contractors, Asian American-owned contractors, WBEs
- Services—African American-owned firms
- Goods & Supplies—African American-owned firms, WBEs

Chapter VII

Statistical Analysis of M/WBE

Disparity in Contracting

Table 7.6
Summary Disparity Ratios by Race, Ethnicity and Gender
Utilization vs. *RWA*SM Availability Level 2
Miami-Dade County Public Schools
Relevant Market; FY 2013—FY 2018

Ethnicity	Architecture & Engineering ¹ (Contract Awards)		Construction & Construction-Related Services ¹ (Contract Awards)		Maintenance & Maintenance Related Services ¹ (Purchase Orders)		Services ² (Purchase Orders)		Goods & Supplies ² (Purchase Orders)	
	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.
Non-(M/W/SMBE)	0.66	S	0.39	S	1.12	S	1.02	S	0.91	S
African American	1.08	S	1.35*	S	0.18	S	0.54	S	0.14	S
Asian American	0.31	S	0.66	NS	0.35	S	1.37	S	1.67	S
Hispanic American	1.51	S	2.23	S	1.51	S	1.21	S	3.14	S
Native American	ND	S	0.16	NS	ND	S	ND	S	ND	S
Other Minority	0.00	S	0.30	S	0.07	S	0.07	S	0.10	S
<i>Total Minority</i>	<i>1.29</i>	<i>S</i>	<i>1.64</i>	<i>S</i>	<i>1.00</i>	<i>NS</i>	<i>0.79</i>	<i>S</i>	<i>2.19</i>	<i>S</i>
WBE	0.54	S	0.79	S	0.09	S	0.93	NS	0.42	S
Unknown M/WBE	0.00	S	0.12	S	0.02	S	1.47	S	0.13	S
Total M/WBE	1.19	S	1.40	S	0.83	S	0.87	S	1.67	S
SMBE	0.36	S	0.58	S	1.38	S	0.14	S	1.57	S
Veterans	ND	S	ND	S	0.00	S	0.00	S	0.00	S

Source: M-DCPS Contracts Data, SAP PO and AP data; M³ Consulting

Ratio is Less than 1 – Statistically Significant Underutilization;

Significance is NS and Ratio is Greater than 1—Overutilized, but not Statistically Significant; Significance is NS and Disparity Ratio is Less than 1 – Disparity, but not Statistically Significant;

ND: Not Defined

*0.90 (NS) without D. Stephenson

¹Tri-County MSA

²Nationwide

CHAPTER 8: CAPACITY AND REGRESSION ANALYSIS

8.1 INTRODUCTION

Disparities as seen in Chapter VII, Statistical Analysis of M/WBE Disparities in Contracting are often attributed to differences in capacity of Non-(M/W/SMBE) and M/WBE firms. As such, this capacity analysis sought to examine if there were any differences in capacity of firms based on race or gender that could hinder firms from being actually and potentially available to M-DCPS.

8.2 CAPACITY ANALYSIS

The analysis of business capacity is complicated because capacity is difficult to define, measure, and is an elastic concept. Given that proxies of capacity cannot adequately capture the ability of firms using any single measure, M³ Consulting will examine differences in the capacity of firms based on race and gender, using established statistical methods, once a set of variables that measure capacity are controlled for.

8.2.1 Capacity Analysis Based on Average Employees and Average Sales Revenues from U.S. Census Annual Survey of Entrepreneurs

U.S. Census Annual Survey of Entrepreneurs reflects capacity measures by number of paid employees and annual payroll. We report these measures for Construction, Goods and Supplies, Non-Professional Services and Professional Services.

Construction

For Construction, as shown in Table 8.1, Total M/WBEs represented 34.68 percent of firms with paid employees, with Hispanic American-owned firms and Other Minority-owned firms accounting for the bulk of those firms at 14.82 percent and 13.20 percent, respectively. WBEs showed 4.14 percent. African American-owned firms were a little over one percent, while Asian American- and Native American-owned firms were less than one percent. Similarly, Hispanic American- and Other Minority-owned firms represented M/WBE firms with the highest capacity based on number of paid employees, at 11.66 percent and 9.80 percent and based on annual payroll, at 8.62 percent and 7.26 percent. There was no reported data for Native American-owned firms and WBEs. African American- and Asian American-owned firms represented less than 0.21 percent for both number of paid employees and annual payroll. Overall, M/WBEs represented 21.91 percent of number of paid employees and 16.14 percent of annual payroll.

Chapter VIII Capacity and Regression Analysis

Goods and Supplies

With 15.46 percent of firms with paid employees, Hispanic American-owned firms have the highest capacity among M/WBEs for Goods and Supplies, as reflected in Table 8.2. They are followed closely by Other Minority-owned firms at 14.97 percent. WBEs accounted for 7.54 percent of firms with paid employees, while Asian American-owned firms came in at 4.16 percent. African American- and Native American-owned firms both reflected less than one percent. Results were similar for capacity based on number of paid employees and annual payroll, except to a lesser degree. Hispanic American- and Other Minority-owned firms reflected 9.59 percent and 9.81 percent of number of paid employees and 8.63 percent and 8.35 percent of annual payroll. WBEs accounted for over 4 percent for both number of paid employees and annual payroll, while Asian American-owned firms accounted for about 2 percent in both categories. African American-owned firms again represented less than one percent in both categories.

Non-Professional Services

Amongst M/WBEs in Non-Professional Services (Table 8.3), African American-, Asian American- and WBEs represented firms with paid employees at 1.98 percent, 2.70 percent, and 1.16 percent, respectively. Results for number of paid employees and annual payroll were similar. WBEs reflected 0.33 percent for number of paid employees and 0.21 percent of annual payroll. African American- and Asian American-owned firms reflected almost 1 ½ percent of number of paid employees and about one percent of annual payroll. Hispanic American- and Other Minority-owned firms once again led M/WBE participation. Hispanic American-owned firms reflected 14.29 percent of firms with paid employees, 7.06 percent of number of paid employees and 6.03 percent for annual payroll. Other Minority-owned firms represented 14.03 percent of firms with paid employees, 9.02 percent of number of paid employees and 7.20 percent of annual payroll. In this procurement category, Other M/WBE were reflected at significant rates, at 8.67 percent of firms with paid employees, 4.94 percent of number of paid employees and 4.25 percent of annual payroll.

Professional Services

Based on Table 8.4, in Professional Services, Hispanic American-owned and WBEs led M/WBEs, with 12.93 percent and 11.25 percent of firms with paid employees, followed closely by Other Minority-owned firms at 10.97 percent. Asian American-owned and Other M/WBEs both represented 1.41 percent of firms with paid employees, while African American-owned firms represented 1.10 percent and Native American-owned firms, only 0.13 percent. WBEs dropped below Other Minority-owned firms in number of paid employees and annual payroll at 8.41 percent and 5.84 percent, compared to Other Minority-owned firms at 10.17 percent and 8.73 percent. African American- and Asian American-owned firms accounted for less than one percent in both categories.

Chapter VIII

Capacity and Regression Analysis

Table 8.1. Census Capacity Construction
Miami-Fort Lauderdale-West Palm Beach, FL Metro Area, 2016

Ethnicity	# Firms with Paid Employees		Number of paid employees		Annual payroll (\$1,000)	
	#	%	#	%	#	%
Non-(M/W/SMBE)	73,810	62.23	597,275	78.19	27,412,256	83.86
African American	1,440	1.21	1,617	0.21	55,234	0.17
Asian American	959	0.81	1,053	0.14	30,672	0.09
Hispanic American	17,581	14.82	89,065	11.66	2,817,506	8.62
Native American	36	0.03	0	0.00	0	0.00
Other Minority	15,662	13.20	74,892	9.80	2,373,032	7.26
Total Minority	35,678	30.08	166,627	21.81	5,276,444	16.14
WBE	4,915	4.14	0	0.00	0	0.00
Other M/WBE	544	0.46	0	0.00	0	0.00
Total M/WBE	41,137	34.68	166,627	21.81	5,276,444	16.14
Veteran	3,667	3.09	0	0.00	0	0.00
Total	118,614	100.00	763,902	100.00	32,688,700	100.00

Source: M³ Consulting; Census ASE

Table 8.2. Census Capacity Goods and Supplies
Miami-Fort Lauderdale-West Palm Beach, FL Metro Area, 2016

Ethnicity	# Firms with Paid Employees		Number of paid employees		Annual payroll (\$1,000)	
	#	%	#	%	#	%
Non-(M/W/SMBE)	175,938	53.89	1,574,347	72.11	63,079,701	75.91
African American	2,307	0.71	5,576	0.26	190,799	0.23
Asian American	13,575	4.16	54,533	2.50	1,309,882	1.58
Hispanic American	50,486	15.46	209,383	9.59	7,169,852	8.63
Native American	533	0.16	0	0.00	0	0.00
Other Minority	48,889	14.97	214,076	9.81	6,935,628	8.35
Total Minority	115,790	35.47	483,568	22.15	15,606,161	18.78
WBE	24,615	7.54	99,838	4.57	3,649,581	4.39
Other M/WBE	3,353	1.03	10,770	0.49	288,962	0.35
Total M/WBE	143,758	44.03	594,176	27.21	19,544,704	23.52
Veteran	6,781	2.08	14,784	0.68	477,538	0.57
Total	326,477	100.00	2,183,307	100.00	83,101,943	100.00

Source: M³ Consulting; Census ASE

Chapter VIII

Capacity and Regression Analysis

**Table 8.3. Census Capacity Non-Professional Services
 Miami-Fort Lauderdale-West Palm Beach, FL Metro Area, 2016**

Ethnicity	# Firms with Paid Employees		Number of paid employees		Annual payroll (\$1,000)	
	#	%	#	%	#	%
Non-(M/W/SMBE)	189,495	55.11	2,597,681	74.97	78,176,952	79.79
African American	6,820	1.98	50,270	1.45	1,115,998	1.14
Asian American	9,285	2.70	60,853	1.76	969,598	0.99
Hispanic American	49,120	14.29	244,650	7.06	5,911,521	6.03
Native American	307	0.09	0	0.00	0	0.00
Other Minority	48,243	14.03	312,582	9.02	7,058,757	7.20
Total Minority	113,775	33.09	668,355	19.29	15,055,874	15.37
WBE	4,002	1.16	11,387	0.33	203,595	0.21
Other M/WBE	29,809	8.67	171,115	4.94	4,162,438	4.25
Total M/WBE	147,586	42.92	850,857	24.56	19,421,907	19.82
Veteran	6,773	1.97	16,402	0.47	378,437	0.39
Total	343,854	100.00	3,464,940	100.00	97,977,296	100.00

Source: M³ Consulting; Census ASE

**Table 8.4. Census Capacity Professional Services
 Miami-Fort Lauderdale-West Palm Beach, FL Metro Area, 2016**

Ethnicity	# Firms with Paid Employees		Number of paid employees		Annual payroll (\$1,000)	
	#	%	#	%	#	%
Non-(M/W/SMBE)	353,321	57.80	1,806,924	65.07	103,641,534	72.01
African American	6,733	1.10	16,809	0.61	535,517	0.37
Asian American	8,639	1.41	27,048	0.97	1,120,215	0.78
Hispanic American	79,047	12.93	333,956	12.03	14,365,289	9.98
Native American	792	0.13	0	0.00	0	0.00
Other Minority	67,074	10.97	282,307	10.17	12,568,574	8.73
Total Minority	162,285	26.55	660,120	23.77	28,589,595	19.86
WBE	68,786	11.25	233,532	8.41	8,400,735	5.84
Other M/WBE	8,614	1.41	35,909	1.29	1,134,999	0.79
Total M/WBE	239,685	39.21	929,561	33.47	38,125,329	26.49
Veteran	18,235	2.98	40,521	1.46	2,162,131	1.50
Total	611,241	100.00	2,777,006	100.00	143,928,994	100.00

Source: M³ Consulting; Census ASE

8.2.2 Capacity Analysis Based on Average Employees and Average Sales Revenues from InfoUSA

Below are measures of sales and employees based on InfoUSA data from firms in the Tri-County Area, which provide a measure of the capacity of the race, ethnic and gender groups of firms measured by these proxies for capacity. Firms included in the InfoUSA analysis is refined to those that fall into NAICS code areas under review for this Comprehensive Disparity Study.

Capacity Based on Number of Employees

Total Firms

Using Table 8.5 to compare capacity of firms measured by the number of employees, for firms in the lowest range of 1-19 employees, there are over 25,000 M/WBEs and over 31,000 Non-M/WBEs. As capacity (number of employees) increases, the M/WBEs remain slightly lower than the Non-M/WBEs with 409 Non-M/WBEs with 100-249 employees compared to 296 M/WBEs. For capacity measured as 500-1,000 employees, there are more M/WBEs (14) compared to 11 Non-M/WBEs, whereas this slightly reverses for firms with 1,000-4,999 employees, where there are 12 Non-M/WBEs and 10 M/WBEs. In the 5,000-9,999 employee firms, there was only one Hispanic American-owned firm, whereas in firms with over 10,000 employees, only 2 Non-M/WBEs appear in the Tri-county area. Based on number of employees overall, there does not appear to be large differences in Non-M/WBEs and M/WBEs.

Architecture and Engineering

Based on Table 8.6, for Architecture and Engineering, the highest range was 250-499, where there were only three firms, two Non-M/WBEs and one WBE. Most firms were in the 1-19 employee range, with Non-M/WBEs representing about 37 percent of firms, as compared to M/WBEs at 32.05 percent. Hispanic American-owned firms and Unknown/Multi-ethnic firms were represented up to 100-249 range. Asian American-owned firms were represented up to 50-99 employees. African American-owned firms were only represented in the 1-19 employee range.

Construction

For Construction (Table 8.7), only one firm, a Non-M/WBE was represented in the range 1,000-4,999. Non-M/WBEs represented about 45 percent in every range. African American-owned firms were only represented in ranges 1-19 and 20-49, with only one firm in 20-49. Asian American-owned firms were represented up to 100-249, but only one firm in each range, except 1-19, where they represented 91 firms or 1.09 percent. Unknown/Multi-ethnic firms represented between 20-40 percent of firms, with their highest percentage representation in the ranges of 100-249 and 250-499. Hispanic American-owned firms

Chapter VIII

Capacity and Regression Analysis

reflect their highest level of firms in 1-19 at 22.22 percent and 18.18 percent in 250-499; they were represented in every category between 7.14 percent and 22.22 percent, except 1,000-4,999.

Goods and Supplies

Table 8.8 shows that most Goods and Supply companies have 249 or less employees. The majority of the African American-owned firms had less than 50 employees, with only 2 firms with 50-99 employees and one firm in the 100-249 employee size. The Tri-county area had one large Asian American-owned firm with 1,000-4,999 employees, but the majority of Asian American-owned firms had less than 250 employees. While there were fewer number of Hispanic American-owned firms with a larger number of employees, this group had at least one firm in every category up to 5,000 employees. WBEs showed a similar trend to Hispanic American-owned firm, represented in all categories below 10,000+ employees. Unknown/Multi-ethnic firms represented between 22.71 percent to 54.10 percent for the lower ranges, before dropping to 8.33 percent in 1,000-4,999.

Non-Professional Services

In Table 8.9, WBEs, Unknown/Multi-ethnic firms and Non-M/WBEs were most consistently represented across all ranges in Non-Professional Services. There were fewer Hispanic American-owned firms with over 250 employees, but there was at least one Hispanic American-owned firm with the capacity of 250-499 and 1,000-4,999 employees. Two African American-owned firms had employees in the over 1,000 range, but a majority of African American-owned firms had less than 100 employees. There were no Asian American-owned firms with over 250 employees.

Professional Services

Professional Services, in Table 8.10, saw Non-M/WBE firms reflect between 30 – 45 percent across employee ranges, except 5,000-9,999, where they had no representation and 100 percent at 10,000+. Conversely, African American-owned firms were mainly represented in 1-19 and 20-49 ranges, with one firm in the 100-249 range. Asian American-owned firms were represented up to 50-99 and had one firm in 1,000-4,999. Hispanic American-owned firms, unlike WBEs, were represented in the ranges of 1,000-4,999 and 5,000-9,999. Unknown/Multi-ethnic firms mirrored Non-M/WBEs, with between 22.51 percent and 52 percent up to 1,000-4,999 range.

Chapter VIII

Capacity and Regression Analysis

**Table 8.5.
 InfoUSA
 Capacity Based on Total Number of Employees
 Total Firms
 Miami-Dade, Broward and Palm Beach Counties
 FY 2016**

	1-19		20-49		50-99		100-249		250-499		500-999	
	#	%	#	%	#	%	#	%	#	%	#	%
Non-M/WBE	31,804	42.27	409	35.29	203	32.12	58	35.58	409	35.29	11	23.91
African American	533	0.71	7	0.60	2	0.32	0	0.00	7	0.60	0	0.00
Asian American	1,232	1.64	13	1.12	7	1.11	0	0.00	13	1.12	0	0.00
Hispanic American	15,710	20.88	116	10.01	50	7.91	7	4.29	116	10.01	4	8.70
Native American	28	0.04	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
MBE	17,503	23.26	136	11.73	59	9.34	7	4.29	136	11.73	4	8.70
WBE	8,139	10.82	160	13.81	97	15.35	21	12.88	160	13.81	10	21.74
M/WBE	25,642	34.08	296	25.54	156	24.68	28	17.18	296	25.54	14	30.43
Unknown/ Multi-Ethnic	17,795	23.65	454	39.17	273	43.20	77	47.24	454	39.17	21	45.65
Grand Total	75,241	100.00	1,159	100.00	632	100.00	163	100.00	1,159	100.00	46	100.00

Source: 2019 InfoUSA Data; M³ Consulting

Chapter VIII

Capacity and Regression Analysis

Table 8.5 cont.
InfoUSA
Capacity Based on Total Number of Employees
Total Firms
Miami-Dade, Broward and Palm Beach Counties
FY 2016

	1,000-4,999		5,000-9,999		10,000+		Grand Total	
	#	%	#	%	#	%	#	%
Non-M/WBE	12	41.38		0.00	2	100.00	33,875	41.74
African American	2	6.90	0	0.00	0	0.00	568	0.70
Asian American	2	6.90	0	0.00	0	0.00	1,303	1.61
Hispanic American	3	10.34	1	100.00	0	0.00	16,420	20.23
Native American		0.00	0	0.00	0	0.00	29	0.04
MBE	7	24.14	1	100.00	0	0.00	18,320	22.57
WBE	3	10.34	0	0.00	0	0.00	8,988	11.08
M/WBE	10	34.48	1	100.00	0	0.00	27,308	33.65
Unknown/Multi-Ethnic	7	24.14	0	0.00	0	0.00	19,969	24.61
Grand Total	29	100.00	1	100.00	2	100.00	81,152	100.00

Source: 2019 InfoUSA Data; M³ Consulting

Chapter VIII

Capacity and Regression Analysis

Table 8.6.
InfoUSA
Capacity Based on Total Number of Employees
Architecture and Engineering
Miami-Dade, Broward and Palm Beach Counties
FY 2016

	1-19		20-49		50-99		100-249		250-499		Grand Total	
	#	%	#	%	#	%	#	%	#	%	#	%
Non-M/WBE	547	37.06	28	16.18	10	34.48	5	38.46	2	66.67	592	36.32
African American	10	0.68	0	0.00	0	0.00	0	0.00	0	0.00	10	0.61
Asian American	25	1.69	4	2.31	1	3.45	0	0.00	0	0.00	30	1.84
Hispanic American	291	19.72	12	6.94	4	13.79	1	7.69	0	0.00	308	18.90
MBE	326	22.09	16	9.25	5	17.24	1	7.69	0	0.00	348	21.35
WBE	147	9.96	15	8.67	3	10.34	1	7.69	1	33.33	167	10.25
M/WBE	473	32.05	31	17.92	8	27.59	2	15.38	1	33.33	515	31.60
Unknown/Multi-Ethnic	456	30.89	50	28.90	11	37.93	6	46.15	0	0.00	523	32.09
Grand Total	1,476	100.00	109	63.01	29	100.00	13	100.00	3	100.00	1,630	100.00

Source: 2019 InfoUSA Data; M³ Consulting

Chapter VIII

Capacity and Regression Analysis

Table 8.7.
InfoUSA
Capacity Based on Total Number of Employees
Construction
Miami-Dade, Broward and Palm Beach Counties
FY 2016

	1-19		20-49		50-99		100-249		250-499		1,000-4,999		Grand Total	
	#	%	#	%	#	%	#	%	#	%	#	%	#	%
Non-M/WBE	3,885	46.13	192	22.54	61	40.67	31	44.29	5	45.45	1	100.00	4,175	45.66
African American	51	0.61	1	0.12	0	0.00	0	0.00	0	0.00	0	0.00	52	0.57
Asian American	91	1.08	1	0.12	1	0.67	1	1.43	0	0.00	0	0.00	94	1.03
Hispanic American	1,871	22.22	64	7.51	19	12.67	5	7.14	2	18.18	0	0.00	1,961	21.45
Native American	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
MBE	2,013	23.90	66	7.75	20	13.33	6	8.57	2	18.18	0	0.00	2,107	23.04
WBE	527	6.26	59	6.92	11	7.33	4	5.71		0.00		0.00	601	6.57
M/WBE	2,540	30.16	125	14.67	31	20.67	10	14.29	2	18.18	0	0.00	2,708	29.62
Unknown/Multi-Ethnic	1,991	23.64	169	19.84	58	38.67	29	41.43	4	36.36	0	0.00	2,251	24.62
Grand Total	8,422	100.00	489	57.39	150	100.00	70	100.00	11	100.00	1	100.00	9,143	100.00

Source: 2019 InfoUSA Data; M³ Consulting

Chapter VIII

Capacity and Regression Analysis

Table 8.8.
InfoUSA
Capacity Based on Total Number of Employees
Goods and Supplies
Miami-Dade, Broward and Palm Beach Counties
FY 2016

	1-19		20-49		50-99		100-249		250-499		500-999	
	#	%	#	%	#	%	#	%	#	%	#	%
Non-M/WBE	8,100	39.37	419	18.96	126	33.07	69	29.11	20	32.79	5	23.81
African American	130	0.63	7	0.32	2	0.52	1	0.42	0	0.00	0	0.00
Asian American	461	2.24	13	0.59	4	1.05	2	0.84	0	0.00	0	0.00
Hispanic American	4,625	22.48	176	7.96	39	10.24	14	5.91	3	4.92	2	9.52
Native American	4	0.02	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
MBE	5,220	25.37	196	8.87	45	11.81	17	7.17	3	4.92	2	9.52
WBE	2,078	10.10	156	7.06	56	14.70	40	16.88	5	8.20	5	23.81
M/WBE	7,298	35.47	352	15.93	101	26.51	57	24.05	8	13.11	7	33.33
Unknown/ Multi-Ethnic	5,176	25.16	502	22.71	154	40.42	111	46.84	33	54.10	9	42.86
Grand Total	20,574	100.00	1,273	57.60	381	100.00	237	100.00	61	100.00	21	100.00

Source: 2019 InfoUSA Data; M³ Consulting

Chapter VIII Capacity and Regression Analysis

Table 8.8 cont.						
InfoUSA						
Capacity Based on Total Number of Employees						
Goods and Supplies						
Miami-Dade, Broward and Palm Beach Counties						
FY 2016						
	1,000-4,999		10,000+		Grand Total	
	#	%	#	%	#	%
Non-M/WBE	7	58.33	1	100.00	8,747	38.77
African American	0	0.00	0	0.00	140	0.62
Asian American	1	8.33	0	0.00	481	2.13
Hispanic American	1	8.33	0	0.00	4,860	21.54
Native American	0	0.00	0	0.00	4	0.02
MBE	2	16.67	0	0.00	5,485	24.31
WBE	2	16.67	0	0.00	2,342	10.38
M/WBE	4	33.33	0	0.00	7,827	34.69
Unknown/ Multi-Ethnic	1	8.33	0	0.00	5,986	26.53
Grand Total	12	100.00	1	100.00	22,560	100.00

Source: 2019 InfoUSA Data; M³ Consulting

Chapter VIII

Capacity and Regression Analysis

Table 8.9.
InfoUSA
Capacity Based on Total Number of Employees
Non-Professional Services
Miami-Dade, Broward and Palm Beach Counties
FY 2016

	1-19		20-49		50-99		100-249		250-499		500-999	
	#	%	#	%	#	%	#	%	#	%	#	%
Non-M/WBE	9,904	41.86	433	35.70	127	36.92	63	31.82	19	32.20	4	22.22
African American	220	0.93	11	0.91	5	1.45	0	0.00	0	0.00	0	0.00
Asian American	382	1.61	20	1.65	5	1.45	4	2.02	0	0.00	0	0.00
Hispanic American	5,328	22.52	171	14.10	27	7.85	17	8.59	1	1.69	2	11.11
Native American	12	0.05	1	0.08	0	0.00	0	0.00	0	0.00	0	0.00
MBE	5,942	25.11	203	16.74	37	10.76	21	10.61	1	1.69	2	11.11
WBE	2,511	10.61	195	16.08	52	15.12	35	17.68	14	23.73	3	16.67
M/WBE	8,453	35.73	398	32.81	89	25.87	56	28.28	15	25.42	5	27.78
Unknown/Multi-Ethnic	5,304	22.42	382	31.49	128	37.21	79	39.90	25	42.37	9	50.00
Grand Total	23,661	100.00	1,213	100.00	344	100.00	198	100.00	59	100.00	18	100.00

Source: 2019 InfoUSA Data; M³ Consulting

Chapter VIII

Capacity and Regression Analysis

Table 8.9 cont. InfoUSA Capacity Based on Total Number of Employees Non-Professional Services Miami-Dade, Broward and Palm Beach Counties FY 2016				
	1,000-4,999		Grand Total	
	#	%	#	%
Non-M/WBE	2	18.18	10,552	41.37
African American	2	18.18	238	0.93
Asian American		0.00	411	1.61
Hispanic American	1	9.09	5,547	21.75
Native American		0.00	13	0.05
MBE	3	27.27	6,209	24.35
WBE	1	9.09	2,811	11.02
M/WBE	4	36.36	9,020	35.37
Unknown/ Multi-Ethnic	5	45.45	5,932	23.26
Grand Total	11	100.00	25,504	100.00

Source: 2019 InfoUSA Data; M³ Consulting

Chapter VIII

Capacity and Regression Analysis

Table 8.10.
InfoUSA
Capacity Based on Total Number of Employees
Professional Services
Miami-Dade, Broward and Palm Beach Counties
FY 2016

	1-19		20-49		50-99		100-249		250-499		500-999	
	#	%	#	%	#	%	#	%	#	%	#	%
Non-M/WBE	8,706	44.78	279	38.80	76	33.33	31	30.39	10	40.00	2	28.57
African American	106	0.55	5	0.70	0	0.00	1	0.98	0	0.00	0	0.00
Asian American	245	1.26	10	1.39	2	0.88	0	0.00	0	0.00	0	0.00
Hispanic American	3,309	17.02	91	12.66	25	10.96	13	12.75	1	4.00	0	0.00
Native American	12	0.06	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
MBE	3,672	18.89	106	14.74	27	11.84	14	13.73	1	4.00	0	0.00
WBE	2,686	13.82	121	16.83	36	15.79	17	16.67	1	4.00	2	28.57
M/WBE	6,358	32.71	227	31.57	63	27.63	31	30.39	2	8.00	2	28.57
Unknown/ Multi-Ethnic	4,376	22.51	213	29.62	89	39.04	40	39.22	13	52.00	3	42.86
Grand Total	19,440	100.00	719	100.00	228	100.00	102	100.00	25	100.00	7	100.00

Source: 2019 InfoUSA Data; M³ Consulting

Chapter VIII

Capacity and Regression Analysis

Table 8.10 cont.
InfoUSA
Capacity Based on Total Number of Employees
Professional Services
Miami-Dade, Broward and Palm Beach Counties
FY 2016

	1,000-4,999		5,000-9,999		10,000+		Grand Total	
	#	%	#	%	#	%	#	%
Non-M/WBE	1	25.00		0.00	1	100.00	9,106	44.36
African American	0	0.00	0	0.00	0	0.00	112	0.55
Asian American	1	25.00	0	0.00	0	0.00	258	1.26
Hispanic American	1	25.00	1	100.00	0	0.00	3,441	16.76
Native American	0	0.00		0.00	0	0.00	12	0.06
MBE	2	50.00	1	100.00	0	0.00	3,823	18.62
WBE		0.00		0.00		0.00	2,863	13.95
M/WBE	2	50.00	1	100.00	0	0.00	6,686	32.57
Unknown/Multi-Ethnic	1	25.00	0	0.00	0	0.00	4,735	23.07
Grand Total	4	100.00	1	100.00	1	100.00	20,527	100.00

Source: 2019 InfoUSA Data; M³ Consulting

Chapter VIII

Capacity and Regression Analysis

Capacity Based on Sales Volume

Total Firms

If capacity were to be measured using sales volume (Table 8.11), then all groups of firms, Minority-owned, WBEs, and Non-M/WBEs are represented in all sales ranges, except Native American-owned firms, up to \$50 million. So, based on sales volume, there appears to be no differences in capacity based on race or gender groups, although the number and proportion of M/WBE firms is smaller, overall.

Architecture and Engineering

Based on Table 8.12, Non-M/WBEs are represented in every revenue range. Unknown/Multi-ethnic firms and WBEs are represented in every revenue range up to \$50 million, followed by Hispanic American-owned firms up to \$20 million. Asian American-owned firms reflect capacity up to \$10 million, while African American-owned A&E firms only have capacity up to \$2.5 million.

Construction

In Table 8.13, Non-M/WBEs construction firms are reflected in every revenue range, showing that there are firms with capacity ranging from less than \$500k to \$500 million. Based on sales volume, there are no African American- and Native American-owned construction firms over the \$5 million. Asian American-owned firms have some capacity up to \$50 million, WBEs up to \$100 million and Hispanic American-owned firms up to \$500 million.

Goods and Supplies

All firms showed capacity in Goods and Supplies, up to \$50 million, except for Native American-owned firms (Table 8.14). Asian American-owned firms and Unknown/Multi-ethnic firms were represented up to \$1 billion, while Hispanic American-owned firms and WBE were represented up to \$500 million at 11.97 percent and 13.68 percent. Only Non-M/WBEs were represented in the sales range over \$1 billion.

Non-Professional Services

In Table 8.15, there are firms in all race/gender groups with capacity up to \$100 million in sales volume, except for Native American-owned firms with capacity up to \$10 million and African American-owned firms up to \$20 million. While WBEs, Hispanic American-owned and Asian American-owned firms reflect capacity up to \$100 million, WBEs are in greater proportion (28.57 percent) of those in the \$50-\$100 million category. There is one Hispanic American-owned firm with capacity in the range of \$100-\$500

Chapter VIII

Capacity and Regression Analysis

million, while the largest number of firms in this revenue range are Unknown/Multi-ethnic firms. Only one Non-M/WBE had revenues over \$1 billion.

Professional Services

Among Professional Service M/WBEs shown in Table 8.16, only WBEs reflected capacity up to \$500 million, although one Unknown/Multi-ethnic firm is shown for the revenue range up to \$1 billion. Hispanic American-owned firms had capacity up to \$50 million, while African American- and Asian American-owned firms had capacity up to \$20 million. Native American-owned firms trailed, with capacity only up to \$2.5 million. Non-M/WBE reflected capacity up to \$1 billion, albeit one firm in each range of \$100-\$500M and \$500M to \$1 billion.

Chapter VIII

Capacity and Regression Analysis

Table 8.11.
InfoUSA
Capacity Based on Sales Volume
Total Firms
Miami-Dade, Broward and Palm Beach Counties
FY 2016

	LESS THAN \$500,000		\$500,000-\$1 MILLION		\$1-2.5 MILLION		\$2.5-5 MILLION		\$5-10 MILLION		\$10-20 MILLION	
	#	%	#	%	#	%	#	%	#	%	#	%
Non-M/WBE	15,831	45.38	7,016	40.57	5,625	40.00	2,199	37.67	1,151	35.30	471	32.73
African American	274	0.79	111	0.64	98	0.70	19	0.33	26	0.80	12	0.83
Asian American	590	1.69	284	1.64	208	1.48	99	1.70	48	1.47	21	1.46
Hispanic American	7,968	22.84	3,524	20.38	2,631	18.71	1,009	17.28	504	15.46	223	15.50
Native American	13	0.04	8	0.05	5	0.04	1	0.02	2	0.06	0	0.00
MBE	8,845	25.35	3,927	22.71	2,942	20.92	1,128	19.32	580	17.79	256	17.79
WBE	3,464	9.93	1,985	11.48	1,554	11.05	738	12.64	425	13.03	186	12.93
M/WBE	12,309	35.28	5,912	34.19	4,496	31.97	1,866	31.96	1,005	30.82	442	30.72
Unknown/ Multi-Ethnic	6,747	19.34	4,366	25.25	3,942	28.03	1,773	30.37	1,105	33.89	526	36.55
Grand Total	34,887	100.00	17,294	100.00	14,063	100.00	5,838	100.00	3,261	100.00	1,439	100.00

Source: 2019 InfoUSA Data; M³ Consulting

Chapter VIII

Capacity and Regression Analysis

Table 8.11 cont.

InfoUSA
 Capacity Based on Sales Volume
 TOTAL
 Miami-Dade, Broward and Palm Beach Counties
 FY 2016

	\$20-50 MILLION		\$50-100 MILLION		\$100-500 MILLION		\$500M-\$1 BILLION		OVER \$1 BILLION		Grand Total	
	#	%	#	%	#	%	#	%	#	%	#	%
Non-M/WBE	253	30.05	86	31.27	40	27.78	5	38.46	5	83.33	32,682	41.10
African American	2	0.24	0	0.00	0	0.00	0	0.00	0	0.00	542	0.68
Asian American	11	1.31	5	1.82	1	0.69	1	7.69	0	0.00	1,268	1.59
Hispanic American	95	11.28	22	8.00	16	11.11	1	7.69	0	0.00	15,993	20.11
Native American	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	29	0.04
MBE	108	12.83	27	9.82	17	11.81	2	15.38	0	0.00	17,832	22.42
WBE	99	11.76	43	15.64	17	11.81	4	30.77		0.00	0	0.00
M/WBE	207	24.58	70	25.45	34	23.61	6	46.15	0	0.00	17,832	22.42
Unknown/ Multi-Ethnic	382	45.37	119	43.27	70	48.61	2	15.38	1	16.67	29,013	36.48
Grand Total	842	100.00	275	100.00	144	100.00	13	100.00	6	100.00	79,527	100.00

Source: 2019 InfoUSA Data; M³ Consulting

Chapter VIII

Capacity and Regression Analysis

Table 8.12.
InfoUSA
Capacity Based on Sales Volume
Architecture and Engineering
Miami-Dade, Broward and Palm Beach Counties
FY 2016

	LESS THAN \$500,000		\$500,000-\$1 MILLION		\$1-2.5 MILLION		\$2.5-5 MILLION		\$5-10 MILLION		\$10-20 MILLION	
	#	%	#	%	#	%	#	%	#	%	#	%
Non-M/WBE	171	45.24	251	34.72	109	32.34	29	27.88	17	30.36	7	46.67
African American	0	0.00	8	1.11	2	0.59	0	0.00	0	0.00	0	0.00
Asian American	10	2.65	9	1.24	6	1.78	2	1.92	3	5.36	0	0.00
Hispanic American	81	21.43	143	19.78	61	18.10	14	13.46	6	10.71	2	13.33
Native American	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<i>MBE</i>	<i>91</i>	<i>24.07</i>	<i>160</i>	<i>22.13</i>	<i>69</i>	<i>20.47</i>	<i>16</i>	<i>15.38</i>	<i>9</i>	<i>16.07</i>	<i>2</i>	<i>13.33</i>
WBE	28	7.41	73	10.10	39	11.57	16	15.38	7	12.50		0.00
M/WBE	119	31.48	233	32.23	108	32.05	32	30.77	16	28.57	2	13.33
Unknown/ Multi-Ethnic	88	23.28	239	33.06	120	35.61	43	41.35	23	41.07	6	40.00
Grand Total	378	100.00	723	100.00	337	100.00	104	100.00	56	100.00	15	100.00

Source: 2019 InfoUSA Data; M³ Consulting

Chapter VIII

Capacity and Regression Analysis

Table 8.12 cont.
InfoUSA
Capacity Based on Sales Volume
Architecture and Engineering
Miami-Dade, Broward and Palm Beach Counties
FY 2016

	\$20-50 MILLION		\$50-100 MILLION		Grand Total	
	#	%	#	%	#	%
Non-M/WBE	3	42.86	1	100.00	588	36.27
African American	0	0.00	0	0.00	10	0.62
Asian American	0	0.00	0	0.00	30	1.85
Hispanic American	0	0.00	0	0.00	307	18.94
Native American	0	0.00	0	0.00	0	0.00
<i>MBE</i>	<i>0</i>	<i>0.00</i>	<i>0</i>	<i>0.00</i>	<i>347</i>	<i>21.41</i>
WBE	2	28.57		0.00	165	10.18
M/WBE	2	28.57	0	0.00	512	31.59
Unknown/ Multi-Ethnic	2	28.57	0	0.00	521	32.14
Grand Total	7	100.00	1	100.00	1,621	100.00

Source: 2019 InfoUSA Data; M³ Consulting

Chapter VIII

Capacity and Regression Analysis

Table 8.13.
InfoUSA
Capacity Based on Sales Volume
Construction
Miami-Dade, Broward and Palm Beach Counties
FY 2016

	LESS THAN \$500,000		\$500,000-\$1 MILLION		\$1-2.5 MILLION		\$2.5-5 MILLION		\$5-10 MILLION		\$10-20 MILLION	
	#	%	#	%	#	%	#	%	#	%	#	%
Non-M/WBE	1,743	48.80	816	43.31	1,199	44.99	223	43.47	105	36.71	52	43.70
African American	22	0.62	10	0.53	17	0.64	1	0.19	2	0.70	0	0.00
Asian American	36	1.01	21	1.11	30	1.13	5	0.97	0	0.00	1	0.84
Hispanic American	930	26.04	419	22.24	478	17.94	73	14.23	36	12.59	15	12.61
Native American	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<i>MBE</i>	<i>988</i>	<i>27.66</i>	<i>450</i>	<i>23.89</i>	<i>525</i>	<i>19.70</i>	<i>79</i>	<i>15.40</i>	<i>38</i>	<i>13.29</i>	<i>16</i>	<i>13.45</i>
WBE	169	4.73	127	6.74	197	7.39	59	11.50	34	11.89	12	10.08
M/WBE	1,157	32.39	577	30.63	722	27.09	138	26.90	72	25.17	28	23.53
Unknown/ Multi-Ethnic	672	18.81	491	26.06	744	27.92	152	29.63	109	38.11	39	32.77
Grand Total	3,572	100.00	1,884	100.00	2,665	100.00	513	100.00	286	100.00	119	100.00

Source: 2019 InfoUSA Data; M³ Consulting

Chapter VIII

Capacity and Regression Analysis

Table 8.13 cont.
InfoUSA
Capacity Based on Sales Volume
Construction
Miami-Dade, Broward and Palm Beach Counties
FY 2016

	\$20-50 MILLION		\$50-100 MILLION		\$100-500 MILLION		Grand Total	
	#	%	#	%	#	%	#	%
Non-M/WBE	18	34.62	5	50.00	2	66.67	4,215	45.70
African American	0	0.00	0	0.00	0	0.00	52	0.56
Asian American	1	1.92	0	0.00	0	0.00	95	1.03
Hispanic American	6	11.54	0	0.00	1	33.33	1,973	21.39
Native American	0	0.00	0	0.00	0	0.00	0	0.00
<i>MBE</i>	7	13.46	0	0.00	1	33.33	2,120	22.99
WBE	2	3.85	1	10.00	0	0.00	613	6.65
<i>M/WBE</i>	9	17.31	1	10.00	1	33.33	2,733	29.63
<i>Unknown/ Multi-Ethnic</i>	25	48.08	4	40.00	0	0.00	2,275	24.67
Grand Total	52	100.00	10	100.00	3	100.00	9,223	100.00

Source: 2019 InfoUSA Data; M³ Consulting

Chapter VIII

Capacity and Regression Analysis

Table 8.14.
InfoUSA
Capacity Based on Sales Volume
Goods and Supplies
Miami-Dade, Broward and Palm Beach Counties
FY 2016

	LESS THAN \$500,000		\$500,000-\$1 MILLION		\$1-2.5 MILLION		\$2.5-5 MILLION		\$5-10 MILLION		\$10-20 MILLION	
	#	%	#	%	#	%	#	%	#	%	#	%
Non-M/WBE	2,570	44.23	1,831	38.10	1,820	38.88	1,177	37.28	694	34.67	286	30.43
African American	38	0.65	31	0.65	30	0.64	11	0.35	19	0.95	8	0.85
Asian American	150	2.58	109	2.27	95	2.03	64	2.03	35	1.75	16	1.70
Hispanic American	1,458	25.09	1,162	24.18	965	20.62	639	20.24	355	17.73	158	16.81
Native American	1	0.02	1	0.02	0	0.00	1	0.03	1	0.05	0	0.00
MBE	1,647	28.34	1,303	27.11	1,090	23.29	715	22.65	410	20.48	182	19.36
WBE	554	9.53	476	9.90	457	9.76	348	11.02	231	11.54	124	13.19
M/WBE	2,201	37.88	1,779	37.02	1,547	33.05	1,063	33.67	641	32.02	306	32.55
Unknown/ Multi-Ethnic	1,040	17.90	1,196	24.89	1,314	28.07	917	29.05	667	33.32	348	37.02
Grand Total	5,811	100.00	4,806	100.00	4,681	100.00	3,157	100.00	2,002	100.00	940	100.00

