



Miami-Dade County Public Schools Phase 2 Disparity Study

January 8, 2019

FINAL REPORT

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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 business persons 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.

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.

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

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

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.

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.

Crosby 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.

Dun & Bradstreet Data—consists of a customized list of firms from its Hoover’s database for the Tri-County Area. The Hoover’s database consists of observations for 417,378 registered firms in the Tri-County Area by SIC and NAICS code, and MBE and WBE status.

D&B MWBE—a firm identified by Dun & Bradstreet as an MBE or WBE, but not listed on any certification list utilized for the Master S/M/W/DBE listing.

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.

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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.

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.

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, subcontractor, 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/SBEs—for computation of availability, utilization and disparity tables, represents all other firms, exclusive of M/W/SBEs.

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.).

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

Service Disabled Veteran Enterprise Program—A race- and gender-neutral program designed to benefit service disabled veteran businesses.

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

Small Business Enterprise—any contractor, subcontractor, 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.

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.

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

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.

EXECUTIVE SUMMARY

E.1 INTRODUCTION

E.1.1 PURPOSE OF DISPARITY STUDY

On May 11, 2016, the Miami-Dade County Public Schools, or M-DCPS, commissioned Miller³ Consulting, Inc. (M³ Consulting) to conduct a Phase 2 Disparity Study (the Study). The purpose of the study was to determine if there is evidence showing that ready, willing, and able M/WBEs are significantly underutilized in Goods & supplies, Services, and Maintenance and Maintenance-Related Services contracts issued by the School Board. The study covers July 1, 2012 to June 30, 2015.

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

Based on the Phase 1 study findings, the Board concluded “there is a strong evidentiary basis establishing that the District has a compelling interest in remedying the on-going effects of discrimination that is occurring in the broader relevant market and adversely affects the District’s utilization of ready, willing and able minority and women-owned firms in the District Construction and Construction-related Contracts. The Board also concludes that it

² Board Policy 6320.02, p. 1-2

needs to take action to avoid becoming a passive participant in private sector discrimination.”³

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

- Small/Micro Business Enterprise Program;
- Minority/Women Business Enterprise Program; and,
- Service Disabled Veteran Enterprise Program (currently titled the Veteran Business Enterprise Program).

M-DCPS also enforces the State of Florida’s Local Business Enterprise requirements.⁴

An overview of each program is provided below.

A. Small/Micro Business Enterprise Program

The Small/Micro Business Enterprise Program (S/MBE Program) is a race and gender-neutral program designed to provide “greater S/MBE 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 participant in private sector marketplace discrimination, and to promote equal opportunity for all segments of the contracting community to participate in Board contracts.”

B. 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 Subcontractor Disparity Study.”

C. Service Disabled Veteran Enterprise Program

The Service Disabled Veteran Enterprise Program is a race and gender-neutral program designed to benefit service disabled veteran businesses. M-DCPS provides a vendor

³ Ibid. at 3.

⁴ Procurement Management, Procurement Procedures at 136

preference of three percent of the total value of all prime contract/subcontract awards for each fiscal year to certified service disabled veteran businesses. 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 SDVE participation in M-DCPS procurement processes.

D. Other Vendor Preferences

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.⁵

Local Preference—M-DCPS will also award a preference to the lowest responsive and responsible vendor that has a principal place of business in Miami-Dade County, Florida.⁶ 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 responsive, 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.

Businesses Implementing a Drug-Free Workplace—M-DCPS will provide a preference to a business that certifies that it has implemented a drug-free work place program in accordance with the provisions of F.S. 287.087.

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 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 that supports the utilization of race-conscious initiatives; and,
- Any initiative or program must be narrowly tailored to remedy identified discrimination.

The requirements of the test can be shown in a factual predicate, which is also known as a disparity study. The methodology, findings, conclusions and recommendations of this Phase 2 Disparity Study can be utilized by M-DCPS to determine whether it has a basis for utilizing

⁵ Board Policy 6320.05

⁶ Ibid.

some form of a race and gender-conscious program consistent with the U.S. Supreme Court requirements of *Richmond v. Croson*.

Narrow tailoring is the crucial element in crafting appropriate *Croson* remedies. 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, post-*Croson* case law presents several broad guidelines for crafting recommendations for M/WBE programs by a public entity, based on the factual predicate findings.

- Race and gender-conscious M/WBE programs should be instituted only after, or in conjunction with, race and gender-neutral programs.
- 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. 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 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 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/WBEs availability and to addressing identified discrimination.
- M/WBE programs should limit their impact on the rights and operations of 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.

These measures are designed to address the underlying systemic factors that contributed to the disparity in contracting. Procurement adjustments are considered by the U.S. Supreme Court as race-neutral. The Court requires a public entity to employ race-neutral means to the degree available. While the statistical findings suggest that M-DCPS can continue to utilize race and gender-conscious goals, the courts may question if M-DCPS has aggressively worked to change its own practices, as well as prime vendor practices, to eliminate statistical disparities. A review of the *Croson's* Courts views on this issue is relevant here:

Many of the barriers to minority participation in the construction industry relied upon by the city to justify a racial classification appear to be race neutral. *If MBE's disproportionately lack capital or cannot meet bonding requirements, a race-neutral program of city financing for small firms would, a fortiori, lead to greater minority participation.* The principal opinion in *Fullilove* found that Congress had carefully examined and rejected race-neutral alternatives before enacting the MBE set-aside.⁷

Given the existence of an individualized procedure, the city's only interest in maintaining a quota system rather than investigating the need for remedial action in particular cases would seem to be simple administrative convenience. *But the interest in avoiding the bureaucratic effort necessary to tailor remedial relief to those who truly have suffered the effects of prior discrimination cannot justify a rigid line drawn on the basis of a suspect classification...*⁸

Even in the absence of evidence of discrimination, the city has at its disposal a whole array of race-neutral devices to increase the accessibility of city contracting opportunities to small entrepreneurs of all races. Simplification of bidding [488 U.S. 469, 510] 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. *Many of the formal barriers to new entrants may be the product of bureaucratic inertia more than actual necessity, and may have a disproportionate effect on the opportunities open to new minority firms. Their elimination or modification would have little detrimental effect on the city's interests and would serve to increase the opportunities available to minority business without classifying individuals on the basis of race. The city may also act 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.*⁹

(Emphasis added.)

The Eleventh Circuit summed it up in this manner:

⁷ 488 U.S. 469, 508 (1989)

⁸ *Id.* at 509.

⁹ *Id.* at 510-511.

“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...”¹⁰

The Eleventh Circuit found that the County had taken no steps to “inform, educate, discipline, or penalize” discriminatory misconduct by its own employees.¹¹ Nor had the County passed any local ordinances expressly prohibiting discrimination by local contractors, subcontractors, 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.”¹²

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 employs a 10-part disparity study methodology that 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 11th 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.

¹⁰ 122 F.2d 895, 929 (11th Cir. 1997)

¹¹ *Id.* at 929.

¹² *Id.*

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 DBE 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 S/MBE 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/SBEs 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 and Regression 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.
8. **Anecdotal and Survey Analyses** determine the experiences of M/WBEs and Non-M/W/SBEs attempting to do business with M-DCPS and in the business community overall. Further, the survey provides information on business characteristics, such as owner qualifications, years in business, capacity, and credit market experiences.
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. **Private Sector Analyses** determine M/WBE participation in 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" (*RWAS^M*) 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 2012/2013 – 2014/2015.

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.¹³

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 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 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 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.

¹³ Richmond v. Croson, at 725.

1. Miller³ Consulting, Inc. Availability Model

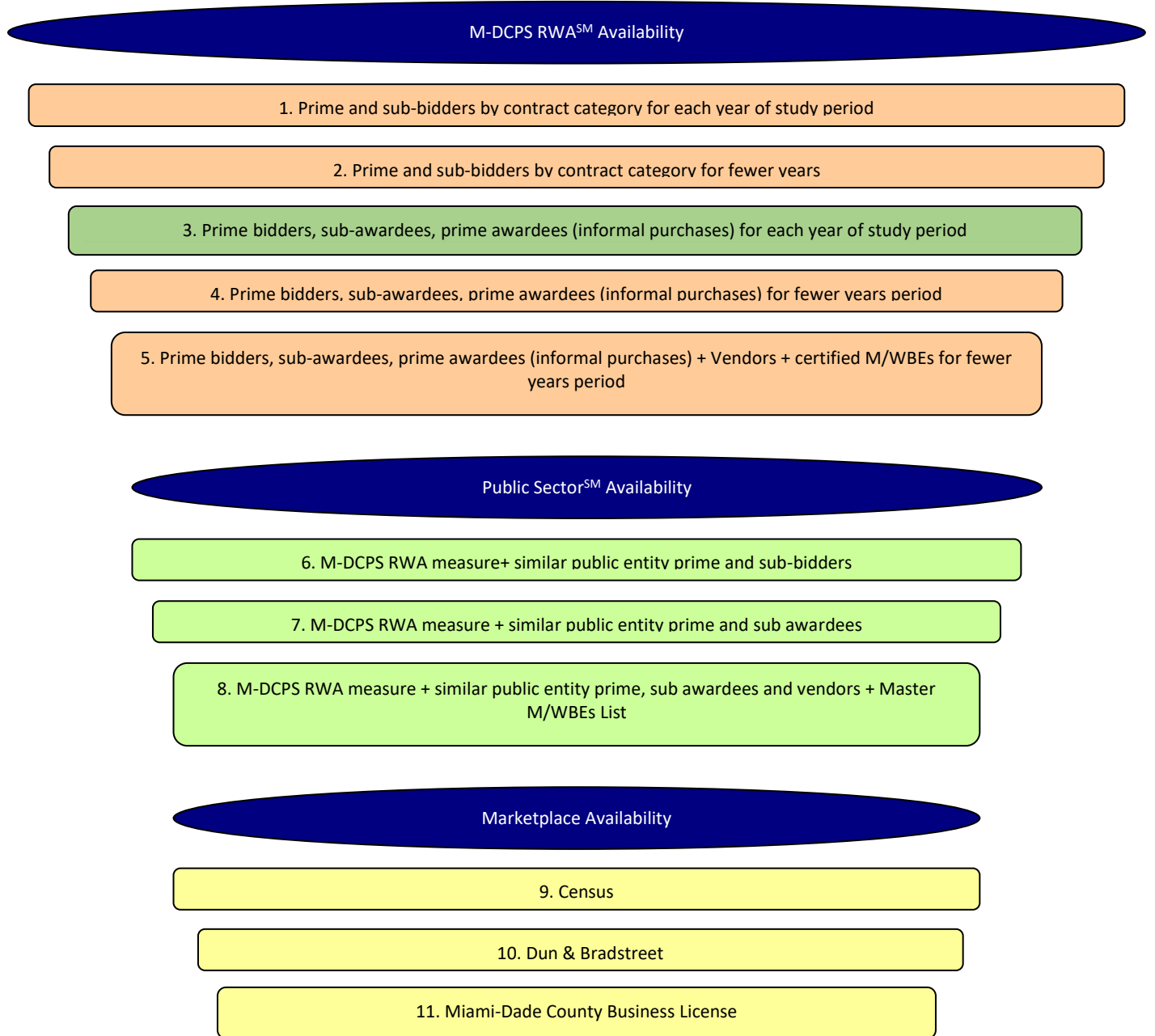
M³ Consulting employs two general approaches to measuring availability: the Ready, Willing and Able (RWASM) Model and Marketplace Availability. In summary, the Availability measures can fall into the following categories:

- **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’ marketplace¹⁴; and,
- **Marketplace Availability**—All firms’ available in M-DCPS’ marketplace, as measured by Census, Dun & Bradstreet and Business License data.

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.

¹⁴ 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 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 2012/2013 – 2014/2015 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 M-DCPS are included on the Vendors List

C. Utilization Analysis

Utilization represents the contracting and subcontracting history of Non-M/W/SBEs 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 in order 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/SBE, 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, African American-owned firms would appear to be over utilized, and Non-M/W/SBEs 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 with regard 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.

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
N _w	=	Number of women-owned firms
N _m	=	Number of minority-owned firms
N _t	=	Total number of firms

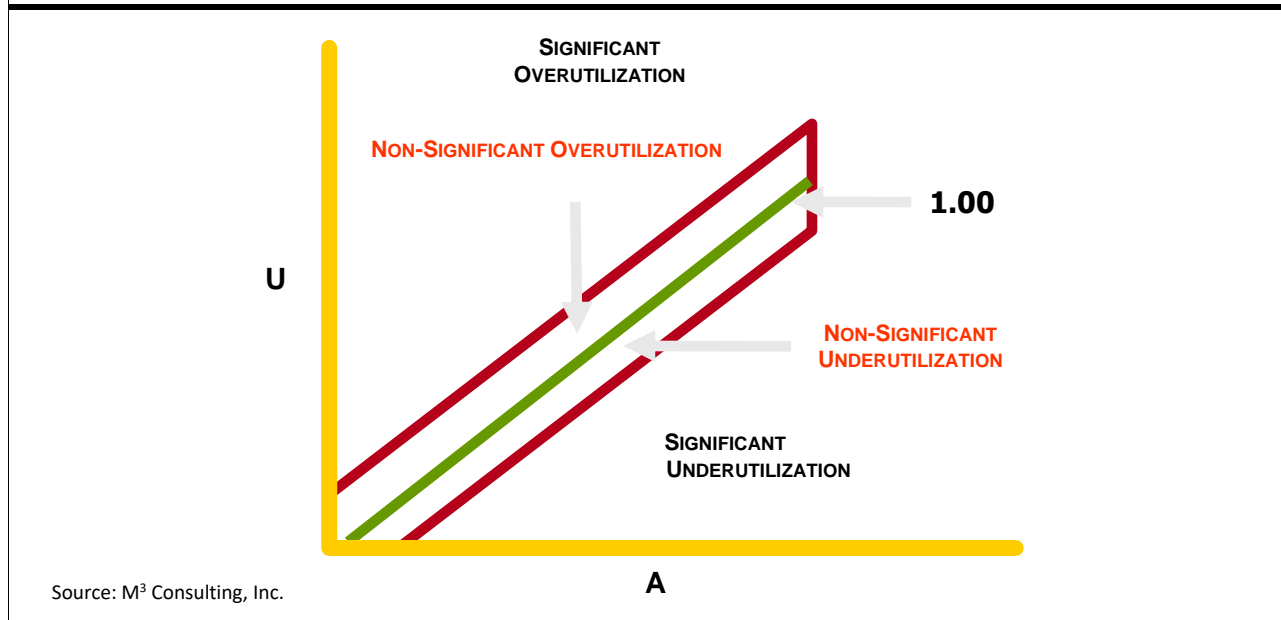
Availability (A) is calculated by dividing the number of minority and/or women-owned firms by the total number of firms. Utilization (U) is calculated by dividing total dollars expended with minority and women-owned firms by the total expenditures.

$$\begin{aligned} A_w &= N_w / N_t \\ A_m &= N_m / N_t \\ D &= U / A \end{aligned}$$

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 statistical 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:

Table E.1. Inference of Discrimination Based on Findings of Statistically Significant Disparity By Race/Ethnicity/Gender By Procurement Type			
	Goods & Supplies	Maintenance and Maintenance-Related Services	Services
African American	Under**	Under**	Under**
Asian American	Under**	Under**	Over*
Hispanic American	Over*	Over*	Over
WBE	Under**	Under**	Under**

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

*-Significant Overutilization

** -Significant Underutilization

Note: All findings of statistically significant disparity also meet the 80 percent rule

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 because the location of the commercial activity that M-DCPS conducts with its vendors may vary based on the different procurement category.

Table E.2. Summary of Relevant Market Determination			
	Tri-County	State	Nationwide
Goods & Supplies			√
Maintenance and Maintenance-Related Services	√		
Services		√	

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

B. Availability Analysis

Table E.3 below summarizes the availability estimates for M/WBEs 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 model¹⁵. 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. In Table E.4, marketplace availability measures, based on Census SBO, are presented as a benchmark of minority and women-

¹⁵ See Figure E.2 for Level 2, based on M-DCPS specific data. See also Figure E.1, Line 3.

owned firm availability and for M-DCPS to consider potentially available firms for outreach purposes.

For Goods & Supplies, MBE RWASM availability percentage is about 8.75 percent, half of which is from Hispanic American-owned firms, followed by Non M-DCPS Certified MBEs and African American-owned firms. WBE availability in this industry at 2.90 percent available based on the RWASM availability measure. The marketplace availability measure based in Goods & Supplies shows a higher presence of MBEs in the industry at 15.50 percent and a slightly higher presence of WBEs at 3.43 percent.

In Maintenance and Maintenance-Related industries, the availability of M/WBEs was at 34.52 percent based on RWASM availability estimates. MBEs were at 29.93 percent with Hispanic American-owned firms leading this group at 18.37 percent. African American-owned firms and WBEs are at four percent and 4.30 percent respectively in the Tri-County marketplace. The Census availability measure shows a slightly lower representation in the marketplace of M/WBEs at 24.31 percent, with WBEs about the same as the RWASM availability estimate at 4.48 percent. MBEs were lower than RWASM at 24.31 percent.

For Services, M/WBEs availability based on RWASM availability was 14.08 percent, lower in comparison to the marketplace availability at 20.05 percent. MBEs and WBEs were both evenly low in availability based on RWASM availability estimates with Hispanic American-owned firms occupying the lead available MBE Service firms. Marketplace availability reflected similar results, except for Asian American-owned firms, who reflected almost 6 percent participation, compared to well less than 1 percent for RWASM.

The presence of M/WBEs in M-DCPS procurement is higher in the marketplace overall. The marketplace however shows a greater number of M/WBEs that do not participate in the M-DCPS procurement process, although they may potentially be available to do business. If these potentially available firms meet the RWASM availability criteria and may be encouraged to participate in M-DCPS contracting process remains to be explored.

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Table E.3.
Summary Table - RWASM Availability Percentage Participation
Miami-Dade County Public Schools
Relevant Market; 2012/2013 - 2014/2015

Ethnicity	Goods & Supplies ¹		Maintenance and Maintenance-Related Services ²		Services ³		Total Firms ¹	
	#	%	#	%	#	%	#	%
Non-M/W/SBE	1,707	86.87	425	62.96	888	85.06	3,633	84.31
African American	20	1.02	27	4.00	21	2.01	73	1.69
Asian American	6	0.31	4	0.59	3	0.29	14	0.32
Hispanic American	96	4.89	124	18.37	51	4.89	271	6.29
Non M-DCPS Certified MBE	50	2.54	47	6.96	28	2.68	126	2.92
Total MBE	172	8.75	202	29.93	103	9.87	484	11.23
WBE	57	2.90	29	4.30	37	3.54	128	2.97
Non M-DCPS Certified M/WBE	4	0.20	2	0.30	7	0.67	13	0.30
Total M/WBE	233	11.86	233	34.52	147	14.08	625	14.50
SBE	23	1.17	17	2.52	7	0.67	47	1.09
Total M/WBE	256	13.03	250	37.04	154	14.75	672	15.60
Service-Disabled	2	0.10	-	0.00	2	0.19	4	0.09
Total	1,965	100.00	675	100.00	1,044	100.00	4,309	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; Note: Total Firms is not refined to a relevant market, as such it does not represent a total of Goods & Supplies, Maintenance and Maintenance-Related Services and Services represented on the table, as these categories are limited to their Relevant Market.

¹Nationwide

²Tri-County Area

³State of Florida

See Figure E.2 for Level 2, based on M-DCPS specific data. See also Figure E.1, Line 3.

**Table E.4.
 Census SBO Summary Availability
 Relevant Market, 2012**

	Goods & Supplies ¹		Maintenance and Maintenance-Related Services ²		Services ³		Total Firms ¹	
	#	%	#	%	#	%	#	%
Non-M/WBE	5,031,921	81.08	17,718	75.69	941,347	79.95	20,621,138	81.66
African American	36,109	0.58	342	1.46	22,509	1.91	315,519	1.25
Asian American	702,882	11.33	399	1.70	66,505	5.65	2,357,030	9.33
Hispanic American	122,555	1.97	3,456	14.76	70,733	6.01	551,136	2.18
Native American	15,219	0.25	54	0.23	2,609	0.22	75,186	0.30
Other MBE	84,976	1.37	392	1.67	18,501	1.57	362,142	1.43
Total MBE	961,741	15.50	4,643	19.83	180,857	15.36	3,661,013	14.50
WBE	212,680	3.43	1,048	4.48	55,168	4.69	969,286	3.84
Total M/W/SBE	1,174,421	18.92	5,691	24.31	236,025	20.05	4,630,299	18.34
Total	6,206,342	24.58	23,409	100.00	1,177,372	100.00	25,251,437	100.00

Source: 2012 Census SBO Data; M³ Consulting; Note: Total Firms is not refined to a relevant market, as such it does not represent a total of Goods & Supplies, Maintenance and Maintenance-Related Services and Services represented on the table, as these categories are limited to their Relevant Market.

¹Nationwide

²Miami-Ft. Lauderdale-West Palm Beach Metro Area

³State of Florida

The difference in Potential Availability (Marketplace) and Actual Availability (RWASM) 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 awardees are presumed to be actually available, whereas the Census SBO includes firms that may not be actually available due to discrimination or other factors. Significantly more research and analysis is necessary to determine the reasons for differences in availability levels between RWASM and Census SBO. Other than race- and gender-conscious goals, such factors influencing the difference between RWASM Availability measures and Census SBO (and Business License and D&B Availability) figures could include, but not be limited to:

- Firms available in Census SBO, while falling into a North American Industry Classification System code utilized by M-DCPS, do not provide the specific goods and services required by M-DCPS;
- Firms within the Census SBO and D&B 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 begins to conduct inclusive outreach to and surveying of firms on the D&B and Business License lists to determine their interest and ability to provide their services to M-DCPS and the willingness of unverified D&B and Business Licenses Minority/Women-business enterprises to become certified to be eligible for M-DCPS' race- and gender-conscious initiatives, more conclusive determinations can be made regarding the difference between RWASM and marketplace availability figures.¹⁶

C. Utilization Analysis

Table E.5 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 Maintenance and Maintenance-Related Services, as high as 68.31 percent if measured by POs, over 52 percent based on Payables and 45.5 percent based on Contract Awards. However, the majority of the M/WBE utilization is based on MBE utilization. WBE utilization never exceeds 6.2 percent based on any of the measures of utilization. While it appears that MBEs are utilized substantially in Maintenance and Maintenance-Related Services, this is a skewed picture as noted in the Table E.6 below, with most of the dollars going to Hispanic American-owned firms and Non M-DCPS Certified MBEs.

In Goods & Supplies' procurement by M-DCPS, M/WBE utilization ranged from 10.08 percent to 22.35 percent based on the different measures of utilization. Since Goods & Supplies are typically, long term blanket contracts, POs may best reflect utilization. Based on POs, the utilization of MBEs is at 21.12 percent and WBEs, 1.23 percent for the three-years study period, 2012/2013 - 2014/2015.

Procurement of Services by M-DCPS ranges from 7.23 percent to 11.78 percent for M/WBEs, with the greatest utilization reflected in POs. Since a number of Services contracts are informal, POs may reflect the utilization of M/WBEs most closely. Based on POs, 9.14 percent of MBEs are utilized and 2.64 percent of WBEs for the 2012/2013 - 2014/2015. However, as

¹⁶ Specific firm information is not available from Census SBO.

Table E.6 highlights, MBE utilization is largely skewed toward Hispanic American-owned firms and the aggregate number less accurately reflects utilization of all MBE groups.

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; 2012/2013 – 2014/2015 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)		
	MBE	WBE	M/WBE⁴	MBE	WBE	M/WBE⁴	MBE	WBE	M/WBE⁴
Goods & Supplies¹	21.12	1.23	22.35	8.90	1.19	10.08	8.88	2.29	11.17
Maintenance and Maintenance- Related Services²	64.10	1.29	68.31	48.11	1.59	51.12	38.48	6.20	45.53
Services³	9.14	2.64	11.78	6.46	2.17	8.63	5.92	0.08	7.23

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 Non M-DCPS Certified M/WBEs

Table E.6 reflects that, based on Purchase Orders, M/WBEs are utilized overall more in Maintenance and Maintenance-Related Services than in the other two procurement categories. However, as discussed above, the utilization of M/WBEs in Maintenance and Maintenance-Related Services largely includes procurement from Hispanic American-owned firms and Non M-DCPS Certified MBEs, whereas the rest of the race/ethnic/gender groups received less than three to five percent of the total POs. Hispanic American-owned firms receive 35.86 percent of the POs in this procurement category and Non M-DCPS Certified MBEs, 27.16 percent.

In the other two procurement categories, a similar pattern exists in the utilization of Hispanic American-owned firms and Non M-DCPS Certified MBEs, although the percentage utilization of M/WBEs in these procurement categories are much smaller in comparison. In

Goods & Services, other than Hispanic American-owned firms receiving 19.80 percentage of total payments for the three-year study period, the remainder of the M/WBE groups receive no more than 1.13 percent of the total. In Services, similarly, while Hispanic American-owned firms receive 5.04 percent of the total payments for 2012/2013 - 2014/2015, no MBE group receive more than 1.85 percent of the POs and WBEs received only 2.64 percent of the total purchase orders for the three-year period. African American-owned firms never exceed 1.15 percent and Asian American-owned firms, 1.1 percent of utilization as measured by POs in any procurement category.

Table E.6.
Summary Table – Utilization by Relevant Market
Based on Purchase Orders
Miami-Dade County Public Schools
Relevant Market; 2012/2013 – 2014/2015

Race/Ethnicity/Gender	Goods & Supplies ¹		Maintenance and Maintenance-Related Services ²		Services ³	
	\$	%	\$	%	\$	%
Non-M/W/SBE	420,601,662	77.15	9,758,349	26.74	195,666,712	88.07
African American	444,170	0.08	346,290	0.95	2,544,104	1.15
Asian American	589,478	0.11	45,378	0.12	2,447,646	1.10
Hispanic American	107,939,751	19.80	13,089,927	35.86	11,202,446	5.04
Non M-DCPS Certified MBE	6,185,789	1.13	9,914,711	27.16	4,117,539	1.85
Total MBE	115,159,190	21.12	23,396,306	64.10	20,311,735	9.14
WBE	6,712,992	1.23	470,694	1.29	5,860,790	2.64
Non M-DCPS Certified M/WBE	-	0.00	1,066,661	2.92	-	0.00
Total M/WBE	121,872,182	22.35	24,933,661	68.31	26,172,525	11.78
SBE	2,681,113	0.49	1,807,191	4.95	152,998	0.07
Total M/W/SBE	124,553,295	22.85	26,740,852	73.26	26,325,523	11.85
Service-Disabled	16,000	0.00	-	0.00	170,361	0.08
Total	545,170,957	100.00	36,499,202	100.00	222,162,595	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

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 2012/2013—2014/2015. Based on the foregoing analysis and the summary below, findings of

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statistically significant disparity are made for the following groups in the following procurement categories:

- Goods & Supplies—African American-owned firms, Asian American-owned firms, and WBEs:
- Maintenance and Maintenance-Related Services—African American-owned firms, Asian American-owned firms, WBEs; and,
- Services—African American-owned firms and 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; 2012/2013 -- 2014/2015						
Race/Ethnicity/Gender	Goods & Supplies (Purchase Orders)		Maintenance & Maintenance Related Services (Purchase Orders)		Services (Purchase Orders)	
	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.
Non-M/W/SBE	0.89	S	0.42	S	1.04	S
African American	0.08	S	0.24	S	0.57	S
Asian American	0.36	S	0.20	S	3.83	S
Hispanic American	4.05	S	1.95	S	1.03	NS
Non M-DCPS Certified MBE	0.44	S	3.90	S	0.69	S
Total MBE	2.41	S	2.14	S	0.93	S
WBE	0.42	S	0.30	S	0.74	S
Non M-DCPS Certified M/WBE	0.00	S	9.86	S	0.00	S
Total M/WBE	1.88	S	1.98	S	0.84	S
SBE	0.42	S	1.97	S	0.10	S
Total M/W/SBE	1.75	S	1.98	S	0.80	S
Service-Disabled	0.00	S	0.00	S	0.42	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 – Underutilized,, but not Statistically Significant;

ND: Not Defined

E. Capacity Issues

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 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.

- Based on Census SBO data, Hispanic American- and Asian American-owned firms appear to have higher capacity among M/WBEs, but these are smaller in absolute size than Non-M/WBEs based on number of employees and revenues among the race, gender and ethnic groups in the MSA. If relative capacity (compared to Non-M/WBEs) was considered, the differences in capacities among M/WBEs and Non-M/WBEs is small in Maintenance and Maintenance-Related Services but is still high in Services and Goods & Supplies.
- Based on D&B, using number of employees, until the 500-employee range, there is little difference in capacity between the race, gender and ethnic groups; yet over 500 employees, there are few M/WBEs in the Tri-County MSA. Based on revenues however, the capacity differences among race, gender and ethnic groups diminish and MBEs, WBEs, M/WBEs and Non-M/WBEs are represented in all revenue ranges, including those over \$10 million.
- To analyze capacity of M/WBEs compared to Non-M/WBEs, M³ Consulting conducted a survey of vendors that register to do business with M-DCPS and examined the differences in capacity by race, gender and ethnic groups. Some summary highlights from the survey are as follows:
 - On average, Female-owned firms are statistically significantly younger and do not have significantly lower start-up capital than their male counterparts. They are also smaller with regards to full-time employees, as well as gross receipts, than Male-owned firms.
 - MBEs and White female-owned firms are significantly younger, with fewer full-time employees and lower gross receipts than Non-M/WBEs and hence have lower capacity, based on the survey responses. However, there is not

sufficient evidence to show differences in initial levels of capital or number of contracts won by M/WBEs compared to Non-M/WBEs.

- Female-owned firms apply significantly fewer times for a loan than their male counterparts and get denied fewer times as well.
- The number of times that MBEs applied or were denied a loan/line of credit or for a bond is not significantly different than Non-M/WBEs.
- After accounting for variables that may impact revenues of firms, race, gender and ethnicity of the firm's owner does not seem to have any influence, except for African American-owned firms, wherein they seem to negatively influence revenues. Any variation in revenues of other race, gender and ethnic groups from similarly situated Non-M/WBEs was purely due to chance.
- 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. 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-African-American firm. This

holds true in the Maintenance and Maintenance-Related Services as well as Professional Service industries with self-employment earnings for an African Americans lower by \$1,173 and \$1,347 respectively. In contrast, Hispanic Americans that are self-employed earn \$756 higher in professional services, but \$525 lower in Maintenance and Maintenance-Related industries.

- While 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 and 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 and ethnic groups wherein the results are mixed.

E.3.3 QUALITATIVE FINDINGS IMPACTING STATISTICALLY SIGNIFICANT DISPARITY

A. Procurement

M-DCPS operates in a fairly centralized procurement environment for the procurement types under review for this study. However, on informal purchases below \$50,000, school sites continue to have significant purchasing authority. It is important to note that a decentralized procurement process is viewed in the context of the sufficiency of infrastructure support and organizational oversight to ensure transparency, accountability, efficiencies and above all, fairness and inclusiveness on an on-going basis on all purchases. Below are the Procurement, S/MBE 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.

- There appears to be limited knowledge or responsibility for developing and implementing inclusive procurement strategies. Additionally, during the study period and for goods & supplies, services and maintenance & maintenance-related services, most staff members in OEO had limited procurement knowledge and some had limited knowledge of M/WBE program operations and supplier diversity.
- While M-DCPS has well-developed M/WBE and S/MBE Board policies, the implementation of these policies are hampered by the issues above. Furthermore, while OEO leadership was consistent during the study period, the constant changes in OEO leadership following the study period and during the course of the conduct of this disparity study has impacted the consistent development of implementation strategies and initiatives and OEO's ability to serve as advocate and ombudsman.

These issues impact M-DCPS' ability to be collaborative, responsive and inclusive within real-time procurement operations.

- M-DCPS' has not integrated M-DCPS S/MBE and M/WBE procedures into its Procurement Procedures for goods & supplies, services and maintenance & maintenance-related services. As such, the expectation and requirements of Procurement, School Principals and Administrators, User Departments and OEO has not been clearly established in a manner that allows M-DCPS to ensure a procurement process that is open, fair, transparent and inclusive in a manner that can be monitored and tracked beyond S/MBE and M/WBE participation statistics.
- M-DCPS primarily focuses on reporting procurement spend and goal attainment. OEO staff has not recently prepared an overall organizational and programmatic scorecard akin to its Inaugural Reports for 2013/2014 and 2014/2015. Furthermore, reporting does not identify overall and M/WBE spend by buyer, department and school sites. Therefore, because of this limited transparency, M-DCPS is less likely to identify and eliminate issues of favoritism and discrimination.
- Based on interviews, M-DCPS provides limited forecasting of upcoming opportunities at both the informal and formal level. Furthermore, informal procurements, similar to many public agencies, are not advertised using any source (paper, website, DemandStar). This incomplete forecasting and notification limits transparency as it relates to opportunities where M/WBEs have the capacity to perform; and, limits the time-period M/WBEs have to complete all requirements necessary to ensure that, once the solicitation is released, they are ready, willing and able to bid.
- Based on interviews, M-DCPS focuses primarily on outreach, not matchmaking. Outreach—while sometimes labeled as matchmaking—covers the vendor fairs which procurement staff attends and “How to Do Business” workshops provided.
- Like many public agencies, M-DCPS certification requirements can be very taxing for small businesses, especially considering the lack of reciprocity of certification requirements among public agencies in South Florida. While the goal is to certify bona fide M/WBEs, some certification requirements may create issues of unfair exclusion and discrimination and inconsistencies within the bid process. For example, all minority persons applying for certification are required to be citizens or lawful permanent residents. This requirement is not in place for Non-M/WBEs who are not citizens or lawful permanent residents who are obtaining business licenses, bidding and being awarded contracts by M-DCPS.

The execution and implementation of a public entity's community economic development objectives commences with the procurement process. Public entity achievement of its community economic development objectives through procurement begins with a public policy approach to procurement and community economic development, supported by project execution, as opposed to purely employing a cost, schedule, and project efficiency based approach.

M-DCPS has a guiding Mission Statement, a reasonable overall organizational structure and numerous reasonable policies and procedures in place. However, M-DCPS also has multiple areas in its policies, procedures and practices that may create barriers to the ability of M/WBEs to participate in M-DCPS' contracting and procurement opportunities. If these areas are not appropriately addressed, there is a risk of inherent, unintentional and/or intentional exclusionary and/or discriminatory practices in M-DCPS' procurement program.

B. Anecdotal

The anecdotal data from twenty-four participants was gathered through a series of one-on-one in-depth interviews and two focus groups. Those interviewed included both minority and women business owners and management and technical assistance providers and advocates. 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 anecdotal testimony tended to reflect firms' perception of and concerns about the impact of unfair contracting practices and staff inexperience on the ability of S/MBEs and M/WBEs to do business with M-DCPS in a fair and open manner. Interviewees expressed concerns about the repeated use of the same firms, the negative impact of certification on their ability to obtain contracts, the lack of M-DCPS support in ensuring that prime contractors provide their subcontractors the same contract terms as M-DCPS provides to the prime contractors. Interviewees also provided comments on their perceptions of M-DCPS and prime contractor preferences to do business with firms with whom they have prior relationships within the marketplace, bid shopping of quotes, and the manner in which public agencies appear to defer to their prime contractors in South Florida.

Interviewees also discussed the impact of the lack of experience and business acumen of M-DCPS staff and its negative impact on the ability of S/MBEs and M/WBEs to do business with M-DCPS. A few also expressed concerns about the challenges in doing business with M-DCPS school sites.

African American-owned firms and M&TA leaders were most willing to participate and voice their concerns.

C. Private Sector

The local demographics in the Miami-Ft. Lauderdale-Pompano Beach MSA is dominated by Hispanic Americans at almost 43 percent, followed by White Americans at about 33 percent and African Americans at about 20 percent. The civilian labor force mirrors the population.

It is expected that the differences in the availability of firms in the relevant market would be representative of these statistics. As such, it is important to study the degree to which the population is gaining education and experience that could lead to business formation.

Among all racial and ethnic groups, Hispanic Americans have the greatest employment presence in Construction in the Miami-Ft. Lauderdale-Pompano Beach MSA. They lag behind White Americans in Professional Services, while tracking White Americans fairly closely in Support Services. African American and Asian Americans reflect smaller employment numbers than Hispanic Americans and White Americans, with Asian Americans having a very small presence in all categories.

Both Miami-Dade County Business License data and D&B data suggests that M/WBEs are represented in smaller proportion in the marketplace, which includes both public sector and private sector, than they are with M-DCPS. These findings are buttressed by survey findings, which further suggests that most of the survey respondents tend to do business in the public sector. Even the few that reported having previously done business in the private sector appear to have moved toward the public sector.

We further compared the expectations of business formation discussed in Chapter 8: Capacity and Regression to actual business formation in Chapter 10: Private Sector. From data on business formation in Chapter 8, it appears that African American-owned firms are the most unlikely to be self-employed and if self-employed, likely to have lower earnings than similarly situated individuals with similar economic and demographic profiles. Most other race, gender and ethnic groups are likely to be self-employed. We did note that race and gender do have a significant impact on the probability of being self-employed in the State of Florida. As seen in Chapter 8, the likelihood of self-employment by M/WBEs (other than African Americans) is seen in Maintenance and Maintenance-Related Services, which perhaps explains why the Business License data indicates their higher presence in this procurement category. Consistently, M-DCPS data in Chapters 5 and 6 also indicates higher presence (availability) and utilization of M/WBEs in this procurement category. These findings also appear to be consistent with the civilian labor force data, which reflects higher levels of minority

employment in the Construction fields, which most closely correlates to Maintenance and Maintenance-Related Services.

African Americans lagged behind in employment across all categories. Asian Americans reflected their highest levels of employment in Professional Services, particularly Males in STEM professions, which would portend higher levels of business formation in these areas. Even so, their availability as reflected in both RWASM availability and Business License Available are very low, which has led to their overutilization in the Services area, based on Disparity ratios.