Source: 2019 InfoUSA Data; M³ Consulting

Chapter VIII

Capacity and Regression Analysis

Table 8.14 cont.
InfoUSA
Capacity Based on Sales Volume
Goods and Supplies
Miami-Dade, Broward and Palm Beach Counties
FY 2016

	\$20-50 MILLION		\$50-100 MILLION		\$100-500 MILLION		\$500M-\$1 BILLION		OVER \$1 BILLION		Grand Total	
	#	%	#	%	#	%	#	%	#	%	#	%
Non-M/WBE	173	29.57	68	31.69	33	28.21	4	36.36	4	100.00	8,660	38.78
African American	2	0.34	0	0.00	0	0.00	0	0.00	0	0.00	139	0.62
Asian American	7	1.20	3	1.38	1	0.85	1	9.09	0	0.00	481	2.15
Hispanic American	69	11.79	21	9.63	14	11.97	0	0.00	0	0.00	4,841	21.68
Native American	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	4	0.02
MBE	78	13.33	24	11.01	15	12.82	1	9.09	0	0.00	5,465	24.47
WBE	76	12.99	31	14.22	16	13.68	4	36.36	0	0.00	2,317	10.38
M/WBE	154	26.32	55	25.23	31	26.50	5	45.45	0	0.00	7,782	34.85
Unknown/ Multi-Ethnic	258	44.10	95	43.58	53	45.30	2	18.18	0	0.00	5,890	26.37
Grand Total	585	100.00	218	100.00	117	100.00	11	100.00	4	100.00	22,332	100.00

Source: 2019 InfoUSA Data; M³ Consulting

Chapter VIII

Capacity and Regression Analysis

Table 8.15.
InfoUSA
Capacity Based on Sales Volume
Non-Professional Services
Miami-Dade, Broward and Palm Beach Counties FY 2016

	LESS THAN \$500,000		\$500,000-\$1 MILLION		\$1-2.5 MILLION		\$2.5-5 MILLION		\$5-10 MILLION		\$10-20 MILLION	
	#	%	#	%	#	%	#	%	#	%	#	%
Non-M/WBE	6,753	44.75	1,532	37.64	1,166	35.34	363	33.18	181	35.08	71	34.63
African American	150	0.99	30	0.74	35	1.06	3	0.27	2	0.39	3	1.46
Asian American	261	1.73	67	1.65	43	1.30	15	1.37	8	1.55	1	0.49
Hispanic American	3,607	23.90	898	22.06	632	19.16	148	13.53	56	10.85	29	14.15
Native American	5	0.03	4	0.10	3	0.09	0	0.00	1	0.19	0	0.00
MBE	4,023	26.66	999	24.55	713	21.61	166	15.17	67	12.98	33	16.10
WBE	1,418	9.40	500	12.29	425	12.88	162	14.81	88	17.05	23	11.22
M/WBE	5,441	36.06	1,499	36.83	1,138	34.50	328	29.98	155	30.04	56	27.32
Unknown/ Multi-Ethnic	2,896	19.19	1,039	25.53	995	30.16	403	36.84	180	34.88	78	38.05
Grand Total	15,090	100.00	4,070	100.00	3,299	100.00	1,094	100.00	516	100.00	205	100.00

Source: 2019 InfoUSA Data; M³ Consulting

Chapter VIII

Capacity and Regression Analysis

Table 8.15 cont.
InfoUSA
Capacity Based on Sales Volume
Non-Professional Services
Miami-Dade, Broward and Palm Beach Counties
FY 2016

	\$20-50 MILLION		\$50-100 MILLION		\$100-500 MILLION		OVER \$1 BILLION		Grand Total	
	#	%	#	%	#	%	#	%	#	%
Non-M/WBE	32	28.57	4	14.29	4	23.53	1	100.00	10,107	41.37
African American	0	0.00	0	0.00	0	0.00	0	0.00	223	0.91
Asian American	3	2.68	2	7.14	0	0.00	0	0.00	400	1.64
Hispanic American	6	5.36	1	3.57	1	5.88	0	0.00	5,378	22.01
Native American	0	0.00	0	0.00	0	0.00	0	0.00	13	0.05
<i>MBE</i>	9	8.04	3	10.71	1	5.88	0	0.00	6,014	24.62
WBE	13	11.61	8	28.57	0	0.00	0	0.00	2,637	10.79
M/WBE	22	19.64	11	39.29	1	5.88	0	0.00	8,651	35.41
Unknown/ Multi-Ethnic	58	51.79	13	46.43	12	70.59	0	0.00	5,674	23.22
Grand Total	112	100.00	28	100.00	17	100.00	1	100.00	24,432	100.00

Source: 2019 InfoUSA Data; M³ Consulting

Chapter VIII

Capacity and Regression Analysis

Table 8.16.
InfoUSA
Capacity Based on Sales Volume
Professional Services
Miami-Dade, Broward and Palm Beach Counties
FY 2016

	LESS THAN \$500,000		\$500,000-\$1 MILLION		\$1-2.5 MILLION		\$2.5-5 MILLION		\$5-10 MILLION		\$10-20 MILLION	
	#	%	#	%	#	%	#	%	#	%	#	%
Non-M/WBE	4,410	45.88	2,530	44.62	1,235	43.17	355	43.19	133	37.68	48	34.53
African American	62	0.65	28	0.49	12	0.42	3	0.36	2	0.57	1	0.72
Asian American	126	1.31	75	1.32	31	1.08	10	1.22	1	0.28	2	1.44
Hispanic American	1,790	18.62	880	15.52	463	16.18	108	13.14	46	13.03	15	10.79
Native American	7	0.07	3	0.05	2	0.07	0	0.00	0	0.00	0	0.00
MBE	1,985	20.65	986	17.39	508	17.76	121	14.72	49	13.88	18	12.95
WBE	1,251	13.01	797	14.06	417	14.58	136	16.55	57	16.15	22	15.83
M/WBE	3,236	33.67	1,783	31.45	925	32.33	257	31.27	106	30.03	40	28.78
Unknown/ Multi-Ethnic	1,966	20.45	1,357	23.93	701	24.50	210	25.55	114	32.29	51	36.69
Grand Total	9,612	100.00	5,670	100.00	2,861	100.00	822	100.00	353	100.00	139	100.00

Source: 2019 InfoUSA Data; M³ Consulting

Chapter VIII

Capacity and Regression Analysis

Table 8.16 cont.
InfoUSA
Capacity Based on Sales Volume
Professional Services
Miami-Dade, Broward and Palm Beach Counties
FY 2016

	\$20-50 MILLION		\$50-100 MILLION		\$100-500 MILLION		\$500M-\$1 BILLION		OVER \$1 BILLION		Grand Total	
	#	%	#	%	#	%	#	%	#	%	#	%
Non-M/WBE	24	32.88	8	53.33	1	16.67	1	50.00		0.00	8,745	44.72
African American	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	108	0.55
Asian American	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	245	1.25
Hispanic American	12	16.44	0	0.00	0	0.00	0	0.00	0	0.00	3,315	16.95
Native American	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	12	0.06
MBE	12	16.44	0	0.00	0	0.00	1	50.00	0	0.00	3,680	18.82
WBE	6	8.22	3	20.00	1	16.67	0	0.00	0	0.00	2,690	13.76
M/WBE	18	24.66	3	20.00	1	16.67	1	50.00	0	0.00	6,370	32.58
Unknown/ Multi-Ethnic	31	42.47	4	26.67	4	66.67	0	0.00	1	100.00	4,439	22.70
Grand Total	73	100.00	15	100.00	6	100.00	2	100.00	1	100.00	19,554	100.00

Source: 2019 InfoUSA Data; M³ Consulting

8.2.2 Capacity Analysis Based on Survey Data

M³ Consulting conducted a survey of firms on the M-DCPS vendor registry and Master M/WBE/SBE list, with a focus on gathering capacity data that was to be used in the regression analysis to examine for differences in capacity based on race/gender/ethnicity, if any. The list includes firms that may never have done business with M-DCPS. The process involved creating a questionnaire, sample design, data collection and coding, analysis and interpretation. Questions were designed with the specific purpose of collecting information about the availability of firms seeking to do business with M-DCPS and the private sector and their capacity. The results of the survey are discussed in this section of the report.

Typically, a sampling frame is defined based on vendors that registered to do business with M-DCPS and the Master M/WBE/SBE list and a random sample drawn, enabling M³ Consulting to obtain information to make inferences about capacity of vendors in the population being analyzed. However, since we used online surveys and it was cost effective, instead of sending the survey to only a random sample of firms, we emailed the survey link to the entire population of firms in these two aforementioned lists to be able to maximize sample size. A total of 8,325 firms were sent an online survey link with a unique password on the first emailing. Two reminder emails were sent, with 8,320 emailed on the second email and 8,316 on the third email. There were 53 bounce backs on the first emailing, 59 on the second emailing and 74 on the third emailing. The total number of responses was 429 firms. The number of respondents per question varies and may not equal 429 firms, due to questions skipped by respondents. Additionally, several survey questions were cross-matched against Q.13 on male/female status of firm and Q.14 on race/ethnicity/gender of firm to allow for more detailed analysis.

A. Respondent demographics:

Of the 402 respondents that responded to Q.1, 61 firms contracted with only M-DCPS in the past five years, while 42 firms contracted with only private sector firms. However, 261 respondents participated in multiple agencies, including M-DCPS. Based on Q.13, respondents included 172 (41 percent) female-owned businesses and 248 (59 percent) male-owned businesses. For Q.14, African American-owned firms comprised 17.3 percent (or 71) of the total; Hispanic American-owned firms, 38.3 percent (157); 6 were Asian American-owned firms and 108 were White male-owned firms; 48 owned firms were Caucasian Female-owned firms (WBEs, hereafter) and 20 were of other races or mixed races.

Among the 265 Q.2 survey respondents that contracted with M-DCPS, 102 had done so for 0-3 years, 49 for 4-7 years, 18 for 8-10 years and 96 for over 10 years. An average of 9.6 contracts were won from M-DCPS by the respondents ranging from zero contracts to 425 contracts by a firm.

Based on Q.3, Sixty five percent (271) sell their goods and services in Miami-Dade County, Broward County or the Tri-County area, while an additional 49 (11.7 percent) sell within the State. The respondents to Q.12

Chapter VIII

Capacity and Regression Analysis

include 112 (26.6 percent) firms in Goods and Supplies, 29 (6.9 percent) in the Maintenance and Maintenance-Related Services, with 15 (3.6 percent) and 131 (31.1 percent) in Non-professional and Professional Services, respectively. Respondents also include 18 (4.3 percent) in A&E firms and 36 (8.6 percent) in Construction. The remainder of the respondents were in multiple industries. The majority of Minority-owned firms were in Goods and Supplies (53 or 21.1 percent) or in Professional Services (76 or 30.3 percent), with about 10 percent (24) of Minority-owned respondents in Construction. White male-owned firms were also almost evenly in Goods and Supplies (32 or 30.2 percent) and Professional Services (35 or 33 percent), WBE respondents followed the same pattern concentrated in 20 (41.7 percent) in Goods and Supplies and 16 (33.3 percent) in Professional Services.

A majority of respondents to Q.7 were either start-ups (91 percent) with another 30 (7 percent) that were buy-outs of previous existing businesses. Most Minority-owned firms were startups (94 percent), as is the case for White male-owned firms (86 percent were start-ups) and WBEs (87.5 percent were start-ups).

A majority of respondents started with less than \$10,000 (128 or 33.4 percent) based on Q.8 and about 15.7 percent with \$10,000 to \$20,000 in initial capital. The rest started out with varying start-up capital amounts from \$25,000 to \$50,000 or higher ranges of initial capital. About 11.5 percent of firms started with zero initial capital and this was noted across Minority-owned, WBEs and White male-owned firm respondents. In contrast, 14.1 percent started with initial capital of over \$100,000, with 27.7 percent of White male-owned firm respondents falling in this higher range. Only 11.6 percent and 9.3 percent of WBEs and Minority-owned firms fell in this over \$100,000 range.

According to Q.9, the start-up firms were financed largely via personal or home equity (65.7 percent of firms) and 38 (10 percent) via family and/or friends. Twenty-four firms (6.3 percent) were able to obtain a line of credit and 20 (5.3 percent) depended on a contract that they were awarded. Forty-eight firms used all or some of these options to raise capital, which included 28 Minority-owned, 12 White male-owned firms and 8 WBEs. Over 69 percent of Minority-owned, 58 percent of White male-owned firms and 59 percent of WBEs financed their firms with personal equity or home equity, whereas approximately 5 percent of White male-owned firms and Minority-owned and WBEs depended on contracts to finance their business. About 10 percent of White male-owned, 7 percent of WBEs and 4.9 percent of Minority-owned among the respondents were able to use some financial institutions to fund their business.

On average based on Q.6, respondents have about 89 employees, although the firms range from 0 Full-Time Employees (FTEs) to 14,000 FTE. The average years in business for the sample of respondents, according to Q.5, is over 26 years, ranging from 0-year-old firms to 200-year-old firms, since the respondents included corporations. Focusing on the type of organizational firm under Q.4, sole proprietorships on average had 39 employees, were in business for 21 years and had won 7.65 contracts with M-DCPS in the past five years; Subchapter S corporations have an average of 13 employees, had been in business for an average of 25 years, winning about 9.71 contracts from M-DCPS in the past five years.

Chapter VIII

Capacity and Regression Analysis

LLCs, in contrast won a higher number of contracts on average (11.9 in the past five years), had 23 employees, with approximately 13 years in business on average.

Among the respondents to Q.16, 88 percent have worked as an employee in the private sector, and 39.3 percent in public sector. Over 83 percent have worked in a managerial or supervisory capacity, prior to owning their firm, with WBEs being the lowest represented in this group. Over 76 percent have worked in the trade or professional area, prior to owning the firm, with White male respondents being the lowest represented at 74.2 percent. Over 40 percent of minorities and 45.7 percent of women had previously worked in the public sector, whereas only 35 percent of White males had done so. In the private sector, the picture is reversed, with 91.7 percent of White males in this category, 87.9 percent of Minorities and 79.4 percent of women who had experience working in the private sector.

The majority of the firms surveyed for Q.15 have owners with graduate degrees (61 percent). About 14.6 percent of owners have at least a high school diploma, while another 22.7 percent have at least some college education. This pattern is true across Minority-owned firms, WBEs and White male-owned firms. About 59.5 percent of female owners and 64.1 percent of male owners have graduate degrees, while 13.1 percent and 15.1 percent of male and female owners had at least a high school diploma.

While 56 Minority-owned firms (25.6 percent) among the respondents to Q.17 had revenues under \$100,000, there was only three White male firms (3.5 percent) and 4 WBEs (9.8 percent) in this range. When expanding this revenue range to over \$100,000, but under \$500,000, there were 72 (32.8 percent) Minority-owned firms, 12 (29 percent) WBEs and 16 (18.6 percent) White male-owned firms included. On the high end of revenues, those firms that were among the \$5 to \$10 million range, had 15 Minority-owned firms, 2 WBE firms and 12 White male-owned firms. Firms with over \$10 million in revenues included 9 Minority-owned firms, 3 WBEs and 27 White male-owned firms. While 60 percent of female-owned firms had gross receipts of less than \$500,000, this included 21.3 percent of those with less than \$100,000. The corresponding percentages for male-owned firms were 37.7 percent and 16 percent. On the other end of the revenue spectrum, among those firms between \$5 million and \$10 million were 3.5 percent female-owned firms and 10.8 percent of male-owned firms. The range of over \$10 million gross receipts in the past two years included only 7 female-owned and 36 (17 percent) male-owned firms.

B. Financing

Interestingly, based on Q.18, a large percentage of respondents did not apply for a loan or line of credit. While 46.6 percent of Minority-owned firms and 57.1 percent of WBEs did not apply for a loan or line of credit, the same was true for over 46.1 percent of White male-owned firms. Of those who applied, many firms applied for a line of credit 1 or 2 times. About 18.8 percent of Minority-owned firms and 19 percent of WBEs applied for a loan or line of credit at least once and an additional 12.1 percent of Minority-owned and 11.9 percent of WBEs applied at least twice. About 23 percent of White male-owned firms applied for a loan or line of credit once and an additional 11.2 percent of White male-owned firm respondents at least twice, which was not that different than M/WBEs. While 54.9 percent of female-owned firms and 41.9 percent of male-owned firms were never denied a loan or line of credit, males generally saw a greater number of rejection than their female counterparts, based on Q.19. When comparing race/gender/ethnicity, over 70 percent of the Minority-owned firms and 75.6 percent of WBEs were never denied a loan/line of credit, as was the case for 73 percent of white males. About 2.7 percent of Minority-owned firms were denied a loan or line of credit over 3 times.

According to Q.20, among female-owned firms, about 8 percent encountered issues with bank loans, while about 12 percent had trouble with the loan application process and pricing. Others had a variety of other hinderances in obtaining a loan or line of credit. For male-owned firms, the corresponding percentages were 8 percent, 13.7 percent and 16.1 percent with pricing, respectively. For M/WBEs and White males, the greatest hinderance was with pricing, whereas WBEs had an issue with the loan application process.

For other financing vehicles reflected in Q.21, about 10.8 percent of Minority-owned, 8.5 percent of WBEs and 3 percent of White male-owned respondents utilized the government assistance programs. A higher percentage utilized the small business loan program, with 24 percent of Minority-owned and 23 percent of WBEs, as well as 20.3 percent of White male-owned firms utilizing these programs. Microloan programs were only utilized by 11.8 percent of Minority-owned firms; 6.2 percent of Minority-owned utilized other programs in obtaining a loan.

Only 12 percent of the surveyed female-owned firms and 17 percent of the male-owned firms applied for a bond, based on Q.22. By race/gender/ethnicity, 13.3 percent of Minority-owned, 7.3 percent of WBEs and 22.2 percent of White male-owned firms surveyed applied for a bond. Only 4 female-owned and 3 male-owned firms were denied a bond multiple times. Only 3 WBEs received bonding and it did not exceed the \$2.5 million to \$5 million range. One Minority-owned firm had bonding over \$5 million and 8 Minority-owned firms over \$1 million in bonding. White male-owned firms had 2 firms in each of these categories, respectively. Most of the bonding for Minority-owned and White male-owned firms were in the \$100,000 - \$250,000 range.

C. Bidding and Contracting

Respondents who had done business with M-DCPS received on average 10 contracts. Based on Q.24 and Q.25, the majority (59 percent) of survey respondents had solicited bids as prime contractors, while about 10 percent had solicited bids as sub-contractors as well. About 22.6 percent had bid as both prime and sub-contractors. This pattern was true across all race/ethnicities and genders, however a higher percentage (68.5 percent) of White males bid as prime contractors, compared to 56.2 percent of Minority-owned firms and 53.2 firms of WBEs. A greater percentage (12.4 percent) of Minority-owned firms bid as sub-contractors, compared to 8.5 percent of WBEs and 5.6 percent of White males. White male respondents had over 59 percent of their business in prime contracting, compared to 51 percent of WBEs firms and 41.9 percent of Minority-owned firms. For Minority-owned firms, almost evenly on the other side, 36.7 percent had zero percent of their business in prime contracting, while about 30 percent of WBEs and 23.8 percent of white males had zero percent of their business in prime contracting.

Close to 50 percent of the respondents bid as a prime contractor with M-DCPS in the past two years. These included 85 Minority-owned (56 percent of 152), 20 WBEs (13 percent) and 47 White male-owned firms (31 percent). About 53.5 percent of female-owned firm respondents and 46 percent of male-owned firm respondents bid as prime contractors with M-DCPS. A slightly higher percent of respondents (52.1 percent) bid as prime contractors with other public-school systems. These included a lower percent of Minority-owned (42.6 percent), a higher percent of WBEs (72.4 percent) and White male-owned firms (66.7 percent). Other public entities found a greater percent of Minority-owned firm and WBE participation in bidding as prime contractors at 57.6 percent and 74.1 percent, respectively. In comparison, 192 (66.4 percent) of respondents bid as prime contractors with the private sector. 64 percent of all Minority-owned and WBEs and 71.2 percent of White male-owned firms bid as prime contractors with the private sector.

Compared to prime contracting, a smaller percentage of respondents bid as sub-contractors. A slightly higher percent of Minority-owned respondents (25.6 percent) bid as sub-contractors with M-DCPS compared to 20 percent of WBE respondents and 18.2 percent of White male respondents. Other public school systems had marginally higher bidding by all three groups in subcontracting, whereas other public agencies saw greater participation from Minority-owned firms at 35.8 percent and WBEs at 38.7 percent. White male-owned firms were at 21.3 percent. Almost twice as many respondents bid as sub-contractors with the private sector at 41.8 percent of Minority-owned, 39.4 percent of WBEs and 34.2 percent of White male respondents.

In the past two years based on Q.26, only one White male-owned firm (1.3 percent) among the respondents bid for over \$10 million, whereas 1 percent each of Minority-owned and White male-owned firms bid at the \$5 to \$10 million range. The majority of the bids for Minority-owned firms were less than \$500,000, with concentration toward the lower ranges of less than \$50,000. For White male-owned, the

majority of the bids were below \$1 million, but the concentration was in the under \$25,000 range with larger numbers in the \$50,000-\$100,000 and \$500,000-\$1 million ranges.

D. T-Tests of Difference in Mean Capacities

Four variables from the survey were used as proxy measures of capacity of the firms: start-up monies, years in business, number of full-time employees and gross receipts. Additional variables that may hinder the capacity of firms may be if a firm is a start-up, the number of contracts won with M-DCPS in the past five years, the number of times that a firm applies and get denied for loans and bonds among others.

We also present differences in these variables to study if there are statistically significant differences among groups. Statistical significance of the survey results is measured based on two statistical procedures: (1) t-tests of difference in means; and (2) multiple regression analysis. T-tests were conducted to study differences in means of each of the capacity variables, between M/WBEs and Non-(M/W/SMBE)s. In this section, we discuss each of the capacity variables, and report any statistically significant differences among the various ethnic groups.

T-test of difference in means among female-owned firms and male-owned Firms for M-DCPS

Comparing female-owned firms to those that are not in Table 8.17, we note there are significantly more start-ups that are male-owned firms who also have significantly higher initial start-up capital and apply for loans more often than female-owned firm. However, female-owned firms on average had the largest bond acquired in the past two years. In terms of other firm characteristics, while the majority of female-owned firms had fewer full-time employees, years in business, total gross receipts (in the past two years), there was no statistically significant differences in these characteristics among female-owned firms and those that were male-owned. The number of applications and denials to loans and bonds similarly did not vary significantly between the two groups.

Chapter VIII Capacity and Regression Analysis

Table 8.17.
T-Test of Difference in Means Among Female-Owned Firms and Male-Owned Firms for M-DCPS

Variable	Categories	No. of Observations	Mean	Std. Deviation	t-statistic	p-value	Significance
No. of Contracts Awarded by M-DCPS	female-owned	90	7.1	17.8			
	male-owned	142	10.5	40.2	-0.751	0.453	NO
No. of FTE	female-owned	172	24.0	126.1			
	male-owned	238	132.5	1078.4	-1.538	0.125	NO
Years in Business	female-owned	171	19.7	16.7			
	male-owned	242	30.6	128.7	-1.101	0.272	NO
Initial Start-up Capital*	female-owned	162	2.9	1.5			
	male-owned	230	3.5	1.7	-3.543	0.000	YES
Total Gross Receipts*	female-owned	171	0.9	0.3			
	male-owned	247	0.9	0.3	1.131	0.259	NO
Startup or Not	female-owned	141	3.8	2.4			
	male-owned	212	5.3	2.8	-5.221	0.000	YES
No. of Times Applied for a loan/line of credit*	female-owned	144	2.3	2.0			
	male-owned	217	2.7	2.3	-1.943	0.053	NO
No. of times denied a loan/line of credit*	female-owned	143	2.5	2.5			
	male-owned	217	2.3	2.5	0.718	0.473	NO
No. of Times Applied for a bond*	female-owned	139	1.9	0.3			
	male-owned	208	1.8	0.4	1.325	0.186	NO
No. of times denied a bond	female-owned	172	7.0	2.4			
	male-owned	248	6.9	2.5	0.450	0.653	NO
Largest Bond acquired in the past 2 years	female-owned	127	10.4	2.0			
	male-owned	193	9.7	2.8	2.430	0.016	YES
Average bid range in the past 2 years*	female-owned	133	5.7	4.3			
	male-owned	199	5.7	3.9	0.138	0.891	NO

Source: M³ Consulting; Asterisked variables report average of ranges (in mean) and not real averages.

Chapter VIII

Capacity and Regression Analysis

T-test of difference in means among Minority-owned and White Male-owned Firms

Minority-owned firms are significantly more likely to have start-ups, but have lower initial start-up capital and significantly lower gross receipts than White male-owned firms (See Table 8.18). Minority-owned firms among the respondents also applied significantly more often for a bond, and also on average had the largest bond acquired in the past two years. In terms of other firm characteristics, such as full-time employees and years in business, there is no statistically significant differences among Minority-owned and White male-owned firms. The number of applications to loans and denials to loans and bonds varied among the two groups but not statistically significantly.

Chapter VIII

Capacity and Regression Analysis

Table 8.18.
T-Test of Difference in Means Among Minority-Owned Firms and White Male-Owned Firms for M-DCPS

Variable	Categories	No. of Observations	Mean	Std. Deviation	t-statistic	p-value	Significance
No. of Contracts Awarded by M-DCPS	Minority-owned	139	7.9	21.5			
	White males	68	13.6	53.7	-1.095	0.275	NO
No. of FTE	Minority-owned	246	12.3	38.6			
	White males	106	190.1	1359.2	-1.346	0.181	NO
Years in Business	Minority-owned	248	16.6	15.0			
	White males	106	47.4	192.8	-1.642	0.104	NO
Initial Start-up Capital*	Minority-owned	246	3.1	1.5			
	White males	94	3.7	1.9	-2.654	0.009	YES
Total Gross Receipts*	Minority-owned	219	3.9	2.5			
	White males	86	6.6	2.4	-8.463	0.000	YES
Startup or Not	Minority-owned	253	0.94	0.24			
	White males	107	0.86	0.34	2.195	0.030	YES
No. of Times Applied for a loan/line of credit*	Minority-owned	223	2.5	2.1			
	White males	89	2.7	2.4	-0.490	0.624	NO
No. of times denied a loan/line of credit*	Minority-owned	223	2.2	2.3			
	White males	89	2.6	2.9	-1.208	0.229	NO
No. of Times Applied for a bond*	Minority-owned	218	1.9	0.3			
	White males	81	1.8	0.4	2.439	0.019	YES
No. of times denied a bond*	Minority-owned	254	6.9	2.5			
	White males	108	6.8	2.7	0.371	0.711	
Largest Bond acquired in the past 2 years*	Minority-owned	201	10.1	2.4			
	White males	77	9.4	3.3	1.770	0.079	YES
Average bid range in the past 2 years	Minority-owned	207	5.6	4.0			
	White males	80	5.6	3.9	-0.052	0.959	NO

Source: M³ Consulting

Chapter VIII

Capacity and Regression Analysis

T-test of difference in means among White female-owned firms and White male-owned firms

The results for White Female-owned firms versus White male-owned firms are similar to that seen above for Minority-owned, in that they are significantly less likely to do a start-up perhaps due to significantly lower initial capital. However, they do not show significantly lower gross receipts or other firm characteristics, such as full-time employees or years in business. They are significantly more likely to apply for a bond than their White male counterparts and are significantly more likely to get denied a bond as well. However, the largest bond acquired in the past two years is significantly higher for White Female-owned than for White male-owned firms.

Chapter VIII

Capacity and Regression Analysis

Table 8.19.
T-Test of Difference in Means Among White Female-Owned Firms and White Male-Owned Firms for M-DCPS

Variable	Categories	No. of Observations	Mean	Std. Deviation	t-statistic	p-value	Significance
No. of Contracts Awarded by M-DCPS	White Females	22	9.8	17.7			
	White males	68	13.6	53.7	-0.503	0.616	NO
No. of FTE	White Females	47	40.4	218.0			
	White males	106	190.1	1359.2	-1.103	0.272	NO
Years in Business	White Females	48	25.3	16.6			
	White males	106	47.4	192.8	-1.172	0.244	NO
Initial Start-up Capital*	White Females	43	3.1	1.6			
	White males	94	3.7	1.9	-1.918	0.058	YES
Total Gross Receipts*	White Females	48	0.9	0.3			
	White males	107	0.9	0.3	0.254	0.800	NO
Startup or Not	White Females	41	5.0	2.3			
	White males	86	6.6	2.4	-3.518	0.001	YES
No. of Times Applied for a loan/line of credit*	White Females	42	2.2	2.1			
	White males	89	2.7	2.4	-1.037	0.302	NO
No. of times denied a loan/line of credit*	White Females	41	2.4	2.7			
	White males	89	2.6	2.9	-0.444	0.657	NO
No. of Times Applied for a bond*	White Females	41	1.9	0.3			
	White males	81	1.8	0.4	2.400	0.018	YES
No. of times denied a bond*	White Females	48	7.9	1.0			
	White males	108	6.8	2.7	3.667	0.000	YES
Largest Bond acquired in the past 2 years	White Females	37	10.5	1.9			
	White males	77	9.4	3.3	2.340	0.021	YES
Average bid range in the past 2 years*	White Females	39	6.2	4.4			
	White males	80	5.6	3.9	0.753	0.453	NO

Source: M³ Consulting

8.3 MULTIVARIATE REGRESSION ANALYSIS

While survey data presents differences in capacities of M/WBEs and SBEs and Non-(M/W/SMBEs) using t-tests of differences in means, other social science research suggest multiple factors in understanding the relationships among factors affecting firm revenues that may include race and gender. Multivariate regression analysis may help analyze variables, including race and gender that can affect a firm's success.

In this analysis, we measure firm success utilizing gross revenues as the dependent variable in line with social science research³⁷² to examine, if after accounting for firm capacity, demographic characteristics, such as race and gender, would statistically explain any variation in firm's gross revenues. We present the results of the regression below.

8.3.1 GROSS REVENUES REGRESSION

For this analysis, the dependent variable (the variable to be explained) is defined as "firm's gross revenues for the past two years." In conducting surveys, however, M³ Consulting has often found that private firms tend to resist the idea of releasing precise dollar figures, but are more responsive when inquiries are made about revenues as dollar ranges. Accordingly, to increase response rate, nine company gross receipt revenue categories were defined ranging from "Under \$100,000" as Category 1 to "Over \$10 million" as Category 9. For the regression, the rank of each revenue category (1 through 9) is used as the revenue data observations for each firm.

For the independent variables that may explain variation in gross revenues, the following variables were included:

- Number of full-time employees: This variable is a proxy for size of a firm in that, the more employees a company has, the greater volume it is likely to generate, resulting in higher revenues.
- Years in business: This is a proxy for experience of a firm. It may be argued that a company's longevity is an indicator of success and increased business, thus generating increased revenues.
- Owner's education: The argument is that the higher the level of education of the owner, the greater is the probability of the firm's success and hence increased revenues.

³⁷² Bates, Timothy, "The declining status of minorities in the New York City Construction Industry," Reprinted from Economic Development Quarterly, Vol 12, No. 1, Feb 1998, 88-100. "Race and Gender Discrimination across Urban Labor Markets," 1996., Ed. Susan Schmitz. Garland Publishers, New York, NY, p 184. Becker, Gary, The Economics of Discrimination, 1971, 2nd ed. The University of Chicago Press, Chicago.

Chapter VIII

Capacity and Regression Analysis

- Owner's prior public sector experience: It is often noted that companies with greater experience in the private sector may be less likely to bid and be successful in the public sector. We examine to see whether the owners had any prior experience in public sector (2) and whether that has any bearing on gross revenues of the firm.

Race/ethnic/gender group of firm owners: The variables is expected to test whether there is any statistically significant relationship between race/ethnicity/gender of the specific race/gender or ethnicity and gross revenues after all available capacity variables are controlled for.

Gross Revenues Regression Results (I):

Formally, the regression model is expressed as

$$GR = \beta_0 + \beta_1X_1 + \beta_2X_2 + \beta_3X_3 + \beta_4X_4 + \beta_5X_5 + \epsilon$$

where,

GR	= annual firm gross revenues for past year;
β_0	= the constant, representing the value of Y when $X_i = 0$
β_i	= β_1 to β_5 , representing the coefficients of the magnitude of X_i 's effect on GR
X_i	= X_1 to X_5 , representing the independent variables such as years in business, owner's experience, owner's education, full-time employees, race and gender.
ϵ	= the error term, representing the variance in gross revenues unexplained by the independent variables, X_i .

We test the hypothesis of no difference (known as the null hypothesis) which represents that there is no difference in the past two-years revenues of M/WBEs compared to non-minority-owned firms once capacity is accounted for. ($GR_{(M/WBEs \text{ and } SBEs)} = GR_{(Non-(M/W/SMBEs))}$).

Disparity research theory contends that, all things being equal, the race/gender/ethnicity of a firm does have a bearing on a firm's revenue, i.e., the null hypothesis stated above is rejected. Results are statistically significant if it is determined that the probability of this difference due to chance was less than 5 in 100 (i.e., p-values of less than 0.05 or statistically significant).

One of the tests to examine whether the model specified explains the variability in the dependent variable is called the F-test. For the model presented, the F-value is noted to be statistically significant, asserting overall that the variation in revenues is explained by the variations in the specified explanatory variables (capacity and demographic independent variables listed above) and that the results are statistically significant. The detailed regression and results are presented and discussed below:

Chapter VIII

Capacity and Regression Analysis

Table 8.20.
M-DCPS Results of Survey Regression Analysis Examining Gross Revenues of Firms
Dependent variable: Gross revenues in the past two years

Variable Name	Coefficient	Std. Error	t-statistic	p-value	Significant
Constant	6.865	1.119	6.133	0.000	Yes
Number of full-time, full- year employees	0.000	0.000	1.447	0.149	No
What is your owner’s highest level of education?	0.056	0.120	0.463	0.644	No
Company Age	0.001	0.001	0.937	0.350	No
If the firm is a start-up or otherwise	-0.682	0.553	-1.233	0.219	No
Owner prior experience in public sector	-1.205	0.342	-3.521	0.001	Yes
Owner prior experience in private sector	-0.461	0.497	-0.928	0.355	No
Majority Women Owned firms	0.231	0.392	0.589	0.557	No
Black owned firms	-2.972	0.558	-5.326	0.000	Yes
Hispanic owned firms	-1.494	0.431	-3.463	0.001	Yes
Asian owned firms	-0.992	1.213	-0.818	0.414	No
Caucasian Women owned firms	-0.816	0.665	-1.228	0.221	No
All other Minority firms except B_A_H firms	-2.318	0.809	-2.866	0.005	Yes
F-Value/p-value: 6.287/ 0.000					
Adj R-sq: 0.225					

Source: M³ Consulting

Chapter VIII

Capacity and Regression Analysis

The results show that firm characteristics, such as company age, number of full-time employees, owners level of education, whether the firm was a start-up, does not impact the gross revenues of the firms in the sample. However, the owner's prior experience in the public sector and race/ethnicity appear to significantly influence the variation in revenues.

After accounting for variables that may impact revenues of firms, race/gender/ethnicity of the firm's owner does seem to have an influence, with the exception of Asian American ownership and WBEs.

The unstandardized beta coefficient for African American-owned firms was -2.972, indicating that African American-owned firms had revenues that were almost three revenue categories lower than similarly situated (similar capacity) firms. Hispanic American-owned firms were one and half times revenue categories lower than White male-owned firms and Other Minority-owned firms fared about two revenue categories lower than similarly situated (similar capacity) White male-owned firms. However, this was not the case for Asian American-owned firms and WBEs. After accounting for capacity, any variation in revenues of Asian American owned firms and WBEs from similarly situated Non-(M/W/SMBE)s was purely due to chance.

The above revenue regressions clearly indicate that, after adjustments for variables, such as years in business, education of owner, number of employees, owner's experience, for African American-owned and Hispanic-American owned firms, there is a negative and consistent relationship between African American and Hispanic-American ownership status and revenues. No other race/gender/ethnicity of the firm's owner shows any reason for specific reasons for any variations in revenues other than chance.

8.4 DISPARITIES IN BUSINESS FORMATION: PUMS ANALYSIS

8.4.1 PUMS ANALYSES

Public Use Microdata Samples (PUMS) [from U.S. Census data] analysis is undertaken by M³ Consulting to examine the impact of race and gender, along with other demographic and economic factors that impact: (1) the choice of self-employment and (2) the level of self-employment income.

Promoting entrepreneurship is often a beneficial means to improve the economic status of minorities and women. Disparities in business formation often limit the development and growth of firms. In their research on this topic, Black, Holtz-Eakin and Rosenthal [2000]³⁷³ found that there was considerable spatial variation in self-employment rates (and self-employment earnings), especially for minority-owned firms—among metropolitan areas. Black, Holtz-Eakin and Rosenthal noted that the variation is seventy

³⁷³Black, D., D. Holtz-Eakin and S. Rosenthal (2001), "Racial Minorities, economic scale and the geography of Self-employment," Brookings-Wharton Papers on Urban Affairs, pp 245-286.

Chapter VIII

Capacity and Regression Analysis

percent among Black Americans, 166 percent among Hispanics, and one hundred percent among Asians. A central point of the literature in self-employment has been on the degree to which access to capital limits the ability of individuals to attain self-employment, especially the role of such constraints in explaining racial differences in self-employment. Meyer [1990]³⁷⁴. Black, Holtz-Eakin and Rosenthal [2000], in analyzing regional rates of self-employment for the prime-age males (25 to 64) found:

- Overall, in the United States, the self-employment rate is 10.4 percent, which includes a range from 9.9 percent in the Northeast to 12.7 percent in the Pacific region; a difference of nearly 30 percent.
- The rate of self-employment differs greatly across races, ranging from a low of 4.3 percent among Black Americans to 12.7 among Whites.

Blanchflower and Shadforth (2007) and others³⁷⁵ provide an excellent summary of the research in the area of self-employment. The findings in summary are that self-employment is higher among men than women; among older workers than younger workers; and is particularly high in construction and retailing. It is also especially high among some immigrant groups and varies by region and state being especially high in construction occupations, agriculture, and retailing. Fairlie and Robb (2007) found, that black business owners were much less likely than white counterparts to have had a self-employed family member owner prior to starting their business and are less likely to have worked in that family member's business. Fairlie and Robb noted that the lack of prior work experience in a family business among black business owners, perhaps by limiting their acquisition of general and specific business human capital, negatively affects black business outcomes.

Blanchflower (2009)³⁷⁶ studied minority self-employment overall and particularly in the construction industry and examined the role that affirmative action programs have played in this context. Blanchflower points out that while the *Crosby* case in 1989 made it very difficult to maintain affirmative action programs since the turn of the millennium multiple cases have changed the course of that discussion in the other direction, with courts declaring a number of programs constitutional³⁷⁷. It is also noted that the low representation of minorities, specifically, among the ownership of firms in construction compared to their representation in the population as a whole. Based on the 2002 Economic Census Survey of Business

³⁷⁴ Meyer, B. 1990. "Why Are There So Few Black Entrepreneurs?" National Bureau of Economic Research, Working Paper No. 3537.

³⁷⁵ Blanchflower, D.G., Levine, P., Zimmerman, D.: Discrimination in the small business credit market. *Rev Econ Stat* 85(4), 930–943 (2003); Blanchflower, D.G., Shadforth, C.: *Entrepreneurship in the UK*. *Found Trends Entrepreneurship* 3(4), 257–364 (2007)

³⁷⁶ Blanchflower, D.G., "Minority self-employment in the United States and the impact of affirmative action programs", *Ann Finance* (2009) 5:361–396.

³⁷⁷ Also worth noting is Blanchflower, D.G., Wainwright, J.: An analysis of the impact of affirmative action programs on self-employment in the construction industry. National Bureau of Economic Research, Inc, NBER Working Papers # 11793 (2005)

Chapter VIII

Capacity and Regression Analysis

Owners, of the 2,770,888 firms in construction, 2.4 percent were owned by African Americans; 7.0 percent by Hispanics; 1.1 percent by American Indians or Alaskan natives; 1.4 percent by Asians and Pacific Islanders and 10.5 percent by women compared to their proportional representation in the population³⁷⁸ wherein African Americans were 12.8 percent; white Hispanics 13.7 percent; Asian/Pacific Islanders 4.6 percent; American Indians/Alaskan Native 1.0 percent and two or more races 1.8 percent.

Blanchflower (2009) study provides new evidence on self-employment rates by race and gender (using data for the period 1983–2006) as follows.

- Across all industries: 15.5 percent of white males were self-employed compared with 7.4 percent of White females 3.6 percent of African Americans and 7.8 percent of Hispanics.
- In Construction: Self-employment rates of White males were 28 percent compared with 21 percent for White females, 17 percent for African Americans and 13 percent for Hispanic Americans.
- The gap between the earnings of White males and all groups, other than Asian Americans remains large.
- The differential between the overall self-employment rates of White males and White females in construction has narrowed dramatically over time. The narrowing is more apparent than is found for ‘all industries’.
- The differential between the overall self-employment rates in construction of White males and African Americans has narrowed but less than it has for White females. The differential between the overall self-employment rates in construction of white males and Hispanic Americans has widened over time.

This section describes the two types of statistical analyses conducted to examine the impact of race and gender on self-employment, controlling for economic and demographic characteristics. The first analysis, undertaken via binary logistic regression, examines the likelihood that the individual will be self-employed. The second analysis, conducted via linear regression, examines the determinants of self-employment income. The analysis uses variables from the Public Use Microdata Sample (PUMS) data from the 2016 Census of Population and Housing. The labor force participants were selected for the sample if they satisfied the following criteria:

- Were residents of the State of Florida; and
- Were 18 years of age or older.

³⁷⁸ Based on the 2008 Statistical Abstract of the United States, population in 2006.

Chapter VIII

Capacity and Regression Analysis

A. Self-Employment Decision

First, M³ Consulting attempted to examine the factors that impact the self-employment decision and whether there are differences in the probability of self-employment among the different races and genders.

We examine the self-employment decision using a statistical technique called binary logistic regression model. In a logistic regression model, the dependent variable is a categorical variable where “yes” is equal to 1 and “no” is equal to 0. The binary logistic regression allows the statistician to determine if a specific characteristic increases or decreases the likelihood that the dependent variable will be a “yes” or a “no.” For instance, a statistician can use a logistic regression model to examine if a certain set of characteristics (called independent variables) will increase the likelihood of teen pregnancy in a certain population. Thus, the independent variables will allow the researcher to determine whether they contribute to the “yes” or “no” response, and whether these variables impact the response variable by increasing or decreasing the likelihood. For example, the logistic regression may show that parental involvement may decrease the incidence of teen pregnancy, while single family home (lack of monitoring) may increase this likelihood. Similarly, we attempt to examine if a certain set of characteristics (called independent variables) will increase the likelihood of self-employment in a certain population (in this case, Florida). Mathematically, the logistic regression model can be written as:

Chapter VIII Capacity and Regression Analysis

$$I_n(\pi/1-\pi) = \alpha + \beta_1 X_1 + \varepsilon_1$$

where:

$(\pi/1-\pi)$	=the probability of self-employment
α	=a constant
β_1	=the coefficient for each of the independent variables
X	=the independent variable, namely race, gender, education level, marital status, household income, and home ownership status
ε_1	=the error term that captures the variation in the variables

In this model, the binary logistic regression investigates if a set of independent variables such as race, gender, age, education, household type and other economic and demographic characteristics contribute to the likelihood of self-employment. This model is estimated for the entire sample from the PUMS database for the State of Florida, and then separately for self-employment in areas of Construction, Professional Services and Maintenance and Maintenance-Related Services.

Secondly, M³ Consulting analyzed the factors that impact self-employment income and whether self-employment income is impacted by race and/or gender.

Linear regression is used to answer the question of whether the earnings of self-employed minority and white women owners are different from those of non-minorities, given a set of economic and demographic characteristics. The dependent variable in this analysis is the amount of self-employment earnings.

Mathematically, the linear regression model can be written as follows:

$$Y = \beta_0 + \beta_1 X_1 + \beta_2 X_2 + \beta_3 X_3 + \beta_4 X_4 + \dots + \varepsilon_1$$

where,

Y	=the self-employment income
β_0	=a constant
β_1	=the coefficient for each of the independent variables, representing the impact of that variable on the dependent variable, self-employment income
X	=the independent variable, namely race, gender, education level, marital status, language proficiency, disability, etc.
ε_1	=the error term that captures the variation in the variables

Chapter VIII

Capacity and Regression Analysis

In the linear regression model, the impact of race and gender on the dependent variable is estimated, (earnings received by owners), controlling for the independent variables (economic and demographic characteristics).

B. Results and Discussion of the Analyses

This section provides the results of the binary logistic regression for impact of race and gender on the likelihood of self-employment.

The binary logistic regression analysis examined the impact of economic and demographic characteristics on the probability of self-employment across all industries. Specifically, the analysis examined if minorities and White females were more or less likely to be self-employed. The analysis includes six minority indicator variables: African American, Asian American, Hispanic American, Other Race or Gender (Male vs Female). Research finds that minorities and females are less likely to be self-employed, perhaps due to factors such as limited access to capital and other resources. Other factors, such as level of education attained, marital status, age, Last Employment status, Nativity, Income (Wages and Salaries), Property value as well as Industry may be contributing factors to self-employment. Thus, the likelihood of self-employment was determined to be a function of race and gender, a subset of economic and demographic variables that allow for self-employment.

The logistic regression is first estimated for the full PUMS sample for the State. The results of the logistic regression provide estimates of the independent variables and the probability of self-employment. The analysis allows the computation of the odds of self-employment or not, given this set of independent variables. The results of odds ratios for minority groups being self-employed are presented in the following table. The odds ratio estimates the probability of self-employment for the various race and gender groups after accounting for economic and rank demographic variables that may impact self-employment. Alternately, if minority groups who are similarly situated with White males, with respect to economic and demographic variables are compared, the odds ratio estimates the probability of each group's likelihood of self-employment compared to White males.

Chapter VIII

Capacity and Regression Analysis

Table 8.21.
“Odds Ratio” For Self-Employment for Minority Groups Relative to Non-Minority Males
Controlling for Economic and Demographic Factors

Race/Ethnic Group	Odds Coefficient	Odds Ratio Inverse
African American	0.497	2.0121
Asian Pacific Islander	0.827	1.2092
Other Race	0.835	1.1976
Hispanic American vs. Non-Hispanic American	1.364	0.7331
Male vs. Female	1.782	0.5612

Source: M³ Consulting, Inc.; PUMS US Census Bureau;

From the results listed in Table 8.21, comparing similarly situated individuals (in terms of economic and demographic variables), a White male is two times more likely to be self-employed as an African American, 1.2 times as likely as an Asian American, about 1.19 times as likely as any Other Race, and only little over 0.7 times as likely as an Hispanic American to be self-employed in Florida. Also, Females are a little over half as likely as Males to be self-employed.

Chapter VIII

Capacity and Regression Analysis

The full results of the binary logistic regression are presented in the following table.

Table 8.22.
Results of the Binary Logistic Regression Analysis for the Full Sample

Dependent Variable : Self-employed (or not) Variables	Coefficient (β)	Standard Error	Significance (p-value)	Significance
Constant	-5.9293	0.0598	<.0001	Yes
Other Race	0.0868	0.025	0.0005	Yes
Asian American	0.0777	0.0251	0.0019	Yes
African American	-0.4317	0.0192	<.0001	Yes
Hispanic American	0.1551	0.0086	<.0001	Yes
Gender (Male vs. Female)	0.2888	0.00533	<.0001	Yes
Age	0.1504	0.00227	<.0001	Yes
Age Squared	-0.00123	0.000022	<.0001	Yes
US Citizen	-0.0239	0.00955	0.0124	Yes
Married	0.0703	0.00566	<.0001	Yes
Disabled	-0.0269	0.00858	0.0017	Yes
Some College or less	-0.2306	0.00752	<.0001	Yes
Bachelor's degree or less	-0.0898	0.00878	<.0001	Yes
Last worked within past 12 months	0.7607	0.00818	<.0001	Yes
Construction	0.9767	0.0092	<.0001	Yes
Professional Services	0.702	0.00447	<.0001	Yes
Nativity	0.7259	0.00577	<.0001	Yes
Wages or salary income past 12 months	-9.07E-06	1.39E-07	<.0001	Yes
Property Value	7.17E-07	1.10E-08	<.0001	Yes

Source: M³ Consulting, Inc.; PUMS US Census Bureau

The logistic regression estimates the likelihood of self-employment based on race and gender characteristics, controlling for variables related to economic and demographic factors. While race and gender do have a significant impact on the probability of being self-employed, African Americans are significantly less likely to be self-employed in Florida. Disabled workers, Workers with less than college education as well as those with undergraduate education and US Citizens are less likely to be self-employed. While younger people are likely to be self-employed as one gets older, this declines significantly. The economic and demographic control variables show that married individuals and those living in higher-value homes, perhaps with higher means and those that were last worked in the last twelve months are more likely to be self-employed. However, those that received a salary for the past twelve months were less likely to start their own business. Surprisingly, those with higher educational levels are less likely to be self-employed, but it is possible that they are more easily able to secure employment and hence have a lower motivation to start their own business. Those in the Construction and Professional Services in Florida appear to be favor self-employment as well.

Chapter VIII Capacity and Regression Analysis

Breaking down the overall picture by industry, we present below, broadly the Construction industry and Professional Services industry. As the industry variable does not lend itself directly into the Maintenance and Maintenance Service industry, we subsample the data by occupational codes to obtain only those in these areas and present the results of probability of self-employment in those areas as well.

Construction: Focusing on the Construction industry, Table 8.23 compares similarly situated individuals (in terms of economic and demographic variables) within the industry who are likely to be self-employed. The results show that a White male is 2.5 times more likely to be self-employed as an African American, 1.72 times as likely as an Asian American, about 1.39 times as likely as any Other Race and only three-fourths (0.72) times as likely as a Hispanic American to be self-employed. Also, males are less two times as likely as females to be self-employed in Construction.

Table 8.23. "Odds Ratio" For Self-Employment for Minority Groups Relative to White Males Controlling for Economic and Demographic Factors- Construction Only		
Race/Ethnic Group	Odds Coefficient	Odds Ratio Inverse
African American	0.399	2.5063
Asian Pacific Islander	0.583	1.7153
Other Race	0.722	1.3850
Hispanic American vs. Non-Hispanic American	1.381	0.7241
Male vs. Female	2.125	0.4706

Source: M³ Consulting, Inc.; PUMS US Census Bureau;

The full results of the binary logistic regression for Construction are presented in the following Table 8.24. The logistic regression estimates the likelihood of self-employment based on race and gender characteristics, controlling for variables related to economic and demographic factors. The results are not that different for the Construction industry from the overall picture. In Construction, African Americans are significantly less likely to be self-employed in Florida, whereas Hispanic Americans are significantly more likely to be self-employed. While Asian Americans appear to be less likely to be self-employed, this result is not statistically significant. Overall, workers with some college education are less likely to be self-employed, but workers in the Construction industry with a college education are more likely to be self-employed in Construction. Those that earned a salary in the last twelve months are less likely to be self-employed. While younger people are likely to be self-employed, as they age, the probability of this declines. The economic and demographic control variables show the same pattern in Construction as the overall picture that married individuals and those living in higher-value homes, perhaps with higher means and those that were last worked in the last twelve months are more likely to be self-employed whereas those who are non-native, and those who earned wages for the past twelve months are less likely to be self-employed.

Chapter VIII

Capacity and Regression Analysis

Table 8.24.
Results of the Binary Logistic Regression Analysis for the Construction only

Dependent Variable : Self-employed (or not) Variables	Coefficient (β)	Standard Error	Significance (p-value)	Significance
Constant	-5.0961	0.1952	<.0001	Yes
Other Race	0.1209	0.0803	0.1321	No
Asian American	-0.0934	0.1315	0.4773	No
African American	-0.4736	0.0695	<.0001	Yes
Hispanic American	0.1615	0.0269	<.0001	Yes
Gender (Male vs. Female)	0.3769	0.0239	<.0001	Yes
Age	0.1213	0.00749	<.0001	Yes
Age Squared	-0.00091	0.000074	<.0001	Yes
Married	0.1421	0.0171	<.0001	Yes
Some College or less	-0.1394	0.0354	<.0001	Yes
Bachelor's degree or less	0.0613	0.0418	0.1422	No
Last worked within past 12 months	0.4341	0.0238	<.0001	Yes
Nativity	-0.1753	0.0254	<.0001	Yes
Wages or salary income past 12 months	-0.00001	5.45E-07	<.0001	Yes
Property Value	7.82E-07	5.21E-08	<.0001	Yes

Source: M³ Consulting, Inc.; PUMS US Census Bureau;

Professional Services: Much like in Construction, in professional services as well, White males are more inclined to be self-employed in Florida. In comparing similarly situated individuals within the industry, the greatest distinction is seen in African Americans as compared to white males than is seen in Asian Americans and Other races. The results as presented in Table 8.25 below show that a White male is 1.9 times more likely to be self-employed as an African American, 1.3 times as likely as an Asian American, about 1.16 times as likely as any Other Race, and only 0.71 times as likely as a Hispanic American to be self-employed. Also, Males are about one-and-half times as likely as Females to be self-employed in professional services.

Chapter VIII Capacity and Regression Analysis

Table 8.25. "Odds Ratio" For Self-Employment for Minority Groups Relative to White Males Controlling for Economic and Demographic Factors- Professional Services Only		
Race/Ethnic Group	Odds Coefficient	Odds Ratio Inverse
African American	0.521	1.9194
Asian Pacific Islander	0.769	1.3004
Other Race	0.861	1.1614
Hispanic American vs. Non-Hispanic American	1.391	0.7189
Male vs. Female	1.571	0.6365

Source: M³ Consulting, Inc.; PUMS US Census Bureau;

The full results of the binary logistic regression for Professional Services are shown below in Table 8.26. Similarly, to the Construction industry, for Professional Services, African Americans seem least likely to be self-employed after controlling for variables related to economic and demographic factors. Hispanic Americans and Other Races are significantly more likely to be self-employed. Overall, workers with some college education or a bachelor's degree, those who are US citizens or native born are less likely to be self-employed in professional services perhaps since they can get employed more easily in the area. For the same reason, perhaps, those who earned a salary in the last twelve months are less likely to be self-employed. While younger people are likely to be self-employed, as they age, the probability of this declines. The economic and demographic control variables show the same pattern as in the Construction industry as the overall picture that married individuals and those living in higher-value homes, perhaps with higher wealth and hence capital to start a business, are more likely to be self-employed in Professional Services.

Chapter VIII Capacity and Regression Analysis

Table 8.26.
Results of the Binary Logistic Regression Analysis for the Professional Services only

Dependent Variable : Self-employed (or not) Variables	Coefficient (β)	Standard Error	Significance (p-value)	Significance
Constant	-5.2425	0.0778	<.0001	Yes
Other Race	0.1166	0.0336	0.0005	Yes
Asian American	0.00333	0.0341	0.9221	No
African American	-0.3861	0.0262	<.0001	Yes
Hispanic American	0.1652	0.0116	<.0001	Yes
Gender (Male vs. Female)	0.2258	0.00698	<.0001	Yes
Age	0.1238	0.00304	<.0001	Yes
Age Squared	-0.00094	0.000029	<.0001	Yes
US Citizen	-0.047	0.013	0.0003	Yes
Married	0.0779	0.00756	<.0001	Yes
Some College or less	-0.2731	0.0102	<.0001	Yes
Bachelor's degree or less	-0.0497	0.0117	<.0001	Yes
Last worked within past 12 months	0.3375	0.0105	<.0001	Yes
Nativity	-0.1664	0.0109	<.0001	Yes
Wages or salary income past 12 months	-0.00001	1.96E-07	<.0001	Yes
Property Value	7.81E-07	1.78E-08	<.0001	Yes

Source: M³ Consulting, Inc.; PUMS US Census Bureau;

Maintenance and Maintenance Services: Much like in Construction, in Maintenance and Maintenance-Related services (M&MRS) as well, white males are more inclined to be self-employed in Florida. In comparing similarly situated individuals within the industry, the extreme discrepancy is seen in African Americans as compared to white males than is seen in Asian Americans and Other races. The results as presented in Table 8.27 below show that a white male is 3.3 times more likely to be self-employed as an African American, 1.74 times as likely as an Asian American, about 1.37 times as likely as any Other Race and only three-fifths (0.61) times as likely as a Hispanic American to be self-employed. Also, men are slightly more likely than women to be self-employed in Maintenance and Maintenance-Related services.

Chapter VIII Capacity and Regression Analysis

Table 8.27. "Odds Ratio" For Self-Employment for Minority Groups Relative to White Males Controlling for Economic and Demographic Factors- Maintenance and Maintenance-Related Services Only		
Race/Ethnic Group	Odds Coefficient	Odds Ratio Inverse
African American	0.299	3.3445
Asian Pacific Islander	0.575	1.7391
Other Race	0.727	1.3755
Hispanic American vs. Non-Hispanic American	1.616	0.6188
Male vs Female	1.125	0.8889

Source: M³ Consulting, Inc.; PUMS US Census Bureau;

The full results of the binary logistic regression for M&MRS are shown below in Table 8.28.

As we saw the pattern in Construction as well as Professional Services above, in the Maintenance and Maintenance Services industry as well African American-owned firms seem significantly least likely to be self-employed after controlling for variables related to economic and demographic factors. Hispanic Americans and Other Races are significantly more likely to be self-employed. Overall, workers with some college education and those who earned wages in the past twelve months are less likely to be self-employed in maintenance and Maintenance-Related services perhaps since they can very easily gain employment elsewhere. Those who are more likely to be self-employed in Maintenance and Maintenance-Related services include younger, native, married individuals. Those individuals with a college degree, those who own property and who last worked within the past twelve months also have a greater probability of being self-employed.

Chapter VIII

Capacity and Regression Analysis

Table 8.28.
Results of the Binary Logistic Regression Analysis for the M&MRS only

Dependent Variable : Self-employed (or not) Variables	Coefficient (β)	Standard Error	Significance (p-value)	Significance
Constant	-4.9944	0.264	<.0001	Yes
Other Race	0.2009	0.1046	0.0549	No
Asian American	-0.0339	0.1844	0.8542	No
African American	-0.6873	0.0909	<.0001	Yes
Hispanic American	0.24	0.036	<.0001	Yes
Gender (Male vs. Female)	0.0591	0.0548	0.2807	No
Age	0.1441	0.00996	<.0001	Yes
Age Squared	-0.00114	0.000101	<.0001	Yes
Married	0.1948	0.023	<.0001	Yes
Some College or less	-0.3837	0.0668	<.0001	Yes
Bachelor's degree or less	0.1056	0.0824	0.2005	No
Last worked within past 12 months	0.7326	0.0327	<.0001	Yes
Nativity	0.1857	0.0342	<.0001	Yes
Wages or salary income past 12 months	-0.00004	1.28E-06	<.0001	Yes
Property Value	8.75E-07	9.94E-08	<.0001	Yes

Source: M³ Consulting, Inc.; PUMS US Census Bureau;

Following are the results of the linear regression for the impact of race and gender on self-employment earnings.

The linear regression analyses estimated the impact of race and gender on self-employment earnings, controlling for economic and demographic characteristics. The dependent variable for this analysis is self-employment earnings. The independent variables and the hypothesized relation to self-employment earnings are as follows:

- **Age:** Research shows that age proxies for experience, and self-employment earnings should be positively related to age.
- **Gender (Male vs. Female):** Research shows that males are more likely to receive higher earnings than females.
- **Race:** Research shows that non-minorities earn more than minorities, and minority status should be negatively related to earnings.
- **College Education:** Research shows that individuals with higher educational levels earn more, and college educated individuals should receive higher earnings.
- **Age-Squared:** Research shows a non-linear relation between earnings and age. This variable captures the fact that earnings increase up to a certain age, and then tend to level off.
- **Income:** Research shows a negative relation between earnings and income status.

Chapter VIII

Capacity and Regression Analysis

- **Marital Status:** Research shows that married individuals tend to earn more than those single individuals.
- **Disability:** Research shows that those with disability will tend to have lower self-employment incomes.

Full Sample Results: The results of the linear regression of self-employment earnings are first estimated for the full sample for the State of Florida.

The results below lead us to note the following:

- All other variables kept constant, a self-employed Hispanic American will earn about \$282 more than a similarly situated non-M/WBE; a self-employed African American will earn about \$631 less, an Asian American will earn about \$22 more and a Male self-employed person will earn \$1,128 more than a self-employed Female.
- A disabled individual who is self-employed earns about \$437 less, as will someone with less than a college education who will earn \$2,707 less. A person with a bachelor's degree or less will earn \$1,930 lower being self-employed in Florida. US Citizens and married individuals earn higher self-employment earnings. Age increases earnings by about \$92. However, this decreases as one gets older, but by a very negligible amount.
- Among the industries, individuals in Professional services, Construction, Services and Finance industries are more likely to earn more in self-employment. In all of the industries this holds true with an exception of Military where there are no self-employment benefits.

Chapter VIII Capacity and Regression Analysis

Table 8.29.
Linear Regression Results for the Determinants of Self-Employment Income by Race and Gender for the Full Sample

Variables	Coefficients (β)	Standard Error	t-statistic	p-value	Significant
(Constant)	-1355.00066	250.0407251	-5.42	<.0001	Yes
Other Race	-221.63402	83.3383545	-2.66	0.0078	No
Asian American	21.883344	101.2521714	0.22	0.8289	No
African American	-630.942048	48.9799753	-12.88	<.0001	Yes
Hispanic American	282.08126	44.8913652	6.28	<.0001	Yes
Gender (Male vs. Female)	1128.134997	32.8421188	34.35	<.0001	Yes
Age	92.663034	4.7446218	19.53	<.0001	Yes
Age-Squared	-0.715229	0.0466437	-15.33	<.0001	Yes
Industry ADM	98.273244	224.1763427	0.44	0.6611	No
Industry AGR	4915.852468	284.2325305	17.3	<.0001	Yes
Industry CON	3311.062899	220.9418217	14.99	<.0001	Yes
Industry EDU	178.802272	218.4870225	0.82	0.4131	No
Industry ENT	1778.313249	216.0439337	8.23	<.0001	Yes
Industry EXT	456.375242	211.5713136	2.16	0.031	Yes
Industry FIN	4120.631072	218.6500977	18.85	<.0001	Yes
Industry INF	1555.897214	245.7804083	6.33	<.0001	Yes
Industry MED	2486.272348	216.0398025	11.51	<.0001	Yes
Industry MFG	1207.603946	222.5410655	5.43	<.0001	Yes
Industry MIL	-58.720444	340.1610478	-0.17	0.8629	No
Industry PRF	4565.52531	214.4426896	21.29	<.0001	Yes
Industry RET	1623.399552	214.6152187	7.56	<.0001	Yes
Industry SCA	2286.499847	251.1798797	9.1	<.0001	Yes
Industry SRV	3675.913642	223.4237367	16.45	<.0001	Yes
Industry TRN	2100.411489	227.4526078	9.23	<.0001	Yes
Industry WHL	2315.819787	235.665261	9.83	<.0001	Yes
US Citizen	40.484837	53.5262766	0.76	0.4494	No
Married	300.762062	34.0942822	8.82	<.0001	Yes
Disabled	-437.183984	45.4995639	-9.61	<.0001	Yes
Some College or less	-2706.835344	54.7588564	-49.43	<.0001	Yes
Bachelor's or Less	-1930.863102	61.8535393	-31.22	<.0001	Yes

Source: M³ Consulting, Inc.; PUMS US Census Bureau;

Dependent Variable: SEMP Self-employment income past 12 months

Industry – ADM – Administrative Services, AGR- Agriculture; CON- Construction; EDU- Education; ENT – Entertainment Industry; EXT – Extraction Industries; FIN – Finance, Banking and Related Services; INF – Information Services; MED – Medical Services; MFG – Manufacturing; MIL – Military; PRF – Professional services; RET – Retail Services; SCA – SRV- Non-Professional Services; SCA – Individual and Family Services; TRN –Transportation Services; WHL – Wholesale Services;

Chapter VIII Capacity and Regression Analysis

For the Construction industry, we document below in Table 8.21 that:

- All other variables kept constant, earnings are significantly lower by \$1,298 for African Americans, and \$936 for Other race individuals and \$2,342 for women that are self-employed. While earnings are lower by just \$144 for Asian Americans and slightly higher at \$279 for Hispanic Americans, if self-employed, these results are not significant.
- Disabled individuals earn \$1,560 less in the Construction industry, if self-employed. A self-employed individual with less than some college education will earn \$4,739 less and someone with a college education earns about \$2,210 less than in the construction industry in Florida. Age increases earnings by about \$218. However, this decreases with age, by about just a very small amount. Self-employed married individuals earn \$972 more than single individuals and US Citizens who are in construction earn only \$755 less than non-citizens if self-employed.

Variables	Coefficients (β)	Standard Error	t-statistic	p-value	Significant
(Constant)	-151.399595	1133.728621	-0.13	0.8938	No
Other Race	-936.99299	453.622304	-2.07	0.0389	Yes
Asian American	-144.216874	1122.443782	-0.13	0.8978	No
African American	-1298.066909	352.790867	-3.68	0.0002	Yes
Hispanic American	279.473928	278.002391	1.01	0.3148	No
Gender (Male vs. Female)	2342.428257	292.464617	8.01	<.0001	Yes
Age	218.069841	40.249703	5.42	<.0001	Yes
Age-Squared	-1.785454	0.420265	-4.25	<.0001	Yes
US Citizen	-755.864236	307.556053	-2.46	0.014	Yes
Married	972.387359	204.343418	4.76	<.0001	Yes
Disabled	-1560.371716	326.872704	-4.77	<.0001	Yes
Some College or less	-4739.66526	596.411872	-7.95	<.0001	No
Bachelor's or Less	-2210.72243	658.02445	-3.36	0.0008	No

Source: M³ Consulting, Inc.; PUMS US Census Bureau;
Dependent Variable: SEMP Self-employment income past 12 months

Chapter VIII Capacity and Regression Analysis

For the Professional Services industry, we document below in Table 8.31 that:

- All other variables kept constant, earnings are significantly lower by \$1,347 for African Americans and \$963 for Asian Americans and \$1,781 for women that are self-employed. Hispanic Americans have significantly higher earnings of \$756 if self-employed.
- Disabled individuals earn \$1,313 less in the Professional Services industry, if self-employed. An individual with less than some college education will earn \$5,084 less if self-employed whereas someone with a college education earns about \$3,254 less if self-employed in construction. Age increases earnings by about \$205. However, this decreases with age, by about just a very small amount. Self-employed married individuals earn \$636 more than single individuals and US Citizens who are in professional services industry earn only \$126 less, if self-employed.

Table 8.31.
Linear Regression Results for the Determinants of Self-Employment Income by Race and Gender for the Professional Services Industry

Variables	Coefficients (β)	Standard Error	t-statistic	p-value	Significant
(Constant)	-50.8051	384.4926	-0.13	0.8949	No
Other Race	-318.325	211.2662	-1.51	0.1319	No
Asian American	-963.254	259.6869	-3.71	0.0002	Yes
African American	-1346.97	135.5964	-9.93	<.0001	Yes
Hispanic American	756.3255	115.9725	6.52	<.0001	Yes
Gender (Male vs. Female)	1781.839	83.07667	21.45	<.0001	Yes
Age	205.828	14.99543	13.73	<.0001	Yes
Age-Squared	-1.49709	0.156614	-9.56	<.0001	Yes
US Citizen	-126.825	138.3844	-0.92	0.3594	No
Married	636.1384	89.52259	7.11	<.0001	Yes
Disabled	-1313.12	148.5826	-8.84	<.0001	Yes
Some College or less	-5084.35	142.9972	-35.56	<.0001	Yes
Bachelor's or Less	-3254.78	160.8342	-20.24	<.0001	Yes

Source: M³ Consulting, Inc.; PUMS US Census Bureau;
Dependent Variable: SEMP Self-employment income past 12 months

Chapter VIII Capacity and Regression Analysis

For the Maintenance and Maintenance-Related services industry, we document below in Table 8.32 that:

- All other variables kept constant, earnings are statistically significantly lower by \$1,173 for African Americans, \$525 lower for Hispanic Americans and \$1,296 for Other race individuals and \$296 for women that are self-employed in Maintenance and Maintenance-Related Services. Asian Americans have significantly higher earnings of \$1,323, if self-employed but this result is not statistically significant.
- Disabled individuals earn \$1,442 less in the Maintenance and Maintenance-Related Services industry, if self-employed. An individual with less than some college education will earn \$1,452 less if self-employed. Age increases earnings by about \$276, but this decreases with age, by about just a very small amount. While not statistically significant, self-employed married individuals appear to earn \$233 more than single individuals and US Citizens \$157 less if self-employed in Maintenance and Maintenance-Related Services.

Variables	Coefficients (β)	Standard Error	t-statistic	p-value	Significant
(Constant)	-2125.12	1051.357	-2.02	0.0433	Yes
Other Race	-1296.02	317.9812	-4.08	<.0001	Yes
Asian American	1323.815	920.7473	1.44	0.1505	No
African American	-1172.76	240.6085	-4.87	<.0001	Yes
Hispanic American	-525.228	210.7587	-2.49	0.0127	Yes
Female	296.5478	405.0925	0.73	0.4641	No
Age	276.368	30.82105	8.97	<.0001	Yes
Age-Squared	-2.58594	0.331413	-7.8	<.0001	Yes
US Citizen	-157.532	222.5723	-0.71	0.4791	No
Married	233.4035	155.1783	1.5	0.1326	No
Disabled	-1442.11	246.8975	-5.84	<.0001	Yes
Some College or less	-1452.54	695.253	-2.09	0.0367	Yes
Bachelor's or Less	-388.921	771.4403	-0.5	0.6142	No

Source: M³ Consulting, Inc.; PUMS US Census Bureau;
Dependent Variable: SEMP Self-employment income past 12 months

8.5 CONCLUSIONS

The purpose of this analysis is to determine if there are any differences in the capacity of race, gender and ethnic groups and after accounting for any differences in the capacity of firms, if race and gender are contributing factors to any disparities found.

Capacity Based on Census Annual Survey of Entrepreneurs

Based on Census ASE data, Hispanic American- and Other Minority-owned firms appear to have higher capacity among M/WBEs, across procurement categories, but these firms are smaller in absolute size than Non-M/WBEs, based on number of employees and revenues among the race/gender/ethnic groups in the MSA. WBE capacity is similar to Hispanic American- and Other Minority-owned firms in Professional Services. If relative capacity, compared to Non-M/WBEs was considered, the differences in capacities among M/WBEs and Non-M/WBEs is fairly small based on firms with paid employees across procurement categories, with the widest difference in capacity being in construction.

Capacity Based on InfoUSA

Based on InfoUSA, using number of employees, there is little difference in capacity between the race/gender/ethnic groups and across procurement categories up to 250 employees and less so up to 500 employees. Using revenues, capacity is similar between Non-M/WBEs and M/WBEs by both number of firms and percentage of firms up to \$2.5 million across procurement categories. If taking into consideration the lower count of firms across race/gender/ethnic groups, capacity is similar for Non-M/WBEs and M/WBEs up to \$20 million. Above 500 employees and \$20 million in revenues, the number of firms represented are very small. Even so, there are few differences it appears among these very large firms.

Capacity Based on Survey Regressions

Based on t-tests, male-owned firms had significantly higher initial start-up capital and applied for loans significantly more often than female-owned firms, while female-owned firms among the respondents on average had the largest bond acquired in the past two years. In terms of firm characteristics, there was no statistically significant differences among firms based on gender. Similarly, in comparing Minority-owned firms to White male-owned firms, the former had lower initial start-up capital and significantly lower gross receipts. As in the case of gender, there is no statistically significant differences among Minority-owned and White male-owned firms, based on firm characteristics. Comparatively, White Females are significantly less likely to do a start-up than White male-owned firms perhaps due to significantly lower initial capital, however they do not show significantly lower gross receipts, full-time employees or years in business.

Chapter VIII

Capacity and Regression Analysis

Based on multivariate regression results, firm characteristics, such as company age, number of full-time employees, owners' level of education, whether the firm was a start-up, do not impact the gross revenues of the firms in the sample. However, the owner's prior experience in the public sector and race/ethnicity appear to significantly influence the variation in revenues.

After accounting for variables that may impact firms' revenues, race/gender/ethnicity of the firm's owner does seem to have an influence. This is especially in the case of African American- and Hispanic-owned firms where there is a negative and significant relationship between African American and Hispanic ownership status and revenues. Those firms that have mixed race/gender/ethnic ownership also show a similar negative relationship between gross revenues and race after controlling for firm and owner characteristics. Any variation in revenues of Asian American-owned firms and WBEs is due to chance.

Capacity Based on PUMS

Examining the factors that impact the self-employment decision, it is noted that comparing similarly situated individuals (in terms of economic and demographic variables), a White male is 2 times more likely to be self-employed as an African American, 1.2 times as likely as an Asian American, about 1.19 times as likely as any Other Race and only little over 0.7 times as likely as a Hispanic American to be self-employed in Florida. Also, Female-owned firms are a little over half as likely as Male-owned firms to be self-employed.

Further examining the likelihood of self-employment based on race and gender characteristics, controlling for variables related to economic and demographic factors, while race and gender do have a significant impact on the probability of being self-employed, African Americans are significantly less likely to be self-employed in Florida. The Construction industry reflects that African Americans are significantly less likely to be self-employed, while Hispanic Americans are significantly more likely to be self-employed. In Professional Services as well, White males are more inclined to be self-employed in Florida. In comparing similarly situated individuals within Professional Services or Maintenance and Maintenance-Related Services, the greatest discrepancy is seen in African Americans as compared to White males with regards to self-employment than is seen in Asian Americans and Other races.

Examining the factors that impact self-employment earnings, we note that all other variables kept constant, a self-employed Hispanic American will earn about \$282 more than a Non-minority firm; an Asian American will earn about \$22 more and a male self-employed person will earn \$1,128 more than a self-employed female. As discussed above, with regards to self-employment decision, with earnings as well, a self-employed African American will earn about \$631 less than a similarly situated Non-minority firm. This holds true in the Construction, Maintenance and Maintenance-Related Services as well as Professional Service industries, with self-employment earnings for an African Americans lower by \$1,298, \$1,173 and \$1,347 respectively. In contrast, Hispanic Americans that are self-employed earn \$279 higher

Chapter VIII

Capacity and Regression Analysis

in Construction and \$756 higher in professional services, but \$525 lower in Construction, Maintenance and Maintenance-Related industries.

Capacity differences do not appear to be distinct in the size of the firms based on revenues or full-time employees across the board for all race/gender or ethnicities. The constraints in capacities are more notable in terms of revenues, employees and business formation and factors related to the self-employment decision and earnings for African American-owned firms, more so than in any other race/gender/ethnic groups wherein the results are mixed.

CHAPTER 9: ANECDOTAL COMMENTS FROM THE MARKETPLACE

9.1 INTRODUCTION

As part of the disparity study process, M³ Consulting sought to explore the experiences of business owners in the Miami-Dade County area who seek business opportunities with Miami-Dade County Public Schools (M-DCPS). This chapter contains a categorized summary of anecdotal evidence collected concerning the issues and barriers small, minority and women business owners face as they attempt to transact business with M-DCPS and in the marketplace.

A. Summary of Anecdotal Participants

The anecdotal data was gathered by conducting one focus groups and three public hearings. Due to the COVID pandemic, all interactions were hosted via Zoom. The firm's owner race and gender along with the industry category is summarized in Tables 9.1 and 9.2.

The particularized accounts of business owner experiences contained in this chapter should be considered in tandem with the quantitative evidence regarding marketplace disparities discussed in the Availability, Utilization and Disparity chapters of this report. The anecdotal information may be used to further assess or identify the existence of racially-based or gender-based M-DCPS or marketplace barriers and to corroborate statistical findings.

The framework for the collection and analysis of anecdotal evidence for this study has been suggested by the U.S. Supreme Court in the case *City of Richmond v. J.A. Croson*, 488 U.S. 469 (1989). In that case, the Court held that particularized anecdotal accounts of discrimination could help establish a compelling interest for a local government to institute a race-conscious remedy. Moreover, such evidence can provide a local entity with a firm basis for fashioning a program that is narrowly tailored to remedy identified forms of marketplace discrimination and other barriers to minority and non-minority female business participation in contract opportunities.

9.2 ANECDOTAL INTERVIEW METHODOLOGY

The anecdotal evidence contained in this chapter was gathered by conducting one focus group and three public hearings.

M³ Consulting first attempted to schedule 20 one-on-one interviews, 4 focus groups and one public hearing. M³ Consulting contacted over 200 randomly selected firms for one-on-one interviews and focus groups, with no response. M³ Consulting then turned to the 429 firms that responded to the Capacity survey. M³ Consulting identified themes that emerged from the survey and invited the survey respondents to participate in focus groups to allow a deeper dive into the identified themes. While two focus groups were confirmed with 10 participants each, the first focus group participants did not call into the scheduled focus group session. Five of 10 confirmed participants attended the second focus group session.

A minimum of four attempts were made to reach firms to participate in the one-on-one interviews and focus groups, via email and phone. During those efforts, several reasons were provided by potential interviewees as to why they did not want to participate, including the following:

- Miami-Dade County Public School's efforts were not going to impact their business.
- The focus groups and surveys are a waste of time.
- Vendors did not want any involvement with the disparity study.
- Vendor was a certified business with M-DCPS, but had never responded to a bid or tried to do business with M-DCPS.
- Vendor had already participated in surveys for different disparity studies and did not want to participate in another.

Because of the lack of response to one-on-one interviews and focus groups, M³ Consulting expanded the number of public hearings from one to three. M-DCPS emailed their entire database of vendors, inviting them to participate in one of three public hearings scheduled on different dates and times to accommodate varying schedules. 128 firms registered for the three public hearings, 77 attended, 31 provided testimony.

Each vendor listed was identified in one of five procurement categories: Goods & Supplies, Maintenance and Maintenance-Related Services, Construction and Construction-Related Services, A&E, and Professional Services. If a vendor in the compiled list did not show a category, the researchers went back to the original list to identify the category code. A total of 36 attendees participated through the focus groups and public hearings that were conducted. (See Tables 9.1 and 9.2).

Table 9.1.	
Focus Group and Public Hearing Participants by Race/Ethnicity/Gender	
Interview Count	Firm Owner Race and Gender
5	Non-(M/W/SMBE)
0	Asian American Male-owned
9	African American Male-owned
6	African American Female-owned
9	Hispanic American Male-owned
5	Hispanic American Female-owned
0	Caucasian Female-owned
1	Unknown M/WBE
1	SBE
36	Total

Source: M³ Consulting

Table 9.2.	
Focus Group Participants and Public Hearing Participants By Industry	
Interview Count	Firm Industry Category
13	Goods & Supplies
2	Maintenance and Maintenance-Related Services
11	Construction and Construction-Related Services
1	Architectural & Engineering (A&E)
8	Professional Services
1	Other
36	Total

Source: M³ Consulting

The M³ Consulting team transcribed and analyzed all session transcripts. Common themes across the focus group and public hearings were grouped under nine topic headings. Focus group and public hearing excerpts are provided to support each theme and the owner's race and/or gender are indicated. The excerpts illustrate participant's discussion of experiences relating to each theme heading.

A. Participant Confidentiality

Each participant was informed that his or her identity and the identity of his/her company would remain confidential, unless M³ Consulting was required to disclose this information. We strongly note that efforts to verify or find corroborating data that supports any claim made during an anecdotal discussion may subject the participant to foreseen and unforeseen reprisals. Therefore, in using and following-up on the comments reflected in this chapter, M-DCPS should take measures to protect participants from any retaliatory actions by others.

9.3 ANECDOTAL INTERVIEW FINDINGS

The following sections indicate the recurrent themes in the discussions found throughout the focus group and public hearings. Each theme includes anecdotal comments directly from the participants discussion illustrating the topic heading.

- Theme 1: Access to Public Sector Opportunities
- Theme 2: Administrative Process, Qualifications and Education
- Theme 3: Exclusionary Practices by M-DCPS and Other Public Entities that Create Barriers to Obtaining Contracts
- Theme 4: Exclusionary Practices by Prime Contractors That Create Barriers to Obtaining Contracts
- Theme 5: Impact of M-DCPS Bid Process
- Theme 6: Need For and Effectiveness of M/WBE Programs
- Theme 7: Discrimination, Intimidation, Racial and Gender Stereotyping
- Theme 8: Timely Payments and Incentives
- Theme 9: Suggestions and Comments

Theme 1: Access to Public Sector Opportunities

These remarks refer to the access that business owners believe they should have to contract work with Miami-Dade County Public Schools.

Focus Group 1 (FG1), Participant 1 (P1), Hispanic American Male, A&E

FG1, P1 stated that one of the biggest challenges he has encountered is not having access to important (sourcing information). He would like there to be a system in place where they can have “better ways to access information, be it in M-DCPS / Private School.”

Focus Group 1 (FG1), Participant 4 (P4), Female, Construction and Construction-Related Services

FG1, P4 stated that her firm have not had access to public sector opportunities because the roofing manufacturer’s certification requirements limits her ability to compete. She gave the example. “As a roofer, you need to be certified with manufacturers in order to use their products and have warranty in order to bid on a job.” M-DCPS, according to FG1, P4, uses two big companies. She said that manufacturers never returned her calls, because she feels that they (the manufacturers) already have their three or four roofing companies that are certified to use their product.

Focus Group 1 (FG1), Participant 5 (P5), African American Male, Construction and Construction-Related Services

FG1, P5 stated that he believes relationships play a large role in getting job opportunities. Everyone has to go through the pre-qualification process, but he doesn't know “if it's a true bidding—whoever has the lowest bid gets the work all the time. I think a lot has to do with relationships and people who you know.”