D. Race Neutral

M³ Consulting reviewed over seventy Management, Financial and Technical Assistance providers, along with Chambers of Commerce and other networking organization, primarily in Miami-Dade County.

M³ Consulting found that, while these organizations had some impact on improving S/MBEs and M/WBEs management skills, access to capital, and greater exposure to the larger business community, S/MBEs and M/WBEs still face difficulty in gaining access to public and private sector contracting opportunities. Additionally, while there have been some efforts to address capacity in the Tri-County Area, in general, the slow growth in increased capacity remain an issue. Hispanic American-owned firms may be the exception to this general rule for M/WBEs. While race and gender-neutral efforts may have contributed in some degree to increased capacity and participation in contract awards, race and gender-neutral programs alone have not been fully effective in increasing availability, capacity or utilization of S/MBEs and M/WBEs.

E.4 RECOMMENDATIONS

In light of the findings discussed in the previous chapters and the conclusions above, M³ Consulting is providing the following recommendations to M-DCPS. The recommendations contain both race and gender-neutral and race and gender-conscious elements. The recommendations are grouped under the following categories:

- *Croson* Parameters for Recommendations
- Enhancements to Purchasing Procedures and Practices
- Identification of Race and gender-Conscious Goal Possibilities

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 in light of 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.

E.4.2 ENHANCEMENTS TO PROCUREMENT AND S/MBE and M/WBEs PROCEDURES AND PRACTICES

Below are recommendations to M-DCPS for organizational, cultural, structural and programmatic changes that will lead to transformative and sustainable change in M-DCPS' procurement operations and that will bring M-DCPS into regulatory compliance and alignment with best practices.

A. Organizational Recommendations

1. **Change inclusion focus from programmatic (*compliance* with S/MBE and M/WBE regulations) to organizational (*commitment* to inclusive procurement environment)**
 - a. Ensure leadership commitment and the articulation organization-wide of that commitment;
 - b. Address organizational and organizational culture issues impacting the effective implementation of M/WBE and S/MBE programmatic initiatives and procurement operations;
2. **Ensure an inclusive procurement environment which should incorporate the following elements:**
 - a. **Mission Driven**—The procurement and OEO objectives are tied directly to the overall vision, mission and goals of M-DCPS.
 - b. **Opportunity Driven**—OEO, along with Procurement Management Services, is driven by M-DCPS' opportunities—identifying them, understanding them, managing them, communicating them.
 - c. **Relationship Driven**—With the foundation that being opportunity driven provides, OEO and M-DCPS will be in the relationship development business. PMS and OEO will know its businesses that are capable of doing M-DCPS' work and ask the business community to share its goal of inclusive economic development.
 - d. **Data Driven**—Sound data and fully integrated systems will provide senior management with the information it needs to report on successfully meeting its

- objectives and maximizing economic development, equity, organizational performance, along with the other objectives established by the Superintendent.
3. **Provide Procurement and M/WBE training and development to all Procurement, School Site Staff, Departmental Staff and OEO Staff on Inclusive Procurement and M/WBE Program Operations:**
 - a. To ensure all persons engaged in procurement activity have the appropriate baseline of knowledge, skill and understanding of M-DCPS commitment to inclusive procurement; and,
 - b. To allow Chief Procurement Officer and OEO Director to train on higher level negotiating strategies and tactics in the various procurement categories and for particular types of goods and services that can be deployed.
 4. **Fully implement current S/MBE and M/WBE Programmatic Initiatives before making further programmatic adjustments.**
 5. **Develop Budgeting, Forecasting and Scheduling for each procurement category that includes:**
 - a. Type of possible opportunities at prime and subcontractor levels, as well as formal and informal levels;
 - b. Funding source; and,
 - c. Timeframe that opportunity may be available.
 6. **Ensure that Decision-Making within M-DCPS can be monitored, using an EEO Applicant Flow model equivalent**
 - a. Develop ability to track procurement spend in a manner that highlights decision-making points (selection, evaluations, contract changes) to ensure decisions by M-DCPS and its prime contractors/prime consultants are being made in a non-discriminatory manner. RWASM and Disparity Analysis tracking and compliant reporting should include the following¹⁷:
 - i. Potential Availability from D&B Firms, Firms Receiving Building Permits and/or Business License, certified M/WBEs and S/MBEs, trade organization membership; on-line data bases
 - ii. Registered Vendors, Plan Holders, Pre-Qualified Vendors
 - iii. Bidders and Sub-bidders (inclusive of quotes)
 - iv. Awardees and Payees and Sub-awardees and Sub-payees

¹⁷ Note EEO standard: 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.”

- v. Difference between prime and subcontracting opportunities; vendor performance
- vi. Contract terminations, for convenience and for cause; subcontractor substitutions

B. S/MBE and M/WBE Recommendations

1. **Consider Breaking Down Hispanic-Owned Firms by Sub-ethnicity**
 - a. To determine if the experience of Cuban American-owned businesses is different from Other Hispanic American-owned business; and,
 - b. To utilize data to further narrowly tailor findings and conclusions.
2. **Monitor Contracts for Issue of Concentration to ensure that**
 - a. The same Non-M/W/SBEs, S/MBEs and M/WBEs are not securing a significant percentage of M-DCPS contracts; and,
 - b. The same S/MBEs and M/WBEs are not accounting for a significant percent of M-DCPS S/MBEs and M/WBEs participation.
3. **Promote S/MBE and M/WBE Participation at the Prime Contractor Level**
 - a. Identify prime-level procurement opportunities where a significant pool of S/MBEs and M/WBEs are available;
 - b. Establish prime-level participation targets to ensure that M-DCPS is focused on securing participation at the prime level, as well as subcontracting level;
 - c. Improve procurement forecasting to allow for inclusive planning, matchmaking and outreach;
 - d. Utilize race and gender-conscious initiatives, such as goals, evaluation factors, joint venture incentives, price preferences, targeted solicitation;
 - e. Increase the utilization of S/MBE set-asides and sheltered market opportunities, where S/MBE availability supports doing so;
 - f. Provide notice of small business opportunities (below \$50,000) and ensure that S/MBEs and M/WBEs are included in pool of firms being solicited;
 - g. Consistently review pool of S/MBEs and M/WBEs sub-bidders and subcontractors to determine those that have done a significant level of subcontracting with M-DCPS and/or other public agencies, thereby building a track record to support prime level awards;
 - h. Unbundle contracts into commercially viable units;
 - i. Optimize joint ventures, develop and encourage mentor/protégé program, recognize prime opportunities for distributors;

- j. Review and revise all technical specifications to exclude proprietary language that discourage S/MBEs and M/WBEs from bidding; and,
 - k. Develop evaluation mechanisms for measuring M-DCPS senior management commitment and staff's efforts toward S/MBE and M/WBE participation in M-DCPS contracting opportunities.
4. **Increase Success of Small Business Set-Asides and Sheltered Market Projects**
- a. Consistently establish S/MBE goals, small business set-asides, and sheltered market projects;
 - b. Forecast and publish annually list of anticipated small business purchases on website, based on current and historical purchases to minimize small business need to consistently check for upcoming bids;
 - c. Ensure that M-DCPS has strong relationships with MT&A providers who are in constant communication with S/MBEs and M/WBEs;
 - d. Provide notice of small business opportunities on its website and/or through DemandStar;
 - e. Allow for online submission of quotes and bids; and,
 - f. Work collaboratively with and provide incentive to (where allowable) prime vendors to refer small business capable of performing small prime contracting opportunities;
5. **Develop specific procedures for verifying, counting and tracking the participation of S/MBEs and M/WBEs in Joint Ventures, Mentor-Protégé, and Distributorships**
6. **Develop Effective Matchmaking and Outreach Programs**
- a. Coordinate matchmaking sessions with construction schedules and plans, forecast release and/or solicitation schedule. In many instances, matchmaking sessions follow pre-bid conferences. However, matchmaking sessions should ideally be utilized to identify available firms for particular projects in *planning stages*, when prime contractors are building their teams. While not called matching sessions, the federal government often allows vendors to provide qualification information in pre-bid research to determine the level of competitiveness it can expect once the bid is let.
 - b. Focus on specific commodity areas in the three procurement categories allowing vendors specializing in specific goods and services to have the opportunity to meet with buyers responsible for those commodities.
 - c. Buyers and contract specialists should have procurement projections such that they can discuss specific upcoming opportunities and the requirements and procurement mechanisms that will be utilized to procure the good or service. This

- specificity is the key factor that distinguishes matchmaking sessions from outreach and vendor fairs.
- d. Identify informal and formal opportunities during the matching session so that vendors can determine where they have the greatest likelihood of successfully marketing to M-DCPS.
 - e. M-DCPS' legal counsel should consider the legality of including responsiveness to matchmaking efforts as a factor of good-faith under M-DCPS' M/WBE initiatives.
 - f. Focus outreach efforts on expanding the total vendor and bidder pools to include potentially available firms from sources, such as other agency certified lists, business license data and Dun & Bradstreet (D&B) lists.

E.5 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.

E.5.1 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, when effectively implemented. If operations are inflexible, it falls into a quota. The annual goal should be utilized by M-DCPS to periodically evaluate the effectiveness of its program and its project-specific efforts, as well as to gauge if it is appropriate to increase or decrease the mix of more aggressive remedies. In order 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 and gender-conscious means are supportable activities toward the achievement of established goals, based on the findings of statistically significant disparity. These categories are repeated here for convenience and include:

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
Goods & Supplies	<ul style="list-style-type: none"> • African American • Asian American • WBE 	<ul style="list-style-type: none"> • Hispanic American
Maintenance and Maintenance-Related Services	<ul style="list-style-type: none"> • African American • Asian American • WBE 	<ul style="list-style-type: none"> • Hispanic American
Services	<ul style="list-style-type: none"> • African American • WBE 	<ul style="list-style-type: none"> • Asian American • Hispanic American

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

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

While M-DCPS should utilize race and 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 underutilization can emerge or re-emerge with lack of focus by M-DCPS to be inclusive.

E.6 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' purchasing processes.

CHAPTER 1: INTRODUCTION

1.1 SCOPE OF THE DISPARITY STUDY

On May 11, 2016, the Miami-Dade County Public Schools, or M-DCPS, commissioned Miller³ Consulting, Inc. (M³ Consulting) to conduct a Phase 2 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 minority and women-owned businesses (M/WBEs) 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/WBE participation covering the Study period July 1, 2012 – June 30, 2015 for M-DCPS in the procurement categories of goods/supplies, non-construction related professional services, and maintenance and maintenance-related service;
- Compilation of bidders, vendors, and awardees from contract awards, accounts payable and purchase orders, M/WBE and SBE certification lists to determine relative availability of contractors and vendors;
- A market survey analysis to determine capacity;
- An assessment of procurement and S/MBE and M/WBE 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 Management Services and Office of Economic Opportunity (OEO) personnel;
- Anecdotal interviews of minority, women and Non-M/W/SBE business owners;
- Examination of Non-M/W/SBE and M/WBE participation in the private sector in M-DCPS' market area; and,
- Analysis of race and gender neutral alternatives to minority and women business goal-based programs.

This Phase 2 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 twelve chapters and an appendix consisting of additional statistical tables and relevant supporting documents. 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 and S/MBE procedures, policies and practices in relation to their effect on M/WBE 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 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 Availability** presents data on M/WBE availability in the relevant market based on the *Ready, Willing and Able (RWASM) Model* and U.S. Census Bureau data.
- **Chapter VI – Statistical Analysis of M/WBE Utilization** presents data on M/WBE utilization in awards and payments for 2012/2013 – 2014/2015 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 Non-M/W/SBEs, minority and women-owned businesses. The interviews focus on personal experiences in conducting business within a specified industry or with M-DCPS.
- **Chapter X – Private Sector Analysis** examines M/WBE participation in 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, Dun & Bradstreet 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 Conclusions and Recommendations

- **Chapter XII – Conclusions and Recommendations** presents conclusions 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 S/MBE 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 2012/2013 – 2014/2015.

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 progeny¹⁸ 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

¹⁸ Progeny are legal cases that follow an original opinion setting legal precedent.

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 the M-DCPS' current race and gender-conscious initiatives.

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.*¹⁹ 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 subcontractors. In the creation of its program, the City Council relied upon a statistical study indicating that, in a city where the

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

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 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.²⁰ 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.²¹

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-speaking, 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.

²⁰ 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.

²¹ See *Croson*, at 488 U.S. 469, 109 S. Ct. 706 (1989).

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 is the most rigorous of the three, 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.²²
- 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.²³ 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.²⁴

²² Lower courts have not agreed upon the standard to be applied to physical and mental handicaps, however, intermediate and rational basis have been employed.

²³ *Croson*, at 721.

²⁴ *Id.*

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*²⁵ 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 . . ."²⁶ 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.

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."²⁷

Justice Kennedy, in his concurring opinion, went further, stating the City, upon intentionally causing wrongs, has an "absolute duty" to eradicate discrimination.²⁸ 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

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

²⁶ *Croson*, at 722.

²⁷ *Id.* at 720.

²⁸ *Id.* at 734.

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.²⁹ 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*,³⁰ 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 the reasons advanced by the governmental decision-maker for the use of race in that particular context."³¹

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."³²

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.³³

²⁹ *Id.* at 720.

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

³¹ *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)

³² *Croson* at 723.

³³ 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)

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.³⁴
- *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 and of no sufficient evidence or probative value in establishing past discrimination by anyone in the construction industry in the City of Richmond.³⁵
- *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 subcontractor 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.³⁶
- *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.³⁷
- *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.”³⁸

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

³⁴ *Id.* at 720.

³⁵ *Id.* at 724.

³⁶ *Id.* at 726.

³⁷ *Id.* at 727.

³⁸ *Id.*

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.³⁹

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.⁴⁰ The Justices rejected the role model theory and held that it could not 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*.⁴¹

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 . . .”⁴² 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.

³⁹ *Id.* at 723.

⁴⁰ See *Wygant*, at 274.

⁴¹ *Cone v. Hillsborough*, 905 F. 2d 908, 913 (1990)

⁴² 488 U.S. at 507-508.

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:

- 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;⁴³ 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.”⁴⁴

Yet, based on the discovery of a significant statistical disparity, the public entity can then institute measures to “end the discriminatory exclusion.”⁴⁵ In fact, in some showings of discrimination, goals, quotas or set-asides could be employed: “in the extreme case, some form

⁴³ *Id.*

⁴⁴ *Croson* at 729.

⁴⁵ *Id.*

of narrowly tailored racial preference might be necessary to break down patterns of deliberate exclusion.”⁴⁶ 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.⁴⁷ Goals can be set for small minority groups where discrimination may have negatively impacted their numbers causing the inability to reach statistical significance.⁴⁸ 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.⁴⁹
- 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.⁵⁰
- 3) A sunset clause is also a component of a narrowly tailored MBE program. This can involve: a) a graduation program,⁵¹ b) a definite date to end the program;⁵² 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.⁵³ M/WBE programs should be limited in scope to group(s) and firms that suffer the ongoing effects of past or present discrimination.

⁴⁶ *Id.*

⁴⁷ *Cone v. Hillsborough County*, 905 F. 2d 908 (1990), *Associated General Contractors of Ohio v. Drabik*, 214 F. 3d 300 (6th Cir. 2000).

⁴⁸ *Concrete Works v. County of Denver* (Concrete Works I), 823 F. Supp. 821, 843 (1993).

⁴⁹ *Western States Paving Co. v. Washington DOT*, 407 F.3d 983 (9th Cir. 2005).

⁵⁰ *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)

⁵¹ *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).

⁵² *AGC v. San Francisco*, 748 F. Supp. 1443, 1454 (1990), *Associated General Contractors of Ohio v. Drabik*, 214 F. 3d 300 (6th Cir. 2000).

⁵³ *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).

- 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*⁵⁴ and *Gratz v. Bollinger*⁵⁵, 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 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*⁵⁶, the Eighth Circuit Court of Appeals has interpreted these two cases in light of the U.S. Supreme Court’s decision in *Croson*. 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*⁵⁷, 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.⁵⁸

4) Overconcentration

The District Court of Minnesota considered whether or not a DBE Program was narrowly tailored due to overconcentration in *Geyer Signal, Inc. v. Minnesota DOT*⁵⁹. 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

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

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

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

⁵⁷ 407 F.3d 983 (9th Cir. 2005)

⁵⁸ *Id.* at 1002-1003.

⁵⁹ 2014 WL 1309092

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 burdens non-DBEs in those sectors and not addressing problems in other areas.⁶⁰ 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 will always be fulfilled in a manner that creates overconcentration, as is required under a facial challenge. Goals are established based on DBEs that are ready, willing and able to participate, thus accounting for work that DBEs are unable to perform. As such, the non-existent DBEs would not be factored into availability.⁶¹ Second, the court found, where there are issues of overconcentration, MnDOT Program has established mechanisms to address through:

- Flexible contract goals that allow MnDOT to change focus from over-concentrated areas;
- Ability of prime contractors to subdivide projects that would typically require more capital and equipment than a DBE can acquire;
- Waivers; and,
- 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.⁶²

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.”⁶³ 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

⁶⁰ *Id.* at 11.

⁶¹ *Id.* at 16.

⁶² *Id.* at 16-17.

⁶³ *Id.* at 20.

of the use of race-neutral means to increase minority participation in City contracting.”⁶⁴ The Court further stated that, in upholding the federal set-aside in *Fullilove*⁶⁵, “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.”⁶⁶

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. 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.”⁶⁷

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.”⁶⁸ Thus, the cities can attempt to thwart discrimination in those private industries that can award city contracts to minority contractors.⁶⁹

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

⁶⁴ *Croson*, citing *U.S. v. Paradise*, 480 U.S. 49, 171 (1987).

⁶⁵ In *Fullilove v. Klutznick*, 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. Klutznick* was overruled by *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200 (1995), bringing federal programs in line with *Richmond v. Croson*.

⁶⁶ *Croson*, at 732 (1989).

⁶⁷ *Id.* at 706-707.

⁶⁸ *Id.* at 729.

⁶⁹ However, the court did not say whether this influence should be exercised through legislative enactment.

large part superseded by *Adarand v. Peña*, *Adarand* was also largely silent on what constituted an adequate consideration of race-neutral alternatives.⁷⁰

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.⁷¹
- 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.⁷²

4. Scrutiny Applied to Federally Funded Programs

a. Background of *Adarand v. Peña*

In *Adarand Contractors, Inc. v. Peña*⁷³ the U.S. Supreme Court analyzed the constitutionality of a federally funded race-conscious DBE program. The facts of *Adarand III*⁷⁴ 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 subcontractors 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.⁷⁵ Gonzales was a certified Disadvantaged Business Enterprise (DBE), however *Adarand* was not. Mountain Gravel awarded the subcontract to Gonzales, even though *Adarand* had the lowest bid.⁷⁶

⁷⁰ See fn 45, as well as discussion below in 6. Scrutiny applied to Federally Funded Programs.

⁷¹ *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).

⁷² *Concrete Works I* at 841.

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

⁷⁴ *Id.*

⁷⁵ *Id.* at 205.

⁷⁶ *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.

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.”⁷⁷ 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 subcontractor compensation clauses.⁷⁸ The District Court ruled against Adarand, (*Adarand I*) granting the government’s motion for summary judgment. The Court of Appeals affirmed. (*Adarand II*)⁷⁹

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 subcontractor 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.”⁸⁰ 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.”⁸¹

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,”⁸² thereby holding “that all racial

⁷⁷ *Id.* at 205.

⁷⁸ *Id.* at 210.

⁷⁹ *Id.*

⁸⁰ *Id.* at 211.

⁸¹ *Id.* at 211.

⁸² *Adarand*, 515 U.S. at 224.

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.”⁸³

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 subcontractor 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.
- 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) subcontractors 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.⁸⁴ 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.⁸⁵ The court, although acknowledging the U.S. Supreme Court’s pronouncement that strict scrutiny is not “fatal in fact”, found it

⁸³ *Fullilove*, supra at 519.

⁸⁴ *Adarand Constructors, Inc. v. Peña*, 965 F.Supp. 1556 (D.Colo. 1997).

⁸⁵ 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.

“difficult to envisage a race-based classification” that would ever be narrowly tailored, thereby effectively pronouncing strict scrutiny fatal in fact.⁸⁶

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.⁸⁷ 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 Subcontractors Compensation Clause (a federal subcontracting program), and therefore, the case was moot.⁸⁸

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.’”⁸⁹ The Supreme Court remanded the case back to the Appellate Court for consideration on the merits.

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 subcontractors’ 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.⁹⁰ 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.⁹¹

D. Intermediate Scrutiny

⁸⁶ See *Adarand Constructors, Inc. v. Peña* 965 F. Supp. 1556, 1580 (D. Colo. 1997) (“Adarand IV”)

⁸⁷ See *Adarand Constructors, Inc. v. Slater*, 169 F.3d 1292 (10th Cir. 1999) (“Adarand V”)

⁸⁸ *Id.* at 1296-1297

⁸⁹ *Adarand Constructors, Inc. v. Slater*, 120 S.Ct. 722, 726-27 (2000) (“Adarand VI”)

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

⁹¹ 534 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)

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.⁹² 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.⁹³

In *Coral Construction Co. v. King County*⁹⁴, the Ninth Circuit employed the intermediate scrutiny test to review King County’s WBE program by examining the validity of a sex-based preference.⁹⁵ 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 accomplish that objective.⁹⁶ 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.”⁹⁷

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.⁹⁸ 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 County⁹⁹ after reviewing an affidavit from a woman business owner detailing that less than seven percent of her firm’s

⁹² See e.g. *City of Cleburne*, supra no.6.

⁹³ *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.”)

⁹⁴ 941 F.2d 910 (9th Cir. 1991)

⁹⁵ 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.

⁹⁶ *Id.* at 921.

⁹⁷ *Id.* at 931.

⁹⁸ *Id.* at 932.

⁹⁹ *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.

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.”¹⁰⁰

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*.¹⁰¹

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.¹⁰² The level of evidence that is sufficient to meet the intermediate scrutiny test is “one of degree, not of kind.”¹⁰³ 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.

¹⁰⁰ *Western Paving* at 407 F.3rd 990, fn 6.

¹⁰¹ *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.

¹⁰² 122 F.2d 895 (11th Cir. 1997).

¹⁰³ *Id.*

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*,¹⁰⁴ 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*¹⁰⁵ 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 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.

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.¹⁰⁶ Several courts have since held that disparity studies are important to establishing the factual predicate that supports *Croson's* two-pronged test.¹⁰⁷

¹⁰⁴ 813 F. 2d 922, 943 (9th Cir 1987)

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

¹⁰⁶ See *Croson* discussion supra, at pp.5-9.

¹⁰⁷ 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).

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."'¹⁰⁸ 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:

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 991.¹⁰⁹

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

¹⁰⁸ *Engineering Contractors*, at 916.

¹⁰⁹ *Rowe v. Tippett*, 615 F.3d 233, 241-242, (4th Cir. 2010).

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*¹¹⁰, 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 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 subcontractors. 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.”¹¹¹ 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 subcontractors 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.

¹¹⁰ 723 F.2d 86 (11TH Cir. 1984)

¹¹¹ *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)

C.H. Barco v. State Department of Transportation

In *C.H. Barco v. State Department of Transportation*,¹¹² the Florida Department of Transportation's (FDOT) MBE program was reviewed. Barco, a White contractor, submitted the lowest bid, but did not indicate a good faith effort to comply with minority 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.¹¹³

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.”¹¹⁴

Cone Corporation v. Hillsborough County

The Tampa area MBE program received judicial attention in *Cone Corporation v. Hillsborough County*¹¹⁵. In *Cone*, the Court of Appeals found that Hillsborough based its law on statistical data, which indicated there was discrimination by contractors doing business with the county and that it had unsuccessfully tried less restrictive measures for remedying such discrimination. The court applied the strict scrutiny test enumerated in *Croson* and found that the Hillsborough MBE program was indeed a remedial program based on statistically proven discrimination. The Hillsborough 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.

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

¹¹³ *Barco* at 796.

¹¹⁴ *Barco* at 801 (quoting *Liberty County v. Baxter's Asphalt and Concrete*, 421 So. 2d 505,507 (Fla. 1982)

¹¹⁵ 905 F. 2d 908 (1990)

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).¹¹⁶

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 the constitutionality of the ordinance. It required ten percent of the amount spent on city contracts be set aside each fiscal year for MBEs. The district court granted the preliminary injunction until completion of full trial.

The City of Jacksonville appealed to the Eleventh Circuit, where the judgment of the district judge was reversed and remanded. The Eleventh Circuit vacated the district court's judgment and remanded to dismiss without prejudice. It found that the district court did not address the question of if the record was sufficient nor did it address 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."¹¹⁷ 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.

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*.¹¹⁸ 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."¹¹⁹

¹¹⁶ 508 U.S. 656 (1993)

¹¹⁷ *Id.*, at 657.

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

¹¹⁹ *Id.*, at 1565.

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 SICs fifteen, sixteen, and seventeen. 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, subcontractor 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."¹²⁰

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.

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.

¹²⁰ 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.

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*.¹²¹ 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, the program 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.

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.¹²²

Strong Basis in Evidence

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.¹²³ In doing so, the governmental entity may rely on a showing of gross statistical disparities, buttressed by anecdotal evidence.¹²⁴ 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.

¹²¹ 122 F.3d 895 (11th Cir. 1997).

¹²² *Id.* at 903.

¹²³ *Id.* at 906.

¹²⁴ *Id.*

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.”¹²⁵

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.”¹²⁶ 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.”¹²⁷ The plaintiffs relied upon Census data showing that M/WBE construction firms in Engineering Contractors Association were smaller than non-M/WBE firms.¹²⁸

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

¹²⁵ *Id.* at 913.

¹²⁶ *Id.* at 916.

¹²⁷ *Id.*

¹²⁸ *Id.* at 917.

due to firm size, not discrimination, as the regression analysis only revealed a few unexplained disparities after the controlling of firm size.¹²⁹

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.”¹³⁰

County subcontracting data: The Eleventh Circuit confirmed the district court’s findings that the subcontractor data was insufficient to support race and gender-conscious measures. The district court previously found that the subcontracting data was problematic, as it overstated subcontractor participation in Dade County, by relying on total sales and receipts, which could include sales and receipts outside of the County.¹³¹

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 and that the district court was not required to assign any disparities controlling weight.¹³²

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

¹²⁹ *Id.*

¹³⁰ *Id.* at 919.

¹³¹ *Id.* at 920.

¹³² *Id.* at 921.

situated white males, and MBE/WBEs that do enter the construction business earn less money than similarly situated white males.”¹³³ 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.”¹³⁴ 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.¹³⁵

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.¹³⁶

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.”¹³⁷

Evidence Supporting WBE Program

The Eleventh Circuit held that WBE programs were subject to traditional 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.¹³⁸ The

¹³³ *Id.*

¹³⁴ *Id.*, quoting *Croson*, 488 U.S. at 503.

¹³⁵ *Id.* at 922.

¹³⁶ *Id.* at 922-924.

¹³⁷ *Id.* at 925.

¹³⁸ *Id.* at 900.

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.¹³⁹ 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.¹⁴⁰

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 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.¹⁴¹

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

¹³⁹ *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.

¹⁴⁰ *Id.* at 927.

¹⁴¹ *Id.*

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.¹⁴² The Eleventh Circuit noted that the County should first focus on dismantling those barriers. The Eleventh Circuit 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.”¹⁴³

The Eleventh Circuit found that the County had taken no steps to “inform, educate, discipline, or penalize” discriminatory misconduct by its own employees.¹⁴⁴ Nor had the County passed any local ordinances expressly prohibiting discrimination by local contractors, subcontractors, 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.”¹⁴⁵

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.¹⁴⁶

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.*¹⁴⁷ 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

¹⁴² *Id.*

¹⁴³ *Id.* at 928.

¹⁴⁴ *Id.* at 929.

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

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

that GR had worked with a 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. Watts*¹⁴⁸**

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 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.

¹⁴⁸ 13 F.Supp.2d 1308 (N.D.FL 1998).

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*¹⁴⁹ a White male contractor challenged the constitutionality of Fulton County's MFBE program. The district court, citing *Engineering Contractor*, first held that race and gender-conscious goals can only be used as a last resort.¹⁵⁰ 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.¹⁵¹

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 discrimination by demonstrating that: 1) Statistics are flawed; 2) Disparities are not significant; or 3) Presenting conflicting statistical data.¹⁵²

¹⁴⁹ 51 F.Supp.2 1354 (N.D.GA 1999).

¹⁵⁰ *Id.* at 1362-63, citing *Engineering Contractors*, 122 F.3d 895 (11th Cir. 1997).

¹⁵¹ *Id.*

¹⁵² *Id.* at 1364.

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.¹⁵³

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;¹⁵⁴
- Study results showing MFBE underutilization in the market without evidence of underutilization by the agency itself, is not prohibitive of discrimination;¹⁵⁵
- 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.¹⁵⁶
- A factual predicate study needs to use regression analysis to control for size as a variable accounting for disparities in contracts.¹⁵⁷
- 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).¹⁵⁸
- 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.¹⁵⁹

¹⁵³ *Id.* at 1369.

¹⁵⁴ *Id.* at 1368, citing *Engineering Contractors*, 122 F. 3d at 914.

¹⁵⁵ *Id.* at 1369.

¹⁵⁶ 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)).

¹⁵⁷

¹⁵⁸ *Id.* at 1371.

¹⁵⁹ *Id.* at 1372.

- Census data are of value for estimating MFBE availability, but overstate MFBE availability due to the absence of subchapter C Corporation data.¹⁶⁰
- A factual predicate study should consider the statistical significance of its results. Two standard deviations are a widely accepted measure of statistical significance.¹⁶¹
- While anecdotal evidence is important to bolster statistical findings, it cannot alone support an inference of discrimination.¹⁶²

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.”¹⁶³

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.”¹⁶⁴

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 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.

¹⁶⁰ *Id.* at 1374.

¹⁶¹ *Id.* at 1377-1378.

¹⁶² *Id.* at 1379.

¹⁶³ *Id.* at 1369.

¹⁶⁴ See *supra*, at p. 31.

- 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.¹⁶⁵

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*.¹⁶⁶ § 287.09451 established overall 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.¹⁶⁷ 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.”¹⁶⁸ 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 remedy past and present discrimination would, if true, constitute a compelling governmental interest.¹⁶⁹

¹⁶⁵ *Id.* at 1380-1383.

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

¹⁶⁷ *Id.*, at 1312.

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*, at 1315.

- On the other hand, the goals were not found to be narrowly tailored because:
 - The State did not consider race-neutral means to increase M/WBE participation.
 - The State legislature produced its own internal report that stated that there was little evidence to support the spending goals, however, 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.¹⁷⁰

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*.¹⁷¹

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.¹⁷²

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).¹⁷³ The goals could be achieved through the utilization of set-asides, subcontractor 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 parity

¹⁷⁰ *Id.* at 1316.

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

¹⁷² *Id.* at 1311.

¹⁷³ *Id.* at 1312.

had been reached in A&E contracting. However, the Commission questioned the methodology utilized in the report and did not alter the goals.¹⁷⁴

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.¹⁷⁵

Compelling Governmental Interest

The standard of review utilized by the court is the two-pronged *Croson* 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.¹⁷⁶ For women, the court sought to determine if there was discrimination in the economic sphere at which the affirmative action efforts were targeted.¹⁷⁷

Turning to the evidence submitted by Dr. Carvajal, there were several data elements submitted: (1) 1999-2000 Bell South telephone directory, (2) a list compiled by info USA, (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.¹⁷⁸

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."¹⁷⁹ Therefore, the first component of review for gross statistical disparities was not met.

¹⁷⁴ *Id.* at 1314.

¹⁷⁵ *Id.* at 1315.

¹⁷⁶ *Id.* at 1316.

¹⁷⁷ *Id.*

¹⁷⁸ *Id.* at 1318.

¹⁷⁹ *Id.*

As such, the court turned to the marketplace data to determine if the County had been a passive 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.¹⁸⁰ 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 subcontractor/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.¹⁸¹
- *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

¹⁸⁰ *Id.*

¹⁸¹ *Id.* at 1321-1325.

statistical support for a M/WBE program, as opposed to the overall marketplace, where all of Dr. Carvajal’s statistical analysis was directed.¹⁸²

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.”¹⁸³

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.”¹⁸⁴ 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.¹⁸⁵

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

¹⁸² *Id.* at 1325-1326.

¹⁸³ *Id.*

¹⁸⁴ *Id.* at 1330.

¹⁸⁵ *Id.* at 1331.

statutory or constitutional rights of which a reasonable person would have known.¹⁸⁶ 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 MBE/WBE programs were unconstitutional: *Croson*, *Adarand* and [*Engineering Contractors Association*].”¹⁸⁷ The court also found that the County Manager had provided 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*¹⁸⁸, 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.¹⁸⁹

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

¹⁸⁶ *Id.* at 1335.

¹⁸⁷ *Id.* at 1336.

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

¹⁸⁹ *Id.* at 4.

rights¹⁹⁰. 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.”¹⁹¹

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 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.¹⁹²

As to Viridi’s intentional discrimination claim, the Court of Appeals found that Viridi had provided no evidence that the MVP caused him to lose a contract he would have otherwise received. “Thus, Viridi has failed to establish a causal connection between the unconstitutional aspect of the MVP and his alleged injury.”¹⁹³

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

In *Thompson, Tucker and Cullars*¹⁹⁴, 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.¹⁹⁵ They alleged that the City favors prime contractors who include DBEs in their subcontracting opportunities by adding twenty points to a proposal or bid.¹⁹⁶

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.

¹⁹⁰ *Id.* at 13.

¹⁹¹ *Id.* at 14.

¹⁹² *Id.*

¹⁹³ *Id.* at 19.

¹⁹⁴ 2007 U.S. Dist. LEXIS 27127

¹⁹⁵ *Id.* at 2.

¹⁹⁶ *Id.* at 3.

- There was a disparity in the “skew of awards”.
- The study also included anecdotal evidence based on 22 interviews.

Based on these findings, the study recommended mandatory race- and gender-conscious goals. Using this study, the City enacted its DBE program.¹⁹⁷

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.¹⁹⁸ As such, the program was not narrowly tailored. Based on these findings, the City’s program was enjoined.¹⁹⁹

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

In *South Florida Chapter of the Associated General Contractors v. Broward County*²⁰⁰, 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.²⁰¹ 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)²⁰² should be controlling and that all that the County needed to do was 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.²⁰³

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

¹⁹⁷ *Id.* at 10.

¹⁹⁸ *Id.* at 25.

¹⁹⁹ *Id.* at 28.

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

²⁰¹ *Id.* at 1337. Plaintiffs also challenged Broward County’s M/WBE program, but it was not at issue in this motion hearing.

²⁰² *Id.* at 1338.

²⁰³ *Id.*

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.²⁰⁴ The district court went on to note that the Eighth Circuit had taken a similar approach in *Sherbrooke Turf, Inc. v. Minnesota Department of Transportation*, 345 F.3d 964 (8th Cir. 2003).²⁰⁵

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.²⁰⁶ 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."²⁰⁷

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 if or not Broward County has fully complied with the federal regulations in implementing its DBE program."²⁰⁸ 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."²⁰⁹

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

²⁰⁴ *Id.* at 1339.

²⁰⁵ *Id.*

²⁰⁶ *Id.* at 1340.

²⁰⁷ *Id.* at 1340-41.

²⁰⁸ *Id.* at 1341.

²⁰⁹ *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. While *Croson* did not provide particularized guidance on the estimation of the relevant market, 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.²¹⁰ 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.²¹¹ 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

²¹⁰ *Richmond v. Croson*, at 725.

²¹¹ 823 F.Supp. 821, 836 (1993).

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.*”

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.²¹²

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.²¹³

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

²¹² *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).

²¹³ See, e.g., *Cone Corp. v. Hillsborough*, 908 F.2d 908 (11th Cir. 1990).

work.²¹⁴ For example, in *Engineering Contractors Association of South Florida v. Metropolitan Dade County*,²¹⁵ the district court stated:

“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.”²¹⁶

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.”²¹⁷

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.”²¹⁸ The court went on to state that “census data probably overstate the proportions of available [M/WBEs] . . .”²¹⁹ Nevertheless, the court still preferred Census data to study disparity among subcontractors. 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 subcontractors.”²²⁰ In fact, the Ohio district

²¹⁴ Census no longer produces these sources of data.

²¹⁵943 F.Supp. 1546 (1996).

²¹⁶*Id.* at 1572-1573.

²¹⁷*Id.* at 1574.

²¹⁸*AGC v. City of Columbus*, 1996 U.S. Dist. Lexis 12519 (SD Ohio 1996), at 22. This case was overturned on jurisdictional grounds.

²¹⁹*Id.* at 22.

²²⁰*Id.* at 26.

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:

[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*.²²¹

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.”²²² 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.”²²³ 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.”²²⁴

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,

²²¹Contractors Assn. of Eastern Pennsylvania v. City of Philadelphia, 1995 WL 11900 (ED Pa 1995), at 13.

²²²Contractors Assn. of Eastern Pennsylvania v. City of Philadelphia, No. 89-cv-02737 (3d Cir 1996), at 36.

²²³*Id.* at 39.

²²⁴*Id.* at 36.

number of employees, etc., thus the Brimmer Study does not contain regression analyses to control for neutral variables that could account for these disparities.”²²⁵ 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.

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,²²⁶ ignoring the fact that one is a measure of firms and the other is a measure of establishments.²²⁷

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.”²²⁸ 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.”²²⁹

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.²³⁰ As such, courts began to focus on these types of availability analysis.

In 2005, in *Northern Contracting, Inc. v. Illinois Department of Transportation*²³¹, the district

²²⁵Engineering Contractors Association of South Florida v. Metropolitan Dade County, supra n. 5, at 31.

²²⁶AGC v. *City of Columbus*, supra n. 8, at 18, vacated on jurisdictional grounds.

²²⁷ An enterprise (firm) may have several establishments at various locations.