Focus Group1 (FG1), Participant 1 (P1) Hispanic American Male, A&E

FG1, P1 stated that the pre-qualification process for Miami-Dade Public School is a tough process. And once completed, access to potential jobs is limited. “You go to the website Miami-Dade, whatever, Public Schools, and the only opportunities that are available there are the opportunities that have already either occurred or the bidding process is closed, and they're putting it out there simply from a, ‘We've got to share this public information.’”

Public Hearing 1 (PH1), Participant 1 (P1), African American Female, Professional Services

PH1, P1 stated that her experience with M-DCPS to date has not been a positive one, in terms of job opportunities. She feels the response rate has been minimal. She has spoken to other individuals who have been trying to deal with Miami-Dade County Public Schools for years and they all have experienced the same thing. "It seems like there's basically no hope in trying to obtain any kind of opportunity with the schools."

Public Hearing 1 (PH1), Participant 2 (P2), Hispanic American Male, Goods and Supplies

PH1, P2 has been trying to participate in large food contracts, but as a minority business who does not have access to warehouse space or assets to meet the contract, he has not been able to receive any of the work. He feels this is not only limiting opportunities to them, but all other small businesses trying to participate in food contracts. "Is there any way that this type of package could be restructured in a way that would give opportunities to small businesses in Dade County, instead of making it such a way that only national corporations can participate?"

Public Hearing 1 (PH1), Participant 4 (P4), African American Male, Goods and Supplies

PH1, P4 stated that the way that M-DCPS issued branding and licensing contracts destroyed opportunity for small businesses to participate. "The black community brought to the district what we call licensing and branding for urban schools that are high performing athletically." And that is a licensing project that would generate revenues not only for the district, but for the schools. "Instead of being a project that could have been a pilot for our community, it was given to a company in Colorado who does not understand their licensing approvals and destroyed local small businesses."

Public Hearing 1 (PH1), Participant 3 (P3), African American Male, Professional Services

PH1, P3 stated that Miami-Dade County policies and procedures as it pertains to small businesses should be reviewed. "If the average small business or minority business is doing business with the school district and they don't have the kind of revenue to carry themselves past 14 days, it's catastrophic." Small businesses need to get paid within 14 days in order to continue to participate in the projects.

Public Hearing 2 (PH2), Participant 3 (P3), Hispanic American Male, Goods and Supplies

PH2, P3 shared that his firm has paid for advertising with M-DCPS but did not receive a copy of the magazine as a follow up. He said that, "they don't see many opportunities to offer products to schools, unless our services are promoted by the main office." They have tried to reach out to the schools directly to no avail.

Public Hearing 2 (PH2), Participant 4 (P4), African American Female, Professional Services

PH2, P4 stated that her firm does not receive notice of the actual contracts when they are awarded. Her firm has been providing services as a sub-contractor. She feels her firm could be a prime contractor, based on her experience. She appreciated the OEO outreach activities, because it has given them a lot of insight into navigating the system. The outreach also provided her the opportunity to meet other people that are doing government contracting in general.

Public Hearing 2 (PH2), Participant 1 (P1), Hispanic American Female, Professional Services

PH2, P1 feels that M-DCPS “gets you excited about the process but after you get your lobbyist certificate and you call and try to make agreements with principals and/or counselors you never hear back.” M-DCPS’ lack of transparency and lack of feedback they feel needs to be addressed. “And we dropped off, I want to say, about 25 portfolios, which of course, all of you know, that cost money to make a portfolio of what you're offering. And not once, did we get an answer or a callback.”

Public Hearing 2 (PH2), Participant 7 (P7), African American Male, Goods and Supplies

PH2, P7 shared his concern about the limited number of manufacturers and the firms that can represent them. He stated that there used to be a policy wherein different manufacturers can be approved and represented by more than one company, so there is choice. “...If there are one or two slots only, the larger companies will always crowd the smaller companies out.”

Public Hearing 2 (PH2), Participant 10 (P10), African American Female, Professional Services

PH2, P10 would like clarification as to what the \$250 lobbyist fee entails, and how she would go about using it. She wants to know whether she will receive a list of contacts and if she has to go to the district office to place the bid.

Public Hearing 3 (PH3), Participant 6 (P6), African American Female, Professional Services

PH3, P6 shared the lack of response from M-DCPS. Her firm includes all of their certifications (Local Business Preference, M/WBE, Vendor Training) on their bids and get no response. “I didn't get a phone call. Nobody contacted me to tell me why I was rejected. I reached out. I'm still waiting for somebody to reach out to me to tell me why I was rejected.”

Theme 2: Administrative Process, Qualifications and Education

This group of comments refers to the internal practices and resources that can be made available to improve the performance of vendors and contractors.

Focus Group 1 (FG1), Participant 2 (P2), Caucasian American Female, Construction and Construction-Related Services

FG1, P2 stated that, as a small business, his firm would like notification of payment to general contractors for jobs that she works on as a sub-contractor. His firm has experienced several general contractors stating that they are “looking for money”. Being notified of payment to the general contractor would allow them as a sub-contractor, to know if they need to push for their payment.

Focus Group 1 (FG1), Participant 3 (P3), African American Male, Construction and Construction-Related Services

FG1, P3 added to FG1, P2’s comment that payment to general contractors needs to be sped up. Also, M-DCPS oversight and monitoring of those payments would probably help out sub-contractors, as well as the general contractors and construction managers.

Public Hearing 1 (PH1), Participant 8 (P8), Hispanic American Male, Construction and Construction-Related Services

PH1, P8 noted that M-DCPS goes to great lengths to pre-qualify its prime vendors. However, a sub-contractor bond is the only protection that a prime contractor or CM at risk has to make sure that the work gets completed on time and within budget. “The question then becomes, ‘Well, who should pay for the cost of having that bond?’ Obviously, from a CM standpoint, the cost of that bond is a cost component of the job.”

PH1, P8 further stated that as his firm finished larger jobs, he imagined their pre-qualification would automatically increase. “Through the assistance of Ms. Mills and Christine Howard in the department, my pre-qualification limit was increased to \$9 million. But the issue that remains is, in order to bid the larger projects, I also have to qualify for increased bond capacity. While pre-qualification and bonding are two separate things, how do we make them work in tandem?”

Public Hearing 2 (PH), Participant 1 (P1), African American Female, Professional Services

PH2, P1 stated that the contracts [proposals] are very convoluted and sometimes repetitive. She also mentioned how the contracts [proposals] can be very long and how there has to be a way to streamline them.

Public Hearing 2 (PH2), Participant 5 (P5), Hispanic American Female, Construction and Construction-Related Services

PH2, P5 stated that she is a Hispanic woman of color. The M-DCPS certification process only permitted her to be certified as a small business. “My ethnicity, my race, and my sex were not included in any of the certification process. They did not permit me to choose to be a woman or choose to be Hispanic or choose my race.”

Public Hearing 2 (PH2), Participant 7 (P7), African American Male, Goods and Supplies

PH2, P7 stated that new vendors follow the rules, but old vendors do not necessarily adhere to them. “Office Depot, for example, would not have to register lobbyists because they have their shopping cart and they have the free advertising to do it. When the hurdle is put there or the barrier is put there for the smaller companies” that puts them at a disadvantage.

PH2, P7 also recommended that OEO should show the positive aspects of the diversity program, not just say “Give our vendors a chance.” He feels that successful companies should be showcased; “showing off some of the companies that are starting to do some business, and that the experience can indeed be positive.” He says the superintendent should “hammer down” on principals “who are not adhering to the rule of spreading their net and including the minority vendors.”

PH2, P7 says that OEO’s six-week program is a good one—“where you got the certificate. I did the course primarily to make sure that if there was something happening, we would be in the room. Not so much thinking that we needed the content of the course. But having said that, being at the course, as you know with knowledge, things change all the time.” The course informed him about what has changed, provided marketing tips and increased his knowledge on the process.

Public Hearing 2 (PH2), Participant 11 (P11), Hispanic American Male, Construction and Construction-Related Services

PH2, P11 stated that he has a good relationship with the school district. The last bid that he won, he actually doubled the minority goal that was requested. He issued a \$700,000 contract to a minority sub-contractor that he had never worked with before. He found the sub-contractor through these types of outreach programs.

Public Hearing 2 (PH2), Participant 13 (P13), African American Female, Construction and Construction-Related Services

PH2, P13 stating that Junior at OEO and his team have been really helpful, as well as the people who do the actual certification. She believes that matching them (businesses) with different organizations helps to get them going.

Public Hearing 3 (PH3), Participant 1 (P1), African American Male, Professional Services

PH3, P1 stated that the way the school websites are set up are “not empowering” for companies who have not been awarded a contract before. He feels the schools are only reaching out to his firm to fill a quota, not for a business opportunity and the process of responding to an opportunity is very time consuming.

Public Hearing 3 (PH3), Participant 3 (P3), Hispanic American Male, Goods and Supplies

PH3, P3 wants to know how to increase their exposure to general contractors as general contractors work to fulfill bid requirements. “Do you have a separate list, or do you also have the same list for that general contractor?”

Public Hearing 3 (PH3), Participant 5 (P5), African American Male, Construction and Construction-Related Services

PH3, 5 stated that supporting the cost of sub-contractor bonds have been a challenges for them. “This puts a real crimp in our ability to do business with Miami-Dade County Schools. Not allowing us to get reimbursed for the cost of our sub-contractor bonds means that money either has to come out of our own fee, which is not very big to start with, or we have to use sub-contractors that we know are not going to fail, so, therefore, we're not going to require a bond of them. And that's going to hurt small, minority businesses.”

Public Hearing 3 (PH3), Participant 6 (P6), African American Female, Professional Services

PH3, P6 shared that Miami-Dade County Public Schools was her first interaction with getting involved in this sector. Her firm had a great year because they attended many events and spoke to a lot of teachers and principals. She received her certification, which allowed her to learn so much about the business in itself.

Theme 3: Exclusionary Practices by M-DCPS and Other Public Entities that Create Barriers to Obtaining Contracts

This section relates experiences of vendors and contractors in encountering practices by M-DCPS that could be attributable to discrimination or other exclusionary practices.

Focus Group 1, Participant 5 (P5), African American Male, Construction and Construction-Related Services

FG1, P5 shared that subcontracting opportunities within M-DCPS are limited, because his firm is not aware of the prime contractors who are bidding, and those prime contractors never solicited his firm. “We are not privy to those opportunities of the companies that are bidding.”

Public Hearing 1 (PH1), Participant 1 (P1), African American Female, Professional Services

PH1, P1 stated that she does not feel that, as a small, minority and women-owned business, she has the opportunity to utilize licenses and certifications. For example, “They tell us to purchase the lobbyist license. I've purchased the lobbyist license and I've not been able to speak to anybody in the Miami-Dade Public Schools about anything. I've reached the different board members and I've reached the different schools” and no response.

Public Hearing 1 (PH1), Participant 4 (P4), African American Male, Goods and Supplies

PH1, P4 stated that he believes there is bonding discrimination and that very few companies had the capacity to complete the size of the jobs the district was putting out. He wants to know whether the firms’ bonding capacity increased and who has been able to get the work.

Public Hearing 2 (PH2), Participant 3 (P3), Hispanic American Male, Goods and Supplies

PH2, P3 has found that schools (principals and teachers) are not eager to buy from new vendors or local companies, diminishing their opportunities as a small business.

Public Hearing 2 (PH2), Participant 5 (P5), Hispanic American Female, Construction and Construction-Related Services

PH2, P5 feels there is discrimination against small local firms. “Contracts are going to vendors from out of state. All our taxpayers' dollars, including mine, are going to vendors that are multi-billion dollar companies outside Dade County. The very same people that support the school board with the bond, and the penny tax, and all are the people that are getting bypassed and they're going straight to others outside; multi-billion dollar companies are getting the projects.”

Public Hearing 2 (PH2), Participant 7 (P7), African American Male, Goods and Supplies

PH2, P7 questioned why, as an approved minority vendor, in a particular area (supplying goods and services), he has never been contacted. "Why is it that I've never been contacted once by the design department there that is in charge of this good and service?" He feels that the diversity department should be working hand in hand with approved minority vendors in order to give better access to opportunities.

Public Hearing 3 (PH3), Participant 2 (P2), Hispanic American Male, Construction and Construction-Related Services

PH3, P2 stated that the elimination of sub-contractor bonding reimbursement has had a negative ripple effect. He said, "the school board also eliminated the bonding costs, non-reimbursable to us, from our sub-contractors. And without bonding, we may end up paying for the sub-contractor's liquidated damages if we do so choose a sub-contractor that is indeed a low bidder but did not attend a pre-bid. And if we have to replace a sub-contractor due to the inability to go through the project in its entirety, we're stuck with the costs of replacing the minority sub-contractor in like-per-like. In other words, replacing with another type of sub-contractor that is comparable to the minority ethnicity."

Public Hearing 3 (PH3), Participant 5 (P5), African American Male, Construction and Construction-Related Services

PH3, P5 stated that it is very expensive to do business with M-DCPS. There are a lot of bureaucratic requirements and he understands that it is due to managing public funds. There are multiple levels and multiple reports, and the paperwork is sometimes overwhelming.

Theme 4: Exclusionary Practices by Prime Contractors That Create Barriers To Obtaining Contracts

This section relates experiences of contractors in encountering practices by prime contractors that could be attributable to discrimination or other exclusionary practices.

Focus Group 1 (FG1), Participant 4 (P4), Female, Construction and Construction-Related Services

FG1, P4 stated that it is usually three or four companies that always get an invitation to bid. She gets asked to bid on a project, but they end up using their own people. She feels that it is a waste of her time as the companies asking for a bid just want to get numbers from them. "And then they call you and they say, "Oh, but you are not qualified." So, they make it hard for you to get in."

FG1, P4 thinks that slow pay to sub-contractors is caused by the power of a limited number of general contractors utilized by Miami-Dade County or M-DCPS. “If you give power to four or five GCs at M-DCPS, they can pay the sub-contractors whenever they want. So that's a big issue with small businesses.”

Public Hearing 3 (PH3), Participant 4 (P4), African American Male, Construction and Construction-Related Services

PH3, P4 says that they are pre-qualified and have not had the opportunity to do any prime work in the district, but they do get work as a sub-contractor. Her concern is “that primes do business with either businesses they've previously worked with or subs that come recommended to them.”

Public Hearing 3 (PH3), Participant 10 (P10), African American Female, Goods and Supplies

PH3, P10 stated that his problem came after winning the contract and having to respond to RFQs. The RFQ's he received were “huge quantities that a small business like me is not able to fulfill.”

Theme 5: Impact of M-DCPS bidding process

Commentary in this section refers to the importance of the bid process in influencing M/WBE participation.

Public Hearing 1 (PH1), Participant 5 (P5), African American Female, Construction and Construction-Related Services

PH1, P5 stated that the playing field is not level. When it comes to job opportunities, “you bid on the jobs. You do it professionally. It's the same companies that are awarded the jobs. And no matter how hard you try, it's like one is never able to get in.”

Public Hearing 1 (PH1), Participant 6 (P6), Female, Professional Services

PH1, P6 stated that, for both the county and the school district, the time frame between project award and project start is very short, impacting her firm's ability to adequately prepare for the job. “But I do agree that more time has to be given between the award and the period where it's going to start. So that any company can prepare adequately.”

Public Hearing 2 (PH2), Participant 1 (PH1), Hispanic American Female, Professional Services

PH2, P1 stated that they would like to receive more feedback after working on and completing the contract [proposal]. “Where did I fall? What status did I get?”

Public Hearing 2 (PH2), Participant 3 (P3), Hispanic American Male, Goods and Supplies

PH2, P3 stated that, when the schools are requesting quotes, they request specific brands and models that are often manufactured by a single manufacturer to which his firm has no access. This practice limits the opportunity to a single or small number of companies. "Usually, it's happened that schools are requesting quotes with model numbers and brand names. That leaves absolutely no space for minority business opportunities. And we understand the reason why schools do it. But in our terms, we have no way of competing."

PH2, P3 further stated that he has offered his company's services to the school that he volunteers at and has never been given an opportunity to participate. The schools have a system and preferred vendors they always use. "If there is a minority applying for opportunities or has the services, that minority business should be given an opportunity."

Public Hearing 2 (PH2), Participant 5 (P5), Hispanic American Female, Construction and Construction-Related Services

PH2, P5 believes there is no transparency in the M-DCPS bidding and award process. Her firm does not know who won the bid until after the project is completed. "We bid, and bid, and bid, and we don't find out who the winner is. Then we finally find out because we see that the jobs have been done."

Public Hearing 2 (PH2), Participant 6 (P6), Hispanic American Female, Professional Services

PH2, P6 stated that she and her team have attended numerous events, outreach and training programs and responded to bids but still their company does not seem to be able to move forward with the bid or receive any feedback "in order to understand, like some of the panelists have mentioned, where we're not meeting the requirements or the needs or going wrong, because we don't see any real outcomes."

Public Hearing 2 (PH2), Participant 7 (P7), African American Male, Goods and Supplies

PH2, P7 stated there is limited access to opportunities for small businesses like his. When he has contacted the prime contractors, he has been told that they haven't gotten to the bidding process yet. When he circled back, he is then told that someone has already been selected. "You'll see the bid come out that the construction is going to happen, and you'll ask, 'Can we get an opportunity?' And what we're told at that point in time is, 'Oh, the school board does that later.' Then you wait a while until the school is almost finished, and then you ask and then you're told that, 'Oh, that was already taken care of.' He also shared that there are favored manufacturers. "Manufacturers tend to favor much larger companies. And the opportunity for the smaller companies that can buy their product-- are buying at a price for it that makes them noncompetitive."

Public Hearing 1 (PH1), Participant 6 (P6), Female, Maintenance and Maintenance-Related Services

PH2, P6 stated that although he is a qualified vendor, it is the culture of M-DCPS that is preventing some groups from doing business with the School Board. He spent three days surveying the signage needs for various bids, provided proposals and won none of the jobs. “The project manager or project attendees at that time, they have their mind set on a certain group or a certain company to cater to them at that time.”

Public Hearing 2 (PH2), Participant 14 (P14), African American Male, Goods and Supplies

PH2, P14 stated their experience has been great working with Jeanette and Junior [in OEO]. They have helped him with the process. “I’ve bid on a lot of contracts. Some I didn't get; some I did get. Some I wish I didn't get because I bid too low. It's an experience. But you can make it good if you hang in there long enough and I have.”

Public Hearing 3 (PH3), Participant 3 (P3), Hispanic American Male, Goods and Supplies

PH3, P3 has a concern about bids being tied to a brand product. Whenever he participates in a bid, “instead of the name ‘interactive touchscreen’ or ‘interactive table’, there is directly the name of the brand. He had no chance to participate. So how can I get a code or my name in the list? Or how can you put in the list a general description instead of a brand for that product?”

Public Hearing 3 (PH3), Participant 4 (P4), African American Male, Construction and Construction-Related Services

PH3, P4 shared her concern with not being able to attend pre-bid conferences. They have been systematically eliminated from bids because of the non-mandatory bid and non-mandatory site processes. “When you're bidding directly from a set of drawings, it's left up to the interpretation of the architect whether or not your number comes in as, not only a low bid, but responsive. And not all the time do we get the opportunity to bid as a responsive bidder because we always receive information, ‘Oh, your number's too high.’ Not because we're not getting the opportunity to go out and look at projects, you're now dealing with what did the architect intend to include in the project bid?”

Public Hearing 3 (PH3), Participant 6 (P6), African American Female, Professional Services

PH3, P6 shared that the M-DCPS proposals are the hardest ones (comparing them to other states).

Public Hearing 3 (PH3), Participant 7 (P7), Male, Goods and Supplies

PH3, P7 stated that the biggest issue is receiving constant communication with requestors or end users. When something is needed the communication is great. When they get what they need, they go silent, making the job more difficult. "I have to follow up on these opportunities and provide information as to our possibility of winning them and relay this information back to my bosses, etc., and try to project what our business will be like with you guys."

Theme 6: Need for and Effectiveness of M/WBE Programs

This section refers to the perceptions of local businesspersons about M-DCPS' M/WBE and SMBE Programs; the effect of outreach, or the lack of it, in encouraging and assisting M/WBEs to participate in contracts; effectiveness of management, financial and technical assistance programs, and, concerns about the M/WBE certification process.

Focus Group 1 (FG1), Participant 5 (P5), African American Male, Construction and Construction-Related Services

FG1, P5 states that the Miami-Dade County program is great because it is not built on a political aspect or relationships. It is about your work.

Focus Group 1 (FG1), Participant 4 (P4), Female, Construction and Construction-Related Services

FG, P4 stated how, as an SBE, his firm has had continuous work with the county and with municipalities. He believes Miami-Dade County does a great job with their biddings.

Focus Group 1 (FG1), Participant 3 (P3), African American Male, Construction and Construction-Related Services

FG1, P3 thinks that certification and pre-qualification applications are a large undertaking for small businesses. In his opinion, there should be streamlining of the M/WBE and SBE certification process and the pre-qualification process, as there is an overlap of questions/information. Additionally, he feels there should be a way for some information to be transferred or shared from the certification document to the pre-qualification document. It should pre-populate.

Public Hearing 1 (PG1), Participant 3 (P3), African American Male, Professional Services

PH1, P3 stated that it is very important for individuals to be given an opportunity to see how the system works. He felt the supplier diversity training was extremely valuable because individuals learned the entire process. "Supplier diversity training needs to be almost mandatory for anyone that is trying to do business with the district." Having information upfront and educating people on the process is very important.

Chapter IX

Anecdotal Comments from the Marketplace

PH1, P3 also shared that “it was the local preference that was the difference between me winning the contract and not winning a contract.” He stated that the certification and what they learned at the supplier diversity training was key in getting them the job. That was where OEO was very influential. The OEO team was pivotal in making sure they had all of the right information they needed.

Public Hearing 1 (PH1), Participant 5 (P5), African American Female, Construction and Construction-Related Services

PH1, P5 spoke to being placed in different categories (which they felt was a positive) and still not being able to get any job opportunities. She said, “it's great to have it and great to be certified, but if you're not getting any jobs, then it doesn't really help.”

Public Hearing 1 (PH1), Participant 9 (P9), African American Male, Miami-Dade Chamber, President

PH1, P9 suggested that, post certification, there is limited follow through and follow up by M-DCPS. “Once the certification is done, who in the department is ensuring the black businesses, minorities and women are getting jobs opportunities?”

Public Hearing 1 (PH1), Participant 4 (P4), African American Male, Goods and Supplies

PH1, P4 has a problem with businesses not headquartered in Florida being awarded job opportunities over those businesses who are Florida-based and who have labored in the market for years. The SBE qualifications need to be updated to address locally headquartered businesses. Additionally, “if they are a minority and bidding, they're going to give them a 5 or 10 percent discount. So, you're now allowing manufacturers to bid against their distributors, and that's not fair.”

Public Hearing 2 (PH2), Participant 2 (P2), Caucasian Female, Goods and Supplies

PH2, P2 affirmed that, as a certified-women owned business in Miami-Dade County Public Schools and new vendor, she needs more education on the process as a whole.

Public Hearing 2 (PH2), Participant 5 (P5), Hispanic American Female, Construction and Construction-Related Services

PH2, P5 has had limited success with the SBE program. Her firm has received two projects in the last two years and that was because they purposely bid low to see the outcome. “I was in a situation where only two bidders bid, and the third bidder showed up and was the one that was awarded the project, even though the person did not turn in to bid on time.”

Public Hearing 2 (PH2), Participant 3 P3, Hispanic American Male, Goods and Supplies

PH2, P3 stated that there seems to be a culture of not allowing them to succeed in contrast to what is advertised. He believes the marketing strategy is outstanding, “but it seems to me that we are just being used as a number.”

Public Hearing 3 (PH3), Participant 1 (P1), African American Male, Professional Services

PH3, P1 shared that their certification process was very quick. It took two to four weeks and was seamless. He wants “to give them, really, kudos on making this certification process very easy, very efficient, and being on top of it.”

Public Hearing 3 (PH3), Participant 6 (P6), African American Female, Professional Services

PH3, P6 stated that the M/WBE certification and the vendor training courses are very useful. She can use what she learned in these courses in other sectors, as several organizations in South Florida recognize Miami-Dade County Public Schools' MBE certifications.

Public Hearing 3 (PH3), Participant 4 (P4), African American Male, Construction and Construction-Related Services

PH3, P4 stated that the M/WBE and SBE programs are the reasons they have work. They are a M/WBE, and “when the program requires the primes to provide participation-- when they put participation goals on the projects, this is one of the ways that the primes are forced to look at our number and work with us.”

Public Hearing 3 (PH3), Participant 10 (P10), African American Male, Goods and Supplies

PH3, P10 stated that they were part of the six-week Supplier Diversity Program and was able to win a contract with M-DCPS, not because of the program, but because a relative walked them through the process. They also mentioned how the registration/certification process was an easy one.

Theme 7: Discrimination, Intimidation, Racial and Gender Stereotyping

This section addresses the issue of expertise and competency not being allowed to compete or valued by those of a different race/gender/ethnicity.

Public Hearing 1 (PH1), Participant 4 (P4), African American Male, Goods and Supplies

PH1, P4 stated that “I had a plethora of issues that we've been discriminated against or a culture that is not conducive to allowing minorities to do business with the district.” His overall concern is how the District does business with people of color. As it pertains to school sites he said, “we cannot get in those doors because of a culture of relationships, and if you don't have a relationship, you don't stand a chance of really doing any business. The discrimination is going on in America when it comes to us, isn't within your government, it is when you put on your specifications or in your RFPs and RFQs that you want a certain brand. That is not fair. It should be an approved equal.” He continued to ask why is it that he cannot get information on why he lost a bid or how far off was his price. He continued to say, “But until there's some accountability in that, we can't do business with the district because that systemic racism still exists.”

Public Hearing 2 (PH2), Participant 5 (P5), Hispanic American Female, Construction and Construction-Related Services

PH2, P5 was fired from her company because she questioned the School Board on their hiring practices. She said that the school board has been purchasing from vendors that claim to be African American and they are not. “They ignore the fact that I brought up this issue to them, and the fact that I got fired from this company for questioning them if they were African American or not. They're misrepresenting, which is fraud.”

Theme 8: Timely Payments and Incentives

Focus Group 1 (FG1), Participant 2 (P2), Caucasian American Female, Construction and Construction-Related Services

FG1, P2 stated that one of the biggest problems he faces as a sub-contractor is getting paid in a timely manner from the county and municipalities. “Timely payment has always been a problem.”

Focus Group 1 (FG1), Participant 3 (P3), African American Male, Construction and Construction-Related Services

FG1, P3 suggested establishing a payment program that works collectively with CMs and M-DCPS. He suggested “establishing a fund to cover the first draw payment, so that the monies are set aside for what

is expected to be equivalent to the smaller subcontracts first draw payment.” The money would be placed in an account with an agreement between M-DCPS and the prime, at the completion of the month, the CM’ would turn in their draw applications and by the end of the month it is done. “You get a 14-day turnaround because money has already been allocated.” P3 also recommended incentivizing larger firms to pay in a timely manner. P3 feels that letting larger firms know “that the next project they bid on depends on how they perform with their sub-contractors (perform defined as one-time payment).” If the larger companies know that the way they pay their team will affect their future business, they will be prone to on-time payment. He also mentioned creating a scorecard to track performance and to use as part of evaluating them getting the next project. “Sometimes it’s not just about the incentive but it’s what are the ramifications for not following through on this, if you don’t do this?”

Focus Group 1 (FG1), Participant 5, (P5), African American Male, Construction and Construction-Related Services

FG1, P5 added to the above discussion that Miami-Dade County has measures in place for 14-day prompt payment (legislation) and if payment is not received within 14 days, they can start charging interest, theoretically.

FG1, P5 stated that he does not really have a problem with timely payment, the problem lies in retainage. “We completed a job 4 or 5 months ago and we’re still waiting on retainage.” He described how delayed retainage payment puts small businesses in the red. The job is done, and the small businesses have to wait four to six months to get paid.

Focus Group 1 (FG1), Participant 4 (P4) Female, Construction and Construction-Related Services

FG1, P4 stated that she has never experienced delayed payment with the county as an SBE. However, timely payment has always been a problem with the general contractors, even when you are not working in the county. She feels there needs to be a system without so much bureaucracy.

Focus Group 1 (FG1), Participant 2 (P2), Caucasian American Female, Construction and Construction-Related Services

FG1, P2 noted that getting payments from prime contractors and change orders is where the problem lies. She has problems getting change orders paid in a timely manner. They are instructed to go ahead and make the changes outlined in the change order to find out later that the change order was never approved. She then has to wait for the change order to get approved (which can take six to eight months) prior to getting paid.

Public Hearing 1 (PH1), Participant 7 (P7), African American Female, Construction and Construction-Related Services

PH1, P7 mentioned timely payments being an issue. As a small business, it takes a significant amount of time to get their pay applications reviewed and sent over to the construction manager. She feels the payment process goes through too many people (architect, project manager and then back to the construction manager) prior to them getting their payment approved. Additionally, she mentioned that the problem construction managers are having is the time it takes for district personnel to review change order requests and contingency adjustment requests.

Public Hearing 1 (PH1), Participant 8 (P8), Hispanic American Male, Construction and Construction-Related Services

PH1, P8 shared that Capital Construction is taking too much time in releasing the retainage. They hold up these construction projects, and as a result, it is depleting the working capital for the sub-contractors. "It's turning away the very same sub-contractors that you guys are encouraging to do work with-- that you guys are trying to bring to work to the school board."

Public Hearing 3 (PH3), Participant 2 (P2), Hispanic American Male, Construction and Construction-Related Services

PH3, P2 stated that as a Construction Manager, their last three projects have taken close to two years to collect retainage, affecting their payments to their sub-contractors, which are mostly registered as minority businesses. Because of this long process for getting retainage, some of their sub-contractors have placed lawsuits against their bonding company.

Public Hearing 3 (PH3), Participant 5 (P5), African American Male, Construction and Construction-Related Services

PH3, P5 stated the change order process needs to get better. There are multiple review committees "And they have every right to ask questions to make sure that they're not being overcharged, or the work was not part of the original scope. They have the right to do that, but that kind of thing needs to happen quickly." However, his sentiment is that the review committees need to take place prior to the work (change order) being done so that smaller firms are not squeezed out financially.

Theme 9: Suggestions and Comments

This final section captures ideas presented by interviewees on how to improve and/or modify the M/WBE and procurement processes. This section also addresses the other issues that were not covered in the previous themes.

Focus Group 1 (FG1), Participant 1 (P1), Hispanic American Male, A&E

FG1, P1 stated the M-DCPS website is not very helpful, as the information is not transparent regarding what projects have already occurred and what projects are open for bids. He suggested “a website update or an email list (similar to how the county does it) that would list what projects [that] are in the works within 30, 45 or even 60 days.”

Focus Group 1 (FG1), Participant 4 (P4), Female, Construction and Construction-Related Services

FG1, P4 shared how she liked Miami-Dade County’s approach to bidding on projects. She appreciated the transparency and that the lowest responsible bidder gets the bid. “It’s who gets all the qualifications. It’s right there. It’s straight forward, and you get it if your price is good and that’s it.”

Focus Group 1 (FG1), Participant 5, (P5), African American Male, Construction and Construction-Related Services

FG1, P5 stated that one of the things he likes about the county is that they have advocates that help you get paid on time.

Public Hearing 1 (PH1), Participant 6 (P6), Female, Professional Services

PH1, P6 suggested that general invitations should be sent to everyone, advising them about available training, as well as training regarding bonding. Her blanket suggestion was that the district “needs to be a little bit more user friendly, more accessible.”

Public Hearing 1 (PH1), Participant 4 (P4), African American Male, Goods and Supplies

PH1, P4 commented that the District has a lack of accountability in terms of commitments. PH1, P4 suggested a vendor fair for minority-owned businesses that allows district personnel to learn about the goods and services these firms provide. Activities like these provide small business and particularly black business needed exposure. “And then hold them accountable to making sure that they’re not using us just as quote dummies, but as a viable business in this community.”

Public Hearing 1 (PH1), Participant 9 (P9), African American Male, Miami-Dade Chamber, President

PH1, P9 shared that since Ms. Andreu joined M-DCPS, “there has been a lot more transparency within the department, working with the department as well.”

Public Hearing 2 (PH2), Participant 6 (P6), Hispanic American Female, Professional Services

PH2, P6 mentioned that her experience with Mr. Luis Diaz and Jennifer Andreu have been great.

Public Hearing 2 (PH2), Participant 9 (P9), Hispanic American Male, Construction and Construction-Related Services

PH2, P9 shared that he has had a positive experience with the school board. “I can tell you that the office of OEO is constantly monitoring all the contracts that we're working on to make sure that we're constantly giving work to minority companies.”

Public Hearing 2 (PH2), Participant 12 (P12), Hispanic American Female, Professional Services

PH2, P12 stated that these discussions are great. He feels they are a great way to get information, especially for something that is very difficult to get into (M-DCPS). He mentioned how opening these discussions makes the information accessible, more interesting.

Public Hearing 2 (PH2), Participant 10 (P10), African American Male, Professional Services

PH 2, P10 recommended that M-DCPS compile a list of professional service companies that are certified and send that out to other certified professional services companies. This would allow partnerships with other small businesses when it comes to bidding.

Public Hearing 3 (PH3), Participant 5 (P5), African American Male, Construction and Construction-Related Services

PH3, P5 shared that they were very appreciative of having been awarded a good amount of work from M-DCPS. They have worked the criteria for selection in a way that allows them to get opportunities.

Public Hearing 3 (PH3), Participant 8 (P8), African American Female, Professional Services

PH3, P8 stated they have had wonderful experiences with Miami-Dade County Public Schools. “I have felt a part of it. I'm a certified minority business owner. I'm a lobbyist as well. And I am able to utilize all of the services. I get to visit the other schools, present my agenda, and I have only positive things to say. I

commend the Assistant Superintendent, Ms. Andreu and her staff that runs the developmental program for us to join. And just a wonderful opportunity.”

Public Hearing 3 (PH3), Participant 9 (P9), Hispanic American Male, Construction and Construction-Related Services

PH3, P9 wanted to know how to get in as a prime contractor (the process). We bid on M-DCPS projects and they never go anywhere. Recently over the past year there has been a shift. They now have work and they don't know what the changes were.

Public Hearing 3 (PH3), Participant 6 (P6), African American Female, Professional Services

PH3, P6 feels that there should be real encouragement to get women-owned businesses to be a part of Miami-Dade County Public Schools. She said, “I really feel like they (M-DCPS) should really do something a little bit stronger in order to help us and not degrade us.” She also expressed concern that the direction she is getting is to build her own Wall Street but if she is not given the opportunity how is she going to be able to do that.

9.4 SUMMARY OF FINDINGS

After analyzing the anecdotal evidence collected from 36 business owners and representatives in Miami-Dade County, the following observations illustrate the possible barriers that interviewees perceive to exist for minority and women business owners as they attempt to transact business with M-DCPS.

- Lobbying license and M/WBE certification are not useful, according to some participants, as they were unable to reach school officials or win bids, even though they had obtained these accreditations. Others, however, had better success in optimizing these tools. One participant recommended that certification and pre-qualification be streamlined, as the process for both is extremely time consuming and both applications use much of the same information.
- Several participants were concerned about slow payments. These participants were frustrated by:
 - Their inability to obtain timely payments from general contractors;
 - Prime contractor withholding of their retainage several months after contract completion;
 - The slow processing of change orders and payments by M-DCPS, which impacted prime contractor payments; and,

Chapter IX

Anecdotal Comments from the Marketplace

- The inability to check with M-DCPS as to whether a prime contractor had received payment.
- Several participants found OEO staff and the Supplier Diversity Program very helpful. A few noted the improved operation since the appointment of the new OEO Assistant Superintendent for Equity & Diversity.
- Some participants discussed the difficulty working with schools and departments.
 - Some discussed difficulty in reaching school representatives or being given consideration;
 - Others discussed the narrow specifications used by schools, i.e. using specific brand names, as opposed to a product description.
- Some participants believed that prime contractors sometimes used them as bid fodder.
- Several participants desired increased communication from M-DCPS on awarded firm and feedback on the reasons they were not awarded.
- Size of firms impacted the ability of some firms to bid on M-DCPS opportunities. For some, M-DCPS seemed to contract with large out of state firms over local small firms; Others felt that M-DCPS projects were too large and small firms did not have the capacity to perform them.

CHAPTER 10: MARKETPLACE ANALYSIS

10.1 INTRODUCTION

To gain a better understanding of factors outside of M-DCPS that may limit participation of M/WBEs in the bidding process at M-DCPS, the marketplace factors were examined. Given the examination and results of availability and utilization of M/WBEs in previous chapters, the analysis in this chapter may offer some insight into the extent of M/WBE penetration of the private sector and the marketplace overall.

The chapter begins with a summary of background information on the demographic and economic profile of the State of Florida and the Miami-Dade, Ft. Lauderdale, Pompano Beach MSA (utilizing U.S. Census data); and, a brief description of the industrial and occupational composition of the local economy.

Following this summary is a review of available research that addresses private sector disparities.³⁷⁹ This chapter examines private sector disparities in the following ways:

- Occupational and apprentice employment using 2010 Census data;
- Comparison by occupation of employment in the marketplace (based on EEO census tabulations);
- Miami-Dade County Business License data.

To the extent the data allow, the present analysis may offer some evidence of the existence of passive participation, if any, by M-DCPS, in discriminatory acts in the marketplace consisting of both private and public sector.

10.2 DEMOGRAPHIC AND ECONOMIC PROFILE OF THE RELEVANT MARKET

The demographic structure of the local area may explain some differences in the market availability and utilization of M/WBEs, since business owners are a subset of the general population. Understanding the broad contours of the population in the State of Florida and the Miami-Dade MSA, as reflected in Table 10.1, is necessary to identify instances in which discrimination may have inhibited M/WBE development.

³⁷⁹ A fundamental constraint, however, is the scarcity of economic and historical research that is sufficiently localized to address the first *Croson* standard.

Chapter X Marketplace Analysis

Unlike the State of Florida, which has over 56 percent White Americans, the MSA is skewed toward Hispanic Americans (42.82 percent)³⁸⁰, with about a third of White Americans (33.06 percent). African Americans make up a fifth of the population (20.16 percent), with Asian Americans barely present at 2.35 percent in the MSA.

Ethnicity	Florida		Miami-Ft. Lauderdale- Pompano Beach FL MSA	
	#	%	#	%
White alone	11,013,749	56.06	1,937,632	33.06
American Indian and Alaska Native alone	40,591	0.21	7,064	0.12
Asian alone	499,958	2.54	137,665	2.35
Black or African American alone	3,035,646	15.45	1,181,744	20.16
Hispanic or Latino	4,660,733	23.72	2,509,596	42.82
Native Hawaiian and Other Pacific Islander alone	9,630	0.05	1,828	0.03
Some other race alone	51,146	0.26	18,885	0.32
Population of two or more races:	334,319	1.70	66,586	1.14
Total	19,645,772	100.00	5,861,000	100.00

Source: US Census Bureau, 2011-2015 American Community Survey; M³ Consulting, Inc.

The percentage of a particular group's population that is a part of the civilian labor in the State, as well as in the Miami-Dade MSA, is reflected in Table 10.2 for the period. The civilian labor force in the MSA mirrors the population, with Hispanic Americans at 41.9 percent and White Americans at 35.4 percent, African Americans at about nineteen percent of the labor force and Asian Americans at 2.4 percent. In terms of gender, men have a slightly higher participation at 52.3 percent compared to women at 47.7 percent.

³⁸⁰ This data reflects Hispanic Americans in the MSA. Hispanic American population in Miami-Dade County alone is about 70 percent, based on U.S. Census Data.

Chapter X

Marketplace Analysis

Table 10.2. Civilian Labor Force by Race and Hispanic Origin Census 2010					
Race	Gender	State of Florida		Miami-Ft. Lauderdale- Pompano Beach FL MSA	
		#	%	#	%
White Alone, Not Hispanic Or Latino	Male	2,847,790	31.2	538,790	19.2
	Female	2,527,455	27.7	457,130	16.3
	Total	5,374,790	58.9	995,920	35.4
Black Or African American Alone	Male	614,440	6.7	242,920	8.6
	Female	715,510	7.8	289,665	10.3
	Total	1,329,950	14.6	532,585	19.0
American Indian And Alaska Native Alone	Male	10,275	0.1	1,535	0.1
	Female	9,000	0.1	1,705	0.1
	Total	19,280	0.2	3,240	0.1
Asian Alone	Male	121,610	1.3	35,865	1.3
	Female	114,955	1.3	32,235	1.1
	Total	236,565	2.6	68,100	2.4
Native Hawaiian And Other Pacific Islander Alone	Male	2,750	0.0	625	0.0
	Female	2,455	0.0	340	0.0
	Total	5,205	0.1	970	0.0
Hispanic Or Latino	Male	1,124,775	12.3	632,585	22.5
	Female	920,530	10.1	544,690	19.4
	Total	2,045,300	22.4	1,177,275	41.9
Male Total		4,780,525	52.4	1,468,715	52.3
Female Total		4,347,555	47.6	1,340,950	47.7
GRAND TOTAL		9,128,080	100.00	2,809,665	100.00

Source: Census 2010-2014 American Community Survey; M³ Consulting, Inc.

10.3 EDUCATION AND TRAINING: PATHWAYS TO BUSINESS FORMATION

It is generally recognized that relevant education and prior experience in an industry and occupation are strongly and positively correlated with the business formation decision. Of particular relevance to the formation of new businesses is the availability of jobs that offer the opportunity for occupational training, either in the form of formal apprenticeship training, or other more or less formal pathways to occupational expertise. This connection is particularly important in the construction industry.

10.3.1 EMPLOYMENT IN APPRENTICEABLE EEO CONSTRUCTION AND PROFESSIONAL SERVICES OCCUPATIONS

Miami-Dade, Ft. Lauderdale, Pompano Beach MSA

Among Construction and Professional Service occupations, Tables 10.3 and 10.4 notes that Hispanic Americans largely participate as Craft workers, Operatives and as Laborers and Helpers and Service workers. They have also a significant presence in sales with about even presence in the other occupations as Professionals, Technicians and Officials and Management. Hispanic American females have a greater presence in all professional occupations in the MSA, except in the Official and Management positions. African American females have their greatest presence in Technical and Professional Occupations and as Administrative and Service workers, whereas African American males have a small presence in all these occupations, almost evenly, but are somewhat higher as Craft workers and Operatives. Asian Americans have a very small presence in the construction and professional service occupations, barely touching two percent. White females largely participate in Administrative jobs, with an equal presence as White males in Sales, Technical positions and professional positions.

State of Florida

The State of Florida employment in Construction and Professional Services (Table 10.5 and 10.6) appear similar to the Tri-County as seen in Table 10.3, but the percentage of Hispanic American employees across job categories in the State is smaller than in the Tri-County area. African American participation is also slightly smaller in the State as well, while Asian Americans see a slightly greater participation in the State than in the MSA. Across most job categories, White males and females dominate the employment scene in the State, with White males typically being greater than White female.

Chapter X

Marketplace Analysis

Table 10.3.
Employment In Selected EEO-1 Job Categories for Construction and Professional Services (1 of 2)
By Hispanic Origin And Race, 2010
Miami-Ft. Lauderdale-Pompano Beach FL MSA

Occupation	Officials and Managers			Professionals			Technicians			Sales Workers		
	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female
Race/Ethnicity/ Gender	#	%	%	#	%	%	#	%	%	#	%	%
Total	346,420	60.1	39.9	437,605	44.1	55.9	67,780	43.9	56.1	387,305	50.7	49.3
White non-Hispanic	173,910	32.0	18.2	209,640	23.1	24.8	24,155	17.1	18.5	155,720	22.9	17.3
Hispanic	123,615	21.2	14.6	137,540	13.8	17.5	23,765	17.4	17.6	155,335	19.1	21.0
Black non-Hispanic	35,750	4.8	5.5	67,230	4.7	10.7	16,470	6.2	18.1	60,495	2.9	3.6
AIAN non-Hispanic	405	0.1	0.1	400	0.0	0.1	80	0.1	0.0	300	0.0	0.0
Asian non-Hispanic	8,925	1.5	1.0	17,295	1.9	2.1	2,460	2.5	1.2	10,245	1.5	1.2
NHOPI non-Hispanic	20	0.0	0.0	175	0.0	0.0	130	0.1	0.1	190	0.0	0.0
Black & White non-Hispanic	495	0.1	0.1	920	0.1	0.1	100	0.1	0.1	945	0.1	0.1
AIAN & White non-Hispanic	365	0.1	0.0	495	0.0	0.1	120	0.1	0.0	550	0.1	0.1
AIAN & Black non-Hispanic	75	0.0	0.0	265	0.0	0.1	10	0.0	0.0	210	0.0	0.0
Asian & White non-Hispanic	580	0.1	0.1	1,075	0.1	0.1	160	0.1	0.2	720	0.1	0.1
Balance 2+ Races, non-Hispanic	2,280	0.3	0.3	2,565	0.3	0.3	335	0.2	0.3	2,590	0.4	0.3

Source: US Census Bureau, Census 2010 special tabulation - Data based on where people live.

Chapter X

Marketplace Analysis

Table 10.4.
Employment In Selected EEO-1 Job Categories for Construction and Professional Services (2 of 2)
By Hispanic Origin And Race, 2010
Miami-Ft. Lauderdale-Pompano Beach FL MSA

Occupation	Administrative Support Workers			Craft Workers			Operatives			Laborers and Helpers			Service Workers			
	Race/Ethnicity/ Gender	Total #	Male %	Female %	Total #	Male %	Female %	Total #	Male %	Female %	Total #	Male %	Female %	Total #	Male %	Female %
Total		454,165	26.5	73.5	236,465	95.2	4.8	185,215	73.8	26.2	146,355	89.5	10.5	507,275	41.3	58.7
White non-Hispanic		154,050	7.8	26.1	74,210	29.6	1.8	37,140	15.9	4.2	27,615	16.2	2.7	132,130	12.8	13.3
Hispanic		195,675	12.0	31.1	123,890	50.2	2.2	100,770	39.9	14.6	84,175	51.9	5.6	215,175	16.3	26.0
Black non-Hispanic		90,165	5.7	14.1	33,095	13.4	0.6	42,960	16.3	6.8	31,975	20.1	1.7	139,315	10.2	17.2
AIAN non-Hispanic		535	0.0	0.1	295	0.1	0.0	455	0.1	0.1	185	0.1	0.0	530	0.0	0.1
Asian non-Hispanic		7,665	0.6	1.1	2,290	0.9	0.1	2,515	1.0	0.4	1,120	0.5	0.3	14,700	1.4	1.5
NHOPI non-Hispanic		135	0.0	0.0	45	0.0	0.0	50	0.0	0.0	0	0.0	0.0	205	0.0	0.0
Black & White non-Hispanic		745	0.1	0.1	320	0.1	0.0	270	0.1	0.0	245	0.2	0.0	935	0.1	0.1
AIAN & White non-Hispanic		465	0.0	0.1	395	0.2	0.0	170	0.1	0.0	125	0.1	0.0	380	0.0	0.0
AIAN & Black non-Hispanic		100	0.0	0.0	60	0.0	0.0	35	0.0	0.0	80	0.1	0.0	160	0.0	0.0
Asian & White non-Hispanic		655	0.0	0.1	95	0.0	0.0	140	0.1	0.0	120	0.0	0.0	885	0.1	0.1
Balance 2+ Races, non-Hispanic		3,980	0.2	0.6	1,765	0.7	0.1	705	0.3	0.1	720	0.4	0.1	2,865	0.2	0.4

Source: US Census Bureau, Census 2010 special tabulation - Data based on where people live.

Chapter X

Marketplace Analysis

Table 10.5.
Employment In Selected EEO-1 Job Categories for Construction and Professional Services (1 of 2)
By Hispanic Origin And Race, 2010
State of Florida

Occupation	Officials and Managers			Professionals			Technicians			Sales Workers			
	Race/Ethnicity/ Gender	Total #	Male %	Female %	Total #	Male %	Female %	Total #	Male %	Female %	Total #	Male %	Female %
Total		1,098,395	59.4	40.6	1,443,560	43.4	56.6	246,560	42.9	57.1	1,208,925	49.3	50.7
White non-Hispanic		782,075	43.6	27.6	975,690	30.4	37.2	152,640	27.5	34.4	757,225	32.7	29.9
Hispanic		184,065	9.8	6.9	220,205	6.5	8.7	41,810	7.9	9.0	252,895	9.7	11.3
Black non-Hispanic		91,900	3.8	4.6	165,040	3.6	7.8	38,690	4.6	11.1	146,485	4.7	7.4
AIAN non-Hispanic		2,220	0.1	0.1	2,515	0.1	0.1	540	0.1	0.1	1,885	0.1	0.1
Asian non-Hispanic		25,475	1.4	0.9	61,545	2.2	2.1	9,040	2.0	1.6	32,325	1.4	1.3
NHOPI non-Hispanic		325	0.0	0.0	825	0.0	0.0	265	0.1	0.0	825	0.0	0.0
Black & White non-Hispanic		1,695	0.1	0.1	2,165	0.1	0.1	385	0.1	0.1	3,165	0.1	0.1
AIAN & White non-Hispanic		2,725	0.2	0.1	3,810	0.1	0.2	950	0.1	0.2	3,275	0.1	0.2
AIAN & Black non-Hispanic		490	0.0	0.0	880	0.0	0.0	75	0.0	0.0	485	0.0	0.0
Asian & White non-Hispanic		2,355	0.1	0.1	3,775	0.1	0.1	615	0.1	0.2	2,280	0.1	0.1
Balance 2+ Races, non-Hispanic		5,065	0.2	0.2	7,110	0.2	0.3	1,550	0.3	0.3	7,540	0.3	0.3

Source: US Census Bureau, Census 2010 special tabulation - Data based on where people live.

Chapter X

Marketplace Analysis

Table 10.6.
Employment In Selected EEO-1 Job Categories for Construction and Professional Services (2 of 2)
By Hispanic Origin And Race, 2010
State of Florida

Occupation	Administrative Support Workers			Craft Workers			Operatives			Laborers and Helpers			Service Workers			
	Race/Ethnicity/ Gender	Total #	Male %	Female %	Total #	Male %	Female %	Total #	Male %	Female %	Total #	Male %	Female %	Total #	Male %	Female %
Total		1,463,445	25.1	74.9	834,455	95.1	4.9	625,745	75.3	24.7	508,795	87.6	12.4	1,582,130	42.0	58.0
White non-Hispanic		866,255	13.6	45.6	496,965	56.5	3.0	302,600	38.1	10.2	219,585	36.9	6.3	776,965	21.9	27.2
Hispanic		320,060	6.1	15.8	234,070	26.9	1.2	178,515	20.7	7.8	195,455	34.1	4.2	387,185	9.9	14.6
Black non-Hispanic		227,170	4.5	11.1	82,690	9.5	0.4	121,480	14.0	5.4	81,760	14.7	1.3	339,990	8.0	13.5
AIAN non-Hispanic		2,925	0.1	0.1	1,980	0.2	0.0	1,680	0.2	0.1	1,645	0.3	0.0	3,510	0.1	0.1
Asian non-Hispanic		26,545	0.6	1.2	8,065	0.8	0.1	14,925	1.5	0.9	4,755	0.6	0.3	50,620	1.5	1.7
NHOPI non-Hispanic		585	0.0	0.0	530	0.1	0.0	415	0.1	0.0	175	0.0	0.0	1,185	0.0	0.0
Black & White non-Hispanic		3,280	0.1	0.2	650	0.1	0.0	810	0.1	0.0	735	0.1	0.0	4,150	0.1	0.1
AIAN & White non-Hispanic		3,660	0.1	0.2	3,230	0.4	0.0	1,745	0.2	0.1	1,560	0.3	0.1	4,830	0.1	0.2
AIAN & Black non-Hispanic		510	0.0	0.0	185	0.0	0.0	335	0.0	0.0	265	0.1	0.0	1,290	0.0	0.0
Asian & White non-Hispanic		3,135	0.1	0.2	715	0.1	0.0	805	0.1	0.0	485	0.1	0.0	3,705	0.1	0.1
Balance 2+ Races, non-Hispanic		9,320	0.2	0.4	5,380	0.6	0.0	2,435	0.3	0.1	2,375	0.4	0.1	8,690	0.2	0.4

Source: US Census Bureau, Census 2010 special tabulation - Data based on where people live.

10.3.2 EMPLOYMENT IN APPRENTICEABLE EEO CONSTRUCTION OCCUPATIONS

Miami-Dade, Ft. Lauderdale, Pompano Beach MSA

Table 10.7 summarizes employment in selected apprenticeable EEO construction occupations in 2010 for the Miami-Dade, Ft. Lauderdale, Pompano Beach MSA, as enumerated by the 2010 Census EEO File.

The EEO construction occupation table is in line with the Civilian Labor force shown in Table 10.2, with Hispanic Americans and White Americans dominating. Hispanic American employment is largest in Construction and Extractive craft workers and as Laborers and Helpers, although they are present in all Construction Occupations in a very central fashion. White Americans follow, with a large presence in Installation, Maintenance and Repair Craft, while being present in all other Construction occupations as well. African American employment in Construction is largely in Transportation and Material moving operations and as Laborers and Helpers.

State of Florida

The State of Florida (Table 10.8) shows a greater presence of White Americans in almost every Construction occupation, unlike the MSA. Hispanic Americans do have a strong presence, particularly in Construction and Extractive Craft workers and as Laborers and Helpers, whereas African Americans have a presence largely in Transportation and Material moving operations, Production Operation and as Laborers and Helpers.

Chapter X

Marketplace Analysis

Table 10.7.
Employment In Selected Apprenticable EEO Construction Occupations
By Hispanic Origin And Race, 2010
Miami-Ft. Lauderdale-Pompano Beach FL MSA

Occupation	Construction and Extractive Craft Workers			Installation, Maintenance and Repair Craft Workers			Production Operative Workers			Transportation and Material Moving Operative Workers			Laborers and Helpers		
	Total #	Male %	Female %	Total #	Male %	Female %	Total #	Male %	Female %	Total #	Male %	Female %	Total #	Male %	Female %
Total	177,385	97.3	2.7	103,310	92.6	7.4	72,800	62.1	37.9	106,110	84.0	16.0	102,130	86.2	13.8
White non-Hispanic	45,705	24.7	1.1	35,855	32.1	2.6	13,810	14.7	4.3	20,120	16.8	2.2	20,260	16.3	3.5
Hispanic	105,640	58.4	1.1	47,695	42.6	3.5	42,580	34.2	24.3	56,355	45.1	7.9	54,730	46.0	7.6
Black non-Hispanic	23,460	12.8	0.4	16,530	15.0	1.0	14,240	11.3	8.3	27,600	20.6	5.4	25,080	22.3	2.3
AIAN non-Hispanic	245	0.1	0.0	115	0.1	0.0	200	0.2	0.1	240	0.1	0.1	125	0.1	0.0
Asian non-Hispanic	655	0.3	0.0	1,780	1.6	0.1	1,485	1.4	0.6	1,000	0.8	0.2	975	0.6	0.3
NHOPI non-Hispanic	25	0.0	0.0	20	0.0	0.0	10	0.0	0.0	20	0.0	0.0	0	0.0	0.0
Black & White non-Hispanic	310	0.2	0.0	120	0.1	0.0	30	0.0	0.0	200	0.2	0.0	130	0.1	0.0
AIAN & White non-Hispanic	160	0.1	0.0	275	0.3	0.0	95	0.1	0.1	75	0.1	0.0	90	0.1	0.0
AIAN & Black non-Hispanic	20	0.0	0.0	40	0.0	0.0	10	0.0	0.0	25	0.0	0.0	80	0.1	0.0
Asian & White non-Hispanic	10	0.0	0.0	90	0.1	0.0	90	0.1	0.1	55	0.1	0.0	120	0.1	0.1
Balance 2+ Races, non-Hispanic	1,155	0.6	0.0	790	0.6	0.1	250	0.2	0.1	410	0.3	0.1	540	0.5	0.1

Source: US Census Bureau, Census 2010 special tabulation - Data based on where people live.

Chapter X

Marketplace Analysis

Table 10.8.
Employment In Selected Apprenticable EEO Construction Occupations
By Hispanic Origin And Race, 2000
State of Florida

Occupation	Construction and Extractive Craft Workers			Installation, Maintenance and Repair Craft Workers			Production Operative Workers			Transportation and Material Moving Operative Workers			Laborers and Helpers		
	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female
Race/Ethnicity/ Gender	#	%	%	#	%	%	#	%	%	#	%	%	#	%	%
Total	601,425	96.6	3.4	367,040	93.2	6.8	263,700	66.8	33.2	349,720	83.4	16.6	374,780	84.5	15.5
White non-Hispanic	321,595	51.3	2.1	232,090	59.2	4.1	125,435	35.6	11.9	169,495	40.9	7.6	162,860	35.6	7.8
Hispanic	208,015	33.7	0.9	84,005	21.1	1.7	78,145	17.4	11.9	97,775	23.6	4.4	137,510	31.3	5.4
Black non-Hispanic	59,540	9.6	0.3	39,760	10.2	0.6	46,410	10.7	6.9	73,285	16.8	4.1	65,150	15.7	1.7
AIAN non-Hispanic	1,670	0.3	0.0	770	0.2	0.0	675	0.2	0.1	940	0.2	0.1	1,185	0.3	0.0
Asian non-Hispanic	2,595	0.4	0.0	5,965	1.4	0.2	10,365	2.2	1.7	4,465	1.0	0.3	4,260	0.8	0.4
NHOPI non-Hispanic	410	0.1	0.0	135	0.0	0.0	195	0.1	0.0	200	0.0	0.0	160	0.0	0.0
Black & White non-Hispanic	460	0.1	0.0	325	0.1	0.0	250	0.1	0.0	525	0.1	0.0	600	0.1	0.0
AIAN & White non-Hispanic	2,370	0.4	0.0	1,340	0.3	0.0	700	0.1	0.1	1,045	0.2	0.1	1,085	0.2	0.1
AIAN & Black non-Hispanic	80	0.0	0.0	115	0.0	0.0	110	0.0	0.0	230	0.1	0.0	255	0.1	0.0
Asian & White non-Hispanic	320	0.1	0.0	500	0.1	0.0	430	0.1	0.1	375	0.1	0.0	375	0.1	0.0
Balance 2+ Races, non-Hispanic	4,370	0.7	0.0	2,030	0.5	0.0	990	0.3	0.1	1,380	0.3	0.1	1,350	0.3	0.0

Source: US Census Bureau, Census 2010 special tabulation - Data based on where people live.

10.3.3 EMPLOYMENT IN APPRENTICABLE EEO PROFESSIONAL OCCUPATIONS

Miami-Dade, Ft. Lauderdale, Pompano Beach MSA

Table 10.9 summarizes employment in selected apprenticeable EEO professional occupations in 2010 for the Miami-Dade, Ft. Lauderdale, Pompano Beach MSA. In professional service occupations, White Americans, as well as Hispanic Americans, have the greatest presence in Science, Engineering and Computer professions and Management, Business and Financial work. Hispanic Americans also have a strong presence as Healthcare practitioners and Technicians. African Americans in the MSA largely lean toward Healthcare practices and Technical professions, with a greater presence of African American females than males in these professions. Asian Americans largely are seen in Science, Engineering and Computer professions and Healthcare practices.

State of Florida

Table 10.10 reflects professional employment for the entire State of Florida. Much like the MSA, White Americans dominate all professional occupations in the State. Hispanic Americans are about evenly present in all professional occupations in the State, with Hispanic females represented more in Healthcare practices and Technical and Other professions. Among African Americas, females have a greater presence than males in Professional occupations with their main participation in Healthcare practices, Technical and Other professional positions. Asian Americans occupy professions in Science, Engineering and Computer professions and Healthcare practices, much like in the MSA.

Chapter X

Marketplace Analysis

Table 10.9.
Employment In Selected Apprenticable EEO Professional Occupations
By Hispanic Origin And Race, 2010
Miami-Ft. Lauderdale-Pompano Beach FL MSA

Occupation	Management, Business and Financial Workers			Science, Engineering and Computer Professionals			Healthcare Practitioner Professionals			Other Professional Workers			Technicians		
	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female
Race/Ethnicity/ Gender	#	%	%	#	%	%	#	%	%	#	%	%	#	%	%
Total	346,420	60.1	39.9	68,020	80.1	19.9	87,775	31.8	68.2	281,810	39.2	60.8	67,780	43.9	56.1
White non-Hispanic	173,910	32.0	18.2	32,900	39.5	8.8	40,060	16.7	28.9	136,680	21.0	27.5	24,155	17.1	18.5
Hispanic	123,615	21.2	14.6	22,860	26.8	6.8	23,805	10.3	16.8	90,870	11.8	20.4	23,765	17.4	17.6
Black non-Hispanic	35,750	4.8	5.5	6,410	7.0	2.4	16,575	2.5	16.3	44,245	4.8	10.9	16,470	6.2	18.1
AIAN non-Hispanic	405	0.1	0.1	65	0.1	0.1	90	0.0	0.1	250	0.0	0.1	80	0.1	0.0
Asian non-Hispanic	8,925	1.5	1.0	4,890	5.7	1.5	6,265	1.8	5.3	6,140	1.0	1.2	2,460	2.5	1.2
NHOPI non-Hispanic	20	0.0	0.0	15	0.0	0.0	105	0.1	0.0	55	0.0	0.0	130	0.1	0.1
Black & White non-Hispanic	495	0.1	0.1	100	0.1	0.1	125	0.1	0.1	700	0.1	0.1	100	0.1	0.1
AIAN & White non-Hispanic	365	0.1	0.0	40	0.1	0.0	105	0.0	0.1	350	0.1	0.1	120	0.1	0.0
AIAN & Black non-Hispanic	75	0.0	0.0	0	0.0	0.0	0	0.0	0.0	265	0.0	0.1	10	0.0	0.0
Asian & White non-Hispanic	580	0.1	0.1	250	0.3	0.0	250	0.1	0.2	575	0.1	0.1	160	0.1	0.2
Balance 2+ Races, non-Hispanic	2,280	0.3	0.3	495	0.5	0.2	395	0.1	0.4	1,675	0.3	0.3	335	0.2	0.3

Source: US Census Bureau, Census 2010 special tabulation - Data based on where people live.

Chapter X

Marketplace Analysis

Table 10.10.
Employment In Selected Apprenticable EEO Professional Occupations
By Hispanic Origin And Race, 2000
State of Florida

Occupation	Management, Business and Financial Workers			Science, Engineering and Computer Professionals			Healthcare Practitioner Professionals			Other Professional Workers			Technicians		
	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female
Race/Ethnicity/ Gender	#	%	%	#	%	%	#	%	%	#	%	%	#	%	%
Total	1,098,395	59.4	40.6	264,810	78.3	21.7	292,705	28.7	71.3	886,050	37.8	62.2	246,540	42.9	57.1
White non-Hispanic	782,075	43.6	27.6	186,555	55.7	14.8	192,100	19.1	46.5	597,030	26.5	40.8	152,640	27.5	34.4
Hispanic	184,065	9.8	6.9	37,345	11.0	3.0	39,100	4.7	8.7	143,760	5.8	10.4	41,810	7.9	9.0
Black non-Hispanic	91,900	3.8	4.6	26,000	2.3	0.9	35,080	1.8	10.2	111,620	3.8	8.8	38,690	4.6	11.1
AIAN non-Hispanic	2,220	0.1	0.1	470	0.2	0.0	510	0.0	0.2	1,535	0.0	0.1	540	0.1	0.1
Asian non-Hispanic	25,475	1.4	0.9	18,435	5.4	1.6	22,480	2.7	4.9	20,630	1.1	1.3	9,040	2.0	1.6
NHOPI non-Hispanic	325	0.0	0.0	115	0.0	0.0	255	0.0	0.0	455	0.0	0.0	265	0.1	0.0
Black & White non-Hispanic	1,695	0.1	0.1	420	0.1	0.0	180	0.0	0.0	1,570	0.1	0.1	385	0.1	0.1
AIAN & White non-Hispanic	2,725	0.2	0.1	720	0.2	0.0	660	0.1	0.2	2,435	0.1	0.2	950	0.1	0.2
AIAN & Black non-Hispanic	490	0.0	0.0	90	0.0	0.0	55	0.0	0.0	730	0.0	0.1	75	0.0	0.0
Asian & White non-Hispanic	2,355	0.1	0.1	915	0.3	0.1	855	0.1	0.2	2,010	0.1	0.1	615	0.1	0.2
Balance 2+ Races, non-Hispanic	5,065	0.2	0.2	1,400	0.4	0.1	1,425	0.1	0.4	4,280	0.2	0.3	1,550	0.3	0.3

Source: US Census Bureau, Census 2010 special tabulation - Data based on where people live.

10.3.4 EMPLOYMENT IN APPRENTICEABLE EEO SUPPORT SERVICE OCCUPATIONS

Miami-Dade, Ft. Lauderdale, Pompano Beach MSA

In Support Service occupations as reflected in Tables 10.11, Hispanic American females and African American females have a greater presence in Support Service occupations, especially in the areas of Administrative Support, Sales and Other, Non-protective Service occupations. Hispanic American and African American males are largely in Protective Service occupations, while they are present in Other Support Services as well. Asian Americans have a very small presence in the Support Service Occupations, never exceeding two percent of any category. White Americans are largely in Sales and Protective Service occupations.

State of Florida

Support Service occupations for the State in Table 10.12 show a pattern similarly to the MSA with regards to Hispanic Americans, African Americans and Asian Americans, except for an even smaller presence of all these race and ethnic groups in each of the Support service occupations.

Chapter X

Marketplace Analysis

Table 10.11.
Employment In Selected Apprenticable EEO Support Service Occupations
By Hispanic Origin And Race, 2010
Miami-Ft. Lauderdale-Pompano Beach FL MSA

Occupation	Sales Workers			Administrative Support Workers			Protective Service Workers			Service Workers, except Protective		
	Total #	Male %	Female %	Total #	Male %	Female %	Total #	Male %	Female %	Total #	Male %	Female %
Total	387,305	50.7	49.3	454,165	26.5	73.5	76,850	73.6	26.4	436,730	35.6	64.4
White non-Hispanic	155,720	22.9	17.3	154,050	7.8	26.1	26,020	27.4	6.5	109,320	10.2	14.8
Hispanic	155,335	19.1	21.0	195,695	12.0	31.1	24,095	24.7	6.6	192,915	14.9	29.3
Black non-Hispanic	60,495	6.4	9.2	90,165	5.7	14.1	25,210	19.8	13.0	115,225	8.5	17.9
AIAN non-Hispanic	300	0.0	0.0	535	0.0	0.1	55	0.0	0.0	490	0.0	0.1
Asian non-Hispanic	10,245	1.5	1.2	7,665	0.6	1.1	855	1.0	0.1	13,870	1.5	1.7
NHOPI non-Hispanic	190	0.0	0.0	135	0.0	0.0	70	0.1	0.0	150	0.0	0.0
Black & White non-Hispanic	945	0.1	0.1	745	0.1	0.1	35	0.0	0.0	940	0.1	0.1
AIAN & White non-Hispanic	550	0.1	0.1	465	0.0	0.1	75	0.1	0.0	305	0.0	0.0
AIAN & Black non-Hispanic	210	0.0	0.0	100	0.0	0.0	50	0.0	0.0	110	0.0	0.0
Asian & White non-Hispanic	720	0.1	0.1	655	0.0	0.1	105	0.1	0.0	780	0.1	0.1
Balance 2+ Races, non-Hispanic	2,590	0.4	0.3	3,980	0.2	0.6	280	0.4	0.0	2,625	0.2	0.4

Source: US Census Bureau, Census 2010 special tabulation - Data based on where people live.

Chapter X

Marketplace Analysis

Table 10.12.
Employment In Selected Apprenticable EEO Support Service Occupations
By Hispanic Origin And Race, 2000
State of Florida

Occupation	Sales Workers			Administrative Support Workers			Protective Service Workers			Service Workers, except Protective		
	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female
Race/Ethnicity/Gender	#	%	%	#	%	%	#	%	%	#	%	%
Total	1,208,925	49.3	50.7	1,463,445	25.1	74.9	225,460	75.5	24.5	1,368,995	36.4	63.6
White non-Hispanic	757,225	32.7	29.9	866,255	13.6	45.6	133,215	46.9	12.2	651,415	17.8	29.8
Hispanic	252,895	9.7	11.3	320,060	6.1	15.8	38,575	13.5	3.6	351,205	9.4	16.3
Black non-Hispanic	146,485	4.7	7.4	227,170	4.5	11.1	47,650	13.1	8.1	294,120	7.1	14.4
AIAN non-Hispanic	1,885	0.1	0.2	2,925	0.1	0.1	670	0.2	0.1	2,910	0.1	0.1
Asian non-Hispanic	32,325	1.4	0.1	26,545	0.6	1.2	2,430	0.9	0.2	48,285	1.5	2.0
NHOPI non-Hispanic	825	0.0	1.3	585	0.0	0.0	175	0.1	0.0	1,030	0.0	0.1
Black & White non-Hispanic	3,165	0.1	0.0	3,280	0.1	0.2	420	0.2	0.0	3,770	0.1	0.2
AIAN & White non-Hispanic	3,275	0.1	0.1	3,660	0.1	0.2	700	0.2	0.1	4,135	0.1	0.2
AIAN & Black non-Hispanic	485	0.0	0.0	510	0.0	0.0	145	0.1	0.0	1,145	0.0	0.0
Asian & White non-Hispanic	2,820	0.1	0.1	3,135	0.1	0.2	535	0.2	0.1	3,170	0.1	0.1
Balance 2+ Races, non-Hispanic	7,540	0.3	0.3	9,320	0.2	0.4	940	0.4	0.0	7,820	0.2	0.4

Source: US Census Bureau, Census 2010 special tabulation - Data based on where people live.

10.4 ANALYSIS OF MIAMI-DADE COUNTY BUSINESS LICENSE DATA

We can compare business license data as a measure of firm marketplace availability for both the private and public sector to M-DCPS RWASM availability in Chapter 5 (Table 5.18).

Business License availability reflects Total M/WBE participation of 1.50 percent or 2,661 firms. For RWASM availability, Total M/WBEs represented 27.66 percent (1,263 firms) at Level 2.

Architecture and Engineering firms show that M/WBEs represent 1.37 percent of firms obtaining a business license. This compares to 69.44 percent for RWASM availability.

For Construction, about 4.62 percent M/WBEs obtained business licenses (using Table 10.13), as opposed to 34.52 percent in the M-DCPS RWASM availability (Table 5.7). Also, the participation across race/gender/ethnicities is more diverse in the public sector (M-DCPS RWASM Availability), as opposed to the private sector if business license data is used as a metric, since over 93 percent of the licenses are issued to Non-(M/W/SMBEs) in the latter.

In Services procurement, a similar picture may be noted, with over 98 percent of licenses issued to Non-(M/W/SMBEs) as an indicator of availability of firms doing business in the private sector, with 1.41 percent M/WBEs. In comparing this to M-DCPS availability, 9.94 percent of firms that are available to do business are M/WBEs. While the public sector has greater M/WBE availability, Non-(M/W/SBEs) dominate this procurement area in the marketplace.

We see that in Goods & Supplies procurement, M/WBEs obtained about 1.18 percent (Table 10.13) of the business licenses to do business in Miami-Dade County, compared to 10.54 percent available in the M-DCPS Level 2 for Nationwide (relevant market for M-DCPS).

Chapter X

Marketplace Analysis

Table 10.13.
Miami-Dade County Business License Data
FY 2019

Ethnicity	Architecture and Engineering		Construction and Construction-Related Services		Services		Goods & Supplies		Total	
	#	%	#	%	#	%	#	%	#	%
Non-Minority/ WBE/SBE	2,007	98.48	12,680	93.61	40,821	98.41	119,095	98.69	174,603	98.24
African American	1	0.05	44	0.32	22	0.05	91	0.08	158	0.09
Asian American	1	0.05	2	0.01	4	0.01	9	0.01	16	0.01
Hispanic American	3	0.15	167	1.23	94	0.23	181	0.15	445	0.25
Other Minority	19	0.93	239	1.76	403	0.97	997	0.83	1,658	0.93
Total Minority	24	1.18	452	3.34	523	1.26	1,278	1.06	2,277	1.28
WBE	0	0.00	1	0.01	5	0.01	6	0.00	12	0.01
Unknown M/WBE	4	0.20	173	1.28	57	0.14	138	0.11	372	0.21
Total M/WBE	28	1.37	626	4.62	585	1.41	1,422	1.18	2,661	1.50
SBE	3	0.15	239	1.76	71	0.17	155	0.13	468	0.26
Veteran	0	0.00	0	0.00	3	0.01	4	0.00	7	0.00
Grand Total	2,038	100.00	13,545	100.00	41,480	100.00	120,676	100.00	177,739	100.00

Source: M³ Consulting; Miami-Dade County Business License Data

10.5 SUMMARY OF FINDINGS

This chapter examined various activities to determine M/WBE participation levels in private sector and other public sector opportunities. Demographic and Labor Force data and Miami-Dade County Business License data was reviewed.

10.5.1 Demographic and Labor Force

While the State has majority White Americans, the Miami-Ft. Lauderdale-Pompano Beach MSA is skewed toward majority of Hispanic Americans, with African Americans making up about 20 percent of the population and Asian Americans barely present in the MSA. The civilian labor force in the MSA mirrors the population.

Construction

Construction occupations in the Miami-Ft. Lauderdale-Pompano Beach MSA seems to mirror the Civilian Labor force, with Hispanic Americans taking the lead followed by White Americans and then African Americans.

Professional Services

White Americans as well as Hispanic Americans dominated the Science, Engineering and Computer professions and Management, Business and Financial professions in the MSA. Hispanic Americans and African Americans were also represented in the healthcare professions.

Support Services

Hispanic American and African American women were noted to have a strong presence in Support Service occupations while their male counterparts largely were in Protective Service occupations in the Miami-Ft. Lauderdale-Pompano Beach MSA.

Chapter X

Marketplace Analysis

10.5.2 Business License Data

Business License Data

Comparing business license data as a measure of firm availability for the marketplace to M-DCPS RWASM availability in Chapter 5 (Table 5.18), M/WBEs represented a rather small proportion of the marketplace, which includes firms doing business in both the private and public sector. Their largest presence in both the private and public sector was in Construction.

CHAPTER 11: RACE NEUTRAL ANALYSIS

11.1 INTRODUCTION

As discussed in Chapter 2: Legal Analysis, as part of narrow tailoring, public entities are required to consider the efficacy of race neutral measures in addressing any disparity or discrimination. The race neutral analysis seeks to determine the ability of existing race neutral efforts in eliminating disparity in the marketplace.

Federal case law has provided some illumination on the question of what constitutes adequate consideration of race-neutral measures.

1. A governmental entity does not have to enact race-neutral means, if those means are not feasible or conducive to remedying past discrimination.³⁸¹
2. If race-neutral programs and legislation were in place prior to the establishment of a race-conscious program and had been attempted in good faith, and yet M/WBE participation in public procurement remains low relative to availability, then an inference is created that race-neutral programs were inadequate to relieve the impact of past discrimination.³⁸²

Several city, state, and local organizations were identified that provide technical and financial assistance to small, minority and woman-owned business enterprises in the Tri-County Area. A discussion is also provided of public entities that operate race and gender-conscious and race and gender-neutral programs. The inclusion of the results of race and gender-conscious initiatives further reflects the effectiveness of all remedial-type activity in addressing disparity within the area.

These programmatic initiatives have been in place during the operation of M-DCPS' M/WBE programs, as discussed in Chapter 3.

³⁸¹ Coral Construction v. King County, 941 F.2d 910, 923 (9th Cir. 1991), AGC of California v. Coalition of Economic Equity, 950 F. 2d 1401,1417 (9th Cir. 1991), Engineering Contractors v. Dade County, 122 F. 3d 895 (11th Cir. 1997), Concrete Works of Colorado, Inc. v. City and County of Denver (Concrete Works I), 823 F. Supp. 821 (D Colo 1993), Western States Paving Co., Inc. v. Washington State Department of Transportation, 407 F.3d 983 (9th Cir. 2005).

³⁸² Concrete Works I at 841.

Chapter XI

Race Neutral Analysis

11.2 METHODOLOGY

This chapter's race-neutral analysis is based on a review of 70 organizations within the primary counties of Miami-Dade, Broward and to a lesser degree, Palm Beach, that provide services to small, minority and woman-owned businesses. The results of the organizational review are reflected in 11.3. Master List of Race Neutral Programs. The Master List is divided into the sections provided as follows:

- Goal-Based and Other Targeted Procurement Programs
- Management and Technical Assistance Providers
- Financial Assistance Providers
- Community and Economic Development Organizations
- Chambers of Commerce
- Trade Organizations and Business Associations
- Other Advocacy Groups

Additionally, M³ Consulting sought to interview Executive Directors of this organizations to determine their experiences working with small, minority and women-owned businesses. Out of the twenty-four Executive Directors contacted, ten (10) agreed to one-on-one in-depth interviewees and were interviewed.

Chapter XI

Race Neutral Analysis

11.3 MASTER LIST OF RACE NEUTRAL PROGRAMS

Agency/Organization		Type of Goal-Based Programs							Support Services
Organization's Name	County	SBE	LBE/CBE	VBE	MBE	WBE	DBE	SDB	Services and Available Metrics
Goal-Based and Other Targeted Procurement Programs									
Broward College Supplier Relations and Diversity	Broward	X						x	<ul style="list-style-type: none"> • Small disadvantaged program which, recognizing its obligation as a recipient of Federal and State funds to ensure that bidders, contractors and their sub-contractors are not victims of discrimination based on race, creed, color, gender, national origin, ethnicity, disability, and religion in the College's contracting practices, and the contracting practices of contractors and sub-contractors. • Assures that small disadvantaged business enterprises are afforded an equal and fair opportunity to share in the College contract opportunities, including formal and informal procurement levels at both prime and subcontracting levels assuring small disadvantaged business enterprises are afforded an equal and fair opportunity to share in the College contract opportunities. • SDB Prime Proposers receive 100% SDB criteria point percentage in the solicitation process • Qualification for 10% price preference on ITBs • SDB set-asides • Invitation to Pre-bid conferences • Invitation to events such as: Business competitions, matchmaking sessions and power networking
School Board of Broward County's Supplier Diversity Outreach Program	Broward	x			x	x			<ul style="list-style-type: none"> • SBBC's Supplier Diversity and Outreach Program (SDOP) promotes the economic development and growth of minority and women-owned business enterprises through its Minority/Women Business Enterprise (M/WBE) Certification Program, community outreach, contract review and monitoring, in addition to ongoing interaction with other municipal agencies, quasi-public agencies and the local marketplace.