²²⁸Contractors Assn. of Eastern Pennsylvania v. City of Philadelphia, supra n. 12, at 36.

²²⁹Concrete Works v. City and County of Denver (Concrete Works II), 36 F.3d 1513, 1529 (10th Cir. 1994).

²³⁰ D.J. Miller & Associates, Inc. (now Miller³ Consulting, Inc.) used a Ready, Willing and Able list-based approach from its inception in 1988.)

²³¹ 473 F.3d 715 (7th Cir. 2007)

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 qualified directory.²³²

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 subcontractor because there was already substantial overlapping in these areas.²³³ Furthermore, the court found the consultant had adjusted availability for the capacity of firms to do the work.²³⁴

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.²³⁵

In *H.B. Rowe Co. v. Tippett*²³⁶, the 4th Circuit found acceptable an availability analysis that depended on the following variables: “a vendor list comprising (1) subcontractors 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.”²³⁷ The court agreed with the consultant’s explanation why prime and subcontractors were not separated.

²³² *Id.* at 719.

²³³ See also *Mountain West Holding v. State of Montana and Geyer Signal, Inc. v. MnDOT*.

²³⁴ *Caltrans* at 1199.

²³⁵ *Rothe Development Corp v. U.S. Department of Defense*, 545 F.3d 1023, 1042 (2008)

²³⁶ 615 F.3d 233 (2010).

²³⁷ *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 straightforward, thus there is limited discussion in case law on standards for utilization. The *Crosston* 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.”²³⁸

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.²³⁹

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.²⁴⁰

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

²³⁸ *Concrete Works III* at 988.

²³⁹ *Northern Contracting* at 719.

²⁴⁰ *Caltrans* at 1198.

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 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.”²⁴¹

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).²⁴²

Further, the court found that the application of t-test²⁴³ was appropriate, as standard deviation test allows a determination of if 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 914.²⁴⁴

²⁴¹ *Adarand v. Slater*, 228 F.3d 1147 (10th Cir. 2000).

²⁴² *Id.* at 244.

²⁴³ T-test determines statistical significance of any disparity found. The t-test assesses whether two groups are statistically different from each other.

²⁴⁴ *Id.*

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).

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 and Regression 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.'²⁴⁵

²⁴⁵Concrete Works I at 838-39.

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 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.”²⁴⁶
- 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.²⁴⁷
- 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.²⁴⁸

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.

²⁴⁶ *Concrete Works III* at 982.

²⁴⁷ *Id.* at 983.

²⁴⁸ *Id.*

- 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 manner in which Washington DOT relied on capacity information to defend its DBE program, the court did find that Washington DOT had closely tracked US DOT regulations.²⁴⁹

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.²⁵⁰ 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.²⁵¹

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

²⁴⁹ *Id.* at 989.

²⁵⁰ *Engineering Contractors* at 921.

²⁵¹ *Id.*

there was a statistically significant correlation between the size of a firm and the share of contract dollars awarded to it.”²⁵²

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.²⁵³

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.²⁵⁴

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.”²⁵⁵

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.²⁵⁶ 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:

²⁵² *Rothe* at 1045.

²⁵³ *Rowe* at 247.

²⁵⁴ *Concrete Works I* at 833-834.

²⁵⁵ *Caltrans* at 1192.

²⁵⁶ *Rothe* at 1048.

“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.”²⁵⁷

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 against; “[i]t is enough that the anecdotal evidence supports Caltrans’ statistical data showing a pervasive pattern of discrimination.”²⁵⁸

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 subcontractors 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.”²⁵⁹

The District Court for the Northern District of Georgia, in *Webster v. Fulton County*²⁶⁰, 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.

²⁵⁷ *Concrete Works III* at 898. See also *Rowe* at 249, *Caltrans* at 1197.

²⁵⁸ *Caltrans* at 1192.

²⁵⁹ *Engineering Contractors*, at. 925.

²⁶⁰ 51 F.Supp.2d 1354 (1999).

2.3.7 PRIVATE SECTOR ANALYSIS

The 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.”²⁶¹
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.”²⁶²
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.”²⁶³
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.”²⁶⁴

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.”²⁶⁵

²⁶¹*Croson* at 729.

²⁶²*Id.* at 720.

²⁶³*Id.*, at 726.

²⁶⁴*Id.* at 729.

²⁶⁵*Id.* at 726, n.3.

*Webster v. Fulton County*²⁶⁶ 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."²⁶⁷

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:

- 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 fair competition.
- 3) Evidence of lending discrimination.²⁶⁸

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.²⁶⁹

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*²⁷⁰. 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."²⁷¹

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

²⁶⁷ *Id.* at 1370.

²⁶⁸ *Concrete Works III* at 976-978.

²⁶⁹ *Rowe* at 257.

²⁷⁰ No. 13-1371, 576 U. S. _____ (2015)

²⁷¹ *Inclusive Communities Project*, slip op., at 22.

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’s County considered alternatives, but determined that they were not available as a matter of law...King’s 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 potential for success is marginal at best.”²⁷²

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 and; bond guarantee, 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.”²⁷³

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*.”²⁷⁴ 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

²⁷²Coral Construction v. King County, 941 F. 2d 910, 923 (1991).

²⁷³Concrete Works I, 823 F. Supp. 821 (D Colo 1993).

²⁷⁴See also AGC of California v. Coalition, 950 F. 2d 1401, 1417 (1991).

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.”²⁷⁵

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, subcontractors, 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

²⁷⁵ *Caltrans* at 1199.

remedies as a last resort, the County has turned to them as a first resort.”²⁷⁶

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.

²⁷⁶ *Id.* at 929.

- 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. Pena*.

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.²⁷⁷

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

²⁷⁷ *Id.* at 927.

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
- 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 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 SBEs and M/WBEs 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' SBE/M/WBE Programs

3.5 Impact of M-DCPS' Procurement Process and SBE/M/WBE Programs on M/WBE Participation

3.6 Conclusion

Operational characteristics within the procurement process that hinder the involvement of small business enterprises (SBE), and minority and women-owned business enterprises (M/WBE) 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: Conclusions and 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.²⁷⁸

Public sector procurement systems are responsible to the citizens within its jurisdiction. Prier, McCue and Bevis²⁷⁹ 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."²⁸⁰ 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."²⁸¹

The objective of the procurement operation therefore is one of inclusive and sustainable procurement and economic development (SPED)²⁸². The execution and implementation of a

²⁷⁸ "Playing the Game", Sherry J. Williams, Esq., MBE Magazine, July/August 2013.

²⁷⁹ "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.*

²⁸⁰ *Ibid.* at 639.

²⁸¹ *Ibid.*

²⁸² *Ibid.* at 642.

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 and M/WBE 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 SBEs and M/WBEs. Budgeting and forecasting allow greater and more in-depth planning for inclusion of SBEs and M/WBEs in a public entity’s opportunities at the prime and subcontractor levels. M ³ Consulting reviews the degree to which an agency engages in procurement forecasting and determines how forecasting is utilized to promote inclusion.
3. Informal Purchasing	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. M ³ 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.

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<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, 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 if 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 if 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 insure 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 SBEs and M/WBEs.</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</p>

	necessary to not only track levels of participation, but also to determine areas of disparity real time.
10. M/WBE Program	See Figure 3.2

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 SBEs and M/WBEs 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 SBE and M/WBE plan objectives.
4. 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 SBE 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
- Procurement Management Procedures Manual
- What is SAP
- Miami-Dade Public Schools Purchasing Card Program

- Office of Economic Opportunity Small/Micro Business Program Administrative Procedures Manual (Board Approved 5/7/14 Agenda item E-56)
- OEO Inaugural Report, covering periods as 2013/2014 and 2014/2015
- How To Respond to Bids Issued by Miami-Dade Public Schools
- How To Do Business With Miami-Dade Public Schools
- Miami-Dade Public Schools Organizational Chart, Nov. 2016
- Capital Construction Budget & Control Management Payment Manual
- Miami-Dade Public Schools Office of Management and Compliance Audits Policies and Procedures
- Office of Management and Compliance Audits Organizational Chart
- Internal Memorandum, From Ms. Melody Y. Thelwell, Chief Procurement Officer, Department of Procurement Management Services to Mrs. Judy M. Marte, Chief Financial Officer, Financial Services, Update on Procurement Management Services Goals and Key Performance Indicators, December 1, 2016
- OEO Best Faith Non-compliance Documentation, Form 7539
- Goal Setting Committee Procedures
- Board Meeting Summary, Enid Weisman, Chief Human Capital Officer, Office of Superintendent of Schools, June 11, 2015

In addition to reviewing the organizational structure and written policies and procedures, M³ Consulting conducted interviews with the Chief Procurement Officer, 10 Procurement staff members, the Interim Director of OEO, the Executive Director of OEO and OEO's Executive Director of Compliance.²⁸³

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 SBEs and M/WBEs. 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.

²⁸³ Reflects status as of 2016.

3.3.1 ORGANIZATIONAL ANALYSIS

A. Organizational Structure

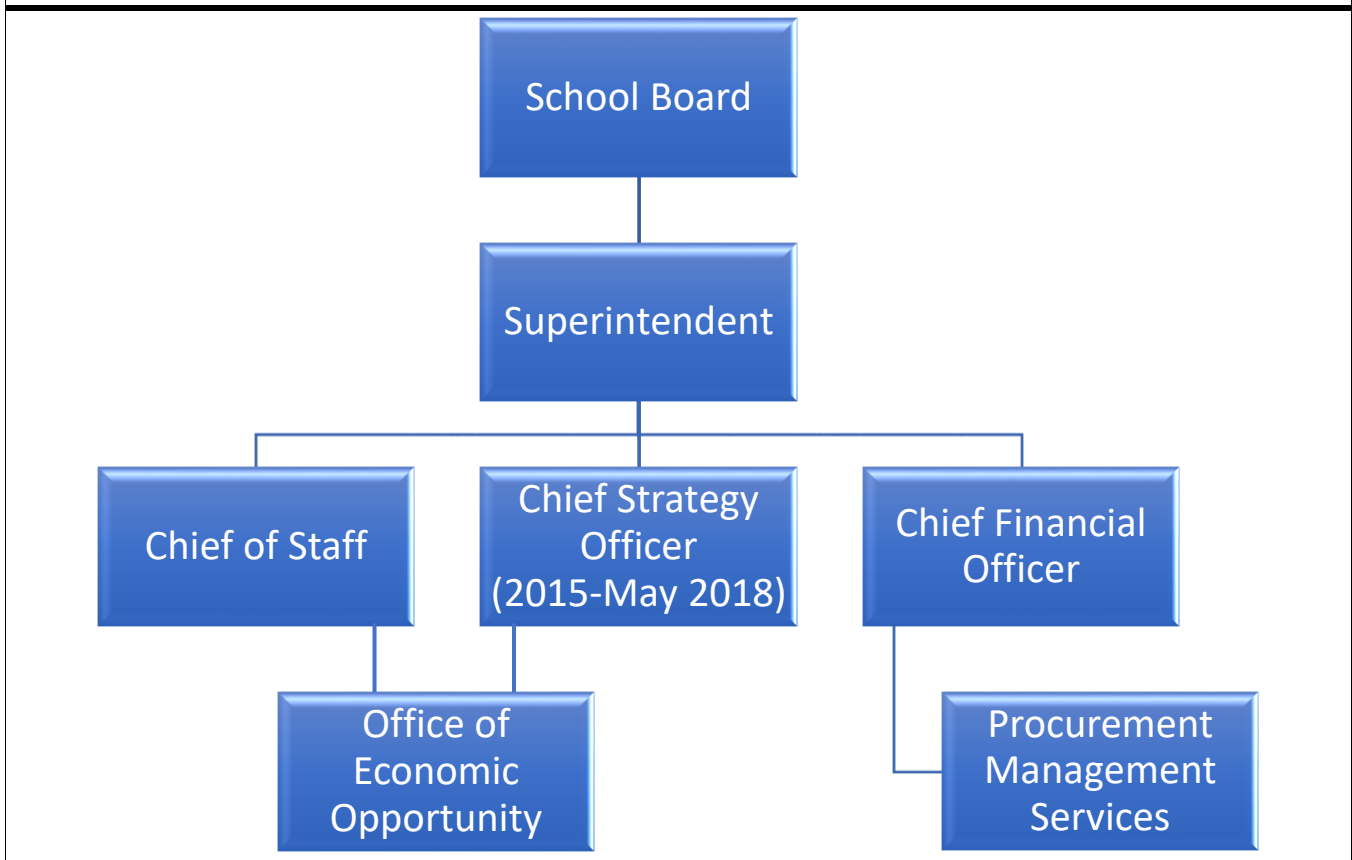
Miami-Dade County Public Schools is the largest school district in both the State of Florida and the Southeastern United States and is the fourth largest in the U.S. at over 345,000 students. The district is also the second-largest minority-majority public school system in the country, with a student body consisting of 62 percent Hispanic origin (of any race), 25 percent Black, 10 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 23 percent were enrolled in other bilingual programs in French, German, Italian, Mandarin, Portuguese, and Haitian Creole. The School District consists of 392 public schools.

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 the School District 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 15 employees, which includes one District Director, two Procurement Directors, one Fiscal Supervisor, three Procurement Specialist, five 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. One interviewee provided historical context on the racial make-up of Procurement Management Services. According to the interviewee, the staff is currently about 75 percent African American and 25 percent Hispanic American. The racial/ethnic make-up has been consistent throughout the last 15 to 20 years, with the exception that in earlier years, Whites made up about ten percent of the procurement staff. Per the interviewee, Procurement Management Services has seen a significant reduction in staff, down from a high of about 60 people. These reductions were caused by significant school district budget cuts in 2008.

The Office of Economic Opportunity (OEO) reported to both the Chief of Staff and the Chief Strategy Officer at different points during the study period. OEO is responsible for the oversight and management of the Small/Micro Business Enterprise Program and Minority/Women Business Certification 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 ten employees in the department that cover the following areas: Certification; Community

Outreach; Technical Assistance; Prequalification; and Compliance. The department has experienced changes in the director of the department, which has impacted service delivery and clarity of mission and function. Much of activity cited in Section 3.4 is based on Inaugural Reports from 2014 and 2015. Similar types of reports have not been developed to address current activity (post-study period).

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.

C. Procurement Function

The procurement function for the goods and services that are part of this Phase 2 Disparity Study are procured mostly in a centralized manner, through Procurement Management Services. Based on interviews with procurement staff, it was revealed that, prior to 2014, M-DCPS' procurement culture was not conducive to an inclusive and efficient environment. Awards were made consistently to the same vendors. Procurement's mentality was "20-30 years" old. Preferences—both race and gender-conscious and race and gender-neutral—were not being applied. Vendors who had been doing business with the School Board for years did not know how to complete bids with the District; were creating "turf wars" over M-DCPS contracts; last minute requisitions were being submitted and; inappropriate vendors were awarded work, i.e. New Jersey vendors handling school field trips.

In 2014/2015, Procurement Management Services underwent a re-alignment to address inefficiencies within its operations that were impacting M-DCPS' ability to achieve maximum results. Based on Board Meeting Summary, Enid Weisman, Chief Human Capital Officer, Office of Superintendent of Schools, June 11, 2015:

Procurement Management Services will be eliminating a number of positions and establishing and classifying new managerial positions to attract and retain professionally degreed and/or certified purchasing staff.

Changes in the Office of Procurement include the addition of a Director, Procurement Management Services whose primary responsibility will be Vendor Development, Partnering with the Office of Economic Opportunity, this staff member will search for and develop qualified vendors to continue to drive down costs and increase vendor pools, thus expanding economic development.

In addition, the departments of Maintenance Materials Management (MMM) and Stores and Mail Distribution (S&MD) will be realigned from School Operations to Procurement Management Services. This will enable School Operations to focus on its core mission of supporting schools and will also align the functions of these departments to the appropriate bureau.

M³ Consulting requested that Procurement Management Services provide a summary of changes made during the re-alignment. M-DCPS provided this summary in an Internal Memorandum, From Ms. Melody Y. Thelwell, Chief Procurement Officer, Department of Procurement Management Services to Mrs. Judy M. Marte, Chief Financial Officer, Financial Services, Update on Procurement Management Services Goals and Key

Performance Indicators, December 1, 2016 (outside of study period). For the purposes of this analysis, we provide a pre- and post-analysis overview on issues relevant to this Disparity Study Procurement Analysis.

Figure 3.4 Summary of 2014 Re-organization	
Pre-2014	Post-2014
<ul style="list-style-type: none"> Lack of personnel performance metrics for PO processing and cross-training, resulting in long processing times and lack of back up documentation. No mechanisms for tracking PO processing 	<ul style="list-style-type: none"> Implemented sourcing cockpits; Conducted limited cross training. Implemented Procurement Dashboard monthly report that illustrates staff performance in the previous month. The report contains the following: the number of purchase orders completed by each staff member; the number of vendor applications completed during the month, including the vendor self-reported designation, i.e. African-American, certified small business, etc.; and PO dollars spent. This report illustrates the results of staff performance during the previous month. Processing times have been reduced from months to days.
<ul style="list-style-type: none"> No performance metrics for Stores, Mail and Distribution and Materials Maintenance Management 	<ul style="list-style-type: none"> Working to streamline processes through multi-year procurements and defining alternative logistical functions to ensure best practices for the district.
<ul style="list-style-type: none"> PMS staff used the same specifications year after year; Bid pricing was not structured to allow for more small business participation; Contract extensions were used liberally; Bid specifications oft-times conflicted with District approved contract language; No consistent bid spend management review occurred; and, Consistent advertisement of bids did not exist. 	<ul style="list-style-type: none"> Developed schedule of expiring contracts, with originating department, to determine extension or new bid required Developed new ITB and RFP templates consistent with Board approved language Ensured that originating departments understood specifications were needed for all bids Pricing/table options now available, which facilitates greater small businesses involvement Require originating department to notify Procurement Management if it desires to invoke contract extension

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<ul style="list-style-type: none"> Contract expenditures over Board approved limits 	<ul style="list-style-type: none"> Implemented usage of safeguards in SAP called Global Outlining Agreements (GOA) that allowed for tracking of the spend of each bid. Also worked to better align emergency purchases with approved bids to support appropriate capture and management.
<ul style="list-style-type: none"> Regular submission of Board supplements 	<ul style="list-style-type: none"> Stopped practice in 2014, except for emergency purchases
<ul style="list-style-type: none"> Advertising limited to District's website and local newspaper. 	<ul style="list-style-type: none"> Added advertisement on DemandStar Email sent to vendors in commodity code Provided OEO copy of email blast so that they could also distribute to respective vendors, partner agencies and/or various chambers of commerce Active bids sent to Cabinet members and Board members' staff on a weekly basis
<ul style="list-style-type: none"> Staff, including management, did not have the educational credentials required by State statute; while many were certified procurement professionals, they were not adhering to these standards. 	<ul style="list-style-type: none"> In June 2015, all staff provided the opportunity to interview for positions within Procurement Management. During the realignment, five staff members were re-hired and all remaining positions were filled with new external candidates committed to the mission/vision of the District, as well as PMS goals and objectives.
<ul style="list-style-type: none"> Limited procurement planning and forecasting 	<ul style="list-style-type: none"> Began scheduling quarterly meetings with respective departments to develop procurement plans for the upcoming months
<ul style="list-style-type: none"> Staff using Other Governmental Agency contracts from smaller counties where pricing not beneficial to District's volume 	<ul style="list-style-type: none"> Eliminated practice.
<ul style="list-style-type: none"> No mechanism to track spend with minority and women-owned vendors 	<ul style="list-style-type: none"> Developed quarterly reports to track the PO spend with minority and woman-owned vendors.
<ul style="list-style-type: none"> Minority spend less than 2 percent 	<ul style="list-style-type: none"> Working with OEO, implementing strategies that resulted in increase in spend to 15 percent. Efforts include: <ul style="list-style-type: none"> Mentorship program for vendors; Vendor outreach meetings with OEO and PMS staff and partnering agencies were initiated;

	<ul style="list-style-type: none"> • monthly PMS Vendor Workshops were scheduled to address vendor questions and concerns; • Communications campaigns that broadcast vendor events on various social media platforms and radio stations were launched. • PMS and OEO have met and continue to meet with community stakeholders, such as members of the Urban League, NAACP and various minority Chambers of Commerce to identify other areas of concern and identify key strategies to ensure more community input and success.
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Source: Procurement Management Internal Memorandum, December 1, 2016, M³ Consulting

Interviews revealed additional enhancements to the procurement system, including:

- Broke up contracts and created separate contracts for Maintenance’s 5 services centers and 9 districts for the first time; required Maintenance to utilize pre-approved vendors; saw an increase in Small and M/WBE participation;
- Made pre-bid meetings consistently available;
- Brought school site procurement to Procurement Management Services to increase focus on equity in contracting;
- Vendors bid under sheltered market for miscellaneous stock items for the first time; Bidding process became more transparent to deter bias;
- Began reporting race, gender and certification status of vendors on Board awards;
- Adjusted contractor discipline measures under Board Policy 6320.04;
- Conducted diversity training for staff, in conjunction with OEO and Office of Professional Development and Evaluation;
- Utilized interpreters to ensure ability to engage non-English speaking vendors;
- Focused on breaking down perceived barriers and streamlining processes, as opposed to continuing mentality of “they need to come and apply”; and,
- Working with OEO to increase participation of M/WBEs in IT and Food and Nutrition.

With the re-alignment in places and enhancements continuing, Procurement functions are provided below in Figure 3.5 for Procurement Management Services, User Departments and OEO.

Figure 3.5 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, based on pre-approved vendors • Perform random sampling review of contracts to ensure compliance to contractual terms • Provide listing of all vendors by NIGP Code for Goal Setting Committee members for review
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 • Provide historical and departmental knowledge to GSC members on various contracts.
OEO Responsibilities	<ul style="list-style-type: none"> • In conjunction with Goal Setting committee members, establish M/WBE goals based on available M/WBEs and specification/ scope of work elements • Determining bidder compliance with 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.

Source: M-DCPS Procurement Manual, OEO SBE Procedures Manual, M³ Consulting

D. Enterprise Systems Supporting the Procurement Functions

Procurement Management Services utilizes SAP Finance Software, which consists of a “Shopping Cart.” M-DCPS OEO began implementing the B2GNow Diversity Management System in May of 2015. Post May 2015, all seven modules have been implemented: Certification; Outreach; Prequalification; Contract Compliance; Payment Analysis; Workforce Utilization and Goal Setting.

Currently, different software systems utilized throughout the District are not integrated. Procurement Management Services and OEO are continuing discussions about the degree to which SAP data will be accessible to B2G Now.

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 3.6 Analysis of Policies and Procedures	
1. Clearly defined functions of all personnel involved in procurement decisions	<p>The Procurement Manual clearly establishes procurement authority. The Procurement manual also delineates the tasks to be performed by buyers in handling bids. M-DCPS relies primarily on Board Policy. The Procurement Manual appears to be more akin to a Procedures Manual that supports a Procurement Manual, which embodies and elaborates on Board Policy.</p> <p>The policies and procedures do not appear to adequately address the responsibilities and duties of the Chief Procurement Officer and the staff responsibilities of the Procurement Specialists and Buyers, as well as the OEO. The Procurement Manual does not address the post award relationship between Procurement and User Departments.</p>
2. Clear protocol for how & when to utilize various procurement methods	<p>Procurement methods are adequately discussed in the policies and procedures.</p>
3. Clear definitions of procurement terms	<p>Board policy has a limited list of definitions. The procurement manual does not contains a glossary of terms.</p>
4. Criteria for selection and evaluation of bidders by the major categories of procurement	<p>Criteria for selection and evaluation of purchasing methods are outlined in detail in the Procurement Manual.</p>
5. Criteria for evaluation of vendor/contractor performance after contract award	<p>Responsibilities of oversight of vendor performance and criteria for vendor performance evaluation post award are not outlined.</p>

<p>6. Clear delineation of the sources of procurement definitions, particularly if municipal, state or federal codes are involved</p>	<p>Delineation of the sources of procurement definitions is not outlined in the Procurement Manual. However, M-DCPS relies primarily on Board Policy.</p>
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Source: M³ Consulting

3.3.3 BUDGETING AND FORECASTING

As discussed previously in Figure 3.4, M-DCPS is in the process of improving its forecasting process. 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.

3.3.4 VENDOR REGISTRATION, NOTIFICATION, SOLICITATION AND BID OPENING

A. Vendor Registration

M-DCPS recently began utilizing the internet-based procurement system, DemandStar, which allows vendors to register on-line to view and receive bid notifications and opportunities, based on commodity code. It allows M-DCPS to track awards and manage its procurement process more efficiently. M-DCPS 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. Based on interviews, Procurement Management Services is working to ensure that small vendors are not hindered from participating in M-DCPS opportunities, because of a lack of familiarity with or ability to use DemandStar. Interviewees also indicated that, at the current time, vendors cannot submit bids through DemandStar. One interviewee said that this is to ensure inclusion of small and local vendors.

The Procurement Manual, Procedures 10-1 and 10-3, 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. Each vendor is given a vendor number for payment, tracking participation, monitoring vendor

performance and preparing bid mailing lists. 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

Currently, based on interviews, the vendor application process remains manual. Interested vendors complete a paper vendor application form, which is inputted into the SAP system by an M-DCPS procurement specialist.

Interviewees indicated that departments and schools should identify potential vendors from the vendor list. While they can go outside of the vendor list if necessary, the vendor list should be their starting point. Any vendor solicited by a user department or school and not on the vendor list must complete a vendor application. To ensure that minority and women-owned businesses are included in the pool of potential vendors from which quotes will be solicited, two reports are pulled: 1) by commodity and 2) by minority status. One report with all vendors in a commodity code by minority status currently cannot be produced. The self-identified minority vendor reports are provided and verified by the OEO staff.

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.

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

- Electronic posting, at least seven days prior to bid opening date²⁸⁴—M-DCPS posts on DemandStar;

²⁸⁴ Board Policy 6320, Competitive Bidding Requirement, B. (3) Invitation to Bid, pg. 7

- 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 date²⁸⁵;
- Notice sent to M-DCPS Citizens Information Center²⁸⁶.

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

3.3.5 INFORMAL PURCHASING

Informal purchases are purchases valued at \$50,000 or less. Purchases of \$1,000 or less per month by individuals can be procured using a P-Card to district approved P-card holders. On purchases between \$1,001 and \$50,000, Procurement Management Services handles most of these purchases, using Request for Quotations.

School sites may make purchases under \$50,000, as governed by Board Policy 6610 and the Manual of Internal Accounting, without PMS involvement beyond administrative processing of the purchase order. Interviewees confirmed that schools and departments secure quotes on informal purchases, both below and above \$1,000. On quotes above \$1,000, procurement analysts and specialists will review the quotes to ensure that the lowest bidder is selected. Interviewees cautioned that schools and departments may be showing favoritism toward select vendors and that better mechanisms are needed to ensure that schools and departments are reaching out to minority vendors.

A minimum of three quotes must be secured, with one being an M/WBE, if possible. One interviewee said the number of minority vendor quotes required has changed over time. Under different procurement administrations, the number required has shifted from two minority vendor quotes of five quotes to no quotes required to the current requirement of one minority vendor quote of three quotes. The award for informal purchases are 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 listing, as well as contact information from community outreach events and through networking with various

²⁸⁵ Ibid.

²⁸⁶ Procurement Manual, Procedure 7-2.3.

community stakeholders. User Departments and school sites can also contact potential new vendors if they cannot identify appropriate vendors on PMS' vendor listing. However, these potential vendors should complete a vendor application prior to any award.

Figure 3.6 summarizes the contract thresholds for Informal Purchases. Figure 3.7 summarizes signature authorities.

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	Telephone, Letter, Fax, Email	1	No	Authorized District Staff
\$1,000--\$50,000	Telephone, Letter, Fax, Email	3	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

3.3.5 FORMAL PURCHASING

Formal purchasing or competitive purchasing is required for purchase contracts over \$50,000. 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.”²⁸⁷ A minimum of three bids should be requested.²⁸⁸

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) for SBE, M/WBE and S/MBE participation on the project.²⁸⁹ 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.”²⁹⁰

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).²⁹¹

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.²⁹² 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.²⁹³

Responsive and responsibility are determined by Procurement Management Services. The policies and procedures do not provide a clear definition. Procurement Management Services utilizes the Scope of Work in the ITB to determine bidder responsiveness. 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;

²⁸⁷ M-DCPS Board Policy 6320, pg. 1

²⁸⁸ *Ibid.* at 7. “...staff shall obtain written, telephone or

²⁸⁹ *Ibid.*

²⁹⁰ *Ibid.* at 8.

²⁹¹ Procedures Manual, Procurement Management, Procedure 7-2.2

²⁹² Board Policy 6320 at 14.

Procedures Manual at 124.

- 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.

Interviewees were consistent in their definition of responsiveness and responsibility. Responsiveness generally was defined as a vendor submitting all of the requirements for an ITB or RFP and responsibility is a qualification determination. While a means of ensuring that bids are not excluded for non-material reasons and allowed by Board Rule and Chap. 119.07, FS, one procurement interviewee expressed concern about the ability of vendors to submit required documentation post-bid. The interviewee did not believe this should be allowed, even if the missing document is not material to determining lowest bid or qualifications.

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 work place under F.S. 287.087;
2. Local vendor as defined by Board Policy 6320.05;
3. Certified Service-disabled 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 a 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.²⁹⁴

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.²⁹⁵

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.²⁹⁶

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 if a supplemental award is needed, prior to the expiration date.²⁹⁷

Several interviewees discussed the process of bidding and awarding blanket order procurements, a type of term contract utilized consistently by M-DCPS for Goods & Supplies. These contracts are often five year contracts, delineated with one or two year terms, plus extension years. Prior to each extension, the procurement analyst contacts the User Department to determine if the extension is needed and/or if the contract should be re-bid. "There is no particular advanced notification to the community itself, unless we actually have an outreach. If we go to a vendor fair in the community or if we have our own vendor fair in the community. We prepare what we call our procurement forecast...So it's never been something we've used or published on our website. And then it's always subject to change."

When a blanket order contract is bid, several vendors are typically selected, as said by interviewees, often to secure the participation of small-, minority and women-owned businesses. However, a couple of interviewees expressed concerns about the efficacy of this process and if it is achieving the desired objective. Given that these contracts are often awarded by line item, the interviewees questioned if vendors were receiving sufficient volume to make the award worthwhile. "So you're not offering them a chunk of business, you are basically throwing them a bone. Rather than it being a viable bid award, you've now a chunk

²⁹⁴ Ibid. at 16.

²⁹⁵ 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.

²⁹⁶ Board Policy 6320 at 15.

²⁹⁷ Ibid. at 2.

to ABC, a chunk to BBC, a chunk to EFG, and nobody is happy because they are not getting a robust amount of business to really kind of entertain doing business with you... And sometimes it puts a bad taste.”

Furthermore, because User Departments and schools must obtain quotes from the vendors listed on the award, with the 1st tier vendor receiving preference, there is a real possibility that M/WBEs will not receive any awards under the blanket purchase order.²⁹⁸ “...it's like you have a specific vendor that you have to go to first before you can use the other vendors, because they were the first ones awarded or they have preference. And then if they can't provide you with the service or the goods, then you move down to the next person, and the next person. So it kind of leaves out other firms. Some firms may never get a chance to do business because of that...”

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.”

²⁹⁹

Prior to issuing the RFP, the Goal Setting Committee (GSC) will review the RFP to determine the possibility and level of SBE, M/WBE and S/MBE participation on the project.³⁰⁰ 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. Interview schedule (if required)
6. Award process.³⁰¹

²⁹⁸ Based on reviews and discussions of this chapter with M-DCPS, it was suggested that the interviewee may have been referring to firm-fixed pricing awards.

²⁹⁹ Ibid.

³⁰⁰ Ibid. at 9.

³⁰¹ Ibid. at 9-10.

The Evaluation Committee determines responsibility and responsiveness for RFPs.³⁰² Evaluation criteria is to include, but not be limited to:

1. Conformance to the proposal requirements experience
2. Past performance
3. Price
4. M/WBE 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
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.³⁰³ Exceptions include Legal Services and exceptions considered and determined by the Professional Services Contract Committee (PSCC), (see also Section 3.3.11 Non-competitive Purchasing below for other established exceptions). 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

³⁰² Ibid. at 60.

³⁰³ Ibid. at 10.

office and Management and Compliance Audits.³⁰⁴ For contracts over \$50,000, 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.”³⁰⁵ ITN follows the same process at RFPs.³⁰⁶

3.3.6 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;
- If fewer than 3 proposals received and the Board finds that there are no valid or acceptable firm proposals submitted;
- 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

³⁰⁴ Ibid. at 11.

³⁰⁵ Ibid. at 1.

³⁰⁶ Ibid. at 10.

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;
- 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.³⁰⁷

B. Cooperative Purchases

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.³⁰⁸

³⁰⁷ Ibid. at 3-6.

³⁰⁸ Ibid. at 3.

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.”³⁰⁹ The Superintendent must make such finding in writing. All emergency purchases over \$50,000 must be approved by the Superintendent and reported to the Board. Emergency purchases of \$50,000 or less can be approved by the Chief Procurement Officer.³¹⁰ 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.³¹¹

D. Sole Source

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 buyer receives a response, then the buyer must develop a written response as to if the good or services are available from more than one source. If from one source, the buyer should proceed with a Notice of Agency Decision, if from more than one source, the buyer should proceed to competitive purchasing process.³¹²

3.3.7 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 and interviews.

A. Bonding, Bid Sureties and Liquidated Damages

Because bid and performance security is required on construction bids and awards, which is not covered by this Phase 2 disparity study, it is not discussed here.

B. Insurance

Procurement Policies and Procedures do not address insurance requirements. According to one interviewee, “There's no set requirement.” Prior to the bid being released, it is reviewed by Risk Management who provides the procurement analyst with the limits for the service

³⁰⁹ Ibid. at 4.

³¹⁰ Procurement Manual, Procedure 4-14.

³¹¹ Board Policy 6320 at 4.

³¹² Procurement Manual, Procedure 4-17.

or delivery. “Our basic template does have a general overall limit that is there. However, analysts are asked to get the actual limits for our vendors because some services don't require \$1 million in coverage because it's a smaller business.”

3.3.8 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

3.4 ANALYSIS OF M-DCPS SMALL/MICRO BUSINESS AND M/WBE PROGRAMS

3.4.1 DESCRIPTION OF SMALL BUSINESS AND M/WBE 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 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 2015.³¹³

Based on the Phase 1 study findings, the Board concluded “there is a strong evidentiary basis establishing that the District has a compelling interest in remedying the ongoing effects of discrimination that is occurring in the broader relevant market and adversely affects the District’s utilization of ready, willing and able minority and women-owned firms in the District construction and construction-related contracts. The Board also concludes that it needs to take action to avoid becoming a passive participant in private sector discrimination.”³¹⁴

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; and,
- Service Disabled Veteran Enterprise Program (currently titled Veteran Business Enterprise Program)

M-DCPS also enforces the Local Business Enterprise requirements.³¹⁵

An overview of each program is provided below.

A. Small/Micro Business Enterprise Program

The Small/Micro Business Enterprise Program (S/MBE Program) is a race and gender-neutral program designed to provide “greater S/MBE 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 participant in private sector marketplace discrimination, and to promote equal opportunity for all segments of the contracting community to participate in Board contracts.”

³¹³ Board Policy 6320.02, p. 1-2

³¹⁴ *Ibid.* at 3.

³¹⁵ Procurement Management, Procurement Procedures at 136

B. 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 Subcontractor Disparity Study.”

C. Service Disabled Veteran Enterprise Program

The Service Disabled Veteran Enterprise Program is a race and gender-neutral program designed to benefit service disabled 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 service disabled veteran businesses. 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 SDVE participation in M-DCPS procurement processes.

D. Other Vendor Preferences

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.³¹⁶

Local Preference—M-DCPS will also award a preference to the lowest responsive and responsible vendor that has a principal place of business in Miami-Dade County, Florida.³¹⁷ 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 lowest 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.

Businesses Implementing a Drug-Free Workplace—M-DCPS will provide a preference to a business that certifies that it has implemented a drug-free work place program in accordance with the provisions of F.S. 287.087.

³¹⁶ Board Policy 6320.05

³¹⁷ Ibid.

As a result of the Board Policy, the Office of Economic Opportunity became responsible for the administration and implementation of the S/MBE and M/WBE Business program. As stated previously, changes within OEO have impacted its ability to build an organizational capacity to fulfill its duties and responsibilities with the depth and thoroughness suggested in the Board policies, objectives and strategies outlined below.

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 3.9.

Figure 3.9

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 S/MBEs 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;

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<ul style="list-style-type: none"> • 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.
<p>Small/Micro and Minority/Women-Owned Business Enterprise Advisory Committee</p> <ul style="list-style-type: none"> • Provide guidance on the implementation of the S/MBE and the M/WBE Programs and to promote the participation and use of SBEs/MBEs and M/WBEs in all procurement activities of the Board; • Identify and evaluate issues related to economic opportunities within the Board for small, micro and minority/women owned businesses; • Provide recommendations to the Board to improve the S/MBE/M/WBE programs; • Annually evaluate and report to the Board on the effectiveness of the S/MBE/M/WBE 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.
<p>Goal Setting Committee</p> <ul style="list-style-type: none"> • Establish S/MBE, M/WBE and SDVE (now VBE) 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.

In executing its responsibilities, OEO established a Strategic Plan. Below is an overview of OEO’s Goals, Strategies and Objectives/Steps for FY 2013-2014 and FY 2014-2015:

Figure 3.10 OEO Strategic Plan	
FY 2013-2014 Theme: Progress	
<ul style="list-style-type: none"> • Partnerships with local municipalities, agencies, community/trade organizations • Registration increase through interagency agreements, reciprocity, and community awareness • Outreach, including business fairs, trade shows, publications, and community programming • Growth of small/micro businesses through shelter market and other S/MBE programs • Review current policies and procedures to determine ways to improve M-DCPS practice • Educate through technical and financial assistance • Share information with other agencies regarding certified firms, outreach and assistance programming • Stimulate economy through opportunities for local small businesses 	
Goal #1: Increase the number of certified small and micro business enterprises in the District’s SBE/MBE registry	
Strategy A: Identification of Small/Micro Business Enterprises	<p>Objectives</p> <ol style="list-style-type: none"> 1. Establish a combined Small Business and Minority/Women Business Enterprise Certification Application 2. Designate two staff members as Small Business Outreach Coordinators 3. Develop a targeted media campaign, to include designated media outlets

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	<ol style="list-style-type: none"> 4. Coordinate with other local government agencies (County, College, MDX, FIU, City of Miami) 5. Request input from community leaders to identify small and micro businesses 6. Make presentations at various community and trade organization meetings 7. Host vendor registration and certification outreach events 8. Survey newly identified firms to find out what barriers exist to doing business with M-DCPS 9. Grant reciprocity to agencies with similar certification requirements (Miami-Dade County, U.S. Small Business Administration)
<p>Goal #2: Increase the participation of small and micro businesses as prime contractors/consultants and subcontractors/sub consultants on contracts</p>	
<p>Strategy A: Effective solicitation planning</p>	<ol style="list-style-type: none"> 1. Strive for diversity in the development of evaluation/selection committees. 2. Goal Setting Committee will review individual contracts and maximize prime contractor incentives and subcontracting goals. 3. Provide opportunities for small and micro business enterprises to participate as prime consultants/contractors on contracts. 4. Debundle contracts to allow smaller contracts to be made available to SBE/MBEs. 5. Review insurance requirements on various M-DCPS contracts with the approval of Risk Management. This will allow for smaller vendors to be able to afford a lesser amount of insurance limits for lower risk projects. Language will be added to specific solicitations to explain to firms that insurance language may be negotiable. 6. Extend solicitation deadlines on a case by case basis when it is determined that more time is needed for small or micro business enterprises to respond 7. Small Business Advisory Committee will provide recommendations to the Superintendent and OEO concerning ways to improve District procedures and/or processes.
<p>Strategy B: Build capacity and encourage SBE/MBEs to respond as prime contractors/consultants</p>	<ol style="list-style-type: none"> 1. Create a OEO newsletter/email blast and regular mail to highlight: <ul style="list-style-type: none"> --Training, presentations, and Meet & Greets --Solicitations/Contracting Opportunities --Successful projects with SBE/MBE participation 2. Develop the OEO website to better serve as an outreach tool. Include links to the Procurement Department, Current Bids/RFQs, and websites for other organizations. 3. Enter into an Inter-local Agreement with Miami-Dade County and Miami-Dade College. Explore additional inter-agency agreements. 4. Execute a Memorandum of Understanding and/or Strategic Alliance with the U.S. Small Business Administration to provide additional technical assistance and training to SBE/MBEs.

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	<ol style="list-style-type: none"> 5. Upon request, debrief unsuccessful firms to point out what areas they could improve. 6. Implement a prompt pay process to help SBE/MBEs with cash flow. 7. Establish a Bonding Assistance Program to assist SBE/MBEs in obtaining bonds. 8. Establish a Mentor Protégé Program to foster relationships between large Prime Contractors and SBE/MBEs. 9. Create Vendor Complaint Process
<p>Strategy C: Implementation and Review of SBE/MBE Policy</p>	<ol style="list-style-type: none"> 1. Determine if firms are at a disadvantage due to current selection criteria and/or procedures. 2. Establish a stakeholder input process to consider potential modifications to the SBE/MBE Policy. 3. Encourage large firms to utilize SBE/MBEs as subcontractors. 4. Appoint SBE/MBE Advisory Committee. 5. Appoint Goal Setting Committee. 6. Conduct/Monitor Disparity Study. 7. Monitor various programs Statewide and Nationwide to learn various strategies being implemented in other Business Enterprise programs.
<p>Strategy D: Build Capacity and encourage Small/Micro Business Enterprises to participate as subcontractors/sub consultants</p>	<ol style="list-style-type: none"> 1. Provide a list of SBE/MBEs available to serve as subcontractors/sub consultants to prime consultants during contract negotiations of Bond Projects and encourage use of SBE/MBE subcontractors/sub consultants. 2. Hold “meet the primes” events, which will include individual meeting between primes and potential SBE/MBEs available to participate as subcontractors/sub consultants. 3. Encourage large firms to utilize SBE/MBEs as subcontractors. 4. Review performance evaluation procedures to demonstrate SBE/MBE capabilities and assist them in developing successful performance records. 5. Host trainings on various rotating topics to include: bonding and insurance, accessing capital, accessing equipment, subcontractor rights and responsibilities, and District contract requirements. 6. Coordinate with Small Business Administration, County, College to host training on how to answer solicitations and/or bid requests. 7. Monitor and verify payments made to subcontractors/ sub consultants.
<p>FY 2014-2015 Theme: Create</p> <ul style="list-style-type: none"> • Compliance with Workforce and SBE/MBE goals on General Obligation Bond projects • Registration increase through interagency agreements, reciprocity, and community awareness • Education through technical and financial assistance • Access to prime contractors and relevant stakeholders • Technology supporting purchasing, contract compliance, goal setting, availability and utilization • Economic Dev through improvements resulting from on-going review policies, procedure, practices 	

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Goal #1: Continue to increase the number of certified Small, Micro, and Minority/Women Business Enterprises in the District’s SBE/MBE/M/WBE registry	
Strategy A: Identification of Small/Minority/Women Business Enterprises	<ol style="list-style-type: none"> 1. Create an Interlocal Certification Application to expedite the certification process. 2. Provide an On-line Application for SBE, MBE, and M/WBE Certification 3. Expand the Market Area for M/WBE Certification to Broward and Palm Beach Counties 4. Continue to develop a targeted media campaign, to include designated and diverse media outlets. 5. Coordinate to develop a targeted media campaign, to include designated and diverse media outlets. 6. Coordinate with other local agencies, business/trade organizations, and chambers (Jackson Health, Beacon Council, SFMDC, M-DCC) 7. Request input from community leaders, SBE Advisory Committee, GOB Advisory Committee 8. Continue presentations at various community and trade organization meetings 9. Host vendor registration and certification outreach events. 10. Grant reciprocity to agencies/organizations with similar certification requirements (SFMDC, Office of Supplier Diversity)
Goal #2: Continue to increase the participation of small and micro businesses as prime contractors/consultants and subcontractors/sub consultants on contracts.	
Strategy A: Effective solicitation planning.	<ol style="list-style-type: none"> 1. Provide training on diversity and inclusion for staff involved in the evaluation/selection process. 2. Create objective criteria for evaluating M/WBE Utilization Plans 3. Provide training on “How to Prepare a RFQ” and/or other responses to District solicitations 4. Advertise Sheltered Market solicitations for Certified SBE and/or M/WBE participation only. 5. Modify CM-at-Risk and A/E Selection procedures to encourage diversity and inclusion of SBE, MBE, and M/WBE firms. 6. Host Pre-Qualification Workshops to increase the pool of Prequalified Contractors who are also SBE, MBE and M/WBE firms. 7. Reimburse Small/Micro Business Enterprises for costs associated with carrying insurance on continuing contracts until projects are assigned. 8. Consider revisions to Prompt Payment Policy to expedite payment to SBE, MBE, and M/WBE firms.
Strategy B: Build capacity and encourage SBE/MBEs to respond as prime contractors/consultants	<ol style="list-style-type: none"> 1. Launch a social media campaign (Twitter, Facebook) to provide regular information on: <ul style="list-style-type: none"> --Events/Programs --Solicitations/Contracting Opportunities --Successful projects with SBE/MBE participation

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	<ol style="list-style-type: none"> 2. Develop the OEO website to better serve as an outreach tool. Include links to the Procurement Department, Current Bids/RFQs, and websites for other organizations. 3. Enter into an Inter-local Agreement with Miami-Dade County and Miami-Dade College. Explore additional inter-agency agreements. 4. Execute a Memorandum of Understanding and/or Strategic Alliance with the U.S. Small Business Administration to provide additional technical assistance and training to SBE/MBEs. 5. Upon request, debrief unsuccessful firms to point out what areas they could improve. 6. Implement a prompt pay process to help SBE/MBEs with cash flow. 7. Establish a Bonding Assistance Program to assist SBE/MBEs in obtaining bonds. 8. Establish a Mentor Protégé Program to foster relationships between large Prime Contractors and SBE/MBEs. 9. Create Vendor Complaint Process.
<p>Strategy C: Implementation and Review of SBE/MBE Policy</p>	<ol style="list-style-type: none"> 1. Determine if firms are at a disadvantage due to current selection criteria and/or procedures. 2. Establish a stakeholder input process to consider potential modifications to the SBE/MBE Policy. 3. Encourage large firms to utilize SBE/MBEs as subcontractors 4. Appoint SBE/MBE Advisory Committee. 5. Appoint Goal Setting Committee 6. Conduct/Monitor Disparity Study 7. Monitor various programs Statewide and Nationwide to learn various strategies being implemented in other Business Enterprise programs.
<p>Strategy D: Build capacity and encourage Small/Micro Business Enterprises to participate as subcontractors/sub consultants</p>	<ol style="list-style-type: none"> 1. Provide a list of SBE/MBEs available to serve as subcontractors/sub consultants to prime consultants during contract negotiations of Bond Projects and encourage use of SBE/MBE subcontractors/sub consultants. 2. Hold “meet the primes” events, which will include individual meeting between primes and potential SBE/MBEs available to participate as subcontractors/sub consultants. 3. Encourage large firms to utilize SBE/MBEs as subcontractors. 4. Review performance evaluation procedures to demonstrate SBE/MBE capabilities and assist them in developing successful performance records 5. Host trainings on various rotating topics to include: bonding and insurance, accessing capital, accessing equipment, subcontractor rights and responsibilities, and District contract requirements. 6. Coordinate with Small Business Administration, County, College to host training on how to answer solicitations and/or bid requests.

	7. Monitor and verify payments made to subcontractors/sub consultants.
Strategy E: Focus on workforce and youth development in Miami-Dade County	<ol style="list-style-type: none"> 1. Request that our prime consultants and contractors hire high school students as interns and provide training to them. 2. Work with organizations like The Urban Construction Crafts Academy and develop training programs for M-DCPS students. 3. Work with Career Source South Florida on developing additional training opportunities for local Miami-Dade residents. 4. Review composition of workforce under M-DCPS' construction contracts. After assessment, if certain groups are underrepresented, the District will develop a strategy to promote more diverse hiring practices.
Strategy F: Develop a program for assisting with accessing capital and bonds	<ol style="list-style-type: none"> 1. Develop a Bonding assistance program by working with agencies such as the Small Business Administration and Surety and Fidelity Association, Inc. 2. Investigate programs such as Owner Self Insurance Plans, to determine ways in which to provide insurance and bonding to Small Businesses. 3. Consider bonding waivers on small projects to promote availability of smaller contracts of Small Businesses.

Source: OEO Inaugural Report; M³ Consulting

3.4.2 REVIEW OF M-DCPS S/MBE AND M/WBE PROGRAMS

Within the current organizational and legislative construct, M³ Consulting sought to analyze M-DCPS' current S/MBE 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 SBEs and M/WBEs to specific contract opportunities.
2. Certification	Eligibility criteria for S/MBE and M/WBE participants.
3. Technical Assistance	Informational and strategic support of businesses to meet the entity's S/MBE 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 S/MBE 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

OEO hosts several seminars and workshops on doing business with M-DCPS and works on business development by providing direct access to local businesses and economic development. In 2013-2014, OEO hosted or participated in 57 seminars/workshops, participated in ten radio/newspapers interviews or “impressions”, and sent 24,107 outreach emails, which includes outreach event specifics; type of event; location; time, date, and other logistical information that is sent to various community stakeholders. In 2014-2015, OEO participated in 40 seminars/workshops, sent 31,254 outreach emails and participated in 9 radio/newspaper sessions. M-DCPS has developed partnerships and alliances with over 48 community organizations that include other public agencies, chambers of commerce, contractor associations, trade organizations and technical assistance service providers.

Matchmaking

OEO does not focus on matchmaking sessions, beyond matchmaker events hosted by other organizations. These events are more akin to outreach events, than matchmaker sessions. Matchmaking depends on a deep understanding of upcoming opportunities, as well as construction plans and professional and non-professional scopes of work. OEO has limited staff with the ability to perform this function.

B. Certification

M-DCPS certification requirements are different for the SBE, Micro Business Enterprise (MBE), and M/WBE programs as detailed in Figure 3.12.

Figure 3.12
Certification Requirements for M-DCPS S/MBE and M/WBE Programs

S/MBE Program	
S/MBE Definition	<ul style="list-style-type: none"> • Small Business Enterprise—any contractor, subcontractor, 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, subcontractor, 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 • The Board may honor a valid Small Business Enterprise Certification and/or Micro Business Enterprise Certification

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	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 million (Tier 1) or \$4,000,000 (Tier 2) Goods and Services (Procurement Program)—Greater than \$1 million and not to exceed \$2 million (Tier 1) or \$4,000,000 (Tier 2) Construction and Construction-Related Specialty Trades—Greater than \$1 million and not to exceed \$3 million (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 \$500,000 Professional Services Non-A/E— Not to exceed \$1 million Goods and Services (Procurement Program)—Not to exceed \$1 million Construction and Construction-Related Specialty Trades— Not to exceed \$1 million
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"> \$9 million for construction and construction-related specialty trades \$7 million for goods and services \$5 million for professional services—A/E \$7 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
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.

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	<ul style="list-style-type: none"> • 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 • Actual 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"> • If minority/women owners are entitled to share in the profits of the business • If 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 • Minority/women owners must also demonstrate control over the affairs, management and operations of the business.
Service Disabled Veteran Enterprise Program	
	<ul style="list-style-type: none"> • Certification requirements are same as M/WBE Program, except firms must prove veteran status, as opposed to race and gender.
Local Business Program	
	<ul style="list-style-type: none"> • No certification requirements indicated.

Source: Board Policy 6320.02; M³ Consulting

M-DCPS may recognize and honor valid Small and Minority Business Certifications from Miami-Dade County, U.S. Small Business Administration 8(a) Certification program, Southern Florida Minority Supplier Development Council, State of Florida—Office of Supplier Diversity. Approximately 744 M/WBE firms and 664 S/MBE have been certified by OEO.

M-DCPS also pre-qualifies Prime Contractor firms on Capital or Maintenance Construction Projects. Of 168 pre-qualified firms in 2014-2015, 82 were SBEs and 86 were M/WBEs.

C. Technical Assistance

OEO sponsors technical assistance workshops aimed at assisting small- and minority-owned businesses grow and develop their companies. Further, Procurement Management Services provides in-depth monthly vendor workshops to assist small and M/WBE firms increase business opportunities with the District.

D. S/MBE 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 S/MBEs and M/WBEs in M-DCPS procurement and contracting opportunities.

As discussed earlier, M-DCPS engages in the following efforts to ensure that S/MBEs and M/WBEs are included in M-DCPS' pool of potential bidders:

- Electronic posting, at least seven days prior to bid opening date³¹⁸—M-DCPS posts on DemandStar;
- 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 date³¹⁹;

³¹⁸ Board Policy 6320, Competitive Bidding Requirement, B. (3) Invitation to Bid, pg. 7

³¹⁹ Ibid.

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- Notice sent to M-DCPS Citizens Information Center³²⁰.

M-DCPS also encourages diversity, equity and inclusion in subcontracting pursuant to Board Policy 6320.06 Fair Subcontracting Practices, by encouraging prime bidders to:

- Notify the broadest number of local subcontractors of the opportunity to be awarded a subcontract;
- Invite local subcontractors to submit bids in a practical, expedient manner;
- Provide local subcontractors access to the information necessary to prepare and formulate a subcontracting bid;
- Allow local subcontractors 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.

Goals are established by the goal setting committee for subcontract participation. The OEO Compliance area reviews all submitted proposals for compliance with the established goals on each project.

	S/MBE Goals	M/WBE Goals	State Preference	Local Preference	Service-Disabled Veteran Preference	Drug Free Work Place 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*	No	No	Yes	Yes	Yes	Yes
Procurement*	No	No	Yes	Yes	Yes	Yes

Source: Board Policies 6320, 6320.02, 6320.05, M³ Consulting; *Subject to outcome of Phase 2 Disparity Study

S/MBE 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.

³²⁰ Procurement Manual, Procedure 7-2.3.

“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 SDVs cannot be applied to competitive solicitations for construction services in which fifty percent (50%) 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).

The Goal Setting Committee (GSC) utilizes the following criteria to determine if 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 SDV 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 SDV 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 SDV 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

$$\begin{array}{l} \text{Dollar Value of the Scope of Work} \\ \div \\ \text{Dollar Value of Project} \\ = \\ \text{Weight of Scope of Work} \end{array}$$

Architecture and Engineering Goals

$$\begin{array}{l} \text{Dollar Value of Discipline} \\ \div \\ \text{Dollar Value of Project} \\ = \\ \text{Discipline Weight} \end{array}$$

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

$$\begin{array}{l} \text{M/WBE Firms in Scope of Work} \\ \div \\ \text{All Firms in Scope of Work} \\ = \\ \text{Availability of M/WBE} \end{array}$$

Architecture and Engineering Goals

$$\begin{array}{l} \text{M/WBE Firms in Discipline} \\ \div \\ \text{All firms in Discipline} \\ = \\ \text{Availability of M/WBE} \end{array}$$

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 Goals 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 SDV or a joint venture with a SBE, MBE or SDV 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:

- If there are at least three (3) SBEs, MBEs, M/WBEs or SDVs 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 SDV prime contractors in the specific industry categories; and,
- The extent to which the Board's SBE, MBE, M/WBE or SDV 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 S/MBE 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 S/MBE or M/WBE;
- Mandatory Subcontracting up to 40 percent of a specific contract to eligible S/MBEs or M/WBEs; and,

- Local Workforce requirements, utilizing zip codes, targeted boundaries and county boundaries to stipulate which residents qualify as local residents.

A partial or complete waiver of diversity requirements may be granted for reasons such as:

- Emergency procurement;
- Non-M/WBE is sole source; or,
- Good faith efforts have proven unsuccessful.

M-DCPS' 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. If and when the bidder provided written notice to all certified M/WBE/SBE listed in M-DCPS OEO Directory qualified to perform the type of work to be subcontracted and advising the M/WBE/SBE of the specific work the bidders intend to subcontract; acknowledgement of M/WBE/SBE interest in the contract being solicited; and how to obtain information for the review and inspection of contract plans and specifications;
3. Whether the bidder selected feasible portions of the work to be performed by M/WBE/SBE, 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. Whether the bidder considered all quotations received from M/WBE/SBE's and for those quotations not accepted the bidder shall provide an explanation of why the M/WBE/SBE will not be used during the course of the contract; Receipt of lower quotation from non-M/WBE/SBE will not itself excuse a bidder's failure to meet project goals;
5. Whether the bidder provided interested M/WBE/SBE 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. Whether the bidder followed up on initial solicitations of interest by contacting M/WBE/SBE's to determine with certainty if the M/WBE/SBE was interested;
8. Whether the bidder negotiated in good faith with interest M/WBE/SBE, not rejecting M/WBE/SBE as unqualified without sound reason and based on a thorough investigation on their capabilities;

9. Whether 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; and,
10. Describe an additional efforts or circumstances which may assist the School District in determining "Best Faith Efforts."

E. Contract Compliance

OEO conducts contract compliance monitoring, on-site monitoring and Small, Micro, M/WBE and Workforce Utilization reporting. Additionally, as of October 2017, M-DCPS has implemented all seven modules of its Diversity Compliance System.

OEO also has a formal Compliant and Feedback process. Complaints are investigated by the OEO Compliance Division. In the Inaugural Report, 8 complaints were filed and resolved. Two feedback forms were received. Over 125 Board Item Policy reviews were conducted to determine compliance with goals established by the goal setting committee.

Anti-discrimination Policy

Under Board Policy 6465³²¹, 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 a good-faith belief that they have been discriminated against consistent with the Anti-discrimination policy may seek resolution to filing a 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:

³²¹ 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.

- 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, if 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.

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 S/MBE and M/WBE firms, both awards and expenditures.

OEO is also to report on M-DCPS' efforts to meet the program objectives of enhancing competition, establishing 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 annual to determine if programs and procedures need to be adjusted to achieve program objectives.

The Board will also determine, at least every four 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.
 - S/MBE Availability which is the proportion of the RWA vendors that are certifies 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 percent 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.

Since 2015, OEO has not developed reports similar to its Inaugural Reports that focuses in-depth on the requirements, objectives and strategies outlined in Section 3.4.

3.5 IMPACT OF M-DCPS POLICIES, PROCEDURES AND PRACTICES ON S/MBES AND M/WBES

Based on the foregoing discussion and findings, below are the Procurement, S/MBE 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.

A. Knowledge of Inclusive Procurement and Supplier Diversity

Based on interviews and after hearing from a majority of interviewees, there appears to be limited knowledge or responsibility for developing and implementing inclusive procurement strategies. When asked about inclusion, Procurement staff mainly referred to the Goal Setting Committee. Additionally, during the study period, most staff members in OEO have limited procurement knowledge and some had limited knowledge of M/WBE program operations and supplier diversity, when interviewed in 2016.

B. Implementation of Board Policies/Strategies

While M-DCPS has well-developed M/WBE and S/MBE Board policies, the implementation of these policies are hampered by Item A above. Furthermore, while OEO leadership was consistent during the study period, the constant changes in OEO leadership during the course of these study period has impacted the consistent development of implementation strategies and initiatives and OEO's ability to serve as advocate and ombudsman.³²²

Items A and B limit M-DCPS' ability to be collaborative, responsive and inclusive within real-time procurement operations. For example, the Chief Procurement Officer, working in collaboration with other senior managers, has established an inclusion strategy as it relates to blanket purchase orders. However, procurement staff does not appear to fully understand or embrace this strategy. As such, some see it as a hindrance, rather than an opportunity for M/WBES, for which the procurement staff is responsible for working innovatively and collaboratively on the strategy's success.

³²² While the OEO Director was consistent throughout the study period, there were 3 changes in leadership during the course of this disparity study review.

C. Integration of S/MBE and M/WBE Policies and Procedures into Overall Procurement Procedures

M-DCPS' has not integrated M-DCPS S/MBE and M/WBE procedures into its Procurement Procedures. As such, the expectation and requirements of Procurement, School Principals and Administrators, User Departments and OEO has not been clearly established in a manner that allows M-DCPS to ensure a procurement process that is open, fair, transparent and inclusive in a manner that can be monitored and tracked beyond S/MBE and M/WBE participation statistics.

D. Reporting

M-DCPS primarily focuses on reporting procurement spend and goal attainment. OEO staff had not prepared an overall organizational and programmatic scorecard since 2015, akin to its Inaugural Reports for 2013/2014 and 2014/2015. Furthermore, reporting does not identify overall and M/WBE spend by buyer, department and school sites. Therefore, because of this limited transparency, M-DCPS is less likely to identify and eliminate issues of favoritism and discrimination.

E. Forecasting and Notification of Opportunities

Based on interviews, M-DCPS provides limited forecasting of upcoming opportunities at both the informal and formal level. Furthermore, informal procurements, similar to many public agencies, are not advertised using any source (paper, website, DemandStar). This limited forecasting and notification:

- Limits transparency as it relates to opportunities where M/WBEs have the capacity to perform; and,
- Limits time-period M/WBEs have to complete all requirements necessary to ensure that, once the solicitation is released, they are ready, willing and able to bid.

F. Matchmaking

Based on interviews, M-DCPS focuses primarily on outreach, not matchmaking. Outreach—while sometimes labeled as matchmaking—covers the vendor fairs that procurement staff attends and “How to Do Business” workshops provided.

G. Certification Requirements

Like many public agencies, M-DCPS certification requirements can be very taxing for small businesses, especially considering the lack of reciprocity of certification requirements among public agencies in South Florida. While the goal is to certify bona fide M/WBEs, some certification requirements may create issues of unfair exclusion and discrimination and inconsistencies within the bid process. For example, all minority persons applying for certification are required to be citizens or lawful permanent residents. This requirement is not in place for non-M/WBEs who are not citizens or lawful permanent residents who are obtaining business licenses, bidding and being awarded contracts by M-DCPS.

3.6 SUMMARY OF FINDINGS

M³ Consulting reiterates the execution and implementation of a public entity's community economic development objectives commences with the procurement process. Public entity achievement of its community economic development objectives through procurement begins with a public policy approach to procurement and community economic development, supported by project execution, as opposed to purely employing a cost, schedule, and project efficiency based approach.

M-DCPS has a guiding Mission Statement, a reasonable overall organizational structure and numerous reasonable policies and procedures in place. However, M-DCPS also has multiple areas in its policies, procedures and practices that may create barriers to the ability of M/WBEs to participate in M-DCPS' contracting and procurement opportunities. If these areas are not appropriately addressed, there is a risk of inherent, unintentional and/or intentional exclusionary and/or discriminatory practices in M-DCPS' procurement program.

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 Equal Employment Opportunity (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 the *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 like availability), then actual applicants can be used in the "selection" analysis and a hypergeometric statistic is used.³²³

B. Threshold Analysis

Under a *Croson* 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.

³²³ Richard E. Biddle, "The Role of Two Statistical Approaches in EEO Cases", 1995. See also 29 CFR Ch. XIV, Part 1607, §1607.17(2)

While relying on a threshold-type analysis (Marketplace Availability) appears straightforward, under *Croscon* 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.³²⁴ Regressions and capacity analysis conducted on the pool of firms other than those 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 subcontractor selection.

In *Croscon* 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).

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 most recent 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*.³²⁵ 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).³²⁶

³²⁴ See also Potential Availability discussion supra.

³²⁵ No. 13-1371, 576 U. S. _____ (2015)

³²⁶ Slip Op., at 19-20.

...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.³²⁷

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 two sample sizes. For M-DCPS, if Dun & Bradstreet were used for Marketplace Analysis, the pool would contain 6.88 percent M/WBEs of a total of 28,701 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 14.82 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 still have discouraged M/WBE bidders due to the continuous and repeated use of the same vendors or continued discriminatory policies and practices.³²⁸ 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

³²⁷ Slip Op., at 22.

³²⁸ 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.

of political representatives, and not simply the presence of race and gender-conscious goals. For example, in another disparity study, 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 study period.

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.

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 if 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.

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 consider 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 M/W/DBE 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 firms 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.³²⁹

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

³²⁹ Richmond v. Croson, at 725.

methods and using an entity's bidder, vendor, and awardee lists as the 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/SBEs³³⁰") *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 count of firms, the concomitant issues of capacity, qualification, willingness, and ability complicate the production of accurate availability estimates.

³³⁰ Firms that are not small, minority or women-owned businesses are referred to as Non-M/W/SBEs. These firms are not labeled as White Male because they include corporations with unidentified stockholders and other firms with Non M-DCPS Certified or diverse ownership.

A. Miller³ Consulting, Inc. Availability Model

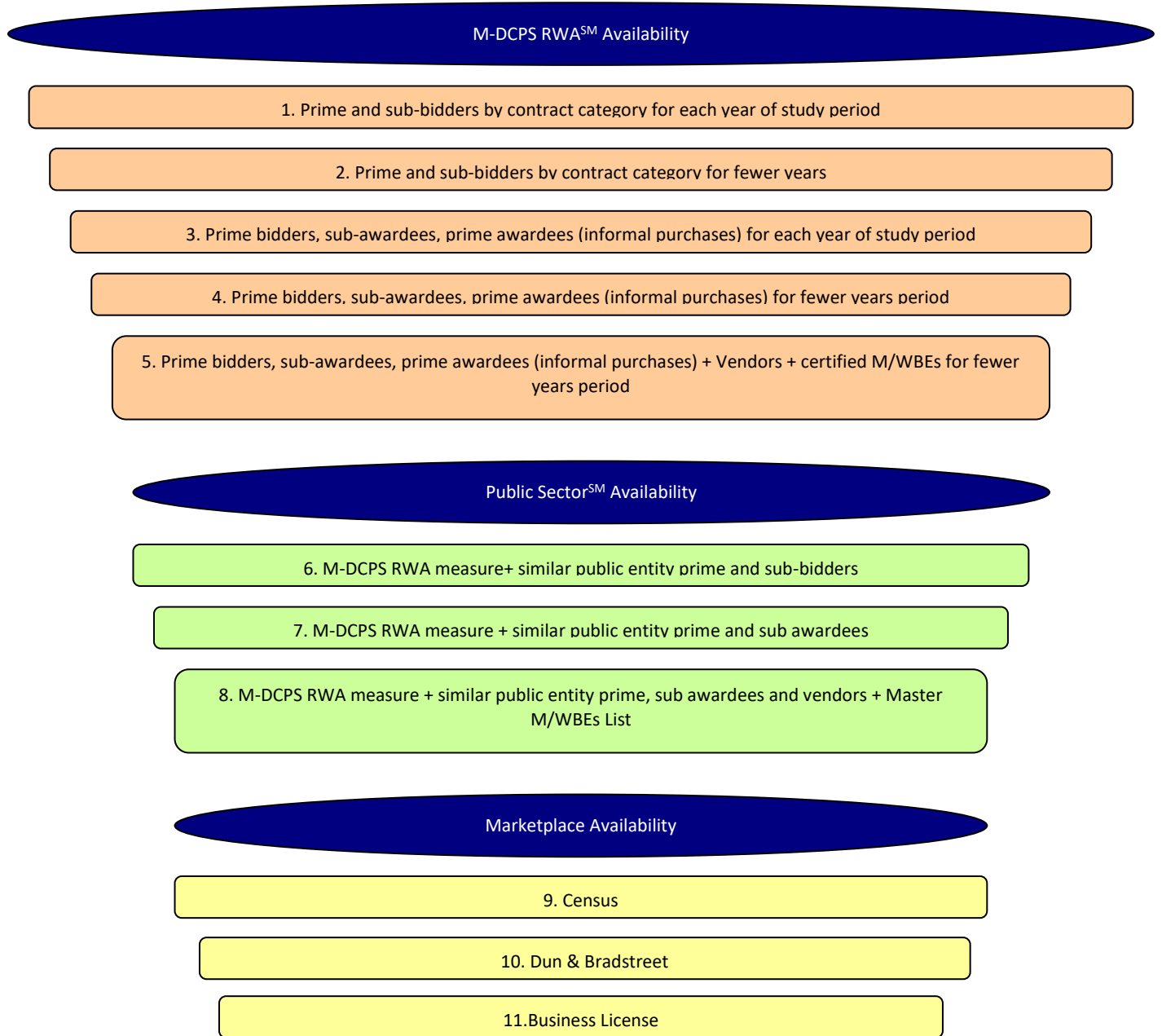
M³ Consulting employs two general approaches to measuring availability: The Ready, Willing and Able (RWASM) Model, and Marketplace Availability. In summary, the Availability measures can fall into the following categories:

- **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’ marketplace³³¹; and,
- **Marketplace Availability**—All firms’ available in M-DCPS’ marketplace, as measured by U.S. Census Survey of Business Owners, Dun & Bradstreet and Miami-Dade County Business License data.

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.

³³¹ 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; * All firms certified by M-DCPS are included on the Vendors List

B. Ready, Willing and Able (RWASM) Model³³²

The concept of the “*Ready, Willing and Able*” (RWASM) estimate model is derived from the U.S. Supreme Court’s statement that:

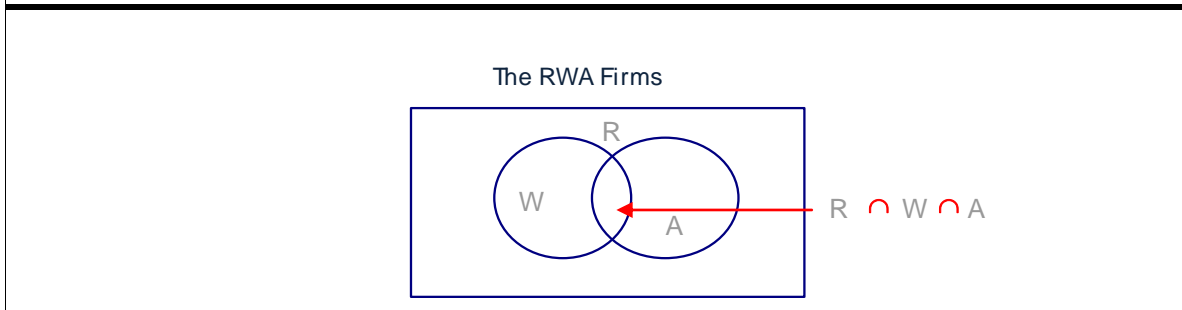
Where there is a significant statistical disparity between the number of qualified minority contractors willing and able to perform a service and the number of such contractors engaged by the locality or the locality’s prime contractors, an inference of discriminatory exclusion could arise.³³³

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.

³³² M³ Consulting developed the RWASM model in 1992.

³³³ *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 SBO and Dun & Bradstreet (D&B) 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 SBO and D&B 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.³³⁴ 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.”³³⁵

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 if there was a statistically significant correlation between the size of a firm and the share of contract dollars awarded to it.”³³⁶ Utilizing survey data, M³ Consulting conducts regression analysis to buttress its RWASM Availability and Disparity findings.

³³⁴ 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.

³³⁵ *Concrete Works v. Denver*, 823 F. Supp. 821 (D. Colo. 1993)

³³⁶ 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, S/MBEs, and Non-M/W/SBEs 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 2012/2013 – 2014/2015.

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"³³⁷ 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.³³⁸

³³⁷ M³ Consulting developed the "Public Sector Availability" Model in 2006.

³³⁸ 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.

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 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. Dun & Bradstreet Data
 - c. Reed Construction Data (this data is used to analyze construction availability. Given that construction is not included in this Phase 2 Disparity Study, no further discussion of Reed Construction Data will follow.)

1. 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 2012 Economic Census – Survey of Business Owners (SBO).

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 SBO Survey that is broken down by category descriptions into the appropriate industry. The North American Industry Classification System (NAICS) determined census SBO. The SBO covered twenty NAICS’ industries. The 2012 SBO data, the most recent data, by race and gender is utilized for this analysis.

2. Dun & Bradstreet (D&B) Potential Availability Data

In lieu of Census SBO data, Dun & Bradstreet (D&B) 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 D&B data includes capacity data, such as average sales revenues and average full-time employees. We will discuss the availability of firms in Chapter X and the capacity data in Chapter VIII.

Both the U.S. Census Bureau and D&B lists have been compiled through statistically significant survey techniques conducted by the U.S. Census Bureau and Dun and Bradstreet, Inc., 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. As discussed below under Section 4.3 - Data Sources, D&B utilizes three sources of data to identify M/WBEs in its databases: government certified list (certified), non-certified list collected from membership organizations, directories and D&B calls (collected), and finally certified and collected records that have been confirmed by D&B call center campaigns (verified).

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/SBEs 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/SBE, 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/SBEs 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, Construction-related Professional 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 Construction and Architecture and Engineering contracting, the standard presentation of utilization data by M³ Consulting is to show Total “Pure Prime + Subcontractor” utilization and Subcontractor 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 subcontractor 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 subcontractor utilization, results in a correct measurement of “total” utilization, by the M/WBE category.

We note that, for this Phase 2 Disparity Study, there is limited subcontracting, based on the procurement categories under review: 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).³³⁹

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
N _w	=	Number of women-owned firms
N _m	=	Number of minority-owned firms
N _t	=	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.³⁴⁰

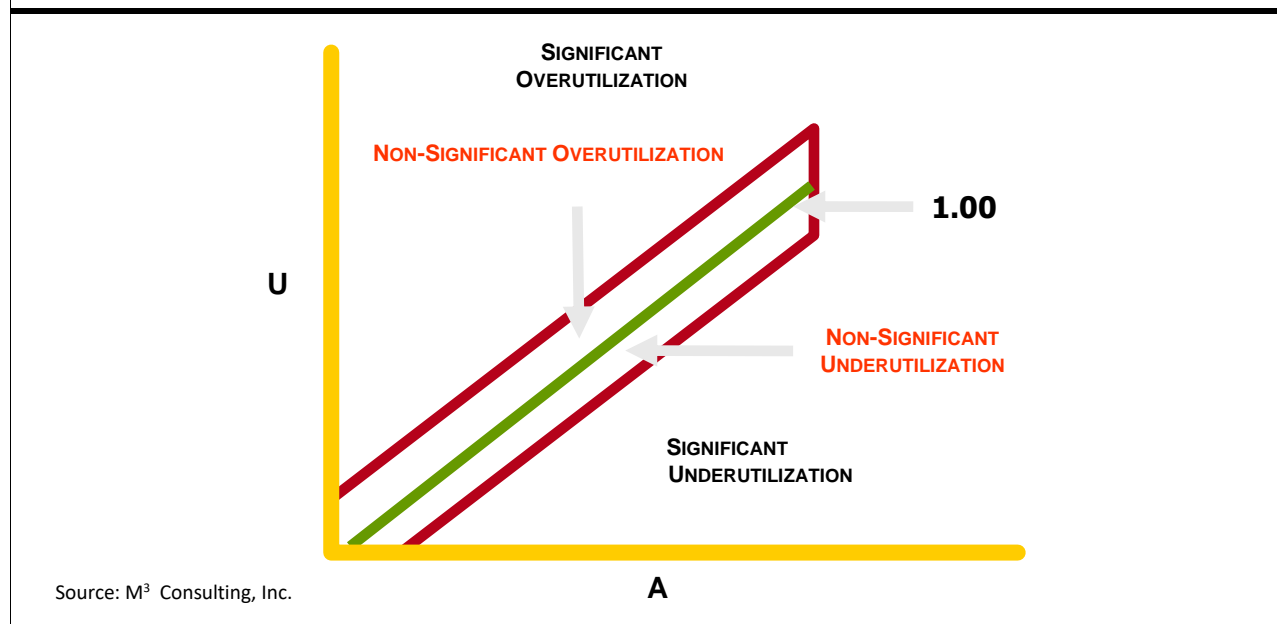
$$\begin{aligned} A_w &= N_w / N_t \\ A_m &= N_m / N_t \\ D &= U/A \end{aligned}$$

³³⁹See DJMA, A Fact Finding Study Prepared for the New York Metropolitan Transit Authority (January 1990).