Chapter XI

Race Neutral Analysis

									<ul style="list-style-type: none"> SDOP operates two programs: (1) the M/WBE Program which establishes an aspirational goal for M/WBE participation in procurement and contracting opportunities and (2) Contractor pre-qualification
Broward County Office of Economic and Small Business Development	Broward	X	x					x	<ul style="list-style-type: none"> The Broward County Office of Economic and Small Business Development certifies County Business Enterprises (CBEs), Small Business Enterprises (SBEs), and Disadvantaged Business Enterprises (DBE) and Airport Concessions DBE (ACDBEs) as part of its DBE program requirements. During FY 2014 the total dollars awarded to vendors conducting business with Broward County was \$607,948,936, in which 50.7% or \$308,303,324 was awarded to vendors located within Broward County; 68.9% or \$419,155,709 within the tri-county area (Broward, Palm Beach and Miami-Dade); and \$460,145,161 within the State of Florida. Of the total dollars spent, \$43,953,795 or 7% was awarded to vendors who are certified in one of the County's approved local small business and County business certification programs. Broward County's compliance reviews and monitoring services are provided for both external (prime and sub-contractors) and internal (County agencies) from project inception to project close-out. The services included: Project review, contract monitoring, complaint resolution, prompt payment resolution, and mediation. Broward County also provides training to small businesses, such as the award-winning Technical Assistance Training Program and the Business Development Workshop series.
City of Ft. Lauderdale	Broward		x						<ul style="list-style-type: none"> The City of Ft. Lauderdale operates a Local Business Enterprise Program (LBE) based on location of both the business and staff. Firms can receive a bid preference of ten percent for Class A firms, 7.5 percent for Class B firms and five percent for Class C firms. The City also maintains an M/WBE certification list.
Florida Department of Transportation (FDOT)	State of Florida	x			x	x		x	<ul style="list-style-type: none"> FDOT has four different types of minority/small business programs: Disadvantaged Business Enterprise (DBE) program, Minority Business Enterprise (MBE) program, Business Development Initiative (BDI), and Construction Management Development Program (CMDP). FDOT puts forth great effort to educate minority businesses on these four separate and

Chapter XI

Race Neutral Analysis

									<p>distinct programs. The Equal Opportunity Office is responsible for promoting and monitoring the participation of minority businesses.</p> <ul style="list-style-type: none"> • The DBE Program is a federal program that applies only to FDOT and is limited to contractors and consultants involved in planning, design, right of way, construction, and other projects included in the FDOT’s Work Program. FDOT is race neutral and does not use individual contract goals to administer the program. EOO administers the DBE program and encourages diversity in contracting for two types of contracts: (1) Construction and maintenance contracts (in accordance with Chapter 337, F.S.), and (2) Architectural and engineering contracts (in accordance with Chapter 287.055, F.S. and Chapter 14-75, F.A.C.). EOO is also responsible for promoting minority participation for the contracting of commodities and contractual services (in accordance with Chapter 287, F.S. and Chapter 60A-1, F.A.C.), and fixed capital outlay projects (in accordance with Chapter 255, F.S. and Chapter 60D-5, F.A.C.). • The MBE Program applies to all state agencies and is administered by the Department of Management Service’s Office of Supplier Diversity (OSD). The MBE program certifies small businesses domiciled in Florida. See below. • The Business Development Initiative (BDI) is one of FDOT’s efforts to increase competition, lower prices, and increase support to small businesses to meet its contracting needs over the next ten years. On July 1, 2016, House Bill 7027 (337.027 F.S.) went into effect to include the establishment of a Business Development Program to assist small businesses in obtaining contracts with the department and is now FDOT’s way of doing business. The BDI reserves construction and professional services contracts so small businesses can compete among themselves to obtain work directly from FDOT as primes. The BDI provides the following assistance to small businesses: (1) Reserves construction and maintenance contracts of less than \$1,500,000. These projects are listed on the FDOT website (2) Waives performance bond requirements for contracts under \$250,000. Required bid bonds are \$500 for contracts over \$150,000 (3) Modifies the qualification process. Bidders on reserved BDI construction and maintenance contracts are not required to be prequalified (4) Reserves professional services contracts of less than \$1,500,000 for state funded or federal funded projects; however, professional service projects that are reserved require prequalification (5) Reduces liability insurance requirements.
--	--	--	--	--	--	--	--	--	--

Chapter XI

Race Neutral Analysis

									<ul style="list-style-type: none"> • FDOT educates businesses on how to do business with the State of Florida and FDOT through various processes to ensure that the programs reach certified and non-certified small, minority, and disadvantaged businesses. • The Vendor Guide, which is available on FDOT’s procurement website, includes information about registering as a vendor in the MyFloridaMarketPlace (MFMP) to receive email notifications for bid solicitations. The guide also advises on how to determine the category a business falls under and provides an understanding of how FDOT contracts for those services (construction and maintenance; fixed capital outlay; architectural and engineering; and commodities and contractual services) and if a business qualifies as a DBE and/or Certified MBE. • FDOT provides additional support to S/M/DBEs through its Supportive Services programs. The programs are designed so that DBEs receive training, information, and assistance in preparing bids, and obtaining bonding, financial assistance, and insurance. • The Construction Estimating Institute (CEI) is the statewide provider and administers the following programs: (1) DBE Supportive Services - the purpose is to increase the number of certified DBEs participating in the highway program, and to contribute to the growth and eventual self-sufficiency of DBEs so that they may achieve proficiency in competing for contracts and subcontracts. (2) Construction Management Development Program - assists S/M/V/DBEs with training and on-the job instruction to raise the level of professionalism, proficiency, and competitiveness of small, minority and socially and economically disadvantaged businesses. CEI provides managerial and technical assistance to certified DBEs completing the CMDP. (3) Bond Guarantee Program - provides eligible DBE contractors with bonding opportunities, so they may participate in transportation construction projects. • In addition to educational programs, FDOT provides additional assistance to DBEs through the Specialized Development Program (SDP). Administered by the Florida State Minority Supplier Development Council (FSMSDC). The SDP assists prime contractors on priority projects and identifies qualified DBEs to compete for subcontracting opportunities. • Results--FDOT’s prime contractors (primes) are the construction and engineering firms that produce Florida’s roads and bridges. FDOT’s
--	--	--	--	--	--	--	--	--	---

Chapter XI

Race Neutral Analysis

									production plan for state fiscal year 2015-16 resulted in construction projects with an estimated value of \$4.2 billion and consultant projects estimated at \$1.1 billion. During the last fiscal year, FDOT expended \$297,319,237 to certified minority businesses (an increase of \$9,491,515), and \$462,349,771 to non-certified minority businesses (an increase of \$127,389,664). FDOT's commitment for fiscal year 2016-17 is to exceed last year's spending.
Florida Office of Supplier Diversity	State of Florida	x			x	x			<ul style="list-style-type: none"> The Office of Supplier Diversity's (OSD) function is to improve business and economic opportunities for Florida's women-owned and minority-owned businesses. OSD's efforts toward this goal can be categorized into the following primary functions, Certification of Minority Business Enterprises, Advocacy and Outreach, and Matchmaking Activities. The goal of the Office of Supplier Diversity is to increase the number of business enterprises in the State of Florida. Certification officers are responsible for identifying and certifying business enterprises by conducting thorough and effective eligibility reviews while ensuring that vendors receive prompt and responsive customer service. Eligibility criteria can be found in Chapter 287.0943(2)(e), Florida Statutes and Chapter 60A-9, Florida Administrative Code. The Office of Supplier Diversity maintains a directory of certified business enterprises online. The On-line Director is located on the Office of Supplier Diversity's web site and lists only state Certified Business Enterprises. Special e-mails and other information are disseminated to vendors who appear in the state's database as certified minority, women and Florida veteran business enterprises. This information could vary from contract opportunities to special events, networking activities and technical assistance training. Vendor-In-The Spotlight is designed to highlight certified minority, women, and Florida veteran business enterprises by industry to a target audience of purchasing agents and decision makers. Certified vendors make presentations at the monthly Diversity Working Group Meeting to introduce their companies and capabilities to several state entities at one time. Special Discounts including gratis admission to events may be offered to state minority, women, and Florida veteran business enterprises who participate in educational, outreach and matchmaking activities coordinated by state government and the Office of Supplier Diversity. These activities could include regional workshops and seminars.

Chapter XI

Race Neutral Analysis

									<ul style="list-style-type: none"> Matchmaker Events--Throughout the year, the Office of Supplier Diversity participates in regional matchmaking events with local government entities, universities and civic organizations. These regional matchmaking events provide an avenue for Florida's minority, women, and service-disabled veteran business enterprises to network and make lasting business relationships. Events often include activities like assisting certified business owners in identifying state agencies likely to purchase their goods and/or services, hosting on-site certification tutorials for non-certified businesses and one-on-one sessions between state agencies and certified businesses where business owners pitch their products/offerings directly to state agency purchasing agents. 														
Miami Dade College (MDC)	Miami-Dade	x	x						<ul style="list-style-type: none"> Miami Dade College has created a new Small and Local Business Enterprise Initiative to foster the growth and development of small and local firms. The College may set mandatory subcontracting goals for bids based on the availability of SLBE contractors for Architecture and Engineering, Construction, Goods and Services, and Professional Services. The maximum goal applied to any solicitation will be twenty-five percent of the bid. If the contractor is a certified SLBE and performs one hundred percent of the project work, the SLBE contractor does not have to subcontract any of the work. Prime contractors must notify the College when the need to replace a SLBE sub-contractor arises. The College may award points for Architecture and Engineering (Professional Design), and Construction Services contracts based on an evaluation criterion of ten (10) total points (maximum). Points may be awarded, as follows, based on a 100 - point scale or an alternately proportionate scale being used by the College: <table border="1" style="margin-left: 40px;"> <thead> <tr> <th>TABLE A SLBE Project Participation</th> <th>Award Points</th> </tr> </thead> <tbody> <tr> <td>Certified SLBE Prime Contractor</td> <td>10</td> </tr> <tr> <td>41% - 49%</td> <td>8</td> </tr> <tr> <td>31% - 40%</td> <td>6</td> </tr> <tr> <td>21% - 30%</td> <td>4</td> </tr> <tr> <td>11% - 20%</td> <td>2</td> </tr> <tr> <td>Less Than 10%</td> <td>0</td> </tr> </tbody> </table> 	TABLE A SLBE Project Participation	Award Points	Certified SLBE Prime Contractor	10	41% - 49%	8	31% - 40%	6	21% - 30%	4	11% - 20%	2	Less Than 10%	0
TABLE A SLBE Project Participation	Award Points																						
Certified SLBE Prime Contractor	10																						
41% - 49%	8																						
31% - 40%	6																						
21% - 30%	4																						
11% - 20%	2																						
Less Than 10%	0																						

Chapter XI

Race Neutral Analysis

									<ul style="list-style-type: none"> The College may set aside specific contracts with a value up to \$1,000,000.00, for competition, exclusively for SLBEs in Architecture and Engineering, Construction, Goods and Services, and Professional Services.
Small Business Development (SBD)	Miami-Dade	x						x	<ul style="list-style-type: none"> Miami-Dade County operates three programs: Small Business Enterprise Program, Disadvantaged Business Enterprise Program and Local Developing Business Program. The DBE Program follows federal requirements. Small Business Program—Under the SBE Program, certified Micro Enterprises receive an automatic ten percent bid preference/selection factor on contracts \$50,000 and under County departments are required to expend at least ten percent of the total value of contracts \$100,000 and under with small business enterprises. On contracts that exceed \$100,000, SBEs participate through set-asides, sub-contractor goals, bid preferences or selection factor. The County has three SBE Programs: Small Business Enterprise -- Architectural & Engineering— covers firms that are located in Miami-Dade County, three years of gross receipts not to exceed \$4.5 million for architectural services. Three-year average gross receipts cannot exceed \$6 million for engineering, surveying and mapping services, and landscape architecture services, and a personal net worth not to exceed \$1.5 million. The Equitable Distribution Programs (EDP) and Small Business Enterprise-A&E programs were designed to provide contracting opportunities to small and medium size architectural and engineering firms. Additionally, the A&E selection process was streamlined into a one-step, pre-qualification. Miami-Dade County Ordinance No. 98-30 requires all firms, including A&E firms with annual gross revenues in excess of \$5,000,000 must have an affirmative action plan and procurement policies filed and approved by the County as a condition of contract award. Also, Resolution R-1040-93 requires all A&E firms must provide information in their proposal, as to their furtherance and compliance with their approved affirmative action plan, when responding to the County’s advertisement for the acquisition of A&E services. Small Business Enterprise – Goods & Services—covers firms located in Miami-Dade County, three years of gross receipts not to exceed \$5 million, and a personal net worth not to exceed \$1.5 million Small Business Enterprise – Construction—covers firms that are in Miami-Dade County, three years of gross receipts not to exceed \$10 million for

Chapter XI

Race Neutral Analysis

								<p>general building (NAICS 236/SIC 15), \$6 million for heavy construction contractors (NAICS 237/SIC 16), and \$5 million for specialty trade contractors (NAICS 238, SIC 17), and a personal net worth not to exceed \$1.5 million</p> <ul style="list-style-type: none"> Local Developing Business Program--This program is a gender and race neutral program for small businesses that have non-exclusive permits to provide general aeronautical services to commercial airlines and aircraft operators at Miami International Airport. It is designed to provide opportunities for firms that meet the following criteria: Located and performing a commercially useful function in Miami-Dade County or be at least fifty-one percent owned by a person or persons who resides in Miami-Dade; not exceeding three year average gross receipts of \$22,410,000; must possess the required licenses to do business in Miami-Dade County and; annual renewal of certification required.
Miami Dade Aviation Department's Minority Affairs Division	Miami-Dade	x	x				x	<p>Assures that women-owned, minority-owned and local small businesses are provided every opportunity available to participate in contracting opportunities at Miami International Airport and the County's four general aviation airports.</p> <p>Services Provided:</p> <ul style="list-style-type: none"> Recommend realistic and achievable participation goals for small businesses. Provide workshops and industry outreach meetings for the local small business community. Conduct compliance monitoring. Conduct site visits and compliance reviews of awarded contract agreements. Attend pre-bid meetings to outline participation requirements. <p>Small Business Programs:</p> <ul style="list-style-type: none"> Airport Concessions Disadvantage Business Enterprise (ACDBE) Small Business Enterprise (SBE) Architecture/Engineering Small Business Enterprise (SBE) Construction Disadvantage Business Enterprise (DBE)

Chapter XI

Race Neutral Analysis

The School District of Palm Beach County – Office of Diversity in Business Practices	Palm Beach	X			x	x			<p>SDPBC has established both an SBE program and an M/WBE program. Per the SBE and M/WBE Implementation Procedures, both the SBE program and the M/WBE program allow for the following incentives:</p> <ul style="list-style-type: none"> • Bid preferences on prime contractors and sub-contractor goals on Invitations to Bid • Evaluation preferences in the form of points for prime and sub-contractor participation. • The SBE program also permits SBE set-asides. M/WBEs must be domiciled in Palm Beach, Broward or Miami-Dade County and have a net worth of not more than \$5 million and less than 200 employees; SBEs must be less than fifty percent of the SBA size standard and have received less than \$1 million in contracts from the School District. • The School District conducts some outreach by participating in annual Matchmakers, conducting monthly luncheon sessions, encouraging large firms to create mentoring sessions, participating in certification sessions, and participating in bid debriefings. • The School Board has adopted a Commercial Non-Discrimination Policy with the purpose of ensuring that SDPBC is not a passive participant in private sector commercial discrimination. It does so by refusing to engage in business with firms that discriminate in the solicitation, selection, hiring, or treatment of vendors, suppliers, sub-contractors, or commercial customers based on race, gender, gender identity or expression, religion, national origin, ethnicity, sexual orientation, age, or disability.
Palm Beach County Office of Small Business Assistance	Palm Beach								<ul style="list-style-type: none"> • The Office of Small Business Assistance is responsible for monitoring conditions affecting small businesses within the marketplace that can provide goods and services to Palm Beach County, thus creating an environment that encourages the growth and development of small businesses in Palm Beach County. • The County has established and aims to fulfill its annual goal of fifteen percent SBE participation on County procurement of Construction, Professional Services and Commodities, the Office of Small Business Assistance and departments will monitor all contracts with SBE commitments. Contractors will be required to submit construction activity reports and vendor payment forms from their sub-contractors with all

Chapter XI

Race Neutral Analysis

									<p>applications for payment from the County. OSBA personnel will also conduct on-site inspections of job sites and interview sub-contractors to ensure compliance.</p> <ul style="list-style-type: none"> • Failure to comply with the SBE requirements of an awarded contract may result in suspension or debarment of the firms or individuals involved. • For purchases under twenty-five thousand dollars (\$25,000.00), the county has established a bid preference policy. This policy allows the county to make an award to vendors certified as small business with Palm Beach County and is within ten percent of the lowest responsive bidder, if the small business is also responsive to the terms and conditions of the bid. • Small businesses wishing to participate in Palm Beach County contracting opportunities in the areas of Commodities, Construction and Professional Services may apply for small business certification. Certification is granted for up to three (3) years.
--	--	--	--	--	--	--	--	--	---

Chapter XI

Race Neutral Analysis

Agency/Organization		Type of Management and Technical Assistance Providers				Support Services
Organization's Name	County	Mgmt.	Marketing/Sales/Networking	Financial	Bonding	Services and Available Metrics
Management, Financial and Technical Assistance Providers						
Aventura Marketing Council	Miami-Dade		x			<ul style="list-style-type: none"> The Council is the Chamber of Commerce for the City of Aventura Holds four to six networking meetings and events each month where members can build relationships in the community, expand their network, and grow their business Members have access to hundreds of companies and elected officials including Mayors, Commissioners, Senators, Representatives, City Managers, Police Chiefs and top- level executives Networking sessions include a monthly breakfast meeting which attracts 150-200 members; SpeedBiz ; Evening Networking Receptions; Aventura Young Professionals (45-under) Luncheons; Business Development; Technology; Real Estate Seminars (realtors, developers, property management, title and mortgage); Law Seminars with CLE credits (attorneys, paralegals, mediators and court reporters); Professional Women's Council; Education ; and for Chairman's Roundtable level of membership, offer Chairman's Roundtable Luncheons for senior decision-makers from over 120 companies.
Enterprise Development Corporation	Palm Beach	x	x	x		<ul style="list-style-type: none"> Enterprise Development Corporation of South Florida is a 501(c)(3) non-profit that provides advisory and support services to help position entrepreneurs, investors, and partners for success and grow South Florida's start-up ecosystem. As part of its mission, the nonprofit organization actively facilitates connections between entrepreneurs and investors, organizes impactful events, attracts capital, and helps shape a regional agenda to strengthen the local entrepreneurial ecosystem. Since 1994, it has helped more than 300 companies per year, and its total economic impact in South Florida has exceeded \$500 million.

Chapter XI Race Neutral Analysis

						<ul style="list-style-type: none"> • EDC mentors out of the Pipeline Brickell office located in Downtown Miami. EDC also manages several incubator facilities in South Florida including: the Boca Raton EDC Incubator located within the technology sector of Boca Raton just north of Yamato Road, Broward College Incubator (BCI), located in Ft. Lauderdale just off I-95 and Cypress Creek Road, TechWalk Incubator located at The Walk off University Drive in Coral Springs. • EDC provides mentoring to new and existing high-growth potential companies through a community of hundreds of professionals passionate about creating an entrepreneurial ecosystem. EDC helps entrepreneurs across multiple industries, accelerating their growth and creating a vibrant, innovation-based economy in our region. • EDC also participates in specific statewide programs that enhance the creation and development of science and technology companies and supports other local organizations with monthly programming. As a clearinghouse for entrepreneurial activity, EDC engages with local business leaders, investors, colleges and universities, government entities, and other public and private groups that share a commitment to Florida's economic vitality. • <i>Other services:</i> <ul style="list-style-type: none"> • Access to Capital--EDC coaches entrepreneurs through the capital seeking process to help them increase their potential for successfully raising funds. • New World Angels--EDC works closely with and administers operations for New World Angels (NWA), a Florida focused angel investment group of private investors dedicated to providing equity capital to early and mid-stage companies. The New World Angels headquarters is located at the Technology Business Incubator (TBI), along with EDC's in Boca Raton. EDC services include deal sourcing and screening, new member recruitment, management of Gust investor database and web platform, and meeting planning. New World Angels (NWA) is a group of private investors dedicated to providing equity capital to early-stage entrepreneurial companies in the state of Florida. NWA has chapters in South Florida and the
--	--	--	--	--	--	---

Chapter XI

Race Neutral Analysis

						<p>Tampa Bay area and is typically a lead or co-investor in transactions totaling between \$0.5 million and \$2.5 million.</p> <ul style="list-style-type: none"> Emerging Technology Business Showcase--ETBS provides entrepreneurs, business leaders, investors and service providers a venue to learn about the latest advances in science and technology, hear from serial entrepreneurs and industry veterans who have started and grown successful companies, and discover new partnership opportunities.
Enterprise Florida	Miami-Dade	x	x			<p>Enterprise Florida, Inc. (EFI) is a public-private partnership between Florida’s business and government leaders and is the principal economic development organization for Florida. EFI’s mission is to expand and diversify the state’s economy through job creation. In pursuit of its mission, EFI works closely with a statewide network of economic development partners and is funded both by the State of Florida and by private-sector businesses.</p> <p>EFI helps companies locate, relocate or expand in Florida by:</p> <ul style="list-style-type: none"> Building and sites database Comprehensive Florida business climate research Providing detailed community profiles on Florida’s 67 diverse counties Liaison with state agencies as needed Site visit coordination with Florida communities Central contact for companies working with multiple Florida communities Identifying sites that match required criteria Determining company’s eligibility for business incentives programs and assisting with applications Coordinating financing programs and assistance Facilitating permitting and offering regulatory assistance <p>EFI assists Florida businesses in expanding into the international marketplace by:</p> <ul style="list-style-type: none"> Offering export counseling and advice Organizing and executing overseas trade missions and shows Assisting Florida companies in marketing their products and services overseas Maintaining a network of International Offices

Chapter XI

Race Neutral Analysis

						<ul style="list-style-type: none"> Offering financial assistance for export transactions to small- and medium-sized Florida companies Providing the Florida Export Directory Providing international trade statistics, analyses of international trade trends and detailed import/export reports. <p>EFI assists small and minority businesses and entrepreneurs by:</p> <ul style="list-style-type: none"> Assisting with access to University Technology Transfer Offices, Incubators and Accelerators Providing information and direction to business owners seeking financing Providing information to help small businesses grow and prosper Acting as a clearinghouse for state-level business incentives and programs supporting job growth Promoting international trade development events benefiting Florida’s small and medium-sized enterprises (SME) Facilitating access to Small Business Administration export finance services for EFI SME export clients
Florida SBDC	Miami-Dade Broward					<ul style="list-style-type: none"> The Florida SBDC Network has over thirty-five years of experience helping potential and existing business owners by providing the management advice, training and information needed to make sound business decisions. With partners ranging from institutions of higher learning to federal, state and local governments to private organizations, and funding from the U.S. Small Business Administration, Florida SBDCs offer this business management and technical assistance at little or no cost. <i>Consulting</i>--Confidential consulting is provided at no cost to Floridians who want to grow their business. Consultant expertise focuses on areas vital to accelerating business growth, including: <ul style="list-style-type: none"> <i>Areas of expertise include:</i> Strategic Market Research Business and Strategic Plan Development Market and Revenue Growth Strategy Development and Implementation Capital Access and Loan Packaging Financial Analysis and Assessment

Chapter XI

Race Neutral Analysis

						<ul style="list-style-type: none"> • Accounting Systems and Financial Literacy • Feasibility Analysis and Start-up Assistance • <i>Specialized Services</i> <ul style="list-style-type: none"> • Growth Acceleration • Government Contracting • International Trade • Business Continuation • Veterans Business Outreach • Small Business Resource Network • Consulting can be done in their offices located throughout the state or on-line. • <i>Training</i> <ul style="list-style-type: none"> • Educational events provide current and practical information on business topics ranging from the basics to advanced business management skills. Events include workshops, seminars, conferences, CEO peer-to-peer roundtables, networking, and matchmaking. Instructors include certified business consultants, faculty, government and private-sector professionals. Nominal fees may be charged for educational events. • <i>Business Information</i> <ul style="list-style-type: none"> • Through its affiliations and partnerships with institutions of higher education, the Florida SBDC Network has access to high-cost databases and business research resources, including the experts who know how to put the information to work, from interpretation to implementation. • A wide range of information resources are available to ensure current and expansive information for better decision-making, including: • Extensive libraries maintained at each FSBDC containing key directories, periodicals, government publications, reference books, planning guides and business management magazines. • The Haas Center for Business Research • Access to information resources through the FSBDCN's statewide Small Business Resource Network and private- and public-sector sources, including attorneys, accountants, bankers, etc.
--	--	--	--	--	--	--

Chapter XI

Race Neutral Analysis

						<ul style="list-style-type: none"> • <i>Specialized Services</i>--In addition to the core services provided by the Florida SBDCs, the Network provides the following specialized assistance: <ul style="list-style-type: none"> • Growth Acceleration Services--Growth Acceleration services are designed to deliver substantive, professional consulting to qualified small and medium-sized businesses at no cost. In-depth, high-level consultation with the tools, strategies and expertise needed to accelerate business growth and success in today's competitive market will be provided to existing businesses. • Export Marketing Plan Services--In partnership with Enterprise Florida, Inc. and the U.S. Commercial Service, the Florida SBDC Network has a new scholarship to assist qualified manufacturing small businesses in Florida who are "new-to-export" to identify growth strategies through the development of customized Export Marketing Plans. • <i>International Services</i>--The SBDC advances the global competitiveness of small Florida business through preparation, education and consultation. • <i>Government Contracting Assistance Services</i> <ul style="list-style-type: none"> • Established in 1985 as a special service of the FSBDCN, hosted by the University of West Florida, the Procurement Technical Assistance Center (FPTAC) is funded through federal and state agencies to aid Florida firms interested in doing business with the government. • Business Continuity and Risk Management <ul style="list-style-type: none"> • The purpose of the BCRM is to ensure businesses statewide have proper education, training and assistance in business continuity planning and risk management technical assistance to minimize losses and increase survivability when affected by natural and/or man-made disasters. • Small Business Resource Network <ul style="list-style-type: none"> • For information and assistance outside the FSBDC's scope, the Small Business Resource Network (SBRN), a public-private partnership of the Florida SBDC Network and member firms, is a free information clearing-house to connect small businesses with government and non-profit agencies and the fee-for-service professional expertise they need to achieve their business goals. SBRN professionals assist in the areas of accounting, banking and commercial lending, finance, insurance, law,
--	--	--	--	--	--	---

Chapter XI

Race Neutral Analysis

						human resources, marketing, management, technology and other business consulting areas.
Florida Business Development Corporation	Miami-Dade			x		<ul style="list-style-type: none"> • FBDC is a private, non-profit Certified Development Company and was established in 1989 to administer the SBA 504 Program. FBDC serves Florida, Georgia and Alabama. Its purpose is to assist healthy, growing small businesses, secure long-term, below market, fixed-rate financing for acquisition of fixed assets. • Loan Products: <ul style="list-style-type: none"> • SBA 504 Loan Program • VetLoans • Direct Loan Funds
Miami/Ft. Lauderdale MBDC	Miami-Dade Broward	X	x	x	x	<ul style="list-style-type: none"> • The Minority Business Development Agency is dedicated to becoming an entrepreneurially focused and innovative organization, committed to empowering minority business enterprises for wealth creation. The MBDA Business Center located in Miami, Florida is operated by the M. Gill & Associates, Inc. The center is part of a national network of funded centers located in major cities throughout the United States. The center works with minority business enterprises to generate increased financing and contract opportunities and to create and retain jobs. The Miami MBDC generated \$190 million in contracts and capital in FY 2013, as well as created and retained over 900 jobs. • <i>Services offered include:</i> <ul style="list-style-type: none"> • Sourcing of Government & Commercial Contracts • Sourcing of Project & Investment Financing • Construction & Engineering Services • Sourcing of Bond Financing • Business & Strategic Plan Development • Financial Analysis & Loan Packaging • Marketing Research * Feasibility Studies • Market Plan Development • Export Marketing Services • Bid Preparation Services • Small & Minority Business Certification Services • Federal Procurement Training

Chapter XI

Race Neutral Analysis

						<ul style="list-style-type: none"> • Executive Coaching for Small Businesses • M/WBE Business Conferences • Coordination & Hosting of 828 Matchmakers
SCORE	Miami-Dade	X	x			<ul style="list-style-type: none"> • Offers mentorship programs and expert resources to entrepreneurs and small business owners looking to grow their business. Miami-Dade chapter’s network of more than 100 business professionals are ready to help with free mentoring, expert workshops, and carefully crafted executive programs to give your business the fuel it needs to thrive. • SCORE is a resource partner with the U.S. Small Business Administration (SBA) and has been mentoring small business owners for more than forty years. SCORE is a valuable network of 13,000+ volunteers who offer small business entrepreneurs confidential business counseling services at no charge. SCORE volunteers represent over 3,000 years of experience across 62 industries. • SCORE also provides local workshops and events throughout the country to connect small business owners with the people and information they need to start, grow, and maintain their businesses, as well as online workshops. SCORE provides resources, templates and tools to assist entrepreneurs in developing tools and plans they need to navigate their way to small business success. SCORE also has a mentoring program where participants will be assigned an experienced mentor. • Founded in 1964, SCORE is headquartered in Herndon, VA and has 364 chapters throughout the United States and its territories, with over 13,000 volunteers nationwide.
South Florida Regional Planning Council	Broward	x	x	x		<ul style="list-style-type: none"> • The South Florida Regional Planning Council (SFRPC) exists as a response to area wide or regional circumstances and needs. The RPCs were created by voluntary interlocal agreements (most commonly under 163.01, Florida Statutes), which created a consistent geographic framework within which planning and technical assistance activities could be developed and implemented. The general purpose of the South Florida Regional Council is articulated in its mission, which is to identify the long-term challenges and opportunities facing Southeast Florida and assist the Region’s leaders in developing and implementing creative strategies that result in more

Chapter XI

Race Neutral Analysis

						<p>prosperous and equitable communities, a healthier and cleaner environment, and a more vibrant economy.</p> <ul style="list-style-type: none"> • Services Provided <ul style="list-style-type: none"> • GIS/Mapping • Data Center • Dispute Resolution • Visioning • Programs • Economic Development and Finance—Resolving Loan Fund, Comprehensive Economic Development Strategy, The Brownsfield Partnership • Emergency Prepared and Resilience • Regional Convening • Technical Assistance—Data Common, Strategic Regional Policy Plan, Local Government Comprehensive Plan Reviews, Turkey Point Expansion, Intergovernmental Coordination and Review, Developments of Regional Impact • Transportation and Alternative Fuels
<p>Southern Florida Minority Supplier Diversity Council</p> <p>NAME CHANGED TO: Florida State Minority Supplier Development Council (FSMSDC)</p>	Miami-Dade	x	x	x		<ul style="list-style-type: none"> • Florida State Minority Supplier Development Council (FSMSDC) is an affiliate of the National Minority Supplier Development Council (NMSDC). The NMSDC network includes a national office in New York and thirty-six regional councils across the country. The organization comprises more than 16,000 minority-owned businesses with 3,500 corporate members, including most of America's largest publicly-owned, privately-owned and foreign-owned companies, as well as universities, hospitals and other buying institutions. The mission of the NMSDC is to provide increased procurement and business opportunities for minority businesses of all sizes. MBE certification with the NMSDC/ SFMSDC is honored nationwide. • The SFMSDC provides support to corporate members and MBE affiliates from three offices in Miami-Dade, Broward and Palm Beach counties. Our service area includes Miami-Dade, Broward, Palm Beach, Monroe, Collier, Martin, St. Lucie, Lee, Hendry, Glades, Charlotte, Sarasota, Desoto, Highlands, Manatee, Hardee and Okeechobee Counties. • The Council's main function is to register and certify minority-owned businesses. The process ensures that these businesses are 51 percent

Chapter XI
Race Neutral Analysis

						<p>minority-owned and operated in accordance with the guidelines set by the National Minority Supplier Development Council.</p> <ul style="list-style-type: none"> • Programs offered by FSMSDC and activities in which members are engaged included the following: <p>Technical Assistance & Capacity Building Services</p> <ul style="list-style-type: none"> • Miami MBDA Business Center • Technical Assistance Program (TAP) • Business Resource Lab • NMSDC Central • FDOT DBE Specialized Development Program <p>Loan Programs</p> <ul style="list-style-type: none"> • Loan Programs • Business Consortium Fund (BCF) <p>Educational Resources</p> <ul style="list-style-type: none"> • Broward College • Marlin Cano Kellogg Advanced Management Education Scholarship Program <p>MBE Input Committee</p> <ul style="list-style-type: none"> • Industry Groups <p>Events</p> <ul style="list-style-type: none"> • Annual Business Expo • Annual Awards Gala • PowerNets • Symposium • Special Events <p>Other Services</p> <ul style="list-style-type: none"> • MBE Premium Subscription • Partners in Business Progress Mentor Protégé Program • Doing Well While Doing Good® • Connection Newsletter
--	--	--	--	--	--	---

Chapter XI

Race Neutral Analysis

BAC Funding Corporation	Miami- Dade	x	x	x	<ul style="list-style-type: none"> • BAC Funding Corporation provides loans and enters joint venture financing agreements with established, African-American owned businesses in South Florida, including Miami-Dade, Broward, and Palm Beach Counties. <ul style="list-style-type: none"> • Traditional Loan Funds • Franchisee Financing Fund • Emerge Fund for infrastructure and business expansion and • Community Growth Fund for projects tied to revitalization of South Florida’s neighborhoods. • BAC has partnered with the Greater Miami Chamber of Commerce and Miami-Dade College to help place 37,000 persons in non-subsidized employment through the Job Assistance Center and has conducted six (6) matchmaker seminars responsible for over \$10 million in procurement contracts for over 200 African-American enterprises. • Over the last twelve (12) years BAC’s loan portfolio has averaged a gross return of 14.94%. BAC’s loan portfolio yielded a gross return of approximately 14.38% and 15.78% in 2007 and 2008, respectively. • In its twenty-seven (27) year history, BAC has disbursed nearly \$50 million in loans or equity funds to enterprises located in South Florida. • BAC disbursed over \$1.8 million in 2008, funding over fifty (50) businesses, fourteen (14) of which are owned or co-owned by women. • Over the past several years BAC has assisted its clientele base in giving rise to over \$40 million in annual revenue. In 2005, BAC’s loan clients produced over \$10 million in annual revenues. • Since 1982, BAC has administered over 500 investments of which forty percent (40%) were in Enterprise Zones. • Currently, BAC’s cumulative clientele base gives rise to over 400 jobs located in the South Florida community. • Created sustainable value and wealth in South Florida’s African-American community by developing and managing the \$33.5 million MLK Transit Station Development Complex. The management, operation and restaurant expenses represent additional revenues streams for minority businesses of approximately \$2 million per year over the next thirty (30) years. <p>Below are some benefits the MLK Development Center brings to the community:</p>
-------------------------	-------------	---	---	---	---

Chapter XI

Race Neutral Analysis

						<p>Accommodates 800 employees who contribute to the local economy.</p> <p>Created more than 200 temporary construction jobs.</p> <p>Provides ten (10) permanent jobs, five (5) for area residents.</p> <p>Has increased ridership on Metro-Rail.</p> <p>Renovations and repairs of the garage will save an estimated \$500,000 currently being spent to maintain the facility.</p>	<p>Miami-Dade County will not encumber its borrowing capacity for the new facility.</p> <p>30% of the tax-exempt bond financing funds spent went to Black Businesses.</p> <p>72% of predevelopment services went to Black Architects and Engineers.</p> <p>45% of Construction and Developers Fee went to Black contractors and material suppliers.</p> <p>60% of Building Management and Maintenance contracts has gone to Black businesses.</p>
Contractors Resource Center	Miami-Dade	X				<ul style="list-style-type: none"> The Contractors Resource Center (CRC) is a Business Services firm that helps contractors Start, Maintain and Grow a profitable construction businesses. For over 10 years, the resource team at CRC has worked with and helped thousands of contractors improve profits and reduce costs. 	
Working Capital Florida Now National Funding				x		<ul style="list-style-type: none"> National Funding serves the small business community nationwide by offering a range of financial services and products. Since 1999, they have been in the forefront of the equipment leasing business, working with businesses in hundreds of communities and industries to expand and upgrade their business equipment. One of the country's largest private lenders of small business loans. Customers call to get working capital, merchant cash advances, credit card processing, and, of course equipment leasing. 	

Chapter XI

Race Neutral Analysis

Agency/Organization		Type of Community and Economic Development Organization				Support Services
Organization's Name	County	Ethnic Chamber	Other Chamber	Community Development	Economic Development	Services and Available Metrics
Community and Economic Development Organization						
Broward Alliance (Greater Ft. Lauderdale Alliance)	Broward		x		X	<ul style="list-style-type: none"> • Focuses on creating, attracting, expanding and retaining high-wage jobs and capital investment in high value targeted industries, developing more vibrant communities, and improving the quality of life for its area's citizens • The Four Foundations of our economic development services are: <ul style="list-style-type: none"> • Marketing and Promoting Broward County • Managing Expansion, Relocation and Retention Projects • Conducting and Providing Market Research & Business Intelligence • Securing and Enhancing Private/Public Leadership & Investment • From 2007 to 2016, the Alliance, working with its members, Broward County and other partners helped create or retain 25,000 direct jobs that are estimated to generate through direct, indirect and induced effects: • Total employment of approximately 55,000 jobs in Broward County • \$2.1 billion in annual personal income in Broward County • \$11 billion in annual economic impact in Broward County
Carras Community Investment	Broward				X	<ul style="list-style-type: none"> • Services include the preparation of Consolidated Plans and Analyses of Impediments to Fair Housing studies that are required by the U.S. Department of Housing and Urban Development relative to receipt of federal funds such as Community Development Block Grants. • Clients have included Miami-Dade County, City of Fort Lauderdale, West Palm Beach, Coral Springs, Miami Beach and

Chapter XI

Race Neutral Analysis

						<p>Pompano Beach. The firm also has an ongoing working relationship with the Town of Davie over the past seven years:</p> <ul style="list-style-type: none"> ▪ Prepared a Housing Needs Assessment and Mobile Home Task Force report (2008) ▪ Prepared an NSP 2 application to HUD (2010) ▪ Prepared the 2011 to 2015 Town of Dav
Chamber South	Unincorporated Miami-Dade		x			<ul style="list-style-type: none"> • Strive to improve the lives of citizens by enhancing their economic welfare. Act as a leading advocate for businesses by stimulating growth and shielding local economies from deterioration. Provide members with various networking events, information updates, and discounted services. • The governmental affairs committee works diligently to inform lawmakers at all levels about the impact their initiatives have on our citizens. Their participation in the school based KAPOW program has helped it to achieve National recognition in reducing juvenile violence. • Chamber South also serves the business community through direct benefits such as networking opportunities and updates on important issues. Additionally, they address the expense side of their business by bundling the buying power of more than 1,200 representatives. This allows them to negotiate price discounts on things like health and dental insurance, long distance, office supplies, overnight shipping and more.
Community Redevelopment Associates of Florida	Miami-Dade			x	X	<ul style="list-style-type: none"> • Committed to making lives better by providing services that make communities great places to live, work and raise families. Provides federal and state grant administration and urban and regional planning. • CRA has administered and/or provided direct services to seventeen municipalities and counties in Florida with respect to the Community Development Block Grant (CDBG), Home Investment Partnership (HOME) and State Housing Initiatives Program (SHIP) programs.

Chapter XI

Race Neutral Analysis

						<ul style="list-style-type: none"> • CRA developed and implemented affordable housing programs that have been approved by Fannie Mae, FHA, the Florida Housing Coalition, and HUD. These housing programs are currently administered in various cities that receive federal and state funding. • CRA consistently maintains above-average HUD timeliness ratios for the expenditure of federal dollars. • CRA has an established lenders consortium dedicated to working with first-time homebuyers in South Florida. • CRA has overseen more than 2000 homes either rehabilitated or purchased in the last fourteen years as part of our administration of residential rehabilitation and purchase assistance programs. • CRA is actively involved in policy-making activities with the State of Florida. • CRA has worked administratively for projects such as Sunrise’s Sunset Strip Commercial Revitalization Project, Miramar Athletic Park Improvement Project, Pembroke Pines Children’s Harbor Project, the development of the Lauderdale Lakes Community Redevelopment Area Plan, among others. • CRA completed the 2004 South Broward County Annexation Study which examined the feasibility of the creation of a new municipality (West Park) in Broward County.
Metro Broward Economic Development Corp	Broward				X	<ul style="list-style-type: none"> • Serves as a catalyst for the growth and expansion of small businesses in Broward County, by injecting them with mentoring and growth capital — with the near-term expectations of job creation and the establishment of a lending relationship with a conventional lender. Its success is due to the continued investments and support from our banking partners, private sector investors, state and local government and our clients.
Miami Dade Economic Advocacy Trust	Miami-Dade			x	X	<ul style="list-style-type: none"> • The Miami-Dade Economic Advocacy Trust is committed to ensuring the equitable participation of Blacks in Miami-Dade County's economic growth through advocacy and monitoring

Chapter XI

Race Neutral Analysis

						<p>of economic conditions and economic development initiatives in Miami-Dade County. Prosperous neighborhoods are made of citizens that have equal access to the necessities that can assist them with changing their current condition and begin creating a better quality of life.</p> <ul style="list-style-type: none"> All citizens should have equal access to <ul style="list-style-type: none"> economic development funds, adequate education, fairness in the criminal justice system, availability of funds for business ventures and/or employment opportunities, affordable health care, decent housing, and the sensitivity of the public and private sectors to bring about the systemic change necessary to quell the illusion of inclusion.
South Florida Community Development Coalition	Miami-Dade			x	X	<ul style="list-style-type: none"> SFCDC’s mission is to expand the capacity of the community development field to develop affordable housing and economic opportunities for low- and moderate-income individuals while promoting collaborative, inclusive policy and practice to invest in people, neighborhoods and social capital throughout Miami-Dade County. Capacity Building & Training--SFCDC provides group trainings, one-on-one technical assistance and capacity building tailored to affordable housing, the community development field. Our training programming focuses on topics that address affordable housing, community economic development finance, economic development, community revitalization and nonprofit organizational capacity development. These training opportunities are structured to primarily benefit nonprofit organizations, community development professionals and local government but are open to all seeking to expand their knowledge in various aspects of community and economic development. Trainings are offered in group

Chapter XI

Race Neutral Analysis

						<p>settings and webinars as organized and/or facilitated by SFDCDC.</p> <ul style="list-style-type: none"> • Technical Assistance and Consultant Services--SFDCDC provides technical assistance to nonprofits, local government and for-profit entities. If you require specific technical assistance on a community development topic, or if you have questions about the administration of federal or state grant programs please contact us. We have experience in planning, program development and monitoring these funding sources. • Policy Research & Advocacy--SFDCDC conducts policy research and advocates for policies that lead to more effective community development investment, accountability and oversight, programs and impact. SFDCDC members use their voice and expertise help shape public policy through our housing and economic development policy committees. The committees are staffed by SFDCDC and chaired by a SFDCDC board member and/or general member. SFDCDC members recommend top advocacy/legislative issues for the year and the organization strives to achieve those objectives through local, state, and federal advocacy. The committees support SFDCDC's Board of Directors and executive team's advocacy work. • Facilitating Partnerships--SFDCDC facilitates partnerships by creating opportunities for members and strategic partners to engage with each other. We build partnerships through: <ul style="list-style-type: none"> ○ Convening around issues relevant to the field and necessary to develop comprehensive community development programs and strategies. ○ Outreaching to community-based organizations. ○ Providing opportunities for SFDCDC members to network with each other and to introduce individuals who are working to expand affordable housing, create economic opportunities and develop vibrant communities.
--	--	--	--	--	--	--

Chapter XI

Race Neutral Analysis

						<ul style="list-style-type: none"> ○ Partnering with our diverse and growing member organizations and individual members to advocate policies, organize events and implement programs. ● In addition to our traditional training and capacity building programming, in 2014 SFCDC expanded its services by co-designing and co-facilitating Community Scholars in Affordable Housing with the University of Miami Office of Civic & Community Engagement, University of Miami School of Education and Human Development and Catalyst Miami. The program is in its 3rd cohort. To learn more about the program click here Community Scholars in Affordable Housing Program. ● In 2015, it co-designed the Miami Thrives Community of Practice with Catalyst Miami, University of Miami Office of Civic & Community Engagement, University of Miami School of Education and Human Development, and Neighborhood Housing Services of South Florida. The program works with organizations and coalitions to solve performance challenges and promote greater impact.
The Beacon Council	Miami-Dade				X	<ul style="list-style-type: none"> ● The Beacon Council offers economic and business development services that support a strong and sustainable future for Miami-Dade County. ● Business Assistance--The Beacon Council provides customized assistance to companies that are looking to expand or relocate in Miami-Dade County. ● Advocacy--The Beacon Council markets Miami-Dade County locally, nationally and globally to raise the region's profile as a highly desirable business destination. ● Incoming Delegations--To welcome international leaders to Miami-Dade County, The Beacon Council hosts receptions,

Chapter XI

Race Neutral Analysis

						<p>seminars and networking events for delegations from key international locations.</p> <ul style="list-style-type: none"> Local Business Local Jobs--The Beacon Council's Local Business Local Jobs program assesses and addresses the needs of Miami-Dade County businesses and supports the creation of new jobs in the community. Economic Development Missions & Trade Shows--The Beacon Council promotes Miami-Dade County through an active national and international program of economic development missions and participation in industry trade shows and conferences. Research--The Beacon Council's Research Department creates customized reports on Miami-Dade County to help companies make sound business decisions. These reports may include demographics, firms by major industry, employment by industry, percent distribution of employment and wages, international business, international transportation, population, households, income and quality of life.
Camacol Latin Chamber of Commerce	Miami-Dade	x				<ul style="list-style-type: none"> The Latin Chamber of Commerce of the United States, CAMACOL is the largest Hispanic business organization in the State of Florida and one of the most influential minority business groups in the United States. The program was created in 1987 to address the needs of Florida's small and minority business community. This program serves to establish and strengthen ties between Florida's export community and counterparts in the international trade arena throughout the Latin American and Caribbean Basin region, the European Union, Africa and the Orient. The program sponsors a wide variety of traditional and non-traditional business development activities and initiatives which include: the CAMACOL web site; the promotion and dissemination of up-dated trade leads; outreach and referral services; technical and referral to sources of financial assistance; periodic seminars and workshops; business card exchanges and networking events; hosts and incubator

Chapter XI Race Neutral Analysis

						<p>center for export development and; sponsors the Exhibition of Florida Export Products Florida Pavilion in conjunction with the Hemispheric Congress of Latin Chambers of Commerce and Industry, an international event which has been sponsored and coordinated by the Latin Chamber of Commerce, CAMACOL for over 30 years in the city of Miami, Florida.</p> <ul style="list-style-type: none"> • The Florida Trade and Exhibition Center also sponsors and participates in trade and commercial missions, on-going and incoming, in accordance with Florida’s trade strategies. • Currently, this program is working diligently to foster support for innovative industries in Florida, such as film and entertainment. This initiative will bring new opportunities and will generate new sources of employment to the area.
Coral Gables Chamber of Commerce	Miami-Dade		x			<ul style="list-style-type: none"> • The Coral Gables Chamber of Commerce’s primary mission is to foster and enhance the economic interests and quality of life in the Coral Gables community. The Chamber is comprised of businesses and professionals whose goal is to expand the local economy. The Chamber hosts a variety of events each month, creating an opportunity for business leaders to network, connect and strengthen their relationships.
Coral Springs Chamber of Commerce	Miami-Dade		x			<ul style="list-style-type: none"> • The Chamber’s primary objective is to create a climate of growth and success in which all businesses in Coral Springs and surrounding areas can prosper regardless of size or industry. Through advocacy efforts the Chamber represents the voice of business in the Coral Springs region. The Chamber also provides leadership opportunities and business building initiatives that focus on the critical priorities of business in the local area. It offers a wide array of networking and educational programs designed to promote business as well as serving as a resource for businesses.
Doral Business Council	Miami-Dade		x		X	<ul style="list-style-type: none"> • The Council’s mission is to be the leading advocate for economic development and business promotion in the City of Doral.