³⁴⁰ Alternative utilization measures based on numbers of firms and numbers of contracts can be calculated in a similar fashion.

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 4.3).

Figure 4.3
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.

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 statistical 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. Per Mansfield, even if there is a statistically significant difference between a sample value and a postulated value of a parameter, the difference may not matter.³⁴¹ 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 discrimination³⁴².

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

³⁴¹ Mansfield, Edwin, *Statistics for Business and Economics*, p. 322. Two standard deviations imply 95 percent confidence level which is the norm of the courts.

³⁴² *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.")

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 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 considering 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)³⁴³.

4.3 DATA SOURCES UTILIZED FOR STATISTICAL ANALYSIS FOR M-DCPS

To conduct the statistical analysis, M³ Consulting collected and analyzed data from M-DCPS for the period covering 2012/2013 through 2014/2015. 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.³⁴⁴ The question remains if a similar holding of adverse impact and inference of discrimination,

³⁴³ 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>

³⁴⁴ 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.”

based on poor data tracking systems or lack of data required for disparity analysis, may be issued under a *Crososn* 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 two disparity studies.

4.3.1 DATA SOURCES FOR RELEVANT MARKET

In calculating relevant market, M³ Consulting sought to determine where about 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—Counts of bidders, sub-bidders, awardees and sub-awardees; and,
- PO and AP data—Dollar values and counts of PO and Payments.

While other measures were considered, little weight was placed on these sources of data, as firms in the vendor lists do not meet the ready, willing and able definition; P-cards are largely for small informal purchases that do not go through the RWASM litmus test. Contract dollars and counts while reported, often did not represent the procurement categories for this report which included blanket contract and formal purchases of \$50,000 or greater, thus making the PO and Payment data more reliable to determine relevant market.

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*.”

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.

M-DCPS’ PMS provided M³ Consulting access to the website that contained the non-construction contracts that were let between 2012/2013 – 2014/2015. M³ Consulting relied on bidder and award information for the period of 2012/2013 – 2014/2015 to view a period comparable to the availability of reliable purchase order and payments data from the SAP financial management system. Additional discussion of the data from SAP is discussed later in this chapter.

M³ Consulting collected data on bidder activity and award activity using the PMS website where this information was maintained and housed. Bid tabulations are provided for each of the non-construction solicitations, which serve as the bidder pool for this effort. Further, each project contained a board agenda item that detailed the awarded firm(s) for each solicitation let during the study period of 2012/2013 – 2014/2015. 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 using the title for the project to the formal contracts and submitted these assignments to M-DCPS’ PMS for review and confirmation. Collaboratively, M³ Consulting and PMS made appropriate adjustments to the assignments based on M-DCPS’ familiarity with awarded activities and M³ Consulting’s

classification of the Phase 2 procurement types along with consideration of M-DCPS' procurement policies and procedures and federal and state contracting laws.

Upon obtaining the corrections, M³ Consulting used the defined procurement types as the basis for allocating bidder and award activity into the Phase 2 procurement types of Goods & Supplies, Maintenance & Maintenance-Related Services and Services. The bidders and sub-bidders were cross-matched against the Master S/M/WBE file³⁴⁵ 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. The awardees availability pool was determined using the awarded bidder in the contract awards data, as well as purchase order and accounts payable data. All firms awarded a contract were indicated by their representation on the PMS website board agenda item and when a purchase order is issued and a payment is made, they are included 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. All firms paid by M-DCPS were captured in the financial management system, which tracks purchase order commitments and payments. SAP data includes both informal awardees and formal awardees based on contracts let during the study period of 2012/2013 – 2014/2015. 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

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 than bidders and awardees. While vendors meet the "*ready*" and "*willing*" test, they may not have the capability to perform on all projects. However, vendors are a less desired dataset to measure RWASM availability. Capacity proxies could be established if M-DCPS captured

³⁴⁵ See discussion of Master S/M/WBE List below.

relevant data on its vendor registration application, which may be useful for future analysis.³⁴⁶

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 the PMS utilized the list as a method to send prospective vendors notification of upcoming procurement activity.

In calculating vendor availability, M³ Consulting used the vendor listing provided by PMS and categorized each vendor into the Phase 2 procurement types using the category 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 it crosses into. 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.

4. M-DCPS Certified Firms

M-DCPS' Office of Economic Opportunity (OEO) maintains a list of certified firms who seek to work for MDCPS and have taken the additional step to be certified as an S/MBE or M/WBE firm. OEO has the responsibility of vetting firm ownership to confirm firms seeking to be certified by the District meet OEO's requirements. Certification is done to promote the development and growth of S/MBEs or M/WBEs and to ensure access to opportunities to do business with the District. While firms on the certification list meet the "*ready, willing and able*" criteria, the problem lies in the fact that only S/MBEs and M/WBEs are subject to the certification process. While the certification listing is one measure of S/MBEs and M/WBE availability, there is no such equivalent listing of Non-M/W/SBEs. Using the certification list alone to measure availability would cause bias in the availability measurement.

5. Master S/M/WBE 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

³⁴⁶ 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.

Tri-County Area of M/WBEs were also sought from the State of Florida and Florida DOT and included in the master list of S/M/WBEs. From agency responses, M³ Consulting created the Master S/M/WBE 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 S/M/WBE 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 S/M/WBE 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 SMOBE/SWOB Data

The U.S. Census Bureau conducts a Survey of Business Owners (SBO) in a five-year cycle. The most recently published data are the results of the 2012 survey and is discussed previously.

2. Dun & Bradstreet

Dun & Bradstreet (D&B) provided a customized list of firms from its Hoover's database for the Tri-County South Florida Area. The Hoover's database consists of observations for 417,378 registered firms in Miami-Dade Palm Beach MSA by SIC and NAICS code, and MBE and WBE status. D&B utilizes three sources of data to identify M/WBEs in its databases: government certified list (certified); non-certified list collected from membership organizations, directories and D&B calls (collected); and finally, certified and collected records that have been confirmed by D&B call center campaigns (verified). 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 and NAICS codes into the categories of Goods & Supplies, Services, Maintenance & Maintenance-Related Services

availability tables. The Hoover's database also provided data for these same firms on firm sales and employees. M³ Consulting utilized this data as a measure of firm capacity.

While D&B provides the most comprehensive private database of business listings in the U.S., it 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, Dun and Bradstreet (D&B) firms are listed for a fee.

Also, while D&B 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 D&B listings. Many small and micro, home-based businesses are more likely than large businesses to be minority- or women-owned, which suggests that MBE/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/SBEs by M-DCPS. The sources of data sought from M-DCPS on M/WBE utilization for this report were Contract Awards, Subcontractor Data, Purchase Orders (PO), Accounts Payables (AP) and P-Card data. The following are descriptions of utilization databases.

A. Contract Awards and Subcontractor Data

M³ Consulting obtained M-DCPS' contract awards data from solicitations permitted by M-DCPS during the study period of 2012/2013 – 2014/2015. The 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 competitive contracts permitted by M-DCPS. 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 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 Phase 2 procurement types of Goods & Supplies, Services and Maintenance & Maintenance-Related Services. M³ Consulting provided classification to the District for review to ensure synchronization of the classifications. Based on the collaborative effort, M³ Consulting's grouping of the solicitations reflect a unified review. Further, the classifications

drive how the contract awards dollars are allocated within each procurement type. Given Phase 2 does not include construction, there was very little subcontractor activities included in this analysis.

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 PMS authorized amount detailed in the board agenda item is the basis for the utilization amount for each solicitation. In the case of single awarded firm, and the award amount is detailed on the board item, the listed amount was used in the quantitative 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 2012/2013 – 2014/2015. 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 Phase 2 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 in the Phase 2 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.

D. P-Cards

P-cards allows the purchase goods and service up to \$15,000 per month for work location card administrators and \$1,000 per month for individuals. P-card data was provided by M-DCPS' IT department. The data provided contained merchant codes which was used to sort the transactions into procurement categories for analysis. The data also contained firm name which allowed identification by race and gender.

4.3.4 DATA SOURCES FOR CAPACITY

A. U.S. Census Bureau

The U.S. Census Bureau conducts a Survey of Minority and Women-Owned Business Enterprises (SMOBE/SWOB) in a five-year cycle. The most recently published data are the results of the 2012 survey. A measure of capacity, M³ Consulting calculated number of employees and sales receipts for firms by race and gender.

B. Dunn & Bradstreet

As part of the Hoover's database, D&B provided firm sales and employee data by MBE 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 S/M/WBE 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 S/M/WBE list to run the survey.

A total of 1,823 surveys were mailed on September 6, 2017. M³ Consulting initially relied on a mail survey, as the databases provided more complete addresses than emails. Only four surveys were received and data was manually input into Survey Monkey. The mail survey was sent shortly before Hurricane Irma, significantly impacting survey response.

M³ Consulting pulled a second random survey sample from firms within the pool with valid email addresses, due to the lack of response to the mail survey. A total of 1,305 were emailed out on October 23, 2017; November 7, 2017; November 13, 2017; November 21, 2017; November 21, 2017 and December 7, 2017 dates. The response to the survey yielded 138 valid responses, constituting a 10.57 percent response rate.

Follow-up calls were made to all non-respondents with a phone number to ensure an increased response rate. M³ Consulting attempted to contact each vendor three times, before considering the firm non-responsive. Details of the survey responses are presented in Table 3.1. There was a large percent of “undeliverables” and “non-responsives” that reduced the sample size.

Table 4.2: Total Survey Responses Received and Undeliverable Miami-Dade County Public Schools		
Emailed	Counts	Percentage
Total Received	138	10.57
Undeliverable	439	33.64
Total Undeliverable	439	33.64
Call Back	283	21.69
Disconnected	33	2.53
Do Not Call (DNC)	72	5.52
Hung Up	32	2.45
Language Barrier	6	0.46
No Answer	47	3.60
Not Interested	61	4.67
Out of Service	16	1.20
Privacy Manager	0	1.07
Resend (Mail Survey)	0	10.80
Voicemail	148	11.34
Wrong Number	21	1.61
Duplicates	9	0.69
Fax	0	0
No Phone	0	0
Total Non-responsive		
Grand Total	1,305	100.00

Source: M³ Consulting, Inc.

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/WBEs”) *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 the three major industries: Goods & Supplies; Maintenance and Maintenance-Related Services; and Services. The following availability measures are presented for each industry 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 from SAP Data, Vendors

Marketplace Availability

- U.S. Census SBO

The chapter summarizes availability findings in the conclusions section.

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.³⁴⁷ The analysis of M/WBE availability and utilization are examined within this defined geographical

³⁴⁷ The geographical area is determined for each procurement category under review.

market area. Based on the U.S. Supreme Court requirement that a M/WBE program covers only those groups that have been affected by discrimination within the public entity's jurisdiction,³⁴⁸ most courts and disparity study consultants characterize the relevant market as the geographical area encompassing much 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 as the relevant market.³⁴⁹ 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

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 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 Area and the State of Florida.

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

³⁴⁸ *Richmond v. Croson*, 488 U.S. 469, 109 S.Ct. 706, 725 (1989).

³⁴⁹ 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.

- 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. Goods & Supplies Relevant Market—State of Florida

For Goods & Supplies, as shown in Table 5.2, M³ Consulting concluded that, when all measures are viewed in totality, the data pointed to the Nation as the relevant market. While many bidders and awardees do appear to be from within the State and most of the contracts and contract dollars are paid within the State, contract dollars and bidders plus awardees barely exceed seventy percent. Moreover, most Goods & Supplies are via blanket contracts or informal contracts that are better reflected in purchase orders and payments. Payments and Purchase Order counts and dollars, point to the Nation as the relevant market, which seems to better define the relevant market for this procurement category.

2. Maintenance and Maintenance-Related Services Relevant Market Tri-County Area

All measures, payments of contract dollars, purchase orders, and payments or location of firms that are on the vendors list, bidders or awardees point to most commercial activity from within the Tri-County for this procurement type, thus defining the Tri-County as the relevant market (see Table 5.3).

3. Services Relevant Market—State of Florida

The location of bidders, awardees and vendors, as well as most the measures that account for dollars paid out to Service vendors points to the State of Florida as the relevant market, as noted in Table 5.4.

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Table 5.1. Summary of Relevant Market Determination			
	Tri-County	State	Nationwide
Goods & Supplies			√
Maintenance and Maintenance-Related Services	√		
Services		√	

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

Table 5.2. Relevant Market Summary: Goods & Supplies			
	Tri-County	State	Nationwide
	% of Total	% of Total	Total
Awardees	66.23	78.79	231
Bidders + Awardee	63.06	72.67	666
Vendors	56.98	66.47	7,068
PO Dollars	39.61	48.37	\$ 545,170,957
PO Counts	63.86	69.89	113,732
Payment Dollars	24.79	44.63	\$ 481,250,706
Payment Counts	41.18	53.78	425,666
P-Card Dollars	55.65	69.69	\$ 37,765,090
P-Card Counts	54.01	61.12	174,808
Contract Dollars	48.95	72.54	\$ 225,077,532
Contract Counts	65.74	79.17	216

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

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Table 5.3.			
Relevant Market Summary: Maintenance and Maintenance-Related Services			
	Tri-County	State	Nationwide
	% of Total	% of Total	Total
Awardees	84.13	92.06	126
Bidders + Awardees	86.55	94.12	238
Vendors	81.08	87.63	2,796
PO Dollars	90.94	95.37	\$ 40,136,616
PO Counts	80.95	88.06	6,131
Payment Dollars	91.42	95.00	\$ 62,405,610
Payment Counts	92.67	94.91	30,715
P-Card Dollars	N/A	N/A	N/A
P-Card Counts	N/A	N/A	N/A
Contract Dollars	83.51	93.87	\$ 21,849,393
Contract Counts	83.87	91.94	124

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: Services			
	Tri-County	State	Nationwide
	% of Total	% of Total	Total
Awardees	71.43	78.72	343
Bidders + Awardees	68.46	76.52	707
Vendors	71.58	79.00	4,286
PO Dollars	57.24	63.56	\$ 349,530,701
PO Counts	67.52	74.17	15,329
Payment Dollars	56.14	61.52	\$ 305,636,458
Payment Counts	76.73	79.91	61,932
P-Card Dollars	62.96	69.00	\$ 13,360,730
P-Card Counts	58.88	66.62	39,715
Contract Dollars	84.90	86.31	\$ 291,899,659
Contract Counts	76.88	80.92	173

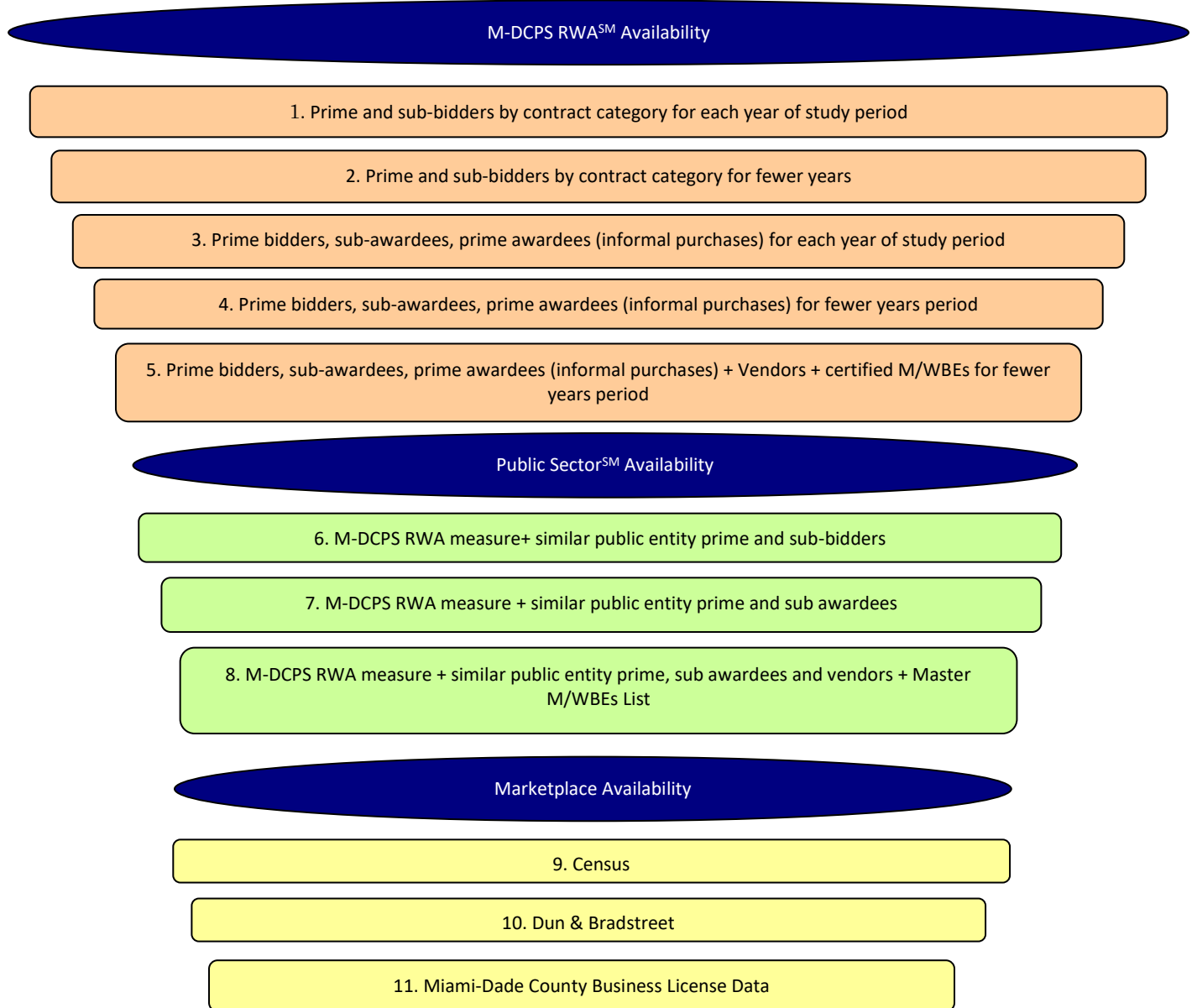
Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data, M-DCPS Vendor data; P-Card data

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



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 2012/2013 – 2014/2015 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 M-DCPS are included on the Vendors List

5.4 TOTAL AVAILABILITY

5.4.1 TOTAL RWASM AVAILABILITY

RWASM availability measures are presented in Table 5.5 for the study period. M-DCPS bidders and sub bidders reflected a total of 1,015 available firms, including 809 (79.70 percent) Non-M/W/SBE firms and 206 (20.30 percent) M/W/SBEs. 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 4,309 available firms, which included 3,633 Non-M/W/SBE (84.31 percent) and 672 M/W/SBE firms (15.60 percent) of total available firms. M/WBEs include 73 (1.69 percent) African American-owned firms, 14 (0.32 percent) Asian American-owned firms, 271 (6.29 percent) Hispanic American-owned firms, and 126 (2.92 percent) Non M-DCPS Certified MBEs, along with 128 (2.97 percent) 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). While this holds true particularly for African

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American-owned, Asian American-owned, Non M-DCPS Certified MBEs and WBEs, the reverse is true for Hispanic American-owned firms who are largely available via the informal contracting process.

	Nationwide					
	Level 1		Level 2		Level 3	
Race/Ethnicity/Gender	#	%	#	%	#	%
Non-M/W/SBE	809	79.70	3,633	84.31	13,966	84.58
African American	45	4.43	73	1.69	321	1.94
Asian American	8	0.79	14	0.32	55	0.33
Hispanic American	91	8.97	271	6.29	872	5.28
Non M-DCPS Certified MBE	11	1.08	126	2.92	822	4.98
Total MBE	155	15.27	484	11.23	2,070	12.54
WBE	29	2.86	128	2.97	237	1.44
Non M-DCPS Certified M/WBE	13	1.28	13	0.30	140	0.85
Total M/WBE	197	19.41	625	14.50	2,447	14.82
SBE	9	0.89	47	1.09	90	0.55
Total M/W/SBE	206	20.30	672	15.60	2,537	15.36
Service-Disabled	-	0.00	4	0.09	9	0.05
Total	1,015	100.00	4,309	100.00	16,512	100.00

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

5.4.2 MARKETPLACE AVAILABILITY—TOTAL AVAILABILITY

As a benchmark to RWASM availability in the relevant market and the broadest measure of availability, we present marketplace availability using the U.S. Census Survey of Business Owners (SBO). The limitations of this dataset are that firms in the Census SBO data do not reflect those that may have necessarily expressed interest in bidding with M-DCPS. Based on the marketplace list, as presented in Table 5.6, for All Firms Nationwide in the relevant NAIC codes comporting with the three procurement categories under review, there are 20,621,138 Non-M/WBEs (81.66 percent) and a total of 4,630,299 M/WBEs (18.34 percent).

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In comparing Table 5.6 to Table 5.5, it shows that the percentage of M/WBE firms in the marketplace is slightly larger in percentage terms at 18.34 percent than that of M-DCPS at 14.50 percent. While African American-owned firms and WBE participation is similar for RWASM and Census, Asian American-owned firms reflect considerably higher levels of participation based on Census, while Hispanic American-owned firms reflect a notably lower level of participation.

Table 5.6. Census Availability All Firms Relevant Market, 2012		
Ethnicity	#	%
Non-M/WBE	20,621,138	81.66
African American	315,519	1.25
Asian American	2,357,030	9.33
Hispanic American	551,136	2.18
Native American	75,186	0.30
Other MBE	362,142	1.43
Total MBE	3,661,013	14.50
WBE	969,286	3.84
Total M/WBE	4,630,299	18.34
Total	25,251,437	100.00

Source: 2012 Census SBO Data; M³ Consulting; Relevant Market—Nationwide

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5.5 AVAILABILITY IN GOODS & SUPPLIES

5.5.1 RWASM AVAILABILITY IN GOODS & SUPPLIES

Using Level 2 to define availability, the relevant market includes a total of 1,965 Goods & Supplies' contractors that attempted to or presently do business with M-DCPS; 256 (13.03 percent) of these are M/W/SBEs, who include 20 (1.02 percent) African American-owned firms, six (0.31 percent) Asian American-owned firms, 96 (4.89 percent) Hispanic American-owned firms, fifty (2.54 percent) Non M-DCPS Certified MBEs, 57 (2.90 percent) Woman-owned firms and 23 SBEs (1.17 percent).

Table 5.7. RWASM Availability: Levels 1-3 Goods & Supplies Miami-Dade County Public Schools Relevant Market, 2012/2013 - 2014/2015						
	State of Florida					
	Level 1		Level 2		Level 3	
Race/Ethnicity/Gender	#	%	#	%	#	%
Non-M/W/SBE	261	81.56	1,707	86.87	6,927	88.58
African American	9	2.81	20	1.02	110	1.41
Asian American	2	0.63	6	0.31	21	0.27
Hispanic American	28	8.75	96	4.89	318	4.07
Non M-DCPS Certified MBE	3	0.94	50	2.54	224	2.86
Total MBE	42	13.13	172	8.75	673	8.61
WBE	9	2.81	57	2.90	103	1.32
Non M-DCPS Certified M/WBE	4	1.25	4	0.20	75	0.96
Total M/WBE	55	17.19	233	11.86	851	10.88
SBE	4	1.25	23	1.17	38	0.49
Total M/W/SBE	59	18.44	256	13.03	889	11.37
Service-Disabled	-	0.00	2	0.10	4	0.05
Total	320	100.00	1,965	100.00	7,820	100.00

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data, M-DCPS Vendor data; Relevant Market—State of Florida

5.5.2 MARKETPLACE AVAILABILITY – GOODS & SUPPLIES

Using the marketplace to define availability, M/WBE suppliers represents 18.92 percent of total Goods & Supply firms, which is considerably higher than the RWASM availability percentage of 11.86 percent. Like the findings for all firms, RWASM and Census levels of participation are almost the same for African American-owned firms and WBE, but distinct differences may be noted in levels of participation by Asian American-owned firms and Hispanic American-owned firms. In comparing levels of participation based on Census to RWASM, Asian American-owned firm shave significantly higher availability based on Census and Hispanic American-owned firms, significantly lower level of availability.

Table 5.8. Census Availability Goods & Supplies Relevant Market, 2012		
Ethnicity	#	%
Non-M/WBE	5,031,921	81.08
African American	36,109	0.58
Asian American	702,882	11.33
Hispanic American	122,555	1.97
Native American	15,219	0.25
Other MBE	84,976	1.37
Total MBE	961,741	15.50
WBE	212,680	3.43
Total M/WBE	1,174,421	18.92
Total	6,206,342	24.58

Source: 2012 Census SBO Data; M³ Consulting; Relevant Market--Nationwide

5.6 MAINTENANCE AND MAINTENANCE-RELATED SERVICES AVAILABILITY

5.6.1 RWASM AVAILABILITY IN MAINTENANCE AND MAINTENANCE-RELATED SERVICES

Considering Level 2 to measure RWASM availability, a total of 675 maintenance contractors were available to M-DCPS in the Tri-County for the period 2012/2013—2014/2015 as noted in Table 5.9. Among these, M/W/SBEs comprised 37.04 percent or 250 contractors, 76 of who were available in the formal bidding process (Level 1). M/W/SBEs included 29 WBEs (4.30 percent of total) and 17 SBEs (2.52 percent of total). The highest number of MBEs were Hispanic American-owned firms (124 or 18.37 percent), followed by 27 African American-owned firms at 4.00 percent and only four (0.59 percent) Asian American-owned firms of the total available contractors in Maintenance and Maintenance-Related Service contractors.

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Table 5.9.
RWASM Availability: Levels 1-3
Maintenance and Maintenance-Related Services
Miami-Dade County Public Schools
Relevant Market, 2012/2013 - 2014/2015

Race/Ethnicity/Gender	Tri-County					
	Level 1		Level 2		Level 3	
	#	%	#	%	#	%
Non-M/W/SBE	93	55.03	425	62.96	1,897	70.34
African American	18	10.65	27	4.00	87	3.23
Asian American	2	1.18	4	0.59	11	0.41
Hispanic American	37	21.89	124	18.37	317	11.75
Non M-DCPS Certified MBE	3	1.78	47	6.96	297	11.01
Total MBE	60	35.50	202	29.93	712	26.40
WBE	11	6.51	29	4.30	45	1.67
Non M-DCPS Certified M/WBE	2	1.18	2	0.30	13	0.48
Total M/WBE	73	43.20	233	34.52	770	28.55
SBE	3	1.78	17	2.52	30	1.11
Total M/W/SBE	76	44.97	250	37.04	800	29.66
Service-Disabled	-	0.00	-	0.00	-	0.00
Total	169	100.00	675	100.00	2,697	100.00

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data, M-DCPS Vendor data; Relevant Market—Miami-Dade/Ft. Lauderdale/Palm Beach County Tri-County Area

5.6.2 MARKETPLACE AVAILABILITY—MAINTENANCE AND MAINTENANCE-RELATED SERVICES

In comparison to the RWASM availability at 34.52 percent, the marketplace availability of Maintenance and Maintenance-Related firms in Table 5.10 shows a smaller percentage of Total M/WBE firms at 24.31 percent in the Miami-Ft. Lauderdale-West Palm Beach Metro Area. WBE contractors represented 4.48 percent of total in the marketplace, whereas 29 WBEs (4.30 percent) are shown as ready, willing and able to bid in formal or informal contracts in M-DCPS. The marketplace indicates that there is a larger pool of Total M/WBE contractors in this procurement type at 5,691 firms, as compared to RWASM at 233 firms. These firms may potentially be available to M-DCPS through outreach. African American-owned and Hispanic American-owned firms have lower availability percentages in the marketplace relative to RWASM, whereas Asian American-owned firms are higher in the marketplace availability measure compared to RWASM.

Chapter V Statistical Analysis of Relevant Market and M/WBE Availability

Table 5.10. Census Availability Maintenance and Maintenance-Related Services Relevant Market, 2012		
Ethnicity	#	%
Non-M/WBE	17,718	75.69
African American	342	1.46
Asian American	399	1.70
Hispanic American	3,456	14.76
Native American	54	0.23
Other MBE	392	1.67
Total MBE	4,643	19.83
WBE	1,048	4.48
Total M/WBE	5,691	24.31
Total	23,409	100.00

Source: 2012 Census SBO Data; M³ Consulting; Relevant Market—Miami-Ft. Lauderdale-West Palm Beach Metro Area

5.7 SERVICES AVAILABILITY (PROFESSIONAL AND NON-PROFESSIONAL SERVICES)

5.7.1 RWASM AVAILABILITY IN SERVICES

The State of Florida includes 103 MBE firms, 37 Woman-owned firms and seven SBE firms that were available to do business with M-DCPS, having met the RWASM availability criteria for Services at the agency. These firms represented 9.87 percent, 3.54 percent and 0.67 percent, respectively, of 1,044 service contractors available to M-DCPS. The 103 MBEs comprised largely of Hispanic American-owned firms (51 or 4.89 percent of total), along with 21 African American-owned firms (2.01 percent of total), three Asian American-owned (0.29 percent) and 28 Non M-DCPS Certified MBEs (2.68 percent). This is presented in Table 5.11 followed by the total available Service firms in market place for comparison in Table 5.12.

Chapter V Statistical Analysis of Relevant Market and M/WBE Availability

Table 5.11.

RWASM Availability: Levels 1-3

***Services**

Miami-Dade County Public Schools

2012/2013 - 2014/2015

	State of Florida					
	Level 1		Level 2		Level 3	
Race/Ethnicity/Gender	#	%	#	%	#	%
Non-M/W/SBE	294	81.67	888	85.06	3,294	80.66
African American	14	3.89	21	2.01	114	2.79
Asian American	3	0.83	3	0.29	14	0.34
Hispanic American	26	7.22	51	4.89	236	5.78
Non M-DCPS Certified MBE	5	1.39	28	2.68	295	7.22
Total MBE	48	13.33	103	9.87	659	16.14
WBE	9	2.50	37	3.54	75	1.84
Non M-DCPS Certified M/WBE	7	1.94	7	0.67	32	0.78
Total M/WBE	64	17.78	147	14.08	766	18.76
SBE	2	0.56	7	0.67	20	0.49
Total M/W/SBE	66	18.33	154	14.75	786	19.25
Service-Disabled	-	0.00	2	0.19	4	0.10
Total	360	100.00	1,044	100.00	4,084	100.00

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data, M-DCPS Vendor data; Relevant Market—State of Florida; * Services include Professional and Non-Professional Services

5.7.2 MARKETPLACE AVAILABILITY—SERVICES

The marketplace availability for Service firms in Table 5.11 shows a larger percentage of M/WBE firms at 20.05 percent compared to RWASM availability of 14.08 percent in Table 5.10. The shortfall in the availability percentage in M-DCPS compared to Census is especially visible among MBEs. The larger pool in the marketplace provides an indication of potentially available firms that M-DCPS can reach out to for the services that they offer. While these firms fall into NAIC codes representing M-DCPS products, through outreach efforts, M-DCPS could determine if these firms provide services utilized by M-DCPS and meet RWASM requirements and encourage them to bid on Service contracts.

Chapter V

Statistical Analysis of Relevant Market and M/WBE Availability

Table 5.12. Census Availability Services Relevant Market, 2012		
Ethnicity	#	%
Non-M/WBE	941,347	79.95
African American	22,509	1.91
Asian American	66,505	5.65
Hispanic American	70,733	6.01
Native American	2,609	0.22
Other MBE	18,501	1.57
Total MBE	180,857	15.36
WBE	55,168	4.69
Total M/WBE	236,025	20.05
Total	1,177,372	100.00

Source: 2012 Census SBO Data; M³ Consulting; Relevant Market—State of Florida

5.8 SUMMARY OF FINDINGS

Table 5.13 below summarizes the availability estimates for M/WBEs 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.

While M³ Consulting typically places credence on RWASM estimates, marketplace availability measures, based on Census SBO, are presented as a benchmark of minority and women-owned firm availability and for M-DCPS to consider potentially available firms for outreach purposes.

For Goods & Supplies, MBE RWASM availability percentage is about 8.75 percent, half of which is from Hispanic American-owned firms, followed by Non M-DCPS Certified MBEs and African American-owned firms. WBE availability in this industry is 2.90 percent, based on the RWASM availability measure. The marketplace availability measure based on Goods & Supplies shows a higher presence of MBEs in the industry at 15.50 percent and a slightly higher presence of WBEs at 3.43 percent.

In Maintenance and Maintenance-Related industries, the availability of M/WBEs was at 34.52 percent based on RWASM availability estimates. MBEs were at 29.93 percent with Hispanic American-owned firms leading this group at 18.37 percent. African American-owned firms and WBEs are at four percent and 4.30 percent respectively in the Tri-County marketplace. The Census availability measure shows a slightly lower representation in the marketplace of M/WBEs at 24.31 percent, with WBEs about the same as RWASM availability estimate at 4.48 percent, while MBEs were lower than RWASM at 24.31 percent.

For Services, M/WBEs availability based on RWASM availability was at 14.08 percent, lower in comparison to the marketplace availability at 20.05 percent. MBEs and WBEs both evenly had low availability based on RWASM availability estimates, with Hispanic American-owned firms noting the highest availability among MBE Service firms. Marketplace availability reflected similar result, except for Asian American-owned firms, who reflected almost 6 percent participation, compared to well less than 1 percent for RWASM.

The presence of M/WBEs in M-DCPS procurement is higher in the market place overall. The marketplace however shows a greater number of M/WBEs that do not participate in the M-DCPS procurement process, although they may potentially be available to do business.

Chapter V Statistical Analysis of Relevant Market and M/WBE Availability

Whether these potentially available firms meet the RWASM availability criteria and may be encouraged to participate in M-DCPS contracting process remains to be explored.

Table 5.13.
Summary Table - RWASM Availability Percentage Participation
Miami-Dade County Public Schools
Relevant Market; 2012/2013 - 2014/2015

Ethnicity	Goods & Supplies ¹		Maintenance and Maintenance-Related Services ²		Services ³		Total Firms ¹	
	#	%	#	%	#	%	#	%
Non-M/W/SBE	1,707	86.87	425	62.96	888	85.06	3,633	84.31
African American	20	1.02	27	4.00	21	2.01	73	1.69
Asian American	6	0.31	4	0.59	3	0.29	14	0.32
Hispanic American	96	4.89	124	18.37	51	4.89	271	6.29
Non M-DCPS Certified MBE	50	2.54	47	6.96	28	2.68	126	2.92
Total MBE	172	8.75	202	29.93	103	9.87	484	11.23
WBE	57	2.90	29	4.30	37	3.54	128	2.97
Non M-DCPS Certified M/WBE	4	0.20	2	0.30	7	0.67	13	0.30
Total M/WBE	233	11.86	233	34.52	147	14.08	625	14.50
SBE	23	1.17	17	2.52	7	0.67	47	1.09
Total M/W/SBE	256	13.03	250	37.04	154	14.75	672	15.60
Service-Disabled	2	0.10	-	0.00	2	0.19	4	0.09
Total	1,965	100.00	675	100.00	1,044	100.00	4,309	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

¹Nationwide

²Tri-County Area

³State of Florida

Chapter V Statistical Analysis of Relevant Market and M/WBE Availability

**Table 5.14.
Census SBO Summary Availability
Relevant Market, 2012**

	Goods & Supplies ¹		Maintenance and Maintenance-Related Services ²		Services ³		Total Firms ¹	
	#	%	#	%	#	%	#	%
Non-M/WBE	5,031,921	81.08	17,718	75.69	941,347	79.95	20,621,138	81.66
African American	36,109	0.58	342	1.46	22,509	1.91	315,519	1.25
Asian American	702,882	11.33	399	1.70	66,505	5.65	2,357,030	9.33
Hispanic American	122,555	1.97	3,456	14.76	70,733	6.01	551,136	2.18
Native American	15,219	0.25	54	0.23	2,609	0.22	75,186	0.30
Other MBE	84,976	1.37	392	1.67	18,501	1.57	362,142	1.43
Total MBE	961,741	15.50	4,643	19.83	180,857	15.36	3,661,013	14.50
WBE	212,680	3.43	1,048	4.48	55,168	4.69	969,286	3.84
Total M/WBE	1,174,421	18.92	5,691	24.31	236,025	20.05	4,630,299	18.34
Total	6,206,342	24.58	23,409	100.00	1,177,372	100.00	25,251,437	100.00

Source: 2012 Census SBO Data; M³ Consulting

¹Nationwide

²Miami-Ft. Lauderdale-West Palm Beach Metro 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 Goods & Supplies, Maintenance and Maintenance-Related Services and Services. Utilization is measured and analyzed using contract awards, purchase order awards, and payments to M/WBEs from M-DCPS for the period 2012/2013 – 2014/2015. 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 subcontractor award dollars, to the degree available.³⁵⁰ 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 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.

³⁵⁰ The calculation of “prime + subcontractor awards data” reflects a reduction of the Prime Contractor award dollars by any subcontractor dollars. Subcontractor 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, purchase orders (POs) and payments (AP) by race/ethnic/gender group for the period 2012/2013 – 2014/2015, 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.

Goods & Supplies

Based on Contract Awards, a total of \$225 million was contracted in Goods & Supplies; 11.17 percent of this total was awarded to M/WBEs with Hispanic American-owned firms receiving 7.55 percent of the total, WBEs 2.29 percent of total, Non M-DCPS Certified MBEs 1.2 percent of total, Asian American-owned firms 0.13 percent and African American-owned firms receiving almost zero percent of total dollars, with only \$10,000 in contract awards in the three-year study period.

Goods & Supplies' firms received over \$545 million in purchase orders for the three-year period; \$115 million, which accounted for 21.12 percent of the total dollars, was to MBEs and \$6.7 million (1.23 percent of total) to WBEs. Of the \$115 million, over \$107 million of the purchase orders were to Hispanic American-owned firms (19.80 percent of total), \$6.18 million to Non M-DCPS Certified MBEs (1.13 percent of total), only \$589,478 to Asian American-owned firms (0.11 percent of total) and \$444,170 to African American-owned firms (0.08 percent of total).

A total of \$481 million was paid out in Goods & Supplies for 2012/2013 – 2014/2015. The pattern remained similar for contract awards and purchase orders, with the majority of the dollars going to Non-M/W/SBEs. About 8.9 percent went to MBEs and 1.19 percent to WBEs. Among the MBEs, Hispanic American-owned firms received \$36.15 million, the largest proportion of the total \$42.82 million to MBEs. Asian American- and African American-owned firms received less than 0.1 percent of the dollars paid out in Goods & Supplies.

Maintenance and Maintenance-Related Services

Contract awards in Maintenance and Maintenance-Related Services was at \$21.85 million in the three-year period, with 38.81 percent of the total awards to M/WBEs. Hispanic American-owned firms received twenty-four percent of the total awards, with African American-owned firms, Asian American-owned firms and Non M-DCPS Certified MBEs receiving 5.92 percent, 2.1 percent and 0.88 percent respectively. WBEs received 5.18 percent of the contract dollars.

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Over \$40 million in purchase orders were cut to Maintenance and Maintenance-Related Service contractors for the three-year study period of 2012/2013 – 2014/2015. Over fifty-eight percent (\$23.39 million) of these dollars was paid to MBEs and \$489,344 (1.22 percent) to WBEs. Most of the \$23 million in purchase orders were to Hispanic American-owned firms (\$13 million or 32.6 percent of total) and Non M-DCPS Certified MBEs (\$9.9 million or 24.7 percent). African American- and Asian American-owned firms received less than one percent of the dollars invoiced.

Of the \$62 million in payments made to Maintenance and Maintenance-Related Service contractors, MBEs received over 47 percent; 27.21 percent of payments went to Hispanic American-owned firms, 27.21 percent to Non M-DCPS Certified MBEs, only 1.5 percent to WBEs and less than one percent of the total payments were paid to African American- and Asian American-owned firms.

Services

Service contract dollars were largely skewed towards Non-M/W/SBEs, who received over 93.5 percent of the total \$291.89 million dollars (See Table 6.1). Of the remaining dollars, 4.69 percent was awarded to Hispanic American-owned firms and 5.11 percent to WBEs. African American-owned firms received \$30,000 (0.01 percent), Asian American-owned firms, \$8,000 and Non M-DCPS Certified MBEs, \$1.2 million (0.41 percent) of the total \$291.89 million service contract awards for the three-year period.

Only 5.82 percent of the purchase orders let went to MBEs and 1.69 percent to WBEs in Service contracts for the period 2012/2013 – 2014/2015 (See Table 6.2). While Hispanic American-owned firms received 3.2 percent of the total purchase orders paid, the rest of the MBEs received no more than 1.2 percent of the total. Payments made as reflected in Accounts Payable (Table 6.3) painted a similar picture for M/WBEs with four percent (or \$12.4 million) of \$305.64 million in Service payments over the three-year study period. Hispanic American-owned firms received over half of these \$12.4 million in payments, whereas WBEs receive 1.34 percent and the remaining MBEs, less than one percent of the payments.

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Statistical Analysis of M/WBE Utilization

Table 6.1.
Total Utilization
Contract Awards—Dollars
Miami-Dade County Public Schools
Nationwide, 2012/2013 – 2014/2015

Race/Ethnicity/Gender	Goods & Supplies		Maintenance and Maintenance-Related Services		Services		Total	
	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	195,932,238	87.05	13,168,761	60.27	273,090,314	93.56	482,191,313	89.49
African American	10,000	0.00	1,293,718	5.92	30,000	0.01	1,333,718	0.25
Asian American	300,000	0.13	457,778	2.10	8,000	0.00	765,778	0.14
Hispanic American	16,995,784	7.55	5,249,174	24.02	13,677,442	4.69	35,922,400	6.67
Non M-DCPS Certified MBE	2,691,781	1.20	192,246	0.88	1,206,667	0.41	4,090,694	0.76
Total MBE	19,997,565	8.88	7,192,916	32.92	14,922,109	5.11	42,112,589	7.82
WBE	5,150,000	2.29	1,131,834	5.18	195,570	0.07	6,477,404	1.20
Non M-DCPS Certified M/WBE	-	0.00	155,882	0.71	3,091,667	1.06	3,247,549	0.60
Total M/WBE	25,147,565	11.17	8,480,632	38.81	18,209,345	6.24	51,837,542	9.62
SBE	3,997,729	1.78	200,000	0.92	600,000	0.21	4,797,729	0.89
Total M/W/SBE	29,145,294	12.95	8,680,632	39.73	18,809,345	6.44	56,635,271	10.51
Service-Disabled	-	0.00	-	0.00	-	0.00	-	0.00
Total	225,077,532	100.00	21,849,393	100.00	291,899,659	100.00	538,826,584	100.00

Source: M-DCPS Contracts Data, M³ Consulting

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Statistical Analysis of M/WBE Utilization

Table 6.2.
Total Utilization
Purchase Orders—Dollars
Miami-Dade County Public Schools
Nationwide, 2012/2013 – 2014/2015

Race/Ethnicity/Gender	Goods & Supplies		Maintenance and Maintenance-Related Services		Services		Total	
	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	420,601,662	77.15	13,377,113	33.33	322,951,163	92.40	756,929,939	80.97
African American	444,170	0.08	346,290	0.86	2,550,604	0.73	3,341,065	0.36
Asian American	589,478	0.11	45,378	0.11	2,447,646	0.70	3,082,502	0.33
Hispanic American	107,939,751	19.80	13,089,927	32.61	11,202,446	3.20	132,232,124	14.14
Non M-DCPS Certified MBE	6,185,789	1.13	9,914,711	24.70	4,155,793	1.19	20,256,293	2.17
Total MBE	115,159,190	21.12	23,396,306	58.29	20,356,488	5.82	158,911,984	17.00
WBE	6,712,992	1.23	489,344	1.22	5,899,690	1.69	13,102,026	1.40
Non M-DCPS Certified M/WBE	-	0.00	1,066,661	2.66	-	0.00	1,066,661	0.11
Total M/WBE	121,872,182	22.35	24,952,311	62.17	26,256,178	7.51	173,080,671	18.51
SBE	2,681,113	0.49	1,807,191	4.50	152,998	0.04	4,641,303	0.50
Total M/W/SBE	124,553,295	22.85	26,759,502	66.67	26,409,177	7.56	177,721,974	19.01
Service-Disabled	16,000	0.00	-	0.00	170,361	0.05	186,361	0.02
Total	545,170,957	100.00	40,136,616	100.00	349,530,701	100.00	934,838,274	100.00

Source: M-DCPS SAP Data, M³ Consulting

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Statistical Analysis of M/WBE Utilization

Table 6.3.
Total Utilization
Accounts Payable—Dollars
Miami-Dade County Public Schools
Nationwide, 2012/2013 – 2014/2015

Race/Ethnicity/Gender	Goods & Supplies		Maintenance and Maintenance-Related Services		Services		Total	
	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	430,444,332	89.44	31,590,488	50.62	288,959,365	94.54	750,994,185	88.43
African American	428,002	0.09	598,902	0.96	2,470,495	0.81	3,497,399	0.41
Asian American	390,213	0.08	280,970	0.45	234,669	0.08	905,852	0.11
Hispanic American	36,154,640	7.51	16,978,337	27.21	6,899,323	2.26	60,032,301	7.07
Non M-DCPS Certified MBE	5,851,722	1.22	9,848,058	15.78	2,807,132	0.92	18,506,913	2.18
Total MBE	42,824,577	8.90	27,706,267	44.40	12,411,620	4.06	82,942,465	9.77
WBE	5,709,477	1.19	933,387	1.50	4,096,217	1.34	10,739,081	1.26
Non M-DCPS Certified M/WBE	-	0.00	805,951	1.29	-	0.00	805,951	0.09
Total M/WBE	48,534,054	10.08	29,445,605	47.18	16,507,837	5.40	94,487,497	11.13
SBE	2,271,347	0.47	1,369,518	2.19	44,035	0.01	3,684,900	0.43
Total M/W/SBE	50,805,401	10.56	30,815,123	49.38	16,551,872	5.42	98,172,396	11.56
Service-Disabled	973	0.00	-	0.00	125,220	0.04	126,193	0.01
Total	481,250,706	100.00	62,405,611	100.00	305,636,458	100.00	849,292,775	100.00

Source: M-DCPS SAP Data, M³ Consulting

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 Nationwide for Goods & Supplies, the Tri-County Area for Maintenance and Maintenance-Related Services and the State of Florida for Services. The table below summarizes this information for each procurement type:

Table 6.4.			
Summary of Relevant Market Determination			
	Tri-County	State	Nationwide
Goods & Supplies			√
Maintenance and Maintenance-Related Services	√		
Services		√	

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

6.4 GOODS & SUPPLIES UTILIZATION

In Goods & Supplies, M/WBE utilization is presented in this section using dollars for contracts, purchase orders. Counts of awards and payments are reflected in Appendix A. The relevant market for Goods & Supplies is Nationwide.

6.4.1 Goods & Supplies Utilization Based on Contract Awards

Most the contract awards in Goods & Supplies were to Non-M/W/SBEs, but over time the share of contract awards to M/WBEs did increase from 2.37 percent of the total in 2012/2013 to 14.21 percent in 2013/2014 and 14.76 percent in 2014/2015 (See Table 6.5). This was not generalizable across M/WBEs however since WBEs received only 0.16 percent in 2012/2013, which went to zero percent in 2013/2014 and then 7.33 percent in 2014/2015. WBEs received over \$5 million in 2014/2015 in three contract awards, averaging over \$1.68 million per award for this year, which exceeded the total awards for three years for almost all MBEs, except Hispanic American-owned firms. African American-owned firms received no awards in 2012/2013 and 2013/2014, but received \$10,000 in 2014/2015. Asian American-owned firms received \$300,000 in 2013/2014 and no awards in the other two years. The majority share of the M/WBE dollars were awarded to Hispanic American-owned firms who received \$1.34 million (2.2 percent in 2012/2013), \$13.24 million (13.90 percent) in 2013/2014 and declining to \$2.4 million (3.51 percent) in 2014/2015. Non M-DCPS Certified MBEs received contract awards only in 2014/2015 by the amount of \$2.69 million (3.91 percent of total for 2014/2015).

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Statistical Analysis of M/WBE Utilization

Table 6.5.
Goods & Supplies Utilization
Contract Awards—Dollars
Miami-Dade County Public Schools
Relevant Market, 2012/2013 – 2014/2015

Race/Ethnicity/Gender	2012/2013		2013/2014		2014/2015		Period	
	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	59,494,576	97.63	81,190,249	85.21	55,247,413	80.23	195,932,238	87.05
African American	-	0.00	-	0.00	10,000	0.01	10,000	0.00
Asian American	-	0.00	300,000	0.31	-	0.00	300,000	0.13
Hispanic American	1,341,570	2.20	13,239,801	13.90	2,414,414	3.51	16,995,784	7.55
Non M-DCPS Certified MBE	-	0.00	-	0.00	2,691,781	3.91	2,691,781	1.20
Total MBE	1,341,570	2.20	13,539,801	14.21	5,116,194	7.43	19,997,565	8.88
WBE	100,000	0.16	-	0.00	5,050,000	7.33	5,150,000	2.29
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	-	0.00
Total M/WBE	1,441,570	2.37	13,539,801	14.21	10,166,194	14.76	25,147,565	11.17
SBE	-	0.00	553,333	0.58	3,444,396	5.00	3,997,729	1.78
Total M/W/SBE	1,441,570	2.37	14,093,134	14.79	13,610,590	19.77	29,145,294	12.95
Service-Disabled	-	0.00	-	0.00	-	0.00	-	0.00
Total	60,936,146	100.00	95,283,383	100.00	68,858,003	100.00	225,077,532	100.00

Source: M-DCPS Contracts Data, M³ Consulting, Relevant Market—Nationwide

6.4.2 Goods & Supplies Utilization Based on Purchase Orders

Purchase orders may better reflect utilization of Goods & Supplies, as most contracts in this procurement type are multi-year blanket contracts and the purchase order invoices reflect the dollar awards within a year. In 2013/2014, where the highest PO dollars were executed, M/WBEs received 26.86 percent of the total \$216.47 million, with Hispanic American-owned firms receiving the majority of these dollars at 25.13 percent of the total. No other MBE or WBE group received over one percent of the dollars in 2013/2014. 2014/2015 was strikingly similar in the pattern of purchase orders, but for the Non M-DCPS Certified MBE and WBE groups receiving slightly higher proportion in the overall \$182.6 million invoiced that year. In 2012/2013, where the lowest purchase orders were cut, M/WBEs only received 11.28 percent of the dollars, of which 8.14 percent was to Hispanic American-owned firms and 1.46 percent to WBEs. The rest of the MBEs received no greater than 1.30 percent of the dollars.

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Statistical Analysis of M/WBE Utilization

Table 6.6.
Goods & Supplies Utilization
Purchase Orders—Dollars
Miami-Dade County Public Schools
Relevant Market, 2012/2013 – 2014/2015

Race/Ethnicity/Gender	2012/2013		2013/2014		2014/2015		Period	
	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	128,763,135	88.17	157,477,650	72.75	134,360,878	73.56	420,601,662	77.15
African American	200,854	0.14	133,461	0.06	109,855	0.06	444,170	0.08
Asian American	367,092	0.25	55,023	0.03	167,364	0.09	589,478	0.11
Hispanic American	11,893,346	8.14	54,390,245	25.13	41,656,161	22.81	107,939,751	19.80
Non M-DCPS Certified MBE	1,871,772	1.28	2,166,025	1.00	2,147,993	1.18	6,185,789	1.13
Total MBE	14,333,064	9.81	56,744,753	26.21	44,081,372	24.13	115,159,190	21.12
WBE	2,137,705	1.46	1,400,588	0.65	3,174,699	1.74	6,712,992	1.23
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	-	0.00
Total M/WBE	16,470,769	11.28	58,145,341	26.86	47,256,072	25.87	121,872,182	22.35
SBE	802,781	0.55	850,978	0.39	1,027,354	0.56	2,681,113	0.49
Total M/W/SBE	17,273,550	11.83	58,996,319	27.25	48,283,426	26.43	124,553,295	22.85
Service-Disabled	-	0.00	-	0.00	16,000	0.01	16,000	0.00
Total	146,036,684	100.00	216,473,969	100.00	182,660,304	100.00	545,170,957	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—Nationwide

6.4.3 Goods & Supplies Utilization Based on Payments

Actual payments made against invoices within in any given year are included from Accounts Payables as shown in Table 6.7. Across the years, MBEs received between 8.5 percent and 9 percent of total payments for Goods & Supplies from M-DCPS. Consistent with contract awards and POs, many these payments were to Hispanic American-owned firms, receiving around 7.5 percent across the period and in each of the three years, resulting in a total of over \$36 million. WBEs and Non M-DCPS Certified MBEs received \$5.7 million and \$5.85 million respectively for the period, largely maintaining the same proportion of about one percent to 1.6 percent in the three years. African American-owned firms and Asian American-owned firms procured a declining proportion of Goods & Supplies for M-DCPS over the three years, never exceeding 0.2 percent in any year.

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Statistical Analysis of
M/WBE Utilization

Table 6.7.
Goods & Supplies Utilization
Accounts Payable—Dollars
Miami-Dade County Public Schools
Relevant Market, 2012/2013 – 2014/2015

Race/Ethnicity/Gender	2012/2013		2013/2014		2014/2015		Period	
	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	155,385,610	89.65	140,841,459	89.62	134,217,264	89.02	430,444,332	89.44
African American	216,401	0.12	128,801	0.08	82,799	0.05	428,002	0.09
Asian American	290,254	0.17	63,223	0.04	36,736	0.02	390,213	0.08
Hispanic American	13,055,856	7.53	12,145,375	7.73	10,953,410	7.26	36,154,640	7.51
Non M-DCPS Certified MBE	1,823,326	1.05	1,819,984	1.16	2,208,412	1.46	5,851,722	1.22
Total MBE	15,385,836	8.88	14,157,383	9.01	13,281,358	8.81	42,824,577	8.90
WBE	1,813,957	1.05	1,533,591	0.98	2,361,928	1.57	5,709,477	1.19
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	-	0.00
Total M/WBE	17,199,794	9.92	15,690,974	9.98	15,643,286	10.38	48,534,054	10.08
SBE	742,368	0.43	617,024	0.39	911,955	0.60	2,271,347	0.47
Total M/W/SBE	17,942,162	10.35	16,307,999	10.38	16,555,241	10.98	50,805,401	10.56
Service-Disabled	-	0.00	-	0.00	973	0.00	973	0.00
Total	173,327,771	100.00	157,149,457	100.00	150,773,478	100.00	481,250,706	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—Nationwide

6.5 MAINTENANCE AND MAINTENANCE-RELATED SERVICES UTILIZATION

In Maintenance and Maintenance-Related Services, M/WBE utilization is presented in this section using dollars for contract awards, purchase orders and payments. Counts of awards, POs and payments are reflected in Appendix A. The relevant market for Maintenance and Maintenance-Related Services is the Tri-County Area.

6.5.1 Maintenance and Maintenance-Related Services Utilization Based on Contract Award

In the study period, Maintenance and Maintenance-Related Services, MBEs received no contract awards in 2012/2013 and, in contrast, received over 65 percent of the dollars in 2013/2014, but were scaled back to 35.77 percent in 2014/2015. In contrast, WBEs received 12.88 percent of the dollars in 2012/2013, but received no contract dollars in 2013/2014; in 2014/2015, WBEs were awarded \$599,795, accounting for 8.13 percent of the awards. While Hispanic American-owned firms received the largest proportion of the contract dollars at \$5.25 million (28.77 percent), most of that award (\$3.84 million) was received in 2013/2014, with the remaining (\$1.41 million) in 2014/2015. African American-owned firms received only \$100,000 in 2013/2014, but increased the award amount to over \$1 million the following year. Asian American-owned firms however, had the reverse but smaller overall award of \$457,778 (2.51 percent of total), with most awards received in 2013/2014. Overall, there was no consistent pattern of awarding to M/WBEs in Maintenance and Maintenance-Related Services, while Non-M/W/SBEs received 53.37 percent of total over the period and ranged from 32 percent in 2013/2014 to over 87 percent in 2012/2013.

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Statistical Analysis of
M/WBE Utilization

Table 6.8.
Maintenance and Maintenance-Related Services Utilization
Contract Awards—Dollars
Miami-Dade County Public Schools
Relevant Market, 2012/2013 – 2014/2015

Race/Ethnicity/Gender	2012/2013		2013/2014		2014/2015		Period	
	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	3,600,096	87.12	2,155,556	31.99	3,982,521	53.99	9,738,173	53.37
African American	-	0.00	100,000	1.48	1,021,294	13.84	1,121,294	6.15
Asian American	-	0.00	444,444	6.60	13,333	0.18	457,778	2.51
Hispanic American	-	0.00	3,837,258	56.96	1,411,916	19.14	5,249,174	28.77
Non M-DCPS Certified MBE	-	0.00	-	0.00	192,246	2.61	192,246	1.05
Total MBE	-	0.00	4,381,702	65.04	2,638,789	35.77	7,020,492	38.48
WBE	532,039	12.88	-	0.00	599,795	8.13	1,131,834	6.20
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	155,882	2.11	155,882	0.85
Total M/WBE	532,039	12.88	4,381,702	65.04	3,394,467	46.01	8,308,208	45.53
SBE	-	0.00	200,000	2.97	-	0.00	200,000	1.10
Total M/W/SBE	532,039	12.88	4,581,702	68.01	3,394,467	46.01	8,508,208	46.63
Service-Disabled	-	0.00	-	0.00	-	0.00	-	0.00
Total	4,132,135	100.00	6,737,258	100.00	7,376,988	100.00	18,246,381	100.00

Source: M-DCPS Contracts Data, M³ Consulting, Relevant Market—Miami-Dade/Broward/Palm Beach Tri-County Area

6.5.2 Maintenance and Maintenance-Related Services Utilization Based on Purchase Orders

Over \$36.4 million in POs were cut by M-DCPS by Maintenance and Maintenance-Related Service contractors for the study period, with the highest amount in 2012/2013 at \$15.6 million and lowest in 2013/2014 at a little over \$8.5 million. In every year, M/WBEs received over 60 percent of the POs, increasing over time to about 76 percent. Hispanic American-owned firms and Non M-DCPS Certified MBEs received almost an equal proportion, with a third of the dollars overall in FYs 2013 and 2014/2015. African American-owned firms received no more than \$160,514 in any year and accounted for no more than 1.58 percent decreasing to as low as 0.41 percent (\$50,768) in 2014/2015. Asian American-owned firms had their largest purchase order amounts in 2013/2014 at \$29,576 (0.35 percent of total). Purchase Orders to WBEs ranged from \$100,167 to \$490,824 across the three years, with as low as 1.27 percent of the PO dollars in 2013/2014.

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Statistical Analysis of M/WBE Utilization

Table 6.9.
Maintenance and Maintenance-Related Services Utilization
Purchase Orders—Dollars
Miami-Dade County Public Schools
Relevant Market, 2012/2013 – 2014/2015

Race/Ethnicity/Gender	2012/2013		2013/2014		2014/2015		Period	
	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	5,556,926	35.62	1,845,824	21.63	2,355,599	19.05	9,758,349	26.74
African American	160,514	1.03	135,008	1.58	50,768	0.41	346,290	0.95
Asian American	4,904	0.03	29,576	0.35	10,898	0.09	45,378	0.12
Hispanic American	5,821,421	37.31	2,887,801	33.85	4,380,705	35.42	13,089,927	35.86
Non M-DCPS Certified MBE	2,791,437	17.89	2,786,346	32.66	4,336,928	35.07	9,914,711	27.16
Total MBE	8,778,276	56.27	5,838,731	68.43	8,779,299	70.99	23,396,306	64.10
WBE	160,349	1.03	108,685	1.27	201,660	1.63	470,694	1.29
Non M-DCPS Certified M/WBE	490,824	3.15	100,167	1.17	475,669	3.85	1,066,661	2.92
Total M/WBE	9,429,450	60.44	6,047,583	70.88	9,456,628	76.47	24,933,661	68.31
SBE	614,739	3.94	638,434	7.48	554,019	4.48	1,807,191	4.95
Total M/W/SBE	10,044,188	64.38	6,686,017	78.37	10,010,647	80.95	26,740,852	73.26
Service-Disabled	-	0.00	-	0.00	-	0.00	-	0.00
Total	15,601,114	100.00	8,531,841	100.00	12,366,246	100.00	36,499,202	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—Miami-Dade/Broward/Palm Beach Tri-County Area

6.5.3 Maintenance and Maintenance-Related Services Utilization Based on Payments

Based on payments data for the period 2012/2013 – 2014/2015 on Maintenance and Maintenance-Related Services, MBEs and Non-M/W/SBEs in M-DCPS were utilized in almost equal proportion of 48.1 percent and 46.5 percent respectively. However, Non-M/W/SBEs received the majority of the payments in 2012/2013 (60 percent), while they received less than a quarter of the total payments in the following two years. In contrast, MBEs received a smaller proportion at 36.94 percent in 2012/2013 but were paid in an increasing proportion in the two years that followed at 63.39 percent in 2013/2014 and 72.04 percent in 2014/2015. Most of these MBE dollars were paid to Hispanic American-owned firms across the three years and Non M-DCPS Certified MBEs, especially in the latter two years of the study period. Asian American-owned firms never received over \$10,000, with an overall proportion as small as 0.04 percent. African American-owned firms fared slightly better at 1.05 percent overall, with the majority of the dollars in the earlier two years of the study period. WBEs received \$338,901 (0.94 percent) in 2012/2013 rising to \$413,365 (3.70 percent) in 2013/2014 and then payments went down in 2014/2015 to \$156,571 in 2014/2015 at 1.61 percent.

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Statistical Analysis of M/WBE Utilization

Table 6.10.
Maintenance and Maintenance-Related Services Utilization
Accounts Payable—Dollars
Miami-Dade County Public Schools
Relevant Market, 2012/2013 – 2014/2015

Race/Ethnicity/Gender	2012/2013		2013/2014		2014/2015		Period	
	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	21,720,785	60.09	2,753,813	24.64	2,044,982	21.01	26,519,580	46.48
African American	340,136	0.94	180,294	1.61	78,472	0.81	598,902	1.05
Asian American	5,007	0.01	6,470	0.06	9,868	0.10	21,345	0.04
Hispanic American	9,807,608	27.13	3,859,124	34.53	3,311,605	34.03	16,978,337	29.76
Non M-DCPS Certified MBE	3,199,949	8.85	3,038,055	27.19	3,610,053	37.10	9,848,058	17.26
Total MBE	13,352,700	36.94	7,083,944	63.39	7,009,998	72.04	27,446,642	48.11
WBE	338,901	0.94	413,365	3.70	156,571	1.61	908,837	1.59
Non M-DCPS Certified M/WBE	288,812	0.80	440,066	3.94	77,072	0.79	805,951	1.41
Total M/WBE	13,980,413	38.68	7,937,375	71.03	7,243,642	74.44	29,161,430	51.12
SBE	443,012	1.23	483,893	4.33	442,613	4.55	1,369,518	2.40
Total M/W/SBE	14,423,425	39.91	8,421,268	75.36	7,686,254	78.99	30,530,948	53.52
Service-Disabled	-	0.00	-	0.00	-	0.00	-	0.00
Total	36,144,211	100.00	11,175,081	100.00	9,731,236	100.00	57,050,528	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—Miami-Dade/Broward/Palm Beach Tri-County Area

6.6 SERVICES UTILIZATION

Services includes both Professional and Non-professional Services. M/WBE utilization is presented in this section using dollars for contracts, purchase orders and payments. Counts of awards, POs and payments are reflected in Appendix A. The relevant market for Services is the State of Florida.

6.6.1 Services Utilization Based on Contract Awards

A total of \$251.9 million was awarded in Service contracts for the period 2012/2013-2014/2015; 5.92 percent of this was awarded to MBEs and 0.08 percent to WBEs by M-DCPS. WBEs received contract awards only in 2014/2015 totaling \$195,570, whereas MBEs received contracts in all three years with the greatest amount of over \$8.35 million (21 percent of total) in 2013/2014. Most of the MBE awards were to Hispanic American-owned firms who received contract awards in all three years; in 2013/2014, they accounted for 20.58 percent of the awards and over 98 percent (\$8.18 million of \$8.35 million) of the 2013/2014 MBE awards. In 2012/2013, they accounted for over 50 percent of the \$1.2 million awarded to the MBEs and in 2014/2015, they received \$4.84 million (2.91 percent of total), which again was the majority (over ninety percent) of all dollars received by MBEs. African American-owned firms and Asian American-owned firms received no contract dollars in Services for 2012/2013 or 2013/2014 and only \$30,000 (0.02 percent of total) and \$8,000 (almost zero percent) respectively in 2014/2015.

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Statistical Analysis of M/WBE Utilization

Table 6.11.
***Services Utilization**
Contract Awards—Dollars
Miami-Dade County Public Schools
Relevant Market, 2012/2013 – 2014/2015

Race/Ethnicity/Gender	2012/2013		2013/2014		2014/2015		Period	
	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	42,636,788	93.70	31,421,072	79.00	159,063,498	95.44	233,121,357	92.53
African American	-	0.00	-	0.00	30,000	0.02	30,000	0.01
Asian American	-	0.00	-	0.00	8,000	0.00	8,000	0.00
Hispanic American	648,333	1.42	8,185,175	20.58	4,843,934	2.91	13,677,442	5.43
Non M-DCPS Certified MBE	558,333	1.23	165,000	0.41	483,333	0.29	1,206,667	0.48
Total MBE	1,206,667	2.65	8,350,175	21.00	5,365,267	3.22	14,922,109	5.92
WBE	-	0.00	-	0.00	195,570	0.12	195,570	0.08
Non M-DCPS Certified M/WBE	1,058,333	2.33	-	0.00	2,033,333	1.22	3,091,667	1.23
Total M/WBE	2,265,000	4.98	8,350,175	21.00	7,594,170	4.56	18,209,345	7.23
SBE	600,000	1.32	-	0.00	-	0.00	600,000	0.24
Total M/W/SBE	2,865,000	6.30	8,350,175	21.00	7,594,170	4.56	18,809,345	7.47
Service-Disabled	-	0.00	-	0.00	-	0.00	-	0.00
Total	45,501,788	100.00	39,771,247	100.00	166,657,668	100.00	251,930,703	100.00

Source: M-DCPS Contracts Data, M³ Consulting, Relevant Market—State of Florida, *Services includes both Professional and Non-Professional Services

6.6.2 Services Utilization Based on Purchase Orders

Unlike contract awards, Purchase Orders were more even across the years, with \$69.2 million to \$80 million invoiced in the three years to all groups. Overall, 11.78 percent were paid to M/WBEs, with 9.14 percent (\$20.3 million) to MBEs and 2.64 percent (5.86 million) to WBEs. Of the \$20.3 million to MBEs, over \$11.2 million in POs were cut to Hispanic American-owned firms, with over \$3.1 million in any given year. WBEs received \$1.3 million, \$1.43 million and \$3.1 million in the three years, FYs 2013-15 respectively. African American-owned firms received the largest purchase order amount in 2012/2013 for \$1.42 million (1.97 percent of total), dropping to only \$163,439 (0.23 percent of total) in 2014/2015. Asian American-owned firms received the highest POs for over \$1.4 million in 2013/2014 and received above \$500,000 in the other two fiscal years.

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Statistical Analysis of
M/WBE Utilization

Table 6.12.
***Services Utilization**
Purchase Orders—Dollars
Miami-Dade County Public Schools
Relevant Market, 2012/2013 – 2014/2015

Race/Ethnicity/Gender	2012/2013		2013/2014		2014/2015		Period	
	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	63,619,893	88.27	70,657,860	88.03	61,388,958	87.92	195,666,712	88.07
African American	1,418,234	1.97	962,432	1.20	163,439	0.23	2,544,104	1.15
Asian American	511,116	0.71	1,409,259	1.76	527,271	0.76	2,447,646	1.10
Hispanic American	3,177,206	4.41	4,308,333	5.37	3,716,907	5.32	11,202,446	5.04
Non M-DCPS Certified MBE	1,760,322	2.44	1,463,298	1.82	893,920	1.28	4,117,539	1.85
Total MBE	6,866,877	9.53	8,143,322	10.15	5,301,536	7.59	20,311,735	9.14
WBE	1,328,961	1.84	1,429,550	1.78	3,102,279	4.44	5,860,790	2.64
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	-	0.00
Total M/WBE	8,195,838	11.37	9,572,872	11.93	8,403,815	12.04	26,172,525	11.78
SBE	106,077	0.15	35,341	0.04	11,580	0.02	152,998	0.07
Total M/W/SBE	8,301,915	11.52	9,608,213	11.97	8,415,395	12.05	26,325,523	11.85
Service-Disabled	150,696	0.21	2,065	0.00	17,600	0.03	170,361	0.08
Total	72,072,505	100.00	80,268,138	100.00	69,821,953	100.00	222,162,595	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—State of Florida, *Services includes both Professional and Non-Professional Services

6.6.3 Services Utilization Based on Payments

Accounts Payable paints a similar picture to Purchase Orders for all groups, other than Asian American-owned firms that received only \$19,000 (0.01 percent) for the three-year period, while other M/WBEs received at least 1.31 percent or higher overall. African American-owned firms received \$1.28 million in payments for 2012/2013, which declined to \$1.02 million in 2013/2014 and declined to only \$161,934 in 2014/2015. Among the MBEs, Hispanic American-owned firms received the largest dollars, ranging from \$1.91 million to \$2.64 million, accounting for a total of \$6.89 million (3.67 percent) for the three years. WBEs saw an increase in payments over the three years, with over \$2.6 million (4.85 percent) in 2014/2015.

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Statistical Analysis of
M/WBE Utilization

Table 6.13.
***Services Utilization**
Accounts Payable—Dollars
Miami-Dade County Public Schools
Relevant Market, 2012/2013 – 2014/2015

Race/Ethnicity/Gender	2012/2013		2013/2014		2014/2015		Period	
	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	58,862,278	91.54	64,223,623	92.22	48,551,226	89.75	171,637,128	91.28
African American	1,280,882	1.99	1,021,180	1.47	161,934	0.30	2,463,995	1.31
Asian American	8,000	0.01	3,000	0.00	8,000	0.01	19,000	0.01
Hispanic American	2,341,762	3.64	2,641,199	3.79	1,916,362	3.54	6,899,323	3.67
Non M-DCPS Certified MBE	1,107,691	1.72	839,971	1.21	822,898	1.52	2,770,560	1.47
Total MBE	4,738,334	7.37	4,505,350	6.47	2,909,194	5.38	12,152,878	6.46
WBE	578,910	0.90	878,835	1.26	2,623,213	4.85	4,080,958	2.17
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	-	0.00
Total M/WBE	5,317,244	8.27	5,384,185	7.73	5,532,407	10.23	16,233,835	8.63
SBE	1,260	0.00	32,514	0.05	10,261	0.02	44,035	0.02
Total M/W/SBE	5,318,504	8.27	5,416,700	7.78	5,542,667	10.25	16,277,870	8.66
Service-Disabled	123,155	0.19	2,065	0.00	-	0.00	125,220	0.07
Total	64,303,937	100.00	69,642,388	100.00	54,093,894	100.00	188,040,219	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—State of Florida, *Services includes both Professional and Non-Professional Services

6.7 UTILIZATION THRESHOLDS

Below are utilization thresholds presented for each procurement type. Purchase order dollars are utilized to calculate threshold values.

A. Goods & Supplies Thresholds

Table 6.14 presents utilization dollars by race/ethnicity/gender by thresholds. Except for Non-M/W/SBEs and Hispanic American-owned firms, no other race, gender and ethnic group had any purchase orders over \$250,000 for the study period in Goods & Supplies. Both groups received POs across all thresholds, with substantial amounts in the highest thresholds as well. African American-owned firms had no Purchase Orders over \$50,000 and Asian American-owned firms and WBEs had no payments over \$250,000. Non M-DCPS Certified MBEs had some POs in the \$250K-\$500K range.

B. Maintenance and Maintenance-Related Services Thresholds

In M&MRS, there were no purchase orders over the \$1 million threshold, thus making it easier to focus on equity in contracting in terms of capacity of firms to do business. No M/WBEs, other than Hispanic American-owned firms and Non M-DCPS Certified MBEs, received any POs in the over \$100K-\$250K range. African American-owned firms and WBEs received no POs over \$50K-\$100K range, whereas Asian American-owned firms did not receive any POs over \$5K.

C. Services Thresholds

The largest PO in Services to MBEs was in the \$500K to \$1 million range. Hispanic American-owned firms and WBEs received POs in this range for the study period. The largest POs received by Non M-DCPS Certified MBEs and African American-owned firms are in the \$250K - \$500K range. Asian American-owned firms received POs no greater than the \$250,000. Non-M/WBEs did receive POs in the \$1 million-\$5million range and the above \$10 million range.

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Statistical Analysis of M/WBE Utilization

Table 6.14. (1 of 2)
Goods & Supplies Utilization Thresholds
Purchase Orders—Dollars
Miami-Dade County Public Schools
Relevant Market, 2012/2013 – 2014/2015

Race/Ethnicity/ Gender	Below 5K		5K-10K		10K-50K		50K-100K		100K-250K	
	\$	%	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	43,903,564	76.30	15,022,208	68.49	29,615,225	57.55	17,233,236	64.22	20,303,800	73.40
African American	289,902	0.50	78,786	0.36	75,482	0.15	-	0.00	-	0.00
Asian American	123,461	0.21	59,729	0.27	209,991	0.41	79,698	0.30	116,600	0.42
Hispanic American	7,805,415	13.57	4,839,384	22.06	16,510,910	32.08	8,078,758	30.11	6,005,148	21.71
Non M-DCPS Certified MBE	1,319,442	2.29	738,210	3.37	2,785,585	5.41	349,600	1.30	474,938	1.72
Total MBE	9,538,220	16.58	5,716,109	26.06	19,581,968	38.05	8,508,056	31.71	6,596,686	23.85
WBE	3,515,722	6.11	960,000	4.38	1,387,293	2.70	554,231	2.07	295,746	1.07
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00
Total M/WBE	13,053,942	22.69	6,676,109	30.44	20,969,261	40.75	9,062,287	33.77	6,892,432	24.92
SBE	577,677	1.00	234,460	1.07	865,768	1.68	538,207	2.01	465,000	1.68
Total M/W/SBE	13,631,620	23.69	6,910,570	31.51	21,835,029	42.43	9,600,494	35.78	7,357,432	26.60
Service-Disabled	5,000	0.01	-	0.00	11,000	0.02	-	0.00	-	0.00
Total	57,540,184	100.00	21,932,777	100.00	51,461,254	100.00	26,833,730	100.00	27,661,232	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—Nationwide

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Statistical Analysis of M/WBE Utilization

Table 6.15. (2 of 2)
Goods & Supplies Utilization Thresholds
Purchase Orders—Dollars
Miami-Dade County Public Schools
Relevant Market, 2012/2013 – 2014/2015

Race/Ethnicity/Gender	250K-500K		500K-1M		1M-5M		5M-10M		Above 10M		TOTAL	
	\$	%	\$	%	\$	%	\$	%	\$	%		
Non-M/W/SBE	12,647,433	73.37	25,042,932	72.33	59,714,887	82.40	33,876,713	59.52	163,241,664	91.46	420,601,662	77.15
African American	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	444,170	0.08
Asian American	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	589,478	0.11
Hispanic American	4,071,394	23.62	9,582,359	27.67	12,756,624	17.60	23,040,733	40.48	15,249,025	8.54	107,939,751	19.80
Non M-DCPS Certified MBE	518,015	3.01	-	0.00	-	0.00	-	0.00	-	0.00	6,185,789	1.13
Total MBE	4,589,409	26.63	9,582,359	27.67	12,756,624	17.60	23,040,733	40.48	15,249,025	8.54	115,159,190	21.12
WBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	6,712,992	1.23
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00
Total M/WBE	4,589,409	26.63	9,582,359	27.67	12,756,624	17.60	23,040,733	40.48	15,249,025	8.54	121,872,182	22.35
SBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	2,681,113	0.49
Total M/W/SBE	4,589,409	26.63	9,582,359	27.67	12,756,624	17.60	23,040,733	40.48	15,249,025	8.54	124,553,295	22.85
Service-Disabled	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	16,000	0.00
Total	17,236,841	100.00	34,625,292	100.00	72,471,511	100.00	56,917,446	100.00	178,490,689	100.00	545,170,957	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—Nationwide

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Statistical Analysis of M/WBE Utilization

Table 6.16. (1 of 2)
Maintenance and Maintenance-Related Services Utilization Thresholds
Purchase Orders—Dollars
Miami-Dade County Public Schools
Relevant Market, 2012/2013 – 2014/2015

Race/Ethnicity/ Gender	Below 5K		5K-10K		10K-50K		50K-100K		100K-250K	
	\$	%	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	1,626,570	41.93	1,062,398	40.22	3,153,522	37.01	1,933,089	22.99	1,711,374	24.59
African American	44,927	1.16	42,112	1.59	206,851	2.43	52,400	0.62	-	0.00
Asian American	45,378	1.17	-	0.00	-	0.00	-	0.00	-	0.00
Hispanic American	943,455	24.32	718,611	27.21	2,440,584	28.64	3,379,796	40.19	3,342,087	48.01
Non M-DCPS Certified MBE	499,303	12.87	558,141	21.13	2,207,715	25.91	2,261,924	26.90	1,387,266	19.93
Total MBE	1,533,063	39.52	1,318,864	49.93	4,855,149	56.98	5,694,120	67.71	4,729,353	67.94
WBE	264,861	6.83	84,450	3.20	71,383	0.84	50,000	0.59	-	0.00
Non M-DCPS Certified M/WBE	7,973	0.21	35,498	1.34	211,453	2.48	491,531	5.84	320,205	4.60
Total M/WBE	1,805,897	46.56	1,438,812	54.47	5,137,985	60.30	6,235,651	74.15	5,049,558	72.54
SBE	446,452	11.51	140,121	5.30	229,525	2.69	241,094	2.87	200,000	2.87
Total M/W/SBE	2,252,349	58.07	1,578,933	59.78	5,367,510	62.99	6,476,745	77.01	5,249,558	75.41
Service-Disabled	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00
Total	3,878,919	100.00	2,641,331	100.00	8,521,032	100.00	8,409,834	100.00	6,960,932	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—Miami-Dade/Broward/Palm Beach Tri-County Area

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Statistical Analysis of M/WBE Utilization

Table 6.17. (2 of 2)
Maintenance and Maintenance-Related Services Utilization Thresholds
Purchase Orders—Dollars
Miami-Dade County Public Schools
Relevant Market, 2012/2013 – 2014/2015

Race/Ethnicity/ Gender	250K-500K		500K-1M		1M-5M		5M-10M		Above 10M		TOTAL	
	\$	%	\$	%	\$	%	\$	%	\$	%		
Non-M/W/SBE	271,397	6.65	-	0.00	-	0.00	-	0.00	-	0.00	9,758,349	26.74
African American	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	346,290	0.95
Asian American	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	45,378	0.12
Hispanic American	1,698,368	41.64	567,027	28.24	-	0.00	-	0.00	-	0.00	13,089,927	35.86
Non M-DCPS Certified MBE	1,559,409	38.23	1,440,953	71.76	-	0.00	-	0.00	-	0.00	9,914,711	27.16
Total MBE	3,257,777	79.86	2,007,980	100.00	-	0.00	-	0.00	-	0.00	23,396,306	64.10
WBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	470,694	1.29
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	1,066,661	2.92
Total M/WBE	3,257,777	79.86	2,007,980	100.00	-	0.00	-	0.00	-	0.00	24,933,661	68.31
SBE	550,000	13.48	-	0.00	-	0.00	-	0.00	-	0.00	1,807,191	4.95
Total M/W/SBE	3,807,777	93.35	2,007,980	100.00	-	0.00	-	0.00	-	0.00	26,740,852	73.26
Service-Disabled	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00
Total	4,079,173	100.00	2,007,980	100.00	-	0.00	-	0.00	-	0.00	36,499,202	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—Miami-Dade/Broward/Palm Beach Tri-County Area

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Statistical Analysis of M/WBE Utilization

Table 6.18. (1 of 2)
***Services Utilization Thresholds**
Purchase Orders—Dollars
Miami-Dade County Public Schools
Relevant Market, 2012/2013 – 2014/2015

Race/Ethnicity/ Gender	Below 5K		5K-10K		10K-50K		50K-100K		100K-250K	
	\$	%	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	5,654,628	61.05	4,130,055	69.61	9,934,776	61.65	7,578,635	73.24	20,609,620	89.08
African American	240,440	2.60	37,917	0.64	703,954	4.37	611,454	5.91	667,559	2.89
Asian American	517,979	5.59	356,957	6.02	1,022,127	6.34	236,283	2.28	314,300	1.36
Hispanic American	1,366,476	14.75	754,062	12.71	2,674,964	16.60	621,911	6.01	626,053	2.71
Non M-DCPS Certified MBE	662,012	7.15	263,800	4.45	746,037	4.63	301,170	2.91	661,565	2.86
Total MBE	2,786,907	30.09	1,412,735	23.81	5,147,083	31.94	1,770,818	17.11	2,269,476	9.81
WBE	800,858	8.65	390,291	6.58	986,220	6.12	998,821	9.65	-	0.00
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00
Total M/WBE	3,587,765	38.74	1,803,026	30.39	6,133,302	38.06	2,769,640	26.76	2,269,476	9.81
SBE	17,511	0.19	-	0.00	30,000	0.19	-	0.00	105,487	0.46
Total M/W/SBE	3,605,276	38.93	1,803,026	30.39	6,163,302	38.24	2,769,640	26.76	2,374,964	10.27
Service-Disabled	2,065	0.02	-	0.00	17,600	0.11	-	0.00	150,696	0.65
Total	9,261,969	100.00	5,933,081	100.00	16,115,678	100.00	10,348,274	100.00	23,135,279	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—State of Florida, *Services includes both Professional and Non-Professional Services

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Statistical Analysis of M/WBE Utilization

Table 6.19. (2 of 2)
***Services Utilization Thresholds**
Purchase Orders—Dollars
Miami-Dade County Public Schools
Relevant Market, 2012/2013 – 2014/2015

Race/Ethnicity/ Gender	250K-500K		500K-1M		1M-5M		5M-10M		Above 10M		TOTAL	
	\$	%	\$	%	\$	%	\$	%	\$	%		
Non-M/W/SBE	15,049,856	70.89	14,391,909	80.76	45,578,835	100.00	-	0.00	72,738,399	100.00	195,666,712	88.07
African American	282,780	1.33	-	0.00	-	0.00	-	0.00	-	0.00	2,544,104	1.15
Asian American	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	2,447,646	1.10
Hispanic American	2,910,880	13.71	2,248,100	12.62	-	0.00	-	0.00	-	0.00	11,202,446	5.04
Non M-DCPS Certified MBE	1,482,955	6.98	-	0.00	-	0.00	-	0.00	-	0.00	4,117,539	1.85
Total MBE	4,676,615	22.03	2,248,100	12.62	-	0.00	-	0.00	-	0.00	20,311,735	9.14
WBE	1,504,600	7.09	1,180,000	6.62	-	0.00	-	0.00	-	0.00	5,860,790	2.64
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00
Total M/WBE	6,181,215	29.11	3,428,100	19.24	-	0.00	-	0.00	-	0.00	26,172,525	11.78
SBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	152,998	0.07
Total M/W/SBE	6,181,215	29.11	3,428,100	19.24	-	0.00	-	0.00	-	0.00	26,325,523	11.85
Service-Disabled	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	170,361	0.08
Total	21,231,071	100.00	17,820,009	100.00	45,578,835	100.00	-	0.00	72,738,399	100.00	222,162,595	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—State of Florida, *Services includes both Professional and Non-Professional Services

6.8 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 if 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 Goods & Supplies

The top ten bidders in Goods & Supplies procurement by M-DCPS include only Non-M/W/SBEs, except for one Hispanic American-owned firm, United Data Technologies, and one Asian American-owned firm, Structured Cabling Solutions, Inc. Comparing these firms to Table 6.23, Top Ten Awardees, Goods & Suppliers, we see that, while only two of the Top Ten Bidder firms, United Data Technologies and CDW Government, LLC, were among the top ten awardees, the top awardees list is similar in the pattern of race, gender and ethnicity with only one Hispanic American-owned firm, United Data Technologies and the rest as Non-M/W/SBEs. However, United Data Technologies did receive the second largest number of dollars in the three-year period.

Table 6.20.				
Top Ten Bidders				
Goods & Suppliers				
Location; 2012/2013 – 2014/2015				
Company Name	Count of Bids	% of Counts	Race/Ethnicity/ Gender	Location
Graybar Electric Company, Inc.	13	1.92	Non-M/W/SBE	State of FL
JDL Technologies, Inc.	12	1.78	Non-M/W/SBE	State of FL
Structured Cabling Solutions, Inc.	12	1.78	Asian American	State of FL
Windstream Corporation	12	1.78	Non-M/W/SBE	State of FL
United Data Technologies, Inc.	11	1.63	Hispanic American	State of FL
The Produce Connection, Inc.	10	1.48	Non-M/W/SBE	State of FL
All Florida Paper	9	1.33	Non-M/W/SBE	State of FL
CDW Government, LLC	8	1.18	Non-M/W/SBE	Nationwide
AFP Industries, Inc.	8	1.18	Non-M/W/SBE	State of FL
Daboter, Inc.	8	1.18	Non-M/W/SBE	State of FL
Total Pack, Inc.	8	1.18	Hispanic American	State of FL
Freedom Fresh, LLC	8	1.18	Non-M/W/SBE	State of FL

Source: M-DCPS Contracts Data, M³ Consulting, Relevant Market—Nationwide

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Statistical Analysis of M/WBE Utilization

Table 6.21.
Top Ten Awardees
Goods & Suppliers
Purchase Orders
Location; 2012/2013 – 2014/2015

Company Name	Dollars	% of Dollars	Race/Ethnicity/ Gender	Location
US Foodservice	141,194,772	25.90	Non-M/W/SBE	Nationwide
United Data Technologies Inc.	90,851,344	16.66	Hispanic American	State of FL
Mansfield Oil Company	34,118,424	6.26	Non-M/W/SBE	Nationwide
Borden Dairy Co Of Florida LLC	28,885,713	5.30	Non-M/W/SBE	State of FL
The Produce Connection Inc.	26,101,337	4.79	Non-M/W/SBE	State of FL
CDW Government Inc.	19,540,703	3.58	Non-M/W/SBE	Nationwide
The College Board	8,968,693	1.65	Non-M/W/SBE	Nationwide
Lenovo United States Inc.	8,208,425	1.51	Non-M/W/SBE	Nationwide
Bass United Fire & Sec Sys Inc.	7,633,390	1.40	Non-M/W/SBE	State of FL
Frozen Treats	7,062,221	1.30	Non-M/W/SBE	State of FL

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—Nationwide; Highlighted firms represent outliers

Chapter VI Statistical Analysis of M/WBE Utilization

Table 6.22.
Success Rate of Top Ten Bidders: Goods & Supplies
Location: 2012/2013 – 2014/2015

Company Name	Count of Bids	% of Bids	Race/Ethnicity/Gender	Location	# of Awards	Success rate (%)	Dollar Value of Awards	% of Dollar Value
Graybar Electric Company, Inc.	13	1.92	Non-M/W/SBE	State of FL	1	8	100,000	0.04
JDL Technologies, Inc.	12	1.78	Non-M/W/SBE	State of FL	2	17	800,000	0.36
Structured Cabling Solutions, Inc.	12	1.78	Asian-American	State of FL	1	8	300,000	0.13
Windstream Corporation	12	1.78	Non-M/W/SBE	State of FL	0	0	-	0.00
United Data Technologies, Inc.	11	1.63	Hispanic-American	State of FL	2	18	3,241,176	1.44
The Produce Connection, Inc.	10	1.48	Non-M/W/SBE	State of FL	5	50	18,000,000	8.00
All Florida Paper	9	1.33	Non-M/W/SBE	State of FL	2	22	1,803,352	0.80
CDW Government, LLC	8	1.18	Non-M/W/SBE	Outside State of FL	2	25	3,241,176	1.44
AFP Industries, Inc.	8	1.18	Non-M/W/SBE	State of FL	4	50	566,667	0.25
Daboter, Inc.	8	1.18	Non-M/W/SBE	State of FL	1	13	33,333	0.01
Total Pack, Inc.	8	1.18	Hispanic-American	State of FL	1	13	333,333	0.15
Freedom Fresh, LLC	8	1.18	Non-M/W/SBE	State of FL	4	50	2,500,000	1.11

Source: M-DCPS Contracts and SAP Data, M³ Consulting, Relevant Market—Nationwide

Combining the picture among bidders and awardees, Table 6.22 for Goods & Supplies shows that Non-M/W/SBEs had success rates as high as 50 percent, with only one of the top bidders that was not successful. In contrast, in the case of Hispanic American-owned firms that bid, the success rate was 13 percent in one case and 18 percent in the other and for the one Asian American-owned firm that was among the top ten bidders, it was successful about eight percent of the time.

B. Top Ten Bidders and Awardees for M&MRS

In M&MRS, compared to Goods & Supplies procurement, the demographic mix of the Top Ten Bidders (Table 6.23) is more varied with four Non-M/WBEs, three Hispanic American-owned firms, a WBE, two African American-owned firms and an Asian American-owned firm. The Top Ten Awardees who received payments are shown in Table 6.24 and show that three Hispanic American-owned firms, five Non M-DCPS Certified MBE, one SBE and a Non-M/WBE are included in this list. However, none of the Top Ten Bidders are on the list Top Ten Awardees.

MBE firms that were among the top ten bidders in M&MRS had a slightly different story of successful bidding with M-DCPS (Table 6.25). The success rate ranged from twenty-five percent to 40 percent for the three Hispanic MBEs, one Asian American-owned firm among the top ten bidders had a success rate of 50 percent and for the African American-owned firms the success rate varied from zero percent in one case and 100 percent in the other. The one WBE firm on the list won a third of the times it bid. In contrast, Non-M/WBEs success was zero in one case, two-fifths (40 percent) and two-thirds (67 percent) in another case.

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Statistical Analysis of M/WBE Utilization

Table 6.23.
Top Ten Bidders
Maintenance and Maintenance-Related Services
Location; 2012/2013 – 2014/2015

Company Name	Count of Bids	% of Counts	Race/Ethnicity/Gender	Location
Superior Landscaping & Lawn Services, Inc.	5	2.10	Hispanic American	Tri-County
SFM Services, Inc.	5	2.10	Non-M/W/SBE	Tri-County
Kasas Construction, Inc.	4	1.68	Asian American	Tri-County
Crodon, Inc.	4	1.68	Non-M/W/SBE	Tri-County
Thomas Maintenance Services, Inc.	4	1.68	African American	Tri-County
Florida Turf & Landscape Horticulture, Inc.	4	1.68	Hispanic American	Tri-County
Mitchell's Lawn Maintenance Corp.	3	1.26	Hispanic American	Tri-County
Florida Coast Services, Inc.	3	1.26	Non-M/W/SBE	Tri-County
Bannerman Landscaping, Inc.	3	1.26	African American	Tri-County
Dade Restaurant Repair Shop, Inc.	3	1.26	Non-M/W/SBE	Tri-County
A Native Tree Service, Inc.	3	1.26	WBE	Tri-County

Source: M-DCPS Contracts Data, M³ Consulting, Relevant Market—Tri-County

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Statistical Analysis of M/WBE Utilization

Table 6.24.
Top Ten Awardees
Maintenance and Maintenance-Related Services Utilization
Purchase Orders
Location; 2012/2013 – 2014/2015

Company Name	Dollars	% of Dollars	Race/Ethnicity/Gender	Location
Mexal Corporation	5,185,911	12.92	Hispanic American	State of FL
Unitech Builders Corp	3,481,246	8.67	MBE	State of FL
BDI Construction Company	2,753,884	6.86	Hispanic American	State of FL
Trane U S Inc.	2,647,805	6.60	Non-M/W/SBE	State of FL
Mac Construction Inc.	2,136,055	5.32	MBE	State of FL
Xpert Elevator Services Inc.	1,205,491	3.00	SBE	State of FL
Tecta America South Florida Inc.	1,140,972	2.84	Non-M/W/SBE	State of FL
H A Contracting Corp	1,066,661	2.66	M/WBE	State of FL
Lee Construction Group Inc.	790,643	1.97	MBE	State of FL
Toro Pest Management	761,396	1.90	Hispanic American	State of FL

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—Miami-Dade/Broward/Palm Beach Tri-County Area; Highlighted firms represent outliers

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Statistical Analysis of M/WBE Utilization

Table 6.25. Success Rate of Top Ten Bidders: Maintenance and Maintenance Related Services Location; 2012/2013 -- 2014/2015

Company Name	Count of Bids	% of Bids	Race/Ethnicity/ Gender	Location	# of Awards	Success rate (%)	Dollar Value of Awards	% of Dollar Value
Superior Landscaping & Lawn Services, Inc.	5	2.10	Hispanic-American	Tri-County	2	40	136,364.00	0.75
SFM Services, Inc.	5	2.10	Non-M/W/SBE	Tri-County	2	40	136,364.00	0.75
Kasas Construction, Inc.	4	1.68	Asian-American	Tri-County	2	50	457,778.00	2.51
Crodon, Inc.	4	1.68	Non-M/W/SBE	Tri-County	0	0	-	0.00
Thomas Maintenance Services, Inc.	4	1.68	African-American	Tri-County	4	100	276,364.00	1.51
Florida Turf & Landscape Horticulture, Inc.	4	1.68	Hispanic-American	Tri-County	1	25	36,364.00	0.20
Mitchell's Lawn Maintenance Corp.	3	1.26	Hispanic-American	Tri-County	1	33	36,364.00	0.20
Florida Coast Services, Inc.	3	1.26	Non-M/W/SBE	Tri-County	2	67	136,364.00	0.75
Bannerman Landscaping, Inc.	3	1.26	African-American	Tri-County	0	0	-	0.00
Dade Restaurant Repair Shop, Inc.	3	1.26	Non-M/W/SBE	Tri-County	2	67	314,973.00	1.73
A Native Tree Service, Inc.	3	1.26	WBE	Tri-County	1	33	36,364.00	0.20

Source: M³ Consulting, M-DCPS SAP Data and Contracts Data; Relevant Market—Miami-Dade/Broward/Palm Beach Tri-County Area; Highlighted firms represent outliers

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Statistical Analysis of M/WBE Utilization

C. Top Ten Bidders and Awardees for Services

Top Ten Services Bidders include one Hispanic American-owned firm, six Non-M/W/SBEs and one MBE and one M/WBE firm (Table 6.26). However, those firms that are the Top Ten Bidders who are also on the Top Ten Awardees (Table 6.27) include only Non-M/W/SBEs.

Table 6.28 presents the success rate of the top ten bidders in the Services' procurement. Six of the top ten bidders among Service firms for 2012/2013 - 2014/2015 are Non-M/W/SBEs and their success ranged from 17 percent to 80 percent except for United Healthcare that did not win any bids. Among the other MBEs, one Hispanic American-owned firm won 38 percent of their bids and two other MBE firms succeeded in 80 percent of their bids.

Table 6.26.				
Top Ten Bidders				
Services				
Location; 2012/2013 – 2014/2015				
Company Name	Count of Bids	% of Counts	Race/Ethnicity/ Gender	Location
Air B School Bus Transportation, Inc.	13	1.80	Hispanic American	State of FL
Carlos & Susanne School Bus Service	12	1.66	Non-M/W/SBE	State of FL
Maria Gamboa Bus Service, Inc.	8	1.11	Non-M/W/SBE	State of FL
Catapult Learning, Inc.	6	0.83	Non-M/W/SBE	Nationwide
ADT Transportation, Inc.	5	0.69	Non-M/W/SBE	State of FL
United Healthcare	5	0.69	Non-M/W/SBE	Nationwide
Nationwide Interpreter Resource, Inc.	5	0.69	M/WBE	State of FL
Accessible Communication for the Deaf, Inc.	5	0.69	MBE	State of FL
Cool Kids Learn, Inc.	5	0.69	Non-M/W/SBE	State of FL

Source: M-DCPS Contracts Data, M³ Consulting, Relevant Market—State of Florida

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Statistical Analysis of M/WBE Utilization

Table 6.27.
Top Ten Awardees
***Service Firms**
Purchase Orders
Location; 2012/2013 – 2014/2015

Company Name	Dollars	% of Dollars	Race/Ethnicity/ Gender	Location
Arthur J Gallagher Riskmgnt	89,719,048	25.67	Non-M/W/SBE	State of FL
Gallagher Bassett Ins Serv	15,910,801	4.55	Non-M/W/SBE	Nationwide
Integrity Health Services	13,485,363	3.86	Non-M/W/SBE	State of FL
City Year Inc.	8,261,785	2.36	Non-M/W/SBE	Nationwide
Ricoh USA Inc.	7,418,997	2.12	Non-M/W/SBE	Nationwide
Catapult Learning LLC	7,167,627	2.05	Non-M/W/SBE	Nationwide
E B S Healthcare Inc.	6,851,900	1.96	Non-M/W/SBE	Nationwide
Shi International Corp	6,631,397	1.90	Non-M/W/SBE	Nationwide
Florida Virtual Schools	6,529,650	1.87	Non-M/W/SBE	State of FL
Imagine Learning Inc.	4,773,020	1.37	Non-M/W/SBE	Nationwide

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—State of Florida, *Services includes both Professional and Non-Professional Services; Highlighted firms represent outliers

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Table 6.28.
Success Rate of Top Ten Bidders: Services
Location; 2012/2013 – 2014/2015

Company Name	Count of Bids	% of Bids	Race/Ethnicity/Gender	Location	# of Awards	Success rate (%)	Dollar Value of Awards	% of Dollar Value
Air B School Bus Transportation, Inc.	13	1.80	Hispanic-American	State of FL	5	38	195,570	0.08
Carlos & Susanne School Bus Service	12	1.66	Non-M/W/SBE	State of FL	2	17	195,570	0.08
Maria Gamboa Bus Service, Inc.	8	1.11	Non-M/W/SBE	State of FL	2	25	195,570	0.08
Catapult Learning, Inc.	6	0.83	Non-M/W/SBE	Outside State of FL	2	33	210,292	0.08
ADT Transportation, Inc.	5	0.69	Non-M/W/SBE	State of FL	2	40	195,570	0.08
United Healthcare	5	0.69	Non-M/W/SBE	Outside State of FL	0	0	-	0.00
Nationwide Interpreter Resource, Inc.	5	0.69	M/WBE	State of FL	4	80	2,641,667	1.05
Accessible Communication for the Deaf, Inc.	5	0.69	MBE	State of FL	4	80	1,206,667	0.48
Cool Kids Learn, Inc.	5	0.69	Non-M/W/SBE	State of FL	4	80	212,292	0.08

Source: M-DCPS Contracts and SAP Data, M³ Consulting, Relevant Market—State of Florida, *Services includes both Professional and Non-Professional Services; Highlighted firms represent outliers

6.9 SUMMARY OF FINDINGS

Table 6.29 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 Maintenance and Maintenance-Related Services, as high as 68.31 percent if measured by POs, over 51 percent based on Payables and 45.5 percent based on Contract Awards. However, most of the M/WBE utilization is based on MBE utilization and not WBEs. WBEs never exceed 6.2 percent utilization based on any of the measures of utilization. While it appears that MBEs are utilized substantially in Maintenance and Maintenance-Related Services, this is a skewed picture as noted in the Table 6.30 below, with most of the dollars going to Hispanic American-owned firms and Non M-DCPS Certified MBEs.

In Goods & Supplies' procurement by M-DCPS, M/WBEs utilization ranged from 10.08 percent to 22.35 percent based on the different measures of utilization. Since Goods & Supplies are typically, long term blanket contracts, POs may best reflect utilization. Based on POs, the utilization of MBEs is at 21.12 percent and WBEs, 1.23 percent for the three-years study period, 2012/2013 -- 2014/2015.

Procurement of Services by M-DCPS ranges from 7.23 percent to 11.78 percent for M/WBEs, with the greatest utilization reflected in POs. Since many Services contracts are informal, POs may reflect the utilization of M/WBEs most closely. Based on POs, 9.14 percent of MBEs are utilized and 2.64 percent of WBEs for the 2012/2013 - 2014/2015. However, as Table 6.30 highlights, MBE utilization is largely skewed toward Hispanic American-owned firms and the aggregate number less accurately reflects utilization of all MBE groups.

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Statistical Analysis of M/WBE Utilization

Table 6.29. M/WBE Utilization in Percent of Dollars of Purchase Orders, Payments and Contract Awards Miami-Dade Public Schools Summary of M/WBE Utilization; 2012/2013 – 2014/2015 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)		
	MBE	WBE	M/WBE ⁴	MBE	WBE	M/WBE ⁴	MBE	WBE	M/WBE ⁴
Goods & Supplies ¹	21.12	1.23	22.35	8.90	1.19	10.08	8.88	2.29	11.17
Maintenance and Maintenance-Related Services ²	64.10	1.29	68.31	48.11	1.59	51.12	38.48	6.20	45.53
Services ³	9.14	2.64	11.78	6.46	2.17	8.63	5.92	0.08	7.23

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 Non M-DCPS Certified M/WBEs

Table 6.30 reflects that M/WBEs are utilized overall more in Maintenance and Maintenance-Related Services than in the other two procurement categories. However, as discussed above, the utilization of M/WBEs in Maintenance and Maintenance-Related Services largely includes procurement from Hispanic American-owned firms and Non M-DCPS Certified MBEs, whereas the rest of the race/ethnic/gender groups received less than three to five percent of the total POs. Hispanic American-owned firms receive 35.86 percent of the POs in this procurement category and Non M-DCPS Certified MBEs, 27.16 percent.

In the other two procurement categories, a similar pattern exists in the utilization of Hispanic American-owned firms and Non M-DCPS Certified MBEs, although the percentage utilization of M/WBEs in these procurement categories are much smaller in comparison. In Goods & Services, other than Hispanic American-owned firms receiving 19.80 percentage of total payments for the three-year study period, the remainder of the M/WBE groups receive no more than 1.13 percent of the total. In Services, similarly, while Hispanic American-owned firms receive 5.04 percent of the total payments for 2012/2013-15, no MBE group receive more

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Statistical Analysis of M/WBE Utilization

than 1.85 percent of the POs and WBEs received only 2.64 percent of the total purchase orders for the three-year period. African American-owned firms never exceed 1.15 percent and Asian American-owned firms, 1.1 percent of utilization as measured by POs in any procurement category.

Table 6.30.			
Summary Table – Utilization by Relevant Market			
Based on Purchase Orders			
Miami-Dade County Public Schools			
Relevant Market; 2012/2013 – 2014/2015			
Race/Ethnicity/Gender	Goods & Supplies¹	Maintenance and Maintenance-Related Services²	Services³
	%	%	%
Non-M/W/SBE	77.15	26.74	88.07
African American	0.08	0.95	1.15
Asian American	0.11	0.12	1.10
Hispanic American	19.80	35.86	5.04
Non M-DCPS Certified MBE	1.13	27.16	1.85
Total MBE	21.12	64.10	9.14
WBE	1.23	1.29	2.64
Non M-DCPS Certified M/WBE	0.00	2.92	0.00
Total M/WBE	22.35	68.31	11.78
SBE	0.49	4.95	0.07
Total M/W/SBE	22.85	73.26	11.85
Service-Disabled	0.00	0.00	0.08
Total	100.00	100.00	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

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 in purchase orders. Contract awards and accounts payable disparities are reported in the Appendix, Tables A.53 through A.58. Disparities are analyzed in the industry categories of Goods & Supplies, Maintenance and Maintenance-Related Services and Services.

M³ Consulting presents the disparity ratios for M-DCPS' ready, willing and able (RWASM) availability Level 2. 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.

Utilization for each industry is measured via purchase order, accounts payables and contract award data as maintained by M-DCPS' procurement department. The utilization percentage used to calculate the disparity ratios are based on formal and informal purchases by race and gender.

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.

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Statistical Analysis of M/WBE Disparity in Contracting

7.3 DISPARITIES IN GOODS & SUPPLIES

For Goods & Supplies, purchase order data better reflects the utilization because of blanket contracts that are prevalent in this procurement category, along with capturing informal purchases. Based on PO data in Table 7.1, Hispanic American-owned firms are significantly overutilized, while all other MBE and WBE groups are significantly underutilized.

Table 7.1 Purchase Order Utilization vs. <i>RWA</i> SM Availability Level 2 Goods & Supplies Miami-Dade County Public Schools Relevant Market; 2012/2013 -- 2014/2015								
Nationwide								
Race/Ethnicity/Gender	2012/2013		2013/2014		2014/2015		Period	
	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.
Non-M/W/SBE	1.01	S	0.84	S	0.85	S	0.89	S
African American	0.14	S	0.06	S	0.06	S	0.08	S
Asian American	0.82	S	0.10	S	0.29	S	0.36	S
Hispanic American	1.67	S	5.14	S	4.67	S	4.05	S
Non M-DCPS Certified MBE	0.50	S	0.39	S	0.46	S	0.44	S
Total MBE	1.12	S	3.00	S	2.76	S	2.41	S
WBE	0.50	S	0.22	S	0.60	S	0.42	S
Non M-DCPS Certified M/WBE	0.00	S	0.00	S	0.00	S	0.00	S
Total M/WBE	0.95	S	2.27	S	2.18	S	1.88	S
SBE	0.47	S	0.33	S	0.48	S	0.42	S
Total M/W/SBE	0.91	S	2.03	S	2.03	S	1.75	S
Service-Disabled	0.00	NS	0.00	NS	0.10	S	0.00	S

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

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 – Underutilized,, but not Statistically Significant;

ND: Not Defined

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Statistical Analysis of M/WBE Disparity in Contracting

7.4 DISPARITIES IN MAINTENANCE AND MAINTENANCE-RELATED SERVICES

Purchase orders represent the best measure of utilization and are presented in Table 7.2. In contrast to Goods & Supplies, purchase order utilization for Maintenance and Maintenance-Related Services reflects overutilization by many MBE groups. Purchase Orders show overutilization of Hispanic American-owned firms in total for the period, as well as for every year in the study period, 2012/2013—2014/2015. In addition, Non M-DCPS Certified MBEs and Non M-DCPS Certified M/WBEs also reflects annual significant overutilization and the study period. However, African American-owned firms, Asian American-owned and WBEs show significant underutilization in every year, 2012/2013—2014/2015 and in total.

Tri-County								
Race/Ethnicity/Gender	2012/2013		2013/2014		2014/2015		Period	
	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.
Non-M/W/SBE	0.57	S	0.34	S	0.30	S	0.42	S
African American	0.26	S	0.40	S	0.10	S	0.24	S
Asian American	0.05	S	0.59	NS	0.15	S	0.20	S
Hispanic American	2.03	S	1.84	S	1.93	S	1.95	S
Non M-DCPS Certified MBE	2.57	S	4.69	S	5.04	S	3.90	S
Total MBE	1.88	S	2.29	S	2.37	S	2.14	S
WBE	0.24	S	0.30	S	0.38	S	0.30	S
Non M-DCPS Certified M/WBE	10.63	S	3.95	S	12.99	S	9.86	S
Total M/WBE	1.75	S	2.05	S	2.22	S	1.98	S
SBE	1.56	NS	2.97	S	1.78	S	1.97	S
Total M/W/SBE	1.74	S	2.12	S	2.19	S	1.98	S
Service-Disabled	0.00	S	0.00	S	0.00	S	0.00	S
Total								

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data.; M³ Consulting; Relevant Market— Miami-Dade/Broward/Palm Beach Tri-County Area;

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 – Underutilized,, but not Statistically Significant;

ND: Not Defined

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7.5 DISPARITIES IN SERVICES

Based on purchase order data reflected in Table 7.3, Services note a significant overutilization of Asian American-owned businesses in each year of the study period. Hispanic American-owned businesses are overutilized in total as well as in 2013/2014 and 2014/2015 and underutilized in 2012/2013; none of these disparity ratios reached statistical significance. All other MBE and WBE groups are significantly underutilized.

Table 7.3 Purchase Order Utilization vs. <i>RWA</i> SM Availability Level 2 Services Miami-Dade County Public Schools Relevant Market; 2012/2013 -- 2014/2015								
State of Florida								
Race/Ethnicity/Gender	2012/2013		2013/2014		2014/2015		Period	
	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.
Non-M/W/SBE	1.04	S	1.03	S	1.03	S	1.04	S
African American	0.98	NS	0.60	S	0.11	S	0.57	S
Asian American	2.47	S	6.12	S	2.64	S	3.83	S
Hispanic American	0.90	NS	1.10	NS	1.09	NS	1.03	NS
Non M-DCPS Certified MBE	0.91	S	0.68	S	0.48	S	0.69	S
Total MBE	0.97	NS	1.03	NS	0.77	S	0.93	S
WBE	0.52	S	0.50	S	1.25	S	0.74	S
Non M-DCPS Certified M/WBE	0.00	S	0.00	S	0.00	S	0.00	S
Total M/WBE	0.81	S	0.85	S	0.85	S	0.84	S
SBE	0.22	NS	0.06	S	0.03	S	0.10	S
Total M/W/SBE	0.78	S	0.81	S	0.82	S	0.80	S
Service-Disabled	1.10	NS	0.00	NS	0.16	S	0.42	S
Total								

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data,; M³ Consulting; Relevant Market—State of Florida;

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 – Underutilized,, but not Statistically Significant;

ND: Not Defined

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Disparity in Contracting

7.6 SUMMARY OF FINDINGS

Table 7.4 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 2013/2014-FY 2014/2015. 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:

- Goods & Supplies—African American-owned firms, Asian American-owned firms, and WBEs;
- Maintenance and Maintenance-Related Services—African American-owned firms, Asian American-owned firms, WBEs; and,
- Services—African American-owned firms and WBEs.

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Statistical Analysis of M/WBE Disparity in Contracting

Table 7.4
Summary Disparity Ratios by Race, Ethnicity and Gender
Utilization vs. *RWA*SM Availability Level 2
Miami-Dade County Public Schools
Relevant Market; 2012/2013 -- 2014/2015

Race/Ethnicity/Gender	Goods & Supplies (Purchase Orders)		Maintenance & Maintenance Related Services (Purchase Orders)		Services (Purchase Orders)	
	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.
Non-M/W/SBE	0.89	S	0.42	S	1.04	S
African American	0.08	S	0.24	S	0.57	S
Asian American	0.36	S	0.20	S	3.83	S
Hispanic American	4.05	S	1.95	S	1.03	NS
Non M-DCPS Certified MBE	0.44	S	3.90	S	0.69	S
Total MBE	2.41	S	2.14	S	0.93	S
WBE	0.42	S	0.30	S	0.74	S
Non M-DCPS Certified M/WBE	0.00	S	9.86	S	0.00	S
Total M/WBE	1.88	S	1.98	S	0.84	S
SBE	0.42	S	1.97	S	0.10	S
Total M/WBE	1.75	S	1.98	S	0.80	S
Service-Disabled	0.00	S	0.00	S	0.42	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 – Underutilized,, but not Statistically Significant;

ND: Not Defined

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/SBE 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 by Procurement Category Based on Sales and Employees by Census SBO for Miami-Dade MSA

Below are measures of sales and employees from firms in the Miami-Dade MSA, 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 Census SBO analysis is refined to those that fall into NAICS code areas under review for this Phase 2 Disparity Study.

Goods & Supplies Capacity

As reflected in Table 8.1, Non-M/WBEs have higher capacity in Goods & Supplies than M/WBEs as measured by number of employees or sales revenues, with 622,678 employees and over \$318 billion in revenues. However, among the MBEs, there are over 12,000 Hispanic American-owned firms in the Miami-Dade MSA, with over 65,000 paid employees that generate over \$36 billion in revenues; over 5,000 Asian American-owned firms with over 25,000 paid employees generate over \$8.7 billion in revenues and 6,235 WBEs, with over 30,000 employees generating almost \$12 billion in sales revenue. African American-owned firms are the smallest in number with only 776 firms in the MSA that employ 3,385 and generate almost \$950 million in sales.

If capacity were measured by absolute sales revenue or number of employees, then Non-M/WBEs have the largest capacity followed by Hispanic American-owned firms. However,

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Capacity and Regression Analysis

since Non-M/WBEs are relatively much larger in absolute scale, it is useful to compare capacity in terms of revenue per firm. That is, measuring if M/WBEs have approximately the same revenue per firm as Non-M/WBEs. From Table 8.1 below it may be noted that Non-M/WBEs have \$6.4 million as revenue per firm. In comparison, if Non-M/WBEs are considered as 100 percent capacity, MBEs have almost 40 percent of Non-M/WBE capacity at \$2.5 million and WBEs about a third at \$1.9 million revenues per firm. Hispanic-American owned firms have about 46 percent of the capacity of Non-M/WBEs in Goods & Supplies procurement, while Asian American-owned firms and other MBEs have close to 30 percent of their capacity. African American-owned firms lag with \$1.2 million revenue per firm at less than 20 percent of the capacity of Non-M/WBEs.

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**Table 8.1.
Census Capacity
Goods & Supplies
Miami Dade MSA, 2012**

Race/Ethnicity/Gender	# of Firms with Paid Employees	of Firms with Paid Employees	# of Paid Employees	% of Paid Employees	Sales Receipts (in \$1,000)	Sales Receipts %	Revenues per firm (in \$1,000)	Relative Capacity %
Non-M/W/SBE	49,829	65.73	622,678	82.67	318,689,907	84.01	6,395	100
African American	776	1.02	3,385	0.45	947,543	0.25	1,221	19
Asian American	5,007	6.60	25,318	3.36	8,716,401	2.30	1,740	27
Hispanic American	12,216	16.11	65,007	8.63	36,307,509	9.57	2,972	46
Native American	37	0.05	102	0.01	16,660	0.00	450	7
Other MBE	1,709	2.25	6,587	0.87	2,726,879	0.72	1,595	25
Total MBE	19,745	26.05	100,399	13.33	48,714,992	12.84	2,467	39
WBE	6,235	8.22	30,137	4.00	11,940,725	3.15	1,915	30
Total M/WBE	25,980	34.27	130,536	17.33	60,655,717	15.99	2,334	37
Total	75,809	100.00	753,214	100.00	379,345,624	100.00		

Source: M³ Consulting; 2012 Census SBO

Maintenance and Maintenance-Related Services Capacity

In Maintenance and Maintenance-Related Services, Non-M/WBEs have higher capacity than M/WBEs as measured by number of employees or sales revenues with almost 115,000 employees and over \$27 billion in revenues, based on Table 8.2. While at a lower scale than Non-M/WBEs, among the MBEs, there are about 3,500 Hispanic American-owned firms in the Miami-Dade MSA who employ over 14,000 people generating over \$3.5 billion in revenues and 1,048 WBEs with over 6,789 employees generating almost \$1.4 billion in sales revenue. There are a lot fewer firms in the M&MRS industries among other ethnicities, with 399 Asian American-owned firms who employ 536 employees and over \$186 million in revenues and 342 African American-owned firms that employ 1,208 people with approximately \$123 million in revenues.

Unlike Goods & Supplies procurement, in Maintenance and Maintenance-Related Services, revenues per firm for MBEs is not that different from Non-M/WBEs. Revenues per firm for Other MBEs and WBEs are in fact at \$1.37 million (88 percent capacity) and \$1.34 million (86 percent capacity) respectively compared to \$1.55 million for Non-M/WBEs. Hispanic American-owned firms are at \$1.03 million (66 percent capacity) in comparison; Asian American-owned firms and African American-owned firms are behind with revenues per firm at \$466,000 (30 percent capacity) and \$360,000 (23 percent capacity).

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Table 8.2. Census Capacity Maintenance and Maintenance-Related Services Miami Dade MSA, 2012								
Race/Ethnicity/ Gender	# of Firms with Paid Employees	% of Firms with Paid Employees	# of Paid Employees	% of Paid Employees	Sales Receipts (in \$1,000)	Sales Receipts %	Revenues per firm (in \$1,000)	Relative Capacity %
Non-M/W/SBE	17,718	75.69	114,952	82.05	27,557,409	82.62	1,555	100
African American	342	1.46	1,208	0.86	123,132	0.37	360	23
Asian American	399	1.70	536	0.38	186,129	0.56	466	30
Hispanic American	3,456	14.76	14,626	10.44	3,543,916	10.62	1,025	66
Native American	54	0.23	-	0.00	-	0.00	-	0
Other MBE	392	1.67	1,995	1.42	538,416	1.61	1,373	88
Total MBE	4,643	19.83	18,365	13.11	4,391,593	13.17	945	61
WBE	1,048	4.48	6,789	4.85	1,407,311	4.22	1,342	86
Total M/WBE	5,691	24.31	25,154	17.95	5,798,904	17.38	1,018	66
Total	23,409	100.00	140,106	100.00	33,356,313	100.00		

Source: M³ Consulting; 2012 Census SBO

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Services Capacity

In Services, based on Table 8.3, Hispanic American-owned firms and WBEs have over 25,000 and 22,000 firms with paid employees respectively in the Miami-Dade MSA. The Hispanic American-owned firms have 146,628 employees and over \$18 billion in sales revenue. WBEs have over 128,000 employees, with sales receipts of \$11.9 billion. Asian American-owned firms generate almost 50,000 employees with 8,440 firms and African American-owned firms generate almost 20,000 employees with 3,726 firms. Asian American owned firms generate over \$4 billion in sales revenue, while African American owned firms have about \$1.6 billion in revenue.

Based on Revenues per firm, M/WBEs are only at a third of the capacity of Non-M/WBEs at \$601,000 as compared to \$1.8 million. Hispanic American-owned firms are the closest using this measure of capacity with \$733,000 of revenues on a per firm basis, at about forty percent of the capacity of Non-M/WBEs; WBEs follow at \$537,000 per firm (29 percent relative capacity to Non-M/WBEs); Asian American-owned firms at \$541,000 per firm (28 percent relative capacity) and African American-owned firms at \$435,000 per firm (24 percent relative capacity).

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Table 8.3. Census Capacity Services Miami Dade MSA, 2012								
Race/Ethnicity/ Gender	# of Firms with Paid Employees	% of Firms with Paid Employees %	# of Paid Employees	% of Paid Employees	Sales Receipts (in \$1,000)	Sales Receipts %	Revenues per firm (in \$1,000)	Relative Capacity %
Non-M/W/SBE	134,466	68.13	1,938,518	84.38	245,043,974	86.62	1,822	100
African American	3,726	1.89	19,615	0.85	1,621,933	0.57	435	24
Asian American	8,440	4.28	49,963	2.17	4,340,118	1.53	514	28
Hispanic American	25,024	12.68	146,628	6.38	18,341,365	6.48	732	40
Native American	192	0.10	359	0.02	22,465	0.01	117	6
Other MBE	3,421	1.73	13,271	0.58	1,651,481	0.58	482	26
Total MBE	40,803	20.67	229,836	10.00	25,977,362	9.18	636	35
WBE	22,090	11.19	128,971	5.61	11,868,191	4.20	537	29
Total M/WBE	62,893	31.87	358,807	15.62	37,845,553	13.38	601	33
Total	197,359	100.00	2,297,325	100.00	282,889,527	100.00		

Source: M³ Consulting; 2012 Census SBO

8.2.2 Capacity Analysis Based on Average Employees and Average Sales Revenues from Dun & Bradstreet

Below are measures of sales and employees 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 Dun & Bradstreet analysis is refined to those that fall into NAICS code areas under review for this Phase 2 Disparity Study.

Capacity Based on Number of Employees

Based on Table 8.4, total M/WBEs are represented between six to 12 percent in the ranges between zero to 500 employee size range in comparison to Non-M/WBEs³⁵¹. In this range, over 50 percent of the M/WBE total consist of WBEs. Total M/WBE participation drops down to about zero to three percent as the employee size rises, except in the largest category of 10,000 plus, where Total M/WBEs are represented at almost six percent, again with most of this percentage owing to WBEs.

There are many firms in the zero to 200 employee size limit that include MBEs and WBEs and M/WBEs in comparable proportion to Non-M/WBEs. However, this thins out as the number of employees increases to over two hundred employees. The range of over 1,000 employees includes only three WBEs and one M/WBEs. Except for one firm, there are no M/WBE firms in the larger size ranges over 2,500 employees until about 10,000 employees, where two M/WBEs are included, although fewer in number compared to Non-M/WBEs.

³⁵¹It is entirely possible that this is due to self-selection bias. Since businesses owned by M/WBEs are often smaller and resource constrained and hence may not have the time, the manpower or the awareness, at times, to list on D&B. If they do not choose to be on the list due to any of the reasons, this may result in a downward bias of their group's "availability" and any analysis based on this list may be skewed to that extent. In statistics, this downward bias or "self-selection bias" that arises in any situation in which individuals select themselves into or out of a group, causing a biased statistical result may create abnormal or undesirable conditions in the group.

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Table 8.4.
Dun and Bradstreet
Capacity Based on Total Number of Employees
Miami-Dade, Broward and Palm Beach Counties
FY 2016

Race/Ethnicity /Gender	0-25		26-50		51-100		101-200		201-250		251-500	
	#	%	#	%	#	%	#	%	#	%	#	%
Non-M/WBE	380,460	93.15	3,031	87.05	1,516	91.33	682	92.29	129	92.81	282	93.07
MBE	6,658	1.63	134	3.85	41	2.47	21	2.84	1	0.72	9	2.97
M/WBE	5,432	1.33	102	2.93	43	2.59	13	1.76	2	1.44	2	0.66
WBE	15,895	3.89	215	6.17	60	3.61	23	3.11	7	5.04	10	3.30
Total M/WBE	27,985	6.85	451	12.95	144	8.67	57	7.71	10	7.19	21	6.93
Total	408,445	100.00	3,482	100.00	1,660	100.00	739	100.00	139	100.00	303	100.00

Source: 2016 Dun & Bradstreet Hoovers Data; M³ Consulting

Table 8.4 cont.
Dun and Bradstreet
Capacity Based on Total Number of Employees
Miami-Dade, Broward and Palm Beach Counties
FY 2016

Race/Ethnicity /Gender	501-1,000		1,001-2,500		2,501-5,000		5,001-10,000		10,001+		Total	
	#	%	#	%	#	%	#	%	#	%	#	%
Non-M/WBE	176	96.17	136	97.14	40	97.56	25	100.00	33	94.29	386,510	93.09
MBE	4	2.19	0	0.00	1	2.44	0	0.00	0	0.00	6,869	1.65
M/WBE	2	1.09	1	0.71	0	0.00	0	0.00	2	5.71	5,599	1.35
WBE	1	0.55	3	2.14	0	0.00	0	0.00	0	0.00	16,214	3.91
Total M/WBE	7	3.83	4	2.86	1	2.44	-	0.00	2	5.71	28,682	6.91
Total	183	100.00	140	100.00	41	100.00	25	100.00	35	100.00	415,192	100.00

Source: 2016 Dun & Bradstreet Hoovers Data; M³ Consulting

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Capacity Based on Revenues

If capacity were to be measured using revenues (Tables 8.5), then all groups of firms, MBEs, WBEs, M/WBEs and Non-M/WBEs are represented in all revenue ranges, including those over \$10 million. So, based on average revenues, 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. There are only 610 MBE firms, 512 M/WBE firms, 1,076 WBE firms compared to 13,333 Non-M/WBE firms available with revenues over \$1 million dollars.

Table 8.5.						
Dun and Bradstreet						
Capacity Based on Total Revenues						
Miami-Dade, Broward and Palm Beach Counties						
FY 2016						
	\$0-\$100K		\$100K-\$500K		\$500K-\$1M	
Race/Ethnicity/Gender	#	%	#	%	#	%
Non-M/WBE	171,394	93.94	185,030	93.24	11,824	86.99
MBE	2,168	1.19	3,569	1.80	434	3.19
M/WBE	2,026	1.11	2,625	1.32	388	2.85
WBE	6,855	3.76	7,216	3.64	947	6.97
Total M/WBE	11,049	6.06	13,410	6.76	1,769	13.01
Total	182,443	100.00	198,440	100.00	13,593	100.00

Source: 2016 Dun & Bradstreet Hoovers Data; M³ Consulting

Table 8.5 cont.								
Dun and Bradstreet								
Capacity Based on Total Revenues								
Miami-Dade, Broward and Palm Beach Counties								
FY 2016								
	\$1M-\$5M		\$5M-\$10M		> \$10M		Total	
Race/Ethnicity/Gender	#	%	#	%	#	%	#	%
Non-M/WBE	9,628	84.72	1,533	86.51	2,172	90.73	381,581	93.07
MBE	437	3.85	91	5.14	82	3.43	6,781	1.65
M/WBE	402	3.54	57	3.22	53	2.21	5,551	1.35
WBE	898	7.90	91	5.14	87	3.63	16,094	3.93
Total M/WBE	1,737	15.28	239	13.49	222	9.27	28,426	6.93
Total	11,365	100.00	1,772	100.00	2,394	100.00	410,007	100.00

Source: 2016 Dun & Bradstreet Hoovers 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 S/M/WBE list³⁵² to gather capacity data to be used in the regression analysis to examine differences in capacity determined by race, gender, or ethnicity, if any. This pool of firms included firms that have never contracted with M-DCPS. The survey design and sampling frame is discussed in Chapter IV, Statistical Methodology. Survey Tables are contained in Appendix A.

A. Respondent demographics:

Below is a discussion of the demographics of the 138 survey respondents. Responses to survey questions were cross-matched against Survey Question 16, “Is at least 51 % of your firm owned and controlled by women?” and Question 17, “Is at least 51% of your firm owned and controlled by a member of one or more of the following racial/ethnic/gender groups?” To the degree data is available, we provide findings for each.

Respondents included 64 (46.4 percent) majority women-owned firms (Female-owned) and 73 (52.9 percent) majority men-owned firms (Male-owned). One respondent did not identify gender. The 138 respondents include 23 (16.7 percent) African American-owned firms, 39 (28.3 percent) Hispanic American-owned firms, four (2.9 percent) Asian American-owned firms, 33 (23.9 percent) White male-owned firms and 16 (11.6 percent) White-women owned firms, with one Native American-owned firm. The remaining 12 firms that responded had owners of mixed races.

Table 8.6.		
Question 16, Is at least 51% of your firm owned and controlled by one or more women?		
Gender	#	%
No response	1	46.4
Female-owned	64	52.9
Male-owned	73	100
Total	138	46.4

Source: M³ Consulting

³⁵² Dun and Bradstreet was included in the mail survey which rendered only 4 responses. M³ Consulting redid the survey utilizing emails. The D&B database did not include emails and thus was not included in the email survey.

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Table 8.7. Question 17, Is at least 51% of your firm owned and controlled by a member of one or more of the following racial/ethnic/gender groups?		
Race/Ethnicity/Gender	#	%
No response	10	7.2
White Male	33	23.9
White Female	16	11.6
African American	23	16.7
Hispanic American	39	28.3
Asian American	4	2.9
Native American	1	0.7
Other Race	12	8.7
Total	138	100.00

Source: M³ Consulting

Of the 138 respondents, 60.1 percent (83) sell their goods and services in Miami-Dade County, Broward County or the Tri-County area, while 16 (11.6 percent) in the State.

- This is true especially for MBE firms and to some extent for White Female-owned firms. The respondents include 58 (42 percent) firms in Goods & Supplies, seven (5.1 percent) in the Maintenance and Maintenance-Related Services and seven (5.1 percent) in Non-Professional Services and 42 (30.4 percent) in Professional Services. Most MBE respondents were in Goods & Supplies or in Professional Services (22 in each) with a good number of MBE respondents in Construction. White male-owned firms were largely in Goods & Supplies, as were White female-owned.
- Respondents that were Female-owned firms were mainly in Professional Services (32.8 percent) or Goods & Supplies (34.4 percent). This was also true for Male-owned firms with 49.3 percent in Goods & Supplies and 28.8 percent in Professional Services.

Most respondents were either Subchapter S corporations (38 or 27.5 percent) or Corporations (51 or 37 percent). Twelve (8.7 percent) respondents were sole proprietorships and two (1.4 percent) were Partnerships with 34 (24.6 percent) LLCs.

- Most MBEs were subchapter S corporations (37 percent) and either LLCs or Corporations (30 percent each). White male-owned firms were largely corporations, while White female-owned were mixed.

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- Female-owned firms are typically either Subchapter S Corporations (35.9 percent) or Corporations (29.7 percent), although 23.4 percent are LLCs. Female-owned firms are typically either Subchapter S Corporations (23 or 35.9 percent) or Corporations (19 or 29.7 percent), although 23.4 percent (or 15) are LLCs. Male-owned firms also fall in these organizational forms typically although the respondents included 31 (42.5 percent) corporations, nineteen (26 percent) LLCs and 15 (20.5 percent) Subchapter S corporations.

B. Firm Size, Education and Experience

On average, respondents have about ninety-seven employees, although the firms range from zero employees to 2,194 employees. The average years in business for the sample of respondents is over 22 years, ranging from one-year old firms to 90-year-old firms. Among the respondents, prior to starting their businesses, 54 percent of the respondents had worked largely in the private sector, and 34.8 percent in both public and private sector. Only 8.7 percent of respondents had worked solely in the public sector.

Many of the firms surveyed have owners with graduate degrees (42 percent) and an additional 26 percent have at least an undergraduate degree. Over 17 percent have a high school diploma, while another 12 percent of firm owners have at least some college. 99 of 138 respondents had worked in their trade or profession prior to starting their businesses.

- Female-owned firms included 23 of 64 (36 percent) of owners that had a graduate degree or more and 66 percent that had an undergraduate degree or higher. Comparatively, Male-owned firms had 71 percent of owners with an undergraduate degree or higher and 48 percent with a graduate degree.
- Thirty-three percent of MBEs, 25 percent of White female-owned and 55 percent of White male-owned firms had owners that had a graduate degree or more; 69 percent of MBEs, 44 percent of White female-owned and 70 percent of White male-owned included those with owners with an undergraduate degree or higher.

Respondents included 41 firms (39 percent) that had one to ten years of experience in their trade/profession and 24 (23 percent) respondents had over 20 years of experience in their trade/profession. Less than four percent had no experience in their trade/profession. About 77 percent of the respondents had owners with prior managerial or supervisory experience. Over 53 percent of owners worked in the managerial/supervisory position for one to 10 years; 29 percent of respondents had owners with 10 to 20 years' experience and only 17 percent

had owners with over 20 years of experience in their field. Less than six percent had owners with no managerial/supervisor experience in their trade/profession.

- A total of 122 surveyed responded to the question regarding their gross receipts. These included 67 MBEs, 33 White-male owned firms, 16 WBEs and six Other race, gender and ethnicity firms. Fourteen MBEs among the 67 MBE respondents (20.9 percent) and two of the 16 WBEs (12.5 percent) had revenues under \$100,000, whereas there was only one White male firm (three percent) in this range. Expanding this revenue range to under \$500,000 included 49 percent of MBEs, 37.5 percent of WBEs and 12 percent of White male-owned firms. On the high end of revenues, among those firms that were in the \$5-\$10 million range, there was one MBE and one WBE firm and two White male-owned firms. Firms with over \$10 million in revenues included two MBEs, zero WBEs and nine White male-owned firms among the respondents.
- While 43.8 percent of Female-owned firms had gross receipts of less than \$500,000 and 15.6 percent less than \$100,000, the corresponding percentages for Male-owned firms were 27 percent and 12.3 percent. On the other extreme, for those firms between \$5 million and \$10 million were three percent of Female-owned firms and 5.5 percent of Male-owned firms. Over \$10 million gross receipts in the past two years, included only one Female-owned firm and 14 (19.2 percent) of Male-owned firms.

C. Financing

Respondent firms were largely start-ups (87 percent) and the remainder were buy-outs of existing businesses (9.4 percent) or subsidiaries (three percent). Two firms did not respond to this question. The start-up firms were financed largely via personal or home equity (65.9 percent of firms), 15 (10.9 percent) via family and/or friends. Thirteen firms (9.4 percent) obtained a line of credit and seven depended on a contract that they were awarded.

- Most MBEs and White female-owned firms started their firms with less than \$10,000 at start-up. Few MBEs had \$10,000-\$25,000 at start-up, whereas White male-owned firms experienced the reverse, with a majority starting with \$10,000-\$25,000. Over 80 percent of MBEs, 48 percent of White male-owned firms and 69 percent of White female-owned firms financed their firms with personal equity or home equity. About 21 percent of White male-owned firms among the respondents could use some financial institutions to fund their business, as compared to only six percent of White female-owned firms and less than four percent of MBEs could use this option to finance their businesses.

A total of 33 respondents (23.9 percent) applied for a loan/line of credit at least one time and 20 respondents (14 percent) applied more than once. At least one firm applied five times. Sixty-four (46.4 percent) of firms never applied for a loan/line of credit among those surveyed. A total of six firms (4.3 percent) among the respondents were denied a loan/line of credit one time and seven firms (five percent) were denied more than one time. Ninety-eight respondents (71 percent) were never denied a loan.

- **Application for Loans/Lines of Credit**
 - About 43 percent of MBE firms and 56 percent of White female-owned firms never applied for a loan or line of credit. About 30 percent of MBEs and 31 percent of White female-owned firms applied at least once for a loan/line of credit. In contrast, 45.5 percent of White male-owned firms never applied for a loan or line of credit and 18 percent of the White-male respondents, applied at least once. However, over 22 percent of MBEs and only one White female-owned firm (six percent of WBE respondents) applied for a loan/line of credit more than once, whereas only two White-male respondents (six percent) applied for a loan/line of credit more than one time.
 - Among Female-owned firms, 20 respondents (31.3 percent) applied for a loan or line of credit at least once, while nine firms (14 percent) applied more than one time. With Male-owned firms, thirteen (17.8 percent) applied once for a loan or line of credit and eleven firms (15 percent) tried applying more than one time.
- **Denial rates for Loans/Lines of Credit**
 - Female- and Male-owned firms were denied a loan about the same number of times (4.70 percent and 4.1 percent) respectively.
 - When comparing race, gender and ethnicity, 7.5 percent of MBEs and 6.3 percent of White female-owned firms were denied at least once and 10.4 percent of MBEs more than one time. Among the White male-owned firms that responded, no firm was denied a loan or line of credit among those that applied.
- **Challenges in Obtaining Loans/Lines of Credit**
 - Forty-seven of the respondents encountered no issues in obtaining a loan/line of credit. Among those that did express challenges, eight (5.8 percent) had issues with the bank/financial manager attitude, 11 (8 percent) with the application process, 20 (14.5 percent) with the pricing and terms of the loan and 52 (37.7 percent) had individual issues that were beyond these issues.
 - Among Female-owned firms, about eight percent encountered issues with each of these issues: bank/financial manager attitude and the loan application

process, while about eleven percent had issues with pricing. At least 35.9 percent of other Female-owned firms wrote in a variety of other hindrances in obtaining a loan or line of credit, such as lack of financials or bank's unwillingness to lend to services' business or requiring tax returns among others. For Male-owned firms, 4.1 percent had issues with bank/financial manager attitude, 8.2 percent with loan application process, and 17.8 percent with pricing, respectively.

- For MBEs, the greatest hindrance was with Pricing; 17 (25.4 percent) of the respondents had issues in obtaining a loan/line of credit. Eight White female-owned firms (50 percent), 21 MBEs and 15 White-male owned firms had other hindrances in obtaining a loan/line of credit. Many of these hindrances included limited cash flow, credit issues, finding it easier to get a loan from a smaller bank and being asked for tax returns among others.
- The response rate on the question on assistance programs is too low to make any meaningful conclusions regarding the utilization of these programs.

Below is a discussion of respondents' experiences securing bonding. Since our sample contained largely Goods & Supplies and Professional Services firms, and a few firms in Maintenance and Maintenance-Related Services, consistent with our focus in Phase 2 Disparity Study, we examined bond applications and denials but there were limited responses regarding bonding.

- **Application for bond**
 - Among the respondents, only 21 (15percent) applied for a bond.
 - This included eleven (17 percent) Female-owned firms and ten (13.7 percent) Male-owned firms.
 - By Race, gender and ethnicity, these 21 firms were made up of 11 MBEs, two White female-owned firms and six White-male owned firms or 16.4 percent of MBEs, 12.5 percent of White female-owned firms and 18.2 percent of White male-owned firms surveyed applied for a bond.
- **Denial of bond**
 - Among Female-owned firms that applied, only one firm was denied a bond three times and among Male-owned firms, one firm was denied twice and another firm at least thrice.
 - Two MBE firms were denied a bond at least three times and no White female-owned firm or White male-owned firm that applied was denied a bond.
- **Size of Bonds**

- There were no firms with bonds over \$ 5 million. About the same number of Female-owned and Male-owned firms had bonds below and above \$1 million.
- Similarly, there were only 12 percent of MBEs, 12.5 percent of White female-owned firms and 18.18 percent of White male-owned firms that had a maximum of \$1 million in bonding. Fewer MBEs (5.97 percent) and 6.06 percent of White male-owned firms had over \$1 million but less than \$5 million in bonding. No White female-owned firms had greater than \$1 million in bonding.

D. Bidding and Contracting

Of a total of 138 respondents, 13 firms contracted with M-DCPS *in the past five years*, while 11 firms contracted exclusively with private sector firms. However, 84 respondents contracted with M-DCPS and other public or private sector firms. Similarly, 68 firms participated in contracts with private sector, as well as public sector agencies inside and outside of Florida. These 68 firms provided an estimate of the number of contracts they won with M-DCPS. On average, these respondents won four contracts in the past five years. However, the responses had a large deviation, which ranged from one contract won to 250 contracts won by the respondents. Among the survey respondents who contracted with M-DCPS, 44 had done so for zero to three years, 17 for four to seven, six for eight to ten years and 31 for over ten years.

- **Firms only doing business with M-DCPS**
 - Thirteen firms selected having only done business with M-DCPS.
 - Five of the 13 firms were Female-owned firms.
 - Among M/WBEs, one African American-owned firm, six Hispanic American-owned firms, one White Male-owned firms, two White female-owned firms and three Other MBEs only did business with M-DCPS.
- **Firms doing business with M-DCPS and Other agencies**
 - Of the 84 firms who did business with M-DCPS and other agencies as well, 30 Female-owned firms were included;
 - Among M/WBEs were nine African American-owned firms, 20 Hispanic American-owned firms, three Asian American-owned firms, 30 White male-owned firms and eight White female-owned firms.

The majority (56.5 percent) of survey respondents solicited bids as prime contractors, while about 11.6 percent had solicited bids as sub-contractors as well. About 21 percent had bid as both prime and sub-contractors. This was true across all race, ethnicities and genders.

Most respondents (64 percent) also received most of their business (greater than 60) from prime contracting and about 44 percent received less than 40 percent of their business from prime contracting. Only 5.1 percent of respondents received no monies from prime contracting. Because of limited responses on subcontracting, we will only report prime contracting responses.

- **Percent of business at the Prime Contracting Level**
 - MBEs and White male-owned firms among the survey respondents received either “Less than 20 percent” (37 and 30 percent respectively) or “Over 60 percent” of their business (42 percent for both groups) from prime contracting. Half of the White female-owned firms that responded largely skewed to prime contracting for “Over 60 percent” of their business.
- **Size of Prime Contracts**
 - There were only 32 responses to respondents winning contracts with M-DCPS. Female-owned firms won nine contracts with M-DCPS that ranged from \$1,200 to \$13 million, although the majority (eight of the nine) of the contracts were less than \$250,000. Male-owned firms, obtained 12 contracts from M-DCPS that ranged from \$1,000 to \$25 million with seven contracts below \$250,000 and five contracts over \$250,000.
 - As there were less than 30 responses to this question, it is hard to make any generalizations, but MBEs won awards in the less than \$100,000, \$100,000 to \$1 million range and the greater than \$1 million range about equally. Among the 29 responses regarding contracts won at M-DCPS, MBEs received seven contracts largely ranging from \$1,000 to \$25 million, whereas only three White female-owned firms responded, with two of them winning contracts at \$5,000 and \$750,000 and one at zero dollars. Only three White male-owned firms were included, with contract values of \$30,000, \$60,000 and the third did not provide any value information.
 - Digging further, those that responded included African American-owned firms that won awards below \$100,000, and those that won awards over \$1 million as did Hispanic-owned firms.

E. 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

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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/WBEs. In this section, we discuss each of the capacity variables, and report any statistically significant differences among the various ethnic groups.

On average, Female-owned firms are statistically significantly younger than Male-owned firms, but do not have significantly lower start-up capital or have lower initial capital among the respondents. If size of the firm were defined via number of full-time employees or by gross receipts, Female-owned firms are significantly smaller. Initial capital or number of contracts with M-DCPS in the last five years was not significantly different for the two groups.

Female-owned firms apply significantly fewer number of times for a loan/line of credit than Male-owned firms and get denied significantly fewer times as well. However, the number of times Female-owned firms apply for a bond or get denied is not significantly smaller than their male counterparts. Similarly, the size of the bond or the bid size among these groups are not statistically different.

Variable	Gender	Number of Observations	Mean	Std. Deviation	t-statistic	p-value	Significance
Number of Full-time Employees	Female-owned	63	10.25	17.759			
	Male-owned	73	171.55	476.762	-2.888	0.005	Yes
Is your firm a Start-up Firm or Not	Female-owned	64	0.8906	0.31458			
	Male-owned	72	0.875	0.33304	0.28	0.779	No
Number of years in business	Female-owned	64	19.3594	14.94898			
	Male-owned	72	24.5139	18.83882	-1.776	0.078	Yes
Range of your firm's initial capital investment.	Female-owned	64	2.89	1.827			
	Male-owned	73	2.89	1.845	0.001	0.999	No
Total contracts have you won	Female-owned	61	10.36	41.092			

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with M-DCPS in the last five years	Male-owned	65	4.25	10.051	1.131	0.262	No
Firm's total gross receipts for the past 2 years	Female-owned	64	4.52	2.309			
	Male-owned	73	5.47	2.662	-2.216	0.027	Yes
Times, have you applied for a loan and/or line of credit in the past 5 years	Female-owned	64	1.89	1.46			
	Male-owned	73	2.73	2.663	-2.313	0.022	Yes
Times have you been denied a loan and/or line of credit in the past 5 years	Female-owned	64	1.91	2.202			
	Male-owned	73	2.7	2.938	-1.799	0.074	Yes
Times, have you applied for a bond in the past 5 years	Female-owned	64	1.77	0.496			
	Male-owned	73	1.79	0.6	-0.305	0.758	No
Times have you been denied a bond in the past 5 years	Female-owned	64	3.73	3.717			
	Male-owned	73	3.84	3.757	-0.158	0.874	No
Firm's largest bond acquisition in the past 5 years	Female-owned	64	7.66	4.582			
	Male-owned	73	6.93	4.897	0.891	0.373	No
Closest average bid range that the firm submitted in the past two years	Female-owned	64	4.81	4.128			
	Male-owned	73	4.29	4.338	0.723	0.47	No

Source: M³ Consulting; shaded areas reflect all average of ranges and not real averages

MBEs have a significantly lower number of full-time employees, are younger and have fewer total gross receipts than Non-M/WBEs. Differences in their initial levels of capital and number of contracts won from M-DCPS are not statistically significantly different. Similarly, the number of times that MBEs applied or got denied for a loan/line of credit or applied/denied for a bond is not significantly different than Non-M/WBEs. There is also no significant difference in the largest bond acquired or the bid size range among these two groups.

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Table 8.9.
T-test of difference in means among MBEs and Non-M/WBEs

Variable	MBE Status	No. of Observations	Mean	Std. Deviation	t-statistic	p-value	Significance
Number of Full-time Employees	MBE owned	66	12.11	24.414			
	Non-M/WBE owned	33	257.73	598.004	-2.359	0.025	Yes
Is your firm a Start-up Firm or Not	MBE owned	67	0.9851	0.12217			
	Non-M/WBE owned	32	0.75	0.43994	2.968	0.006	Yes
Number of years in business	MBE owned	67	15.0448	10.13609			
	Non-M/WBE owned	32	35	20.73489	-5.158	0	Yes
Range of your firm's initial capital investment.	MBE owned	67	2.78	1.536			
	Non-M/WBE owned	33	2.94	2.318	-0.367	0.715	No
Total contracts have you won with M-DCPS in the last five years	MBE owned	64	2.48	7.715			
	Non-M/WBE owned	28	13.14	38.162	-1.465	0.154	No
Firm's total gross receipts for the past 2 years	MBE owned	67	4.18	2.38			
	Non-M/WBE owned	33	6.27	2.414	-4.117	0	Yes
Times have you applied for a loan and/or line of credit in the past 5 years	MBE owned	67	2.04	1.482			
	Non-M/WBE owned	33	2.94	2.978	-1.629	0.111	No
Times have you been denied a loan and/or line of credit in the past 5 years	MBE owned	67	2.06	2.228			
	Non-M/WBE owned	33	2.67	3.069	-1.012	0.316	No

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Times you have applied for a bond in the past 5 years	MBE owned	67	1.81	0.435			
	Non-M/WBE owned	33	1.76	0.663	0.381	0.705	No
Times you have been denied a bond in the past 5 years	MBE owned	67	3.78	3.671			
	Non-M/WBE owned	33	3.73	3.769	0.062	0.951	Yes
Firm's largest bond acquisition in the past 5 years	MBE owned	67	7.64	4.595			
	Non-M/WBE owned	33	6.61	4.841	1.041	0.31	No
Closest average bid range that the firm submitted in the past two years	MBE owned	67	4.99	4.315			
	Non-M/WBE owned	33	3.67	4.128	1.457	0.144	No

Source: M³ Consulting

White female-owned firms have a significantly lower number of full-time employees and have fewer total gross receipts than Non-M/WBEs. While there are no significant differences among other characteristics, the average range of their bids among the respondents is much larger than firms owned by their White male counterparts. The sample size is too small to generalize about Female-owned firms, but it warrants further investigation into these issues.

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Table 8.10.
T-test of difference in means among Female-owned firms and Male-owned firms

Variable	Gender	Number of Observations	Mean	Std. Deviation	t-statistic	p-value	Significance
Number of Full-time Employees	Female owned	16	5.5	5.151		0.1	
	Male owned	33	257.73	598.004	-2.423	0.021	Yes
Is your firm a Start-up Firm or Not	Female owned	16	0.875	0.34157		0.325	
	Male owned	32	0.75	0.43994	1.082	0.286	No
Number of years in business	Female owned	16	27.75	19.90142		0.253	
	Male owned	32	35	20.73489	-1.157	0.25	No
Range of your firm's initial capital investment.	Female owned	16	3.25	1.88		0.643	
	Male owned	33	2.94	2.318	0.466	0.619	No
Total contracts have you won with M-DCPS in the last five years	Female owned	14	5.79	15.832		0.495	
	Male owned	28	13.14	38.162	-0.689	0.384	No
Firm's total gross receipts for the past 2 years	Female owned	16	4.63	2.125		0.024	
	Male owned	33	6.27	2.414	-2.325	0.021	Yes
Times have you applied for a loan and/or line of credit in the past 5 years	Female owned	16	1.88	1.746		0.193	
	Male owned	33	2.94	2.978	-1.57	0.123	No
Times have you been denied a loan and/or line of credit in the past 5 years	Female owned	16	1.94	2.38		0.408	
	Male owned	33	2.67	3.069	-0.912	0.368	No
Times have you applied	Female owned	16	1.75	0.577		0.969	

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for a bond in the past 5 years	Male owned	33	1.76	0.663	-0.039	0.968	No
Times have you been denied a bond in the past 5 years	Female owned	16	4.25	3.89		0.654	
	Male owned	33	3.73	3.769	0.451	0.659	No
Firm's largest bond acquisition in the past 5 years	Female owned	16	8.25	4.494		0.26	
	Male owned	33	6.61	4.841	1.14	0.25	No
Closest average bid range that the firm submitted in the past two years	Female owned	16	6.38	4.048		0.035	
	Male owned	33	3.67	4.128	2.167	0.037	Yes

Source: M³ Consulting

8.3 MULTIVARIATE REGRESSION ANALYSIS BASED ON SURVEY DATA

While survey data presents differences in capacities of M/WBEs and Non- M/WBEs 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 research³⁵³ 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. "Gross revenues," however, is often a measure of firm capacity as well as an estimation of utilization³⁵⁴. We present the results of the regression below.

³⁵³ 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.

³⁵⁴ While capacity may be measured by many variables, based on previous studies in the area such as past gross receipts, start-up capital, bonding, insurance and loans available, years in business, number of full-time employees, among others, M³ Consulting was constrained to only include those for which there were sufficient observations to draw any statistical inference.

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.
- **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 if the owners had any prior experience in public sector (2) and if that has any bearing on gross revenues of the firm.
- **Race, ethnic and gender group of firm owners:** The variables are expected to test if there is any statistically significant relationship between race, ethnicity and gender of the specific race and gender or ethnicity and gross revenues after all available capacity variables are controlled for.

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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	firm's gross revenues for past two years;
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, owner's prior public-sector experience, 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 of revenues for M/WBEs compared to Non-M/WBEs, once capacity is accounted for. ($GR_{(M/WBEs)} = GR_{(Non-M/W/SBEs)}$).

Disparity research theory contends that all things being equal, the race, gender and 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 five in one hundred (i.e., p-values of less than 0.05 or statistically significant).

One of the tests to examine if 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:

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Table 8.11.
M-DCPS - Results of Survey Regression Analysis Examining Gross Revenues of Firms
Dependent variable: Gross revenues in the past two years

Variable	Coefficient	Std. Error	t-statistic	p-value	Significant
Constant	2.36	1.16	2.035	0.044	Yes
Number of full-time, full- year employees	0	0.001	0.178	0.859	No
Company Age	0.059	0.014	4.258	0	Yes
What is your owner’s highest level of education?	0.408	0.175	2.333	0.021	Yes
Female-Owned firm	0.407	0.422	0.964	0.337	No
African American-owned firms	-1.618	0.575	-2.814	0.006	Yes
Hispanic American-owned firms	-0.798	0.518	-1.54	0.126	No
Asian American-owned firms	-1.597	1.118	-1.428	0.156	No
White female-owned firms	-1.051	0.696	-1.51	0.134	No
All other Minority firms except B_A_H firms	-0.456	0.933	-0.489	0.626	No
Prior Public-Sector Experience	-0.242	0.398	-0.607	0.545	No
F-Value/p-value: 6.956/ 0.000					
Adj R-sq: 0.585					

Source: M³ Consulting

The results show that firms that have been in business for more years and owners with more education correlates with increased revenues of the affected firms. While number of full-time employees (a proxy for size), or his/her prior experience in the public sector does not appear to influence the variation in revenues.

After accounting for variables that may impact revenues of firms, race, gender and ethnicity of the firm’s owner does not seem to have any influence, apart from African American ownership, which seems to significantly negatively impact revenues.

The coefficient for African American-owned firms was -1.618, indicating that African American-owned firms had revenues that were more than one and one-half times lower than similarly situated (similar capacity) firms. Hispanic American-owned firms, Asian American-owned firms and White female-owned firms also reflected similar results to African American-owned firms. However, their coefficients were not significant. This implies