Chapter XI

Race Neutral Analysis

						<ul style="list-style-type: none"> • Works to find and/or expand relationship building opportunities and strategic alliances. Provide business advocacy on behalf, and for the benefit of their members. • Creates an environment of networking that will help participants expand their professional and workforce development, as well as provide them with promotional and marketing opportunities.
Greater Ft. Lauderdale Chamber of Commerce	Broward		x		X	<p>Since 1910, the Greater Fort Lauderdale Chamber of Commerce has been committed to serving the business community and helping to promote future economic growth and development. It offers the following services to its members:</p> <p>Membership Services</p> <ul style="list-style-type: none"> • Generate solid leads and business contacts for members through increased participation in networking programs (Business Perks, Business After Hours, and Area Council Luncheons) • Expand potential business opportunities for members from diverse backgrounds • Increase participation in Chamber activities to expand the network of business owners and executives • Increase participation in Leadership Fort Lauderdale and create a network of business-friendly leaders for local elected positions and boards <p>Small Business</p> <ul style="list-style-type: none"> • Provide special member incentives on important products and services through the Membership Advantage affinity program • Provide business-to-business marketing opportunities for members through Business After Hours and other business showcase events • Establish business relationships between small business members and purchasers from large corporations and state government at Meet the Purchasers events

Chapter XI

Race Neutral Analysis

						<ul style="list-style-type: none"> Promote business and professional growth by recruiting speakers to provide timely messages for members through the Business Institute program Recognize successful entrepreneurial companies <p>Government Affairs</p> <ul style="list-style-type: none"> Build communication and relationships with local, county and state Legislative Delegations Strengthen our community's reputation as a travel and tourism market by supporting existing travel and tourism industries and promotional programs Support key legislative issues that benefit greater Fort Lauderdale, Broward County, and surrounding South Florida regions <p>Education</p> <ul style="list-style-type: none"> Strengthen public trust in and support for our school system Host Educational Forums to encourage community feedback on issues that directly affect education in Broward County Provide more support and resources for Broward County schoolchildren and facilitate business partnerships with Broward County Public Schools <p>Economic Development</p> <ul style="list-style-type: none"> Facilitate and improve environments for the establishment of new business opportunities Assist in the creation of marketing campaigns for new industry. Increase focus on international business development Improve communications for relocation inquiries of individuals and businesses Market our area to site consultants and inquiring companies more effectively
--	--	--	--	--	--	---

Chapter XI

Race Neutral Analysis

						<ul style="list-style-type: none"> Secure new projects involving headquarters and central administrative offices projects by increasing contacts with nationally based real estate companies and site location consultants Assist in the retention and expansion of existing businesses by the development of our skilled workforce Expand use and availability of the Greater Fort Lauderdale Chamber of Commerce web site. <p>Membership Development</p> <ul style="list-style-type: none"> Provide additional financial support for member programs and services by expanding the membership base and increasing professional sales programs Increase resources for department goals by providing fundraising support through affinity products, events sponsorships and joint ventures with other organizations Provide members with unique networking events and increase access to new markets
Greater Miami Chamber of Commerce	Miami-Dade		x		X	<p>For more than a century the Greater Miami Chamber of Commerce has been a social and economic engine guiding the region from a small seaside community to a global business and finance hub of the 21st Century.</p> <p>Programs</p> <ul style="list-style-type: none"> Americas Linkage-- The Chamber organizes a series of outbound and inbound missions to and from select markets around the world facilitating business ties between Florida, Latin America, and the Caribbean. Consular and Trade Representatives-- The Consular & Trade Representatives outreach program is designed to better integrate Consuls General and Foreign Trade Representatives into the South Florida business community.

Chapter XI

Race Neutral Analysis

					<ul style="list-style-type: none"> • HR Insights-- The Chamber's Professional & Workforce Development Committee has designed programming for small business owners, executives and HR professionals that offers a stimulating and informative forum highlighting topics that support business strategies with HR related resources. • Leadership Miami-- The program offers participants the opportunity to meet Miami's leaders and to share an intensive learning experience that focuses on community issues and leadership skills through a planned process of lectures, seminars, small group discussions and leadership skills exercises. • Senior Executive Orientation-- designed to help newly relocated or newly promoted executives and their spouses have a memorable and informative transition. • Washington, D.C. and Tallahassee-- The Chamber's Governmental Affairs Group undertakes various trips throughout the year to engage the state legislature, members of U.S. Congress and their staff, and state and federal agencies on issues outlined in the Chamber's Legislative Package. <p>Accomplishments</p> <ul style="list-style-type: none"> • Invested in programs to improve the quality of life in our community. The Greater Miami Chamber provides unique opportunities for members through committee involvement, educational seminars, member-to-member programs, new market development trips, advertising and sponsorships, networking receptions and special events -- in all more than 200 events each year. • Helps members grow, improves and protects their businesses. It is dedicated to building the best environment for business in the Americas and committed to improving the economic vitality of South Florida by educating and advocating for solutions to members' business needs. • Following the economic downturn resulting from the September 11 attacks, the Chamber established the Economic
--	--	--	--	--	---

Chapter XI

Race Neutral Analysis

						<p>Recovering Task Force, which fast-tracked \$500 million in county funds for various public projects. It also secured Congressional authorization for the \$8 billion, 20-year Comprehensive Everglades Restoration Plan (CERP) as well as \$1 billion from the State of Florida for Everglades land acquisition.</p> <ul style="list-style-type: none"> The Chamber’s Americas Linkage program, meanwhile, made a historic trip when it headed to Toronto and Montreal, Canada for its first mission in North America facilitating business development opportunities with our neighbors to the north. The Chamber also spearheaded a joint effort with the Greater Miami Convention & Visitors Bureau to market Miami as an international healthcare destination and the ideal place for medical procedures and recuperation. In transportation, the Chamber engaged with the Central Florida Partnership and the Tampa Bay Partnership to support high speed rail lines that would connect Greater Miami with Orlando and Tampa. The project would significantly enhance the vitality, quality of life and economic development of Florida that could lead to an innovative, shovel ready project that reflects the intent of the Obama administration’s Economic Stimulus. As a not-for-profit organization primarily funded by its membership, the Greater Miami Chamber of Commerce is a direct reflection of Greater Miami's abundance of small-to-mid-sized businesses and its ethnically diverse community. The Chamber is a thriving organization with over 5,000 dedicated volunteers. As an activist chamber with a social conscience and a history of assuming authoritative roles, it continues to serve its membership and the community responsibly.
Greater Miami Gardens Chamber of Commerce	Miami-Dade		x		X	<ul style="list-style-type: none"> The Chamber is dedicated to making the City of Miami Gardens a destination location for businesses to invest, grow and expand.

Chapter XI Race Neutral Analysis

						<ul style="list-style-type: none"> Provides professional development, access to working capital and resources to ramp up in the digital environment.
Haitian American Chamber of Commerce	Broward & Palm Beach	x			X	<ul style="list-style-type: none"> The Haitian-American Chamber of Commerce serves as the advocate for the community as well as resource for consumers and business dedicated to serving both the needs of its members and the economic development needs of the broader Haitian Community. Aims to help businesses find resources to strengthen and expand their business and in doing so extend the life of their business. Strategically manage Haitian interests locally and internationally for economic stability.
Hialeah Chamber of Commerce & Industries	Miami-Dade	x				<ul style="list-style-type: none"> The Hialeah Chamber of Commerce was founded to promote and assist Hispanic owned local businesses & works to enhance the economic engine in Hialeah.
Key Biscayne Chamber of Commerce	Miami-Dade		x			<ul style="list-style-type: none"> Its goals are to help its members find success; be a comprehensive resource center; make the Village of Key Biscayne the community of choice to live, work, and play; promote Key Biscayne as a tourist destination; strengthen the partnership between the, residents, business community, Village government and agencies; create, inspire and facilitate community leadership; and foster a business climate that promotes integrity and excellence in all endeavors.
Miami Beach Latin Chamber of Commerce	Miami-Dade	x				<ul style="list-style-type: none"> Promotes the economic vitality of Miami Beach as a model of success; offer networking exchanges between U.S. marketplace and Hispanic entrepreneurs; combine a regional strength and presence of Hispanic Americans in the American mainstream; and be a service arm for tourism industry with an accredited Visitor Information Center.
Miami Dade Black Affairs Advisory Board	Miami-Dade			x		<ul style="list-style-type: none"> Advocate for the social, economic, political and educational needs of the diverse Black World Community in Miami-Dade County, while advancing the quality of life for these residents in a dedicated and responsive manner.

Chapter XI

Race Neutral Analysis

Miami Dade Chamber of Commerce	Miami-Dade	x				<p>The Miami-Dade Chamber of Commerce was founded in 1974 by a group of Black businessmen out of a need for a strong organization that could objectively advocate the needs of a growing Black business community. Understanding that membership is the life blood of the Chamber they have focused on the needs of the membership through education, advocacy, networking, and creating opportunities in both the private and public sectors.</p> <ul style="list-style-type: none"> • Provide leadership & leverage its influence, while creating avenues to build and sustain wealth for their members. • Focused on creating sustainable wealth and prosperity within communities of color. <p>Services:</p> <ul style="list-style-type: none"> • Technical assistance in business development operations; • Promotion of trade missions throughout the globe; • Networking opportunities at business related forums; • Leaders exchange events; • and Business stimulated projects and activities. <p>Signature Events</p> <ul style="list-style-type: none"> • Corporate Business Symposium, Young Entrepreneurs Summit and Luncheon – The Symposium focuses on the state of the black business community. The Young Entrepreneurs Summit focuses on the challenges and opportunities of young entrepreneurs in South Florida. The symposium and summit are facilitated through morning and afternoon breakout sessions. The luncheon recognizes the Corporate Business of the Year, Small Business of the Year, The Rising Star, and Board Member of the Year, with a Keynote speaker.
--------------------------------	------------	---	--	--	--	--

Chapter XI

Race Neutral Analysis

						<ul style="list-style-type: none"> • Annual Awards Gala – A Black Tie Affair, recognizing three outstanding individuals in the following areas. The H. T. Smith Lifetime Achievement Award, The Community Service Award, and The Outstanding Citizen Award. This event is held the first Saturday in the month of December. • The Lunch and Learn Series – The Lunch and Learn Series provides the Chambers membership the opportunity to learn from public and private entities about upcoming opportunities, during the lunch hour once a month. • The Dorothy Baker Annual Golf Tournament – In recognition of the long-standing President Dorothy Baker, and her love of the game, the annual event is a fundraising mechanism supporting the Chambers on going mission. • Women’s Business Council Hat & Tea Luncheon (WBC) – Supporting and recognizing women owned businesses.
Miami Dade Gay and Lesbian Chamber of Commerce	Miami-Dade	x				<ul style="list-style-type: none"> • Promote networking within the existing gay and gay-friendly business and professional community, to promote business opportunities for Chamber members, to promote Miami as a year-round, gay and gay-friendly tourist destination, to provide resources for our members, and to provide outreach from our community to other organizations.
Miami Lakes Chamber of Commerce	Miami-Dade		x		X	<ul style="list-style-type: none"> • Promote the business and economic interests of the members, • Promote the general economic welfare of the Town of Miami Lakes, • Promote and facilitate business, professional and social relations and cooperation among members, and • Promote educational seminars and conferences for the improvement of the members and the betterment of the Town of Miami Lakes.
Minority Chamber of Commerce	Broward, Palm Beach, Orange, Monroe and	x			X	<ul style="list-style-type: none"> • The primary purpose of the Minority Chamber is advancing the commercial, financial, industrial, educational,

Chapter XI

Race Neutral Analysis

	Miami-Dade					<p>preservation, and civic interest of the Minority business community.</p> <ul style="list-style-type: none"> • Current on-going programs include: educational management seminars and workshops, financing option information, marketing services, referral services, networking opportunities, MBE/WBE city/state requirements, contract bid and planning room, emergency preparedness activities, trade missions, job fairs, and attractions of the urban core.
Opa-Locka Business Chamber of Commerce	Miami-Dade		x	x	X	<p>Work to identify and better meet the changing needs of member businesses for commerce through:</p> <ul style="list-style-type: none"> • Networking and Referral. Ongoing programs and special activities that publicize, promote, and refer member businesses to our community and to one another. • Education. Support in and for our youth’s education which challenges and equips them for growth and greater success. • Community Revitalization. Promote, encourage and foster improvement of the community’s quality of life through recreational and beautification efforts. • Business Promotion. Community projects and events which showcase member businesses and by their involvement link them to the community. • Governmental Action. Representing member business concerns and interests before local, state, and federal government; providing information, communicating the facts, and coordinating action on behalf of member businesses. • Building Leadership. Achieving community leadership with strong business perspective.
South Dade Chamber of Commerce (formerly Homestead/Florida City Chamber of Commerce)	Miami-Dade		x			<p>Strengthen the economy of South Miami-Dade and enhance the quality of life for its residents and visitors through programs of voluntary action to preserve and protect the American system of free competitive enterprise; and to advance the economic, civic educational, cultural and social well-being of the South Dade community.</p>

Chapter XI Race Neutral Analysis

South Florida Hispanic Chamber of Commerce	Miami-Dade	x			X	<ul style="list-style-type: none"> • The Chamber promotes the continued growth and development of the Hispanic business community and serves as a resource center and forum to advocate for Hispanic and Minority owned businesses. The organization is comprised of dedicated professional individuals and business owners who have come together to advance the commercial, financial, educational and civic interests of the ever-growing Hispanic Community of South Florida. The Chamber has three economic development programs: Minority Business Programs, Youth Entrepreneurship Program and Education Enhancement Program. • Minority Business Program is a micro-enterprise assistance program funded in part by the City of Miami Beach and Miami-Dade County. The Minority Business Centers provides free services to small business owners who are interested in starting or expanding a micro-enterprise, which include: <ul style="list-style-type: none"> • Technical Assistance • Training and Education • Incubator/Mentorship Program • How to start a Business <ul style="list-style-type: none"> • Information on filing corporate documents • Information on how to obtain licenses & permits to operate a business • Researching funding sources • Learning about procurement opportunities • Tapping into effective personnel management techniques • Developing and designing a marketing plan
Women's Chamber of Commerce of Miami-Dade County	Miami-Dade	x				<ul style="list-style-type: none"> • Facilitates the advancement of women in Miami-Dade County by fostering meaningful business relationships among members, delivering unique educational programs, and hosting creative member events. • The WCC's goal is to harness the power of women professionals throughout Miami-Dade County and provide

Chapter XI Race Neutral Analysis

						<p>forums of empowerment where women can support each other in all aspects of business.</p> <ul style="list-style-type: none">• The WCC serves as a bridge to connect other professional and industry related organizations, creating one voice for all women in our County.
--	--	--	--	--	--	--

Chapter XI

Race Neutral Analysis

Trade Organizations, Business Associations and Other Advocacy Groups					
Agency/Organization		Type of Trade Organization, Business Associations or Other Advocacy Groups			Support Services
Organization's Name	County	Trade Organization	Business Association	Other Advocacy Groups	Services and Available Metrics
American Institute of Architects		x			<ul style="list-style-type: none"> The focus of AIA is to: <ul style="list-style-type: none"> Empower architects and design professionals to do their best work. Advocate for the value of architecture. Inspire and educate the industry by offering hundreds of courses each year. Promote diversity in design, in the profession and in the workplace. Collaborate with innovative partners to create and offer new resources to help our members work smarter and better.
Associated Builders and Contractors (ABC)	Broward	x			<ul style="list-style-type: none"> Associated Builders and Contractors (ABC) is a national construction industry trade association representing nearly 21,000 chapter members. Founded on the merit shop philosophy, ABC and its 70 chapters help members develop people, win work and deliver that work safely, ethically, profitably and for the betterment of the communities in which ABC and its members work. ABC's membership represents all specialties within the U.S. construction industry and is comprised primarily of firms that perform work in the industrial and commercial sectors. Services provided include the following: Government representation, legal advocacy, education, workforce development, communications, technology, recognition through national and chapter awards programs, employee benefits,

Chapter XI Race Neutral Analysis

					information on best practices, and business development through an online contractor search directory.
South Florida Association of General Contractors	Miami-Dade	x			<ul style="list-style-type: none"> The Associated General Contractors of America (AGC) is the leading association for the construction industry. AGC represents more than 26,000 firms, including over 6,500 of America’s leading general contractors, and over 9,000 specialty-contracting firms. More than 10,500 service providers and suppliers are also associated with AGC, all through a nationwide network of chapters. The South Florida Chapter focuses on the following areas for its members: <ul style="list-style-type: none"> Legal Action Community Relations Technology Supervisory Training Program (STP) Safety Government Relations Documents- AGC Contract Documents Signage Other signs
Broward County Minority Builders Coalition	Broward	x			<ul style="list-style-type: none"> The mission of the Minority Builders Coalition is to ensure that highly skilled minorities and women are fairly represented within the local, state and global construction industry. It works with small, mid-size and large minority businesses to meet their goals, expand their horizons and improve communities. The Broward County Contractors’ Resource Center (BCCRC) was developed to assist minorities, women, veteran and certified firms to obtain contracts in construction and related sectors, to create jobs, grow and sustain their firms by providing shared resources. Services include: <ul style="list-style-type: none"> Administrative Support Advocacy Technical Assistance

Chapter XI Race Neutral Analysis

					<ul style="list-style-type: none"> • The Plan Depot • Project Resources: • Job Placement • Continuing Education • Mentoring Programs • Collaboratives and Joint Ventures • Business Plan Development Services • Estimating and Bid Preparation Services • The Home Touch Program provides carpentry, plumbing electrical and other emergency home improvements to preserve health and safety, and to correct code violations in owner occupied homes of persons 60 years or older. Services are provided to Broward County residents. • In January 2010, BCMBC received federal funding from the U.S. Department of Labor’s Employment and Training Administration to train community members in green jobs in the build industry. The project expanded from Broward County to serve residents of Miami-Dade County creating the new name, The South Florida Green Jobs Collaborative (SFGJC). • BCMBC Property management teams provide construction management services on-time and on or under-budget.
Builders Association of South Florida	Miami-Dade	x			<ul style="list-style-type: none"> • Represents South Florida’s building industry by maintaining high standards in building through service to its membership and public. BASF members are dedicated to fulfilling the “American Dream” of affordable home ownership for everyone.
Conference of Minority Transportation Officials	Miami-Dade		x		<ul style="list-style-type: none"> • The mission of COMTO is to ensure a level playing field and maximum participation in the transportation industry for minority individuals, businesses and communities of color through advocacy, information sharing, training, education and professional development. • Strategic Plan Goals:

Chapter XI Race Neutral Analysis

					<ul style="list-style-type: none"> Historically Underused Businesses (HUBs/DBEs): Become a Key Resource Center Chapter Growth and Development Membership Growth and Retention Professional Development and Training Membership
Construction Association of South Florida	Miami-Dade	x			<ul style="list-style-type: none"> Serves the South Florida construction industry by providing its members with opportunities to develop relationships, share information, obtain business from a trusted network and support local communities. Objectives: <ul style="list-style-type: none"> Facilitate longstanding relationships between members. Communicate pertinent information relative to the construction industry. Provide education opportunities to the membership. Promote and recognize quality craftsmanship. Elevate awareness of safety in the workplace. Enhance and promote careers in the skilled trades.
Latin Builders Association	Miami-Dade	x			<ul style="list-style-type: none"> Established in 1971, The Builders Association® (LBA) is the largest Hispanic construction association in the United States. The association, a nonprofit organization that encompasses a vast array of individuals and companies related to South Florida's construction industry, embodies the interests of builders, developers, contractors, architects, engineers, lawyers, electricians, real estate agents, tradesmen, and many more. LBA strives to provide a vital forum for discussion, networking, training/development, and representation at local and state level.
Minority Builders Coalition	Broward	x			Enhances the construction industry in South Florida by ensuring the active participation of highly capable minority and women-owned businesses in

Chapter XI Race Neutral Analysis

					contracting and by expanding the opportunities for highly skilled citizens to join the local construction labor force.
National Association of Black Women in Construction		x			<ul style="list-style-type: none"> NABWIC's vision is to build lasting strategic partnerships with first-rate organizations and individuals that will provide ground-breaking and innovative solutions for black women in construction and their respective communities.
National Association of Women Business Owners, Miami Chapter	Miami-Dade		x		<ul style="list-style-type: none"> NAWBO propels women entrepreneurs toward economic, social, and political power by <ul style="list-style-type: none"> Strengthening their wealth creating capacity and promoting entrepreneurial development Creating innovative change in the business culture Building strategic alliances, coalitions, and affiliations Influencing opinion makers to transform public policy NAWBO has expanded across the U.S. into more than 70 chapters. Through its alliance with the World Association of Women Heads of Enterprises (Femmes Chefs d'Entreprises Mondiales), NAWBO's global reach extends to 60 countries on five continents.
National Association of Women in Construction	Miami-Dade	x			<ul style="list-style-type: none"> National Association of Women in Construction provides its members with opportunities for professional development, education, networking, leadership training, public service and more. Its Core Purpose is to enhance the success of women in the construction industry.
National Association of Minority Contractors		x			<ul style="list-style-type: none"> NAMC is the oldest minority construction trade association in the United States with over 50 Hall of Fame members and Legacy Builders and an annual project capacity of over one billion dollars nationally. Through a network of local chapters and in collaboration with strategic and corporate partnerships, NAMC assists members with building capacity by providing access to opportunity, advocacy, and contractor development training.

Chapter XI Race Neutral Analysis

					<ul style="list-style-type: none"> The mission of NAMC is providing Access (contract & resource opportunities), Advocacy (legislative impact), and Contractor Readiness (training, capacity building, and growth) for our members. The association strives to accomplish its goals in collaboration with major corporate partners, strategic alliances, and public agencies.
Black Business Association	Miami-Dade		x		<ul style="list-style-type: none"> To advocate for and advance the development and growth of African-American owned businesses. This contributes to and participates in the self-determination, economic growth and prosperity of African-American communities, thereby creating a strong economic base that nurtures, empowers and supports the ongoing success of these communities and our society at large. Increasing the number of successful minority businesses by helping them gain access to procurement opportunities and capital is an ongoing process. Services provided: <ul style="list-style-type: none"> Business Information Networks Job Opportunities Workshops/Seminars Networking Opportunities Bid, Contract and E&E plans/specs information Job Bank
Underground Contractors Association of South Florida	South Florida	x			<p>The UCA of South Florida is a chapter of the National Utility Contractors Association (NUCA) which seeks to educate the general public and industry members of the safety requirements and other topics associated with the <i>underground contracting</i> industry.</p> <ul style="list-style-type: none"> NUCA is the only national organization whose sole focus is the sewer, water, gas and underground utility construction industry. Goals are to ensure the flow of clean water to the citizens of South Florida, increase awareness of our valued infrastructure, to protect

Chapter XI Race Neutral Analysis

					the environment of South Florida and to enhance and promote the interest of the utility construction industry at all levels of government.
NAACP (National Association for the Advancement of Colored People)	Miami-Dade			x	<ul style="list-style-type: none"> • Founded Feb. 12. 1909, the NAACP is the nation’s oldest, largest and most widely recognized grassroots-based civil rights organization. • The principal objectives of the Association are: <ul style="list-style-type: none"> • To ensure the political, educational, social, and economic equality of all citizens • To achieve equality of rights and eliminate race prejudice among the citizens of the United States • To remove all barriers of racial discrimination through democratic processes • To seek enactment and enforcement of federal, state, and local laws securing civil rights • To inform the public of the adverse effects of racial discrimination and to seek its elimination. • To educate persons as to their constitutional rights and to take all lawful action to secure the exercise thereof, and to take any other lawful action in furtherance of these objectives, consistent with the NAACP’s Articles of Incorporation and this Constitution.
Spanish American League Against Discrimination (SALAD)	Miami-Dade			x	<p>The Vision of SALAD is a prosperous, diverse and multicultural community in which the common good is advanced through the protection, promotion and enhancement of the legitimate rights, aspirations, duties and contributions of all peoples.</p> <p>The Mission of SALAD is:</p> <ul style="list-style-type: none"> • To combat all forms of bigotry and discrimination against Hispanics and all persons;

Chapter XI

Race Neutral Analysis

					<ul style="list-style-type: none"> • To defend the civil and human rights, and civil liberties of Hispanics and all persons; • To strengthen democratic institutions, promote the democratization of the decision-making process in all spheres and all levels of society, and secure the free and equal access of Hispanics and all persons to such process; • To promote the educational, intellectual, ethical, economic, and social advancement of Hispanics and all persons; • To encourage the responsible and effective participation of Hispanics and others in all aspects and levels of government and in the community’s social/economic development; • To increase among Hispanics and other ethnic groups the knowledge and understanding of their own cultural heritage and identity, and stimulate the sharing of such cultures to the enrichment of the total community; and • To work toward the development of mutual understanding and cooperation between groups.
Urban League of Greater Miami	Miami-Dade		x	x	<ul style="list-style-type: none"> • Provides the following services in the community: employment, childcare, senior citizen services, housing, economic development, training, community service, political advocacy and education. • The Urban League’s programs include: <ul style="list-style-type: none"> • Achievement Matters, which focuses on improving achievement levels of Black children and urban youth in MDCPS. • Black on Black Crime Prevention Program, a public awareness and education program • Clara B. Knight Childhood Learning & Development Center provides quality affordable developmentally appropriate care for children zero to five years

Chapter XI

Race Neutral Analysis

					<ul style="list-style-type: none"> • Family Computer Learning Laboratory, a collaboration between the Department of Housing & Urban Development, the Miami Dade County Public Schools, Miami Dade Community College North Campus, State Farm Insurance Co., and the Urban League of Greater Miami, Inc., offering life-long learning programs for pre-school through retirement age, and promoting computer literacy • Rainbow Club Home Visiting Initiative is a health orientated, neighborhood outreach effort designed to improve the life chance factors for at-risk adolescent mothers and infants. • Achievement Matters Test Camps, funded by the College Board of Florida, provide PSAT/SAT test preparation for middle school and high school students (ages 12-18) in Liberty City and other parts of Miami-Dade County
National Action Network	Miami-Dade				<ul style="list-style-type: none"> • Promote a modern civil rights agenda that includes the fight for one standard of justice, decency and equal opportunities for all people regardless of race, religion, nationality or gender. • Initiatives <ul style="list-style-type: none"> • Criminal Justice • Voter Protection • Anti-Violence • Jobs • Corporate Responsibility • NAN Ministers Initiative • Education • Decency • Membership
Metro-Miami Economic Advocacy Trust	Miami-Dade				<ul style="list-style-type: none"> • Miami-Dade Economic Advocacy Trust’s mission is to ensure the equitable participation of Blacks in Miami-Dade County’s economic

Chapter XI
Race Neutral Analysis

					<p>growth through advocacy and monitoring of economic conditions and economic development initiatives in Miami-Dade County.</p> <ul style="list-style-type: none"> • MDEAT operates in three areas of economic advancement: <ul style="list-style-type: none"> • Economic Development • Homeownership • Youth Development. <p>The Annual Report Card and Scorecard builds on the analysis conducted and presented by the FIU Metropolitan Center. The report card includes information on factors such as, but not limited to, the unemployment rate, the rates of business ownership, graduation rates, and homeownership rates within Miami-Dade County Black Community.</p>
--	--	--	--	--	---

11.4 ANECDOTAL INTERVIEWS WITH EXECUTIVE DIRECTORS

Several city, state, and local organizations were identified that provide technical and financial assistance to small, minority and woman-owned business enterprises in the Tri-County Area. M³ Consulting sought to interview Executive Directors of these organizations to determine their experiences working with small, minority and women-owned businesses. Out of the twenty-four Executive Directors contacted, ten (10) agreed to one-on-one in-depth interviews and were interviewed. The organizations were derived from these sectors:

- Goal-Based and Other Targeted Procurement Programs
- Management and Technical Assistance Providers
- Financial Assistance Providers
- Community and Economic Development Organizations
- Chambers of Commerce
- Trade Organizations and Business Associations
- Other Advocacy Groups

Race Neutral Interview Findings

The following sections indicate the recurrent themes in the discussions found throughout the interviews. Each theme includes anecdotal comments directly from the interviewees illustrating the topic heading.

- Theme 1: Lack of Parity, Inclusiveness, Diversity, Discrimination
- Theme 2: Issues specific to M-DCPS
- Theme 3: Access to Capital (Funding)
- Theme 4: Access to information, Communication, Technology (Too many agencies)
- Theme 5: Small Business Programs and certifications (Uniform Certification)
- Theme: 6: Training and Education (understanding how to bid)
- Theme 7: Discrimination
- Theme 8: Suggestions and Comments

Theme 1: Lack of Parity, Inclusiveness, Diversity

Race Neutral (RN), Interviewee 1 (I1), President/CEO, Trade Organization

RN, I1 feels that “black firms tend to be the most underutilized everywhere, all the time... Usually, when you have even minority participation programs, Hispanic and white women typically come out on top, and black men and black women are almost always at the bottom all the time. Somebody has to focus on why that happens, and we absolutely specialize in that.”

RN, I1 says that some want to allege there isn’t a disparity amongst black and Hispanic contracts in the county, that “‘all minorities are the same’ We are afraid to admit that all minorities are not the same. Overlooking the nuance within the minority umbrella.” His organization specializes in advocating through developing segmented goals, so underutilized businesses are not treated the same. He defines segmented goals as “a best practice that says that, “Amongst the identified desired level of minority in general participation,” which in some cases is 10, 25, 40 percent, “within that, we want 15 percent to be black--no, 20 percent to be black, 10 percent to be white women, 15 percent to be Hispanic.” So, it's a way of making sure that even within your designated minority goal, that you are conscious of the fact that you have to be sometimes more nuanced in how you try to get the most underutilized businesses involved. It seems ridiculous though if you take a step back from it to say that, “Amongst the whole pie of 100 percent, we'll carve out 25 percent for everybody but white men and then make them to--and then try to divide that up in a way that's equitable.” But that's kind of how this thing ends up-- that's kind of how this thing ends up playing out. But at the very least, it shows an awareness that not all minorities are underutilized or discriminated against the same. You try to identify goals that are pursuant to their levels of underutilization.”

Race Neutral (RN), Interviewee 2 (I2), Executive Director, Trade Organization

RN, I2 thinks that minorities have done fairly well in South Florida, Hispanic minorities. “I think the old-boy network from many, many years ago, it's predominantly gone, or that attitude has gone away. I think that it's much more professionalism. The ability to get the job done is much more important than anything else. It's very much all about the bottom line at this stage of the game.” However, he also shared that people like to work with “folks who share their same culture. And I think as there are more Hispanic and African Americans in charge and making decisions, we'll see more Hispanic and African Americans getting more work. I think you'll see the amount of folks getting work coincide with the amount of folks who are making decisions.”

Race Neutral (RN), Interviewee 3 (I3), President & CEO, Management & Technical Assistance Provider

As it pertains to race and gender-neutral RN, I3 stated, “having a program that's gender and-- well, race-specific is helpful. But the same people get the opportunities, so need more people getting more--more diverse firms getting opportunities. Particularly as primes. Everyone thinks because we're majority-minority that minorities are getting all the work, and that's not the case. Majority firms are still getting most of the opportunities.” She acknowledges that the county has a race and gender-neutral program “so anyone can compete. You can have a white firm competing with minority firms.”

Race Neutral (RN), Interviewee 4 (I4), Director, Goal Based and Advocacy Program

RN, I4 believes there's always room for improvement with certain ethnicities being able to get jobs. “Here in Miami-Dade County, we have a large contingent of Hispanic people that live here. 60 percent of the County is made up of Hispanics. 14 percent of the County is made up of Blacks. When you look at our program, our program is proportionate by the number of businesses based on that same percentage.”

Additionally, RN, I4 feels the opportunities here in Miami-Dade County are plentiful for all firms to be able to participate and take advantage of. “But they have to bid the project. That's the fear that we are having here, is that a lot of firms, whether they're Black, Hispanic, or Asian, or what have you is that they lack the idea of being able to bid on a contract and have the confidence to believe that their bid is going to win. Most of them feel like they'd like to compete amongst themselves and they have a better chance.”

Race Neutral (RN), Interviewee 5 (I5), Executive VP, Management & Technical Assistance Program

RN, I5 stated that they look for all types of businesses, women-owned businesses, minority-owned businesses. “We're just looking to do business with a business owner, and we don't look basically, minority, origin, male, female. We look at if they qualify and whether they're eligible for the program or not.”

Race Neutral (RN), Interviewee 6 (I6), President, LGBT Chamber

RN, I6 shared that income parity is a big issue. “that people are not viewed as individuals. We're still ranked by minority status, whether it be sex or race or gender identity or whatever it is. I think businesses continue to be reward unevenly for work done.”

Following up on a statement that RN, I6 made saying that the majority of the population in Miami-Dade County is minority. He feels there is a need for minority procurement and minority segmentation when it comes to opportunity because there's always going to be bias. And I think there has to be incentives

Chapter XI

Race Neutral Analysis

created that encourages large businesses and small businesses to look to a diverse marketplace when they're sourcing services and goods and certainly when they're spreading their money around. I think there's a tendency for people to not look at that kind of criteria when they're sourcing business opportunities and I think it's really key that we have these little pieces of encouragement to help people look more broadly at the whole economic arena when it comes to buying.”

Race Neutral (RN), Interviewee 7 (I7), Treasurer, Trade Organization

RN, I7 said that even with race and gender-neutral programs they don't have to give black women contracts. “That's one of the issues we have is inclusion. As long as the person is M/WBE or WBE, they don't necessarily have to give a contract to black women. It is important to have the set-asides because if not, they may very well be passed over with regards to procurement opportunities.”

RN, I7 shared that when there was a BBE program (Black Business Enterprise) they were getting 10 percent or more. “African American or blacks, women or men, is about 18 percent of the population. Hispanic women and men are about 65 percent of the population. Right now, “Hispanic and men are getting about 85 to 90 percent of the work. And African American men and women are getting less than 1 percent. And the rest goes to Asians or whites or whatever ethnic background the other ones are.”

Race Neutral (RN), Interviewee 9 (I9), Supplier Diversity and Outreach Program Manager, Goal Based and Advocacy Program

RN, I9 feels that there is not much disparity when referring to Hispanics. There is much support in place for them to thrive. “I think Hispanics are doing okay. I think that because we're in South Florida, and I'm talking about Palm Beach, Broward County, and Miami-Dade County. I really believe that they have enough representation in the banks, the bonding agents. I think the Hispanics have done well for themselves and the disparity might not show, even though before we showed the Hispanic was still a little lower, in terms of utilization in Broward County. As far as economically, I think they have more purchasing power and it is more accessible for them to receive—to become bondable and to receive financing to do their day-to-day. I think the system mechanism is a lot stronger for them to achieve and sustain themselves.”

RN, I9 also feels the same for white women. “I believe they're almost as equal to Hispanic male, because most of the time that white women do have the support of the white males if that is the case. I think white women are more-- even though, yes, there may be a gender bias. But if we put a white woman in maybe, let's just say black, or maybe a Hispanic woman, I think the white woman will fare better. There is an opportunity for them to grow at a faster rate than the minority counterparts. Now, in terms of gender, yes, some work—they do have some men—there's some bias against women, period. Regardless of what color you are. But I think most of the time, I think white women most likely would do better than black women. Although, I really think black women, if they're given an opportunity, a real, substantive,

Chapter XI

Race Neutral Analysis

meaningful opportunity, I believe that they're probably most likely would outpace white women and Hispanic women.”

RN, I9 shared that M/WBEs will be significantly impacted as the demographic change in South Florida. “I think it's already chipping away at the larger rate. For right now, I think if we were able to do a disparity study, you most likely will see that perhaps blacks, perhaps women, ethnic, maybe subcontinent Asian group, I'm just saying, in general, Asian as a whole and also Native Americans. I really feel that they may be more impacted than we think. Because of the strength and also the strength, you see I use this word carefully. The strength and the growth of the Hispanic males.”

Theme 2: Issues Specific to M-DCPS

Race Neutral One-On-One (RN), Interviewee 3 (I3), President & CEO, Management & Technical Assistance Provider

RN, I3 feels that M-DCPS does not have a strong commitment to M/WBEs. “I just don't think that the procurement team is as committed. The buyers, the chief of procurement, and down the line as well as some of the end users, the CIO, the HR I don't think they are as committed as they clearly should be.”

Race Neutral (RN), Interviewee 7 (I7), Treasurer, Trade Organization

RN, I7 stated that M-DCPS is doing a good job because they have different outreach programs. “They have different workshops, and so I think they're doing a good job with that. They need to add a piece for, especially the big contracts and the sole source contracts, that they need to add a piece where the vendor needs to have a M/WBE or an MBE as part of their contract.”

RN, I7 say that M-DCPS has a challenge with the process for construction. “When they have a sealed bid, the sealed bid is not opened at the time the bid is due. It's not opened in front of Miami-Dade County Public Schools procurement manager. If I turned in a sealed bid, the sealed bid goes to the contractor, and the contractor has the ability to open that sealed bid. And so they have the ability to say who is the lowest bidder because it could be manipulated.”

RN, I7 rates M-DCPS poorly on their prompt payment. “The National Association of Black Women in Construction, along with several others, advocated for prompt payment, which was established. Miami-Dade County Public Schools will pay the GC within 14 days (prompt payment), but there is nothing in the school board's contract to ensure that the subs underneath the contractor get paid in a timely manner.”

Race Neutral (RN), Interviewee 8 (I8), Treasurer, Chamber of Commerce

RN, I8 says there is a lack of communication and commitment from M-DCPS. “There must be a closer contact between school board, Dade School—whatever you want to call it, with those chambers of this

community to come deeper inside the community to explain, 'This is what they have and this is what you can do to get there. And this is where we can start.' M-DCPS comes to a meeting and says, 'We need all this from you before you can get there.' RN, I8 says, "that's why 90 percent of the people go and they never come to us anymore or come to them. So it's the approach that's wrong. It's the lack of communication that's wrong. And I'm sorry to say it, I don't see a commitment in there to come to us."

RN, I8 shared that M-DCPS's payment process is always lagging. "The small businesses cannot sustain 60 or 90 days to get paid. If they don't get paid in 30 days, they got to go to somebody to get the money or go to the bank. And there goes their profit. When you're paying somebody after 30 days, you're putting the small businesses in a disadvantage."

Theme 3: Access to Capital

Race Neutral (RN), Interviewee 1 (I1), President/CEO, Trade Organization

RN, I1 doesn't feel like economic inclusion has been applied across the whole system of acquiring contractors. If MDC is serious about doing business with black contractors, then you should be willing to invest in expanding the inventory of capable and ready ones and giving them a path to not just do business with you, but grow.

Race Neutral (RN), Interviewee 5 (I5), Executive VP, Management & Technical Assistance Program

RN, I5 stated that through this company, small businesses have access to loans with low down payments. The government funds this program as a "jobs creations program. The idea of the program is normally, you would go traditionally to a bank, if you're buying a building for your company, you would have to put 20, 25, sometimes even 30 percent down. And the thought process behind the program is the low-down payment, the 10 percent. You keep the money in the company where the company can continue to grow and then create additional jobs in the community. The reason why this program was created, it is a jobs creation program."

This program helps all small businesses. RN, I5 said that "it definitely helps women-owned businesses because the nice thing about the program is a lot of people starting businesses and growing their business, there's a lack of capital, and this is the program where a business owner could get into a property and grow their business with not that much capital as opposed to having to traditionally go through a bank and putting a lot more money down."

Race Neutral (RN), Interviewee 7 (I7), Treasurer, Trade Organization

RN, I7 believes that financing is the key to have working capital “because in construction, you have to perform the work before you can get paid. So sometimes, it takes 30, 45, 60 days to get paid. If we don't have financing or working capital to start a project, that's a problem right there. The working capital and the bonding that's the issue.

Race Neutral (RN), Interviewee 8 (I8), Treasurer, Chamber of Commerce

RN, I8 says that funding is available. “The requirements are there, and the community, by itself, is not prepared to get this funding because there are steps that you have to do. You have to be qualified to get this funding, and that's the biggest problem we have in the community. They don't understand that there are criteria to touch city, county, state, and federal money.”

Theme 4: Access to Information, Communication, Technology

Race Neutral (RN), Interviewee 2 (I2), Executive Director, Trade Organization

RN, I2 stated that his organization is a connector and great at developing relationships. “The one thing that we can do is that we are very good at getting small business owners in front of decision-makers at large and medium-size general contractors. When it comes to the business development side of it, yeah, we're certainly able to get folks in front of the people that are doing the hiring.”

Race Neutral (RN), Interviewee 3 (I3), President & CEO, Management & Technical Assistance Provider

RN, I3 thinks that the cone of silence may be a problem. “I think sometimes the cone of silence hurts the intelligence that the end users get, and it hurts the firms when they need to ask questions. I have an example. They had a big IT bid-- I think in this instance, it was written for a specific company. It wasn't competitive enough. And they wouldn't listen to input from other folks, and the cone of silence didn't allow them to get information. I intervened. I reached out to the procurement staff. They were so unresponsive. It was terrible.”

Race Neutral (RN), Interviewee 4 (I4), Director, Goal Based and Advocacy Program

RN, I4 shared that an issue affecting small business is their ability to communicate with others. In order to expand their opportunities “Their networking skills seem to be lacking because they don't know how to do joint ventures, come together as a team to take advantage of the power that each one has in order to get the larger projects.”

Chapter XI

Race Neutral Analysis

Race Neutral (RN), Interviewee 8 (I8), Treasurer, Chamber of Commerce

RN, I8 says that a key issue impacting small, minority and women-owned businesses in MDC is access to information. “The access to information is where we lag. Even though the commissioners, the city, the county try their best, but they always get the information to us very late when something is going to happen. Because the Hispanic community, the African American community, they have a great representation at city, county, state, and federal, the information goes to them much faster. Because when you have representation, it's easier for you to get the information. That's how these politicians get re-elected, by providing information, making their services, making their offices available. The Haitian community is huge in South Florida, but we're all over the place. So, when you don't have that much representation, it's really hard to get the information and to get the service that needs to be at the disposal of that community.”

Race Neutral (RN), Interviewee 9 (I9), Supplier Diversity and Outreach Program Manager, Goal Based and Advocacy Program

RN, I9 says that they understand that there is active and even passive discrimination. They are “continuously actively promoting the Equal Opportunity for all industry segments and I think the community needs to understand that. Of course, it's like I've been driving a big old train or a big old bus. It's not easy to make that turn because you have folks that have done work with us that perhaps they're not really feeling the change is happening because they're not really engaging, actively engaging and participating.” She feels that she has to lure them in by telling them that it is a new day.

RN, I9 also feels that there may be lack of awareness on how to best utilize supplier diversity team because “I think any small businesses needs to understand that they do have an ally. We are a key advocate for them.” They can ask, Hey, what's going on? Do you have any idea of what is to come?” Or, “Who can I connect with? Because I'm selling this product and I don't know who to talk to.” We are able to do that well in advance and I'm not sure that's being capitalized on.”

Race Neutral (RN), Interviewee 10 (I10), Vice President, Advocacy Group

RN, I10 also see technology as a huge barrier and challenge. “Most government entities are using electronic systems to procure goods and services. Most small businesses struggle with staying on top of technology. We find the more we advance from a technology standpoint, our community falls further and further behind. Because as small business owners, if you don't have a back of the house, you can't do your work and provide your service, and monitor the opportunities that are being put out in very clandestine-type ways, where if you don't go into the system and really do the homework, you won't be able to get a business opportunity.” Technology may make it so simple, “but it's a detriment to the small communities, and the data all shows we're the last to be informed, we're the last to be notified, we're the last for the

infrastructure, we're the last to know about changes. And we're never in the room when decisions are being made about the changes.”

Theme 5: Small Business Programs and Certification

Race Neutral (RN), Interviewee 2 (I2), Executive Director, Trade Organization

RN, I2 says that opportunities in the public sector are much better if you're an M/WBE or a CSBE. “I think the leadership has really done a good job of ensuring that there are opportunities out there for MBEs, WBEs, CSBEs. Making sure that those businesses have opportunities. I think that you see it on every job, where there are requirements in place for contractors to bring in M/WBEs. I mean, fulfilling that promise that was made alone is something that's huge. I think that they've done a great job of making sure that that door is open.”

Race Neutral (RN), Interviewee 3 (I3), President & CEO, Management & Technical Assistance Provider

RN, I3 shared that there are too many certifying bodies, minority firms spend too much time getting certified. “Too many agencies to certify with. There should be uniform certification. They should accept each other's certification as well as our own. Minority firms spend an inordinate amount of time getting certified rather than focusing on the opportunity.”

RN, I3 also feels that historically, the development of M/WBE programs in South Florida has been unimportant to public officials. “Particularly with the county, which is one of the largest buyers in the state being race and gender-neutral.”

Race Neutral (RN), Interviewee 4 (I4), Director, Goal Based and Advocacy Program

RN, I4 shared that his organization is race and gender neutral so the certifications they offer are for everyone. “The opportunities are there for all businesses regardless of their ethnicity and gender. I think that people of a certain ethnicity and people of a certain gender are afraid to bid on projects because they think that they are going against everybody and they are not going against their peers. They feel like they're more comfortable when going after projects amongst their peers than they are when they have to be diverse in a diluted pool.”

Race Neutral (RN), Interviewee 7 (I7), Treasurer, Trade Organization

RN, I7 shared that African American males and females can perform all different types of trades but what's happened in the past years is “that because they are not getting any work, they do not get certified because they feel it's not helping to be certified. Not only do they not complete their certification, but

Chapter XI

Race Neutral Analysis

they feel like, "Why should I get certified? I'm not going to get the work whether I'm certified or not," because it's a race, gender-neutral program."

Race Neutral (RN), Interviewee 10 (I10), Vice President, Advocacy Group

RN, I10 says "there is no way people of color that look like me can compete without M/WBE status or SB status." Instead of breaking up a contract, they're going back to bundling them again, which is again a disservice to M/WBEs and SBEs." His view is that when the prime knows that, they are now competing against a M/WBE or SBE, "Big fish, eating little fish. When I know you have a 15 percent advantage because of a M/WBE or SBE policy or a local policy, I am now going to price my product those 10 or 15 percent below my cost because I'm the manufacturer. You're going to wipe us out because of your policies. Because you're allowing big boys to eat with little boys."

Theme 6: Preparedness, Education and Training

Race Neutral (RN), Interviewee 4 (I4), Director, Goal Based and Advocacy Program

RN, I4 feels that education and training is important. "A lot of our firms understand how to do their skill set. They understand their skill set. They understand how to apply it, but they don't know how to run their business."

Race Neutral (RN), Interviewee 6 (I6), President, LGBT Chamber

RN, I6 shared that from a LGBT standpoint it has been hard to be included in the procurement side as a minority category. "We're working with municipalities one by one to get them to include LGBT-owned businesses as a part of the procurement process. We need to educate to make sure people are aware of the opportunities that are available in this particular arena and train them to satisfy those demands, to satisfy the criteria under which those programs are made available."

Additionally, RN, I6 says that having some kind of either symposium or a larger scale outreach to educate all of us about all these programs that are available and who are the likely beneficiaries of these set-asides. However, no one knows what the criteria or kind of businesses that they're looking for in terms of size and relevancy and financial capability and things like that. If we knew some of that, we could put all that information out, and then people would know whether or not that meeting is for them or that opportunity is for them.

Race Neutral (RN), Interviewee 8 (I8), Treasurer, Chamber of Commerce

RN, I8 feels that the lack of structuring in the women enterprise in South Florida is one of the biggest impediments for them to work. "We believe that the city, the county can do better to help them to create

Chapter XI

Race Neutral Analysis

the pathway to help those people come into the light. So, they can understand you need [inaudible] business, you need workers, you need to clear your state tax, your federal tax. It's not just having your license at the door, having a permit at the door that qualify you to do business in the state.”

Race Neutral (RN), Interviewee 9 (I9), Supplier Diversity and Outreach Program Manager, Goal Based and Advocacy Program

RN, I9 stated that small business is not prepared to really understand the new method of doing business; that having credit, preparing to have credit is a necessary evil to do business in United States. “They need to understand how to bid and what I mean how to bid is not the same thing about the reading of it but make sure all the Ts are crossed and that the Is are dotted when it comes to responding to a bid. And that also involves to properly make sure that you estimate the price of the goods and services that are being provided.” The next thing she spoke about was the bonding situation. “It's a requirement across all industries in terms of this bond, whether it's a bond to even submit the bid, like a bid bond. I think it has a lot to do with being credit ready. You have a lot of small businesses or business owners, even residents that are not used to this credit score aspect. They are used to paying cash, especially being from South America, the Caribbean, other countries.”

Theme 7: Discrimination

Race Neutral (RN), Interviewee 6 (I6), President, LGBT Chamber

RN I6 shared that protection benefits are another big issue. “You can still be fired in many places around the state of Florida and around the country for just being gay. And I think that's unfair and unwise because it puts our states and our businesses at a disadvantage when the youth of our country are looking for employment opportunities. They're going to look for places where they are treated fairly and everyone else is too.”

Race Neutral (RN), Interviewee 7 (I7), Treasurer, Trade Organization

RN, I7 cautioned that because 65 percent of the population is Hispanic and a lot of them are in the procurement departments that handle contracts. “A lot of times they give it to the people they know. And what I mean, they give it to their own race.” They're meeting the requirements of the program race, gender-neutral program. “There's no reason for them to be inclusive because they have an MBE [that is?] Hispanic or a WBE that's Hispanic.”

Race Neutral (RN), Interviewee 10 (I10), Vice President, Advocacy Group

RN, I10 stated that one of the biggest issues impacting small minority and women owned business growth is fraud justice. There is low utilization of small business and particularly black business. “We get reports on the spending and the goods and services area for the county. And for the past two years, those reports have been almost 0 to 1 percent - the max has been 2 percent - when it comes to spending locally and with people of color. And we have seen that the manufacturers are now getting into the business of discriminating against local small black businesses by either not allowing us to represent their products or their brands, or making it, I'm going to say punitive in price to be competitive when they do.”

Theme 8: Suggestions and Comments

Race Neutral (RN), Interviewee 1 (I1), President/CEO, Trade Organization

RN, I1 suggests the creation of Inventory of who exists in the market, by creating a directory of minority firms. He also mentioned that The Miami Dade Supplier Diversity Program / Palm Beach County Supplier Diversity Program / Broward County Supplier Diversity Programs are all important programs and systems.

Race Neutral (RN), Interviewee 3 (I3), President & CEO, Management & Technical Assistance Provider

RN, I3 stated that the new director of OEO is doing a great job. “She actually trained all the principals on supplier diversity because a lot of the buying happens at the school directly. She's doing a really good job, and she's hired some really good people. I wish they'd accept our certification so our firms wouldn't have to do another certification. But Jennifer Andreu, she's doing a good job.”

RN, I3 also suggested, “if the project is large enough in its professional services, they should ask the primes to bring on diverse firms. Also offer additional points for being diverse in professional services. Let's say if the requirement is 10 years of experience, why keep it at 10 years-experience as in a company? Because I could have 20 years-experience having worked for someone. So that's an artificial barrier. A combination of qualifications as well as price as well as diversity as well as maybe innovativeness might also help. There needs to be more diverse selection committees.”

Race Neutral (RN), Interviewee 7 (I7), Treasurer, Trade Organization

RN, I7 would like to see the BBE program brought back. With this program “there was goals. Let's say you had a project, a school that was 60 million or so. They would set a goal for 10 percent BBE participation or 10 percent women participation. That would ensure that black businesses would get 10 percent of the work. And right now, they don't have that program.”

11.4 SUMMARY OF FINDINGS

There are a significant number of race-neutral programs that provide assistance and support to M/WBEs and SMBEs. M³ Consulting reviewed the offerings of over 70 organizations in the categories of:

- Goal-Based and Other Targeted Procurement Programs
- Management and Technical Assistance Providers
- Financial Assistance Providers
- Community and Economic Development Organizations
- Chambers of Commerce
- Trade Organizations and Business Associations
- Other Advocacy Groups

M³ Consulting interviewed Executive Directors of 10 organizations to determine their experiences working with small, minority and women-owned businesses. The Executive Directors identified the following issues impacting the S/M/WBEs that they service:

- Lack of parity, inclusiveness, diversity, discrimination
- Need for improved M-DCPS commitment to and processes supporting M/WBEs
- Importance and availability of Capital (Funding)
- Insufficient access to information, communication, technology
- Lack of uniform certification and lack of results from being certified
- Need for training and education on bid process, running a business, goal-based program requirements
- Discrimination and exclusion

Though race-neutral programs within the Tri-County Area have made some progress in improving M/WBEs and SMBEs management skills, access to capital, and greater exposure to the larger business community, M/WBEs and SMBEs still face some difficulty in gaining access to public and private sector contracting opportunities.

The results of the program review and interviews revealed that, while race neutral efforts may have contributed in some degree to increased capacity and participation in contract awards, race neutral programs alone have not been fully effective in increasing availability, capacity or utilization of M/WBEs or eliminating disparity.

Given this result, the provision of management, finance and technical assistance via race-neutral programs, in and of itself, does not appear to adequately address all issues and barriers faced by M/WBEs in the Tri-County area.

CHAPTER 12: RECOMMENDATIONS

12.1 INTRODUCTION

Miller³ Consulting, Inc. (M³ Consulting) was commissioned by M-DCPS to conduct a Comprehensive Disparity Study to determine the level of availability of minority- and woman-owned businesses (M/WBEs) in M-DCPS' relevant market and the actual utilization of those firms in M-DCPS' contracting opportunities for Architecture & Engineering, Construction and Construction-Related Services, Maintenance and Maintenance-Related Services, Services, and Goods & Supplies. M³ Consulting conducted several analyses for M-DCPS:

- Procurement Analysis
- Statistical Analysis of M/WBE Availability
- Statistical Analysis of M/WBE Utilization
- Statistical Analysis of M/WBE Disparity in Payments and Contracting
- Capacity and Regression Analysis
- Anecdotal Analysis
- Race-Neutral Analysis
- Marketplace Analysis

These analyses provide an overall picture of the environment faced by M/WBEs attempting to do business with and in M-DCPS.

12.2 IDENTIFICATION OF RACE AND GENDER-CONSCIOUS GOAL POSSIBILITIES

The actual setting of legally defensible M/WBE goals is a policy decision that requires action by M-DCPS. M-DCPS can establish overall M/WBE policy goals that then may be used by employees with buying authority. M-DCPS can then develop an action plan that specifies procedure, program and goal improvements that will be made, and the timeline allocated for those tasks.

12.2.1 Establishment of Race- and Gender-Conscious Goals

The existence of established goals is an effective mechanism for establishing objectives for M-DCPS and in achieving the desired outcome of increases M/WBE and SDBE participation, when effectively implemented. If operations are inflexible, it falls into a quota.

The concept of annual aspirational goal for M/WBE participation, which is tied to the availability of M/WBE firms, should be utilized by M-DCPS to periodically evaluate the effectiveness its overall M/WBE program and its project-specific efforts, as well as to gauge whether it is appropriate to increase or decrease the mix of more aggressive remedies. The annual aspirational goal can be used to inform more specifically tailored goals by procurement category, department, etc. To be legally defensible, the annual goal should be a *minimum achievable standard* for M/WBE inclusion and not a maximum barometer of exclusion.

In certain categories and for certain groups, race/gender-conscious means are supportable activities toward the achievement of established goals, based on the findings of statistically significant disparity, reflected in Table 12.1 below.

As significant disparity is eliminated in the race/gender-conscious categories, the utilization of race/gender-neutral means in attaining the established goals should be increased. However, in all instances where race/gender-neutral means are utilized, if significant disparity re-emerges, then race/gender-conscious techniques can be utilized on a non-permanent basis to correct identified disparities.

While M-DCPS should utilize race/gender-neutral means to address participation of groups where there is no statistically significant disparity, that does not mean or condone passive or no outreach to these groups, as significant disparity can emerge or re-emerge with lack of focus by M-DCPS to be inclusive. This is especially true in the COVID-19 environment, where a significant amount of emergency purchasing is being done by M-DCPS and public entities in South Florida and around the country. M-DCPS should continuously focus on an inclusive procurement environment that considers M/WBE and SDBEs and narrow the focus when necessary based on meeting established goals.

Availability, Utilization and Disparity measures should be tracked on an annual basis and annual goals set as discussed above, as the recommendations below are implemented. RWASM Availability is significantly impacted by bidding patterns and practices. If the bidding patterns of M-DCPS vendors are altered, due

to internal adjustments within M-DCPS or marketplace factors, the impact of those changes should be captured. Similarly, Utilization, particularly in Construction and Construction-Related Services and Maintenance and Maintenance-Related Services, reflect issues that require further analysis and potential changes to increase competitiveness, provide opportunities where capacity is not an issue and eliminate concentration in one contractor for African Americans in Construction.

Table 12.1. Categories for Race/Ethnicity/Gender-Conscious and Race/Ethnicity/Gender-Neutral Means of Addressing Disparity By Procurement Type		
	Race and gender-Conscious	Race and gender-Neutral
Architecture & Engineering	<ul style="list-style-type: none"> Asian American WBEs 	<ul style="list-style-type: none"> African American Hispanic American
Construction and Construction-Related Services	<ul style="list-style-type: none"> WBEs 	<ul style="list-style-type: none"> African American* Asian American Hispanic American
Maintenance and Maintenance-Related Services	<ul style="list-style-type: none"> African American Asian American WBEs 	<ul style="list-style-type: none"> Hispanic American
Services	<ul style="list-style-type: none"> African American 	<ul style="list-style-type: none"> Asian American Hispanic American WBEs
Goods & Supplies	<ul style="list-style-type: none"> African American WBEs 	<ul style="list-style-type: none"> Asian American Hispanic American

Source: M³ Consulting; Based on Level 2 RWASM Availability and PO Utilization

*When D. Stephenson is removed from the analysis, there is disparity, but not statistically significant.

In conjunction with M-DCPS' outside legal counsel, as part of sunset preparation, we suggest removing a portion (e.g., 10 percent) of all contracts let each year within certain industry segments no longer experiencing widespread M/WBE underutilization from the assignment of race- and gender-conscious goals, evaluation preferences, and remedies, and carefully monitoring them on a quarterly basis to ensure that significant disparities in M/WBE utilization do not re-appear. The Board and Administration would determine the period of time that this gradual sunset review process would occur. This process would assist the Board to confirm whether race- and gender-conscious goals should be sunset for a particular group.

12.3 RECOMMENDATIONS

In light of the findings discussed in the previous chapters, M³ Consulting is providing the following recommendations to M-DCPS. The recommendations contain both race/gender-neutral and race /gender-conscious elements. These recommendations consist of a listing of pertinent options from which M-DCPS may select in narrow tailoring its efforts to the findings of this report. The options combine agency specific and best practices recommendations that are legally defensible based on the factual findings of this study. M-DCPS should consider adoption of those recommendations that are considered most appropriate in terms of cost, resources, likely effectiveness, community acceptance and organizational feasibility.

The recommendations provided by Miller³ Consulting, Inc. in the Phase 2 Disparity Study continue to be relevant to M-DCPS. As such, they have been provided in Appendix B for convenience. The recommendations below should be considered in addition to the Phase 2 recommendations.

12.3.1 LONG-TERM AVAILABILITY AND CAPACITY BUILDING INITIATIVES

The M-DCPS GOB presented an opportunity for increasing availability and capacity of M/WBE and SMBE firms. However, based on interviews, the District was not focused on utilizing these opportunities for the purpose of capacity building. The recommendations in this section are focused on how M-DCPS can utilize both its resources and opportunities to contribute to the growth and development of M/WBE and SMBE firms, in addition to increasing the number of contract awards.

A. Increasing Pipeline of M/WBE and SMBE Firms

To increase opportunities for M/WBE and SMBE firms, M-DCPS must start with the consideration of available firms. Particularly among African American-owned firms, significant social and economic factors impact their availability in the general marketplace. While there are a significant number of management, financial and technical assistance programs to assist M/WBE and SMBE firms, no entity has more ability to impact the pool of M/WBE and SMBE firms than M-DCPS.

The Starting Point: Youth Entrepreneurship

Crososn makes it clear that public entities cannot address social discrimination through legal race/gender-conscious remedies. However, the District is positioned, through its responsibility to educate its students, to begin to reshape some of the social dynamics that impact their success.

Entrepreneurship requires a certain skill set that is cultivated over time. Young people with no access to entrepreneurial education and training are less likely to obtain these skill sets on their own. And by the

time that these young people may have an opportunity to obtain these skills, they are close to adulthood and well behind young people who have access to parents with entrepreneurial and/or managerial skill sets. As discussed previously in Chapter. VIII. Capacity Analysis, Fairlie and Robb (2007) found, that black business owners were much less likely than white counterparts to have had a self-employed family member owner prior to starting their business and are less likely to have worked in that family member's business. Fairlie and Robb noted that the lack of prior work experience in a family business among black business owners, perhaps by limiting their acquisition of general and specific business human capital, negatively affects black business outcomes.³⁸³

M-DCPS has more access to children and their parents than any other institution in the Miami area. As such, M-DCPS is in an invaluable position to impact values, behaviors and attitudes toward discrimination and bias, and to cultivate a culture of entrepreneurship. By inculcating students early, it allows the African American community in particular to expand social capital and the Miami community to begin the change the narrative of the historical, social and economic factors that have ultimately stunted the natural growth and development of entrepreneurs in the African American community, and among women and certain Hispanic Americans from different national origins.

Efforts can include:

- Youth entrepreneurship and financial literacy programs;
- Mentorship and apprenticeship programs with M-DCPS vendors/contractors/consultants;
- Targeted entrepreneurship career tracks—with *emphasis on exposure to entrepreneurs, as opposed to large corporations*—in conjunction with local technical colleges. We note that the State of Florida has one of the strongest two-year college programs in the country;
- Expanded access to entrepreneurship and financial literacy programs to students' parents/family members;
- Ultimately, providing graduates of the M-DCPS system who become entrepreneurs with access to M-DCPS opportunities through SMBE programs, such as set-asides, sheltered markets and mentor/protégé. Initiatives focused on students that have matriculated at M-DCPS would be considered race/gender-neutral, with a desired outcome of promoting economic and social development.

These initiatives should be combined with strong diversity initiatives. Focus should not simply be on anti-bias, but multi-culturalism efforts that build social capital.

³⁸³ See Chapter VIII, Capacity Analysis, p. 8-45.

Refocus Certification and Pre-Qualification Efforts to Identification of Qualified Firms

Currently, certification by the District is focused on identifying the race/gender/ethnicity of firms eligible to participate in its race/gender-conscious programs. Certification of firms as minority- or woman-owned is part of narrow tailoring, designed to ensure that only firms discriminated against have access to goal-based remedies. Because of a few Non-M/WBEs that have attempted to illegally access these programs, over time, the certification application process has become increasingly burdensome to the M/WBEs that public entities are trying to reach. As a result, the certification process is increasingly seen as a bar that M/WBEs should reach to gain access to these race/gender-conscious “benefits.” Goals are a remedy, not a benefit. The District should continuously monitor its certification application process to ensure that it is inclusive to M/WBEs impacted by discrimination and does not serve as a punitive barrier. Furthermore, the District should maximize uniform certification agreements and reciprocity within the region to reduce the certification application burden on M/WBEs.

By creating a burdensome certification process, the number of *available* M/WBEs may be reduced. As a matter of practice, when M-DCPS staff and prime vendors search for available minority- and women-owned businesses, they are searching M-DCPS *certified* M/WBEs, not the list of *available* M/WBEs. As such, as a matter of practice, while there is a larger pool of M/WBEs that are available, many of these firms may not be considered, because they cannot be *counted* toward goal attainment or achievement. We note there were 840 certified firms on OEO’s list (see Table 3.14), compared to 2,025 M/WBE firms in Level 3 availability and 34,478 in InfoUSA Marketplace Availability. We further note that a significant number of M/WBEs are certified as SDBEs and are eligible to participate in the District’s race/gender-neutral initiatives.

Pre-qualification is focused on determining whether construction firms meet the State of Florida’s requirements for working as a prime contractor in the State. These processes can be exclusive and limit the number of available firms. Like the certification list, as a matter of practice, when the District seeks to utilize M/WBEs at the prime level in construction, the District is limited to the pre-qualification list, which consisted of 123 firms, during the study period. Pre-qualification requirements do not extend to sub-contractors. A combination of certification and pre-qualification requirements can deter M/WBEs from attempting to do business with the District. Because the two applications request similar information, M-DCPS should work to streamline the application processes, such that M/WBEs are not required to submit the same information more than once.

While a necessary part of M-DCPS initiatives, OEO should work to ensure that these processes are promoting inclusion. To do so, OEO should *start* by identifying all small-, minority- and women-owned firms in the Tri-County Area. The Disparity Study assists with this effort by its compilations in availability spreadsheets using data sources from M-DCPS, Info USA and Business Licenses, along with the Master Small/M/W/DBE certification list. While all these firms may not meet the RWASM standard, the firms on

these lists represent the starting point of the M-DCPS pipeline of available firms. Before proceeding to other initiatives of certification and pre-qualification, OEO should:

- Review compiled list with community organizations, Chambers of Commerce and M&TA providers to determine whether firms of which they are aware are listed in this “phone book.” Organizations with private membership lists should also be encouraged to participate to construct the most exhaustive list of firms.
- For firms on the list that are not certified, conduct survey to obtain data on type of goods and services provided and interest in doing business with M-DCPS.
- Measure M-DCPS progress in increasing the number of firms certified and number of firms pre-qualified against this list of identified firms.
- For those available firms that do not meet M/WBE and pre-qualification requirements, work to include as many available firms as possible on the M-DCPS vendor registry and in M-DCPS’ SMBE programs, and then, develop these race/gender-neutral goals and initiatives accordingly.

B. Expanding Competition

Due to policies like pre-qualification and practices like awarding contracts to a few firms in certain instances, M-DCPS has limited competition on its opportunities. M-DCPS should constantly monitor its contracting activity to determine whether contract awards are concentrated among a small group of firms.

Deeper Dive of Bid/RFP, Award and Payment Process

M-DCPS should consider a deeper dive into bid, RFP, selection and evaluation results, particularly for Construction and Construction-Related Services, to ensure that the outcomes reflected in the Availability and Utilization chapter reflect a procurement process that is open, fair, transparent and inclusive. This deeper dive to review *actual practices* would include a review by an independent party of

- Pre-award activity—bid and award documents for individual opportunities, including vendor solicitation, bid tabulations, inclusiveness of persons chosen selection committee, evaluation score sheets, GMP negotiation documents, prime contractor selection and evaluation score sheets for sub-contractors, prime contractor solicitation list for sub-contractors.
- Post-award activity—Selection process on multi-awardee contracts, M/WBE utilization through phases of project, payments to sub-contractors, impact of bonding on both prime and sub-contractors.

We emphasize that this deeper dive is not an audit of policies and procedures, but the execution of those policies and procedures (actual practices) and their impact on the outcomes reflected in the Disparity Study.

This deeper dive would also provide greater insight into the competitiveness of different race/gender/ethnic groups and provide OEO with additional information on which to target and customize its support efforts. We note that on construction, while M-DCPS contracts with the Construction Manager, District officials are present at the Construction Manager's sub-contractor bid openings and can review the results. District personnel also negotiate with the Construction Manager for terms beneficial to the District.

To facilitate this deeper dive, certain data capture issues should first be addressed:

1. The bid/ITB/RFP number established at the point of bid should follow the awarded firm. Upon completion of negotiations with the awarded firm, the bid/ITB/RFP number should become an available and required data field within the Purchase Order data, subject to extraction. The addition of the bid/ITB/RFP number will allow for tracking of the project/contract from the point of award, the point of contract through actual payments.
2. All payments that are attached to an underlying Purchase Order should have the Purchase Order number captured in the AP system that can be viewed and extracted in standard or ad hoc reporting.
3. Direct disbursements (payments without an underlying Purchase Order) should be identified in AP data. Direct disbursements are typically non-encumbered expenditures which may not be budgeted for. Purchase Orders are encumbered expenses and therefore budgetarily can be accounted for at the department/fund level.

Expand Certification and Utilization of M/WBE and SMBE Pre-Qualified Firms

Pre-qualification is a state requirement, and thus, M-DCPS has limited control over this policy. However, M-DCPS can expand the number of firms who are pre-qualified and increase its utilization of existing pre-qualified firms.

Goal Setting and Other OEO Tools Applied by Threshold

M³ Consulting's threshold utilization analysis suggests that, where capacity is not an issue, certain race/ethnic/gender groups are still reflecting disparity. The threshold utilization analysis was based on PO data. We acknowledge that some POs that appear "small" may be part of a requirements contract awarded to one or more vendors. As such, a deeper spend analysis is required before goal setting is conducted.

In conducting this spend analysis, M-DCPS will obtain a greater understanding of the individual opportunities and the dollar values associated with them. The spend analysis allows M-DCPS to review these individual opportunities by size. This process is different from unbundling, where the organization starts with the larger contracts and attempts to break them down into component parts or smaller

contracts. For example, Maintenance and Maintenance-Related Services opportunities mostly fall under \$2 million. Even so, M/WBE participation was lower in many cases than Construction and Construction-Related Services, where opportunities were mostly greater than \$2 million. For M&MRS opportunities, there is not a need to unbundle contracts, but to utilize other race/gender-neutral techniques, such as small business set-asides, to increase participation levels of Minority-owned firms and WBEs. The same logic applies to informal contracts under \$50,000.

When individual opportunities are sorted by size, appropriate programmatic efforts by OEO can be established. Furthermore, there is more transparency in contracts awarded, particularly on contracts where more firms are fully capable of competing.

Conduct Economic Impact Analysis

A Disparity Study provides critical quantitative and qualitative data on the participation of M/WBEs and SMBEs in M-DCPS opportunities and the factors impacting their ability to do so. An Economic Impact Analysis shows the impact on economic growth in a locale of procurement spend and of major capital improvement projects. This economic impact analysis can be conducted to further reflect the impact on economic growth in minority communities of procurement and construction dollars flowing to minority businesses. The analysis would assist in changing the outlook on supporting minority communities from one of simply addressing discrimination to one of promoting growth and development. M-DCPS' auditor conducted an economic impact analysis of the GOB, but this analysis was not conducted by race/ethnicity. While relatively new, some cities and states, such as the State of Maryland, have conducted economic impact analysis by race/gender to determine whether the benefits of tax dollars utilized for procurement and contracting of goods and services is benefitting its citizens in an equitable manner.

Assess Performance of Personnel with Buying Authority

At the end of the day, increasing M/WBE and SMBE participation in M-DCPS falls to M-DCPS personnel making the buy decision. With new e-procurement systems being implemented by the District, M-DCPS should be able to track the performance of individuals with buying authority to determine the degree to which they are making inclusive purchasing decisions such as measuring the effort by buyers in contacting ready, willing and able certified vendors, as well as any effort to identify new sources. The individual track record can be considered in annual or semi-annual performance evaluations. We noted in the Statistical Methodology Chapter that, in EEO Disparate Impact analysis, failure to maintain records necessary to monitor the race/gender of an organization's workforce can be deemed as adverse impact.

C. Develop M/WBE and SMBE Program Which Addresses Requirements of Large Construction and Development Projects

Project-Based Planning and Procurement Approach

A project-based planning and procurement approach is needed to match M-DCPS' operational requirements on large construction projects. Utilizing the Seven Phases of a Development ProjectSM defined by M³ Consulting will allow M-DCPS to meet its planning, procurement and M/WBE and SMBE needs across the life cycle of the development project.

The Seven Phases of a Development ProjectSM, along with possible opportunities (list intended to provide examples, not be exhaustive) at each stage are:

- **Planning**—opportunities exist in the acquisition of right-a-way; acquisition of property; legal services; environmental studies; land use studies; geotechnical studies and feasibility studies.
- **Financing**—opportunities may include investment banking, lobbyists, grant proposers, and legal services.
- **Designing**—design services include both architectural and engineering services, with other additional services that may be required such as geotechnical services, and environmental services. Design services may also include the development of a bulk purchasing plan. Construction management services would also be included here.
- **Constructing**—these services include prime contractor/sub-contractor activities including general contractors, tradesmen and soil testing.
- **Equipping**—involves the furnishing of facilities and buildings.
- **Maintaining**—involves the maintenance of equipment, facilities and buildings.
- **Operating**—covers the provision of those services that contribute to the overall continued function of the facility and buildings.

When M/WBE and SMBE participation is viewed within the construct of the phases of a development project, unbundling becomes a natural part of the project planning process.

Bonding and Insurance Program Related to Project-Based Procurement Process

Bonding

Four approaches may be taken to remove the barrier that bonding requirements sometimes can represent. *The efficacy of these programs must be reviewed in light of bonding requirements from the State of Florida.* The approaches include waiving bonding requirements, removing customary bonding stipulations at the subcontract level, reducing bonding, and phasing bonding. Each is described below:

- *Waiving bonding requirements.* While bonding may be required by local, state, or federal statute in particular instances, all governmental entities have some latitude in requiring a bond in the first place. Typically, small dollar value contracts are not required to have bonds. An honest assessment of the actual risk involved to the owner ought to be performed before deciding to always require a bond on every job. In addition, bonds can be required within a certain number of days after bid submittal, rather than with the bid submittal, so that only low bidders, and not unsuccessful bidders, must obtain them.
- *Removing bonding stipulations at subcontract level.* Typically, on larger construction jobs, the owner requires bonds of the prime contractor. This means, essentially, that the total job is bonded. The practice of requiring bonds of sub-contractors is just that, a practice. It is not required by the owner. Therefore, the owner may develop a policy that does not permit a prime's requirement of a subcontract bond to constitute a barrier to M/WBE and SMBE participation. Both the owner and the prime contractor should be willing to undertake special activities to monitor sub-contractors' performance and lend technical assistance, if necessary. Currently, the District does not require sub-contractor bonding on its projects and discourages its use. According to anecdotal interviews, this has a negative impact on M/WBE prime contractors. The District should review its processes to ensure that it is providing the appropriate support to ensure that its policy can continue in a manner that is fair to both prime and sub-contractors.
- *Reducing bonding.* Rather than requiring a 100 percent payment and performance bond, consideration also can be given to reducing the dollar coverage of the bond. A 50 percent bond, for example, can be required, thus reducing the size and cost of bonding. In this way, a company's bonding capacity is not reached so quickly, and bonding is made more affordable. The owner benefits by still being protected by a bond and in the form of lower bids since the cost of bonding is built into contractor's bids.
- *Phasing bonding.* This technique can be used in instances where bonding cannot be waived but where there are limitations of the low bidder to obtain a full bond. For example, the owner can divide the job into three phases, each requiring a separate notice to proceed. The successful bidder is then required to obtain a bond for each phase. Upon completion of the first phase of the work, the bond is released, and the contractor is required to provide a second bond in a like

amount. This process is then repeated for a third time. The owner thereby accommodates a M/WBE or SMBE that might not otherwise qualify, the owner is still protected from risks, and the contractor builds a track record of completing work under three bonds, thereby building bonding capacity and lowering the cost of bonding.

In addition to the above, several governmental bodies across the country have worked with local banking and other financial institutions to create bonding programs underwritten by the local government. A key to the success of such programs is establishing a contractor performance monitoring function to provide an early warning to any problems being encountered by covered contractors. The monitors are empowered to mobilize necessary assistance to ensure completion of the work and to minimize financial and other risk to the underwriter.

Wrap-Up Insurance

This represents an approach to affording all contractors the necessary insurance to perform public work, while guaranteeing the owner that needed insurance coverage is in place in all critical areas of contracting. Under a wrap-up insurance plan, the owner establishes a subsidiary organization, usually made up of a consortium of insurance brokers. Insurers are normally eager to compete for this business and will offer competitive rates to secure it. The arrangement also represents an excellent opportunity to involve M/WBEs and SMBEs in this business. Once in place, the owner offers blanket insurance coverage to all contractors through the wrap-up program.

D. Additional Adjustments to OEO Initiatives

OEO, under current leadership, has stabilized and has begun to implement initiatives, such as the Supplier Diversity Training program, that are being embraced by business owners. Based on the outcomes of the Disparity Analysis, the Procurement Analysis and Anecdotal/Race Neutral Testimony, OEO should consider the following:

Expand Use of SMBE Goal Setting

The SMBE program is not subject to the same level of judicial scrutiny as race/gender-conscious goals. Therefore, it allows M-DCPS to be more aggressive in utilizing tools that essentially are not available under race/gender-conscious programs, such as set-asides and sheltered market. Utilizing these tools to the maximum level can assist M-DCPS in expanding the capacity of Small-, Minority- and Women-owned firm, as long as the program is implemented in an inclusive manner.

Address Concerns about Slow Payments

Some firms expressed concerns about slow payments from prime contractors and long delays in the release by M-DCPS and prime contractors of retainage. OEO should further investigate these claims and determine whether an OEO payment monitor is needed. This investigation may also assist M-DCPS to determine whether M/WBE sub-contractors hired by Prime Contractors for contract compliance and M/WBE outreach are being utilized throughout the life of the project and whether OEO needs additional contract compliance support internally.

M-DCPS should also consider developing a pay application that includes sub-contractor utilization reporting to be utilized by Prime Contractors and approved appropriate District personnel. Any project with M/WBE, SMBE or VBE goals should be monitored for compliance by M-DCPS project managers. Not only does the District obtain more accurate data, as reporting is connected to payment, M-DCPS project managers take more responsibility for participation objectives, instead of viewing M/WBE issues as OEO's responsibility.

Discuss Impact of M-DCPS Decision Not to Reimburse Sub-contractor Bonding on Smaller Prime Contractors

A few construction managers testified that M-DCPS' unwillingness to reimburse them for the cost of sub-contractor bonds has made it difficult or impossible for them to work for M-DCPS. OEO and Facilities should discuss ways to mitigate this impact on small primes who M-DCPS is trying to support.

Optimize Procurement Forecasting and Construction Scheduling and Budgeting

The earlier M-DCPS can identify opportunities that will be bid, the better opportunity OEO has to work to expand the bidder and sub-bidder pool. The goal-setting process should be tied to forecasting, budgeting and scheduling processes, as opposed to the bid and RFP process only. To do so requires opportunity identification at prime and sub-contractor levels at the point of budgeting and funding.

12.4 SUMMARY

In summary, Miller³ Consulting, Inc. found that M-DCPS purchasing activities suggest that M/WBEs continue to have some difficulties obtaining significant contracts with M-DCPS. In submitting specific findings within the Disparity Study for M-DCPS, M³ Consulting formulated recommendations that allow M-DCPS to rely upon race/gender-conscious means when necessary to address ongoing hindrances to eliminate disparities, while also addressing M/WBE participation through race and gender-neutral efforts. Our economic and statistical utilization analyses could serve as part of the policy and procedure-making decisions needed to ensure enhanced and legally defensible M/WBE participation in M-DCPS's purchasing processes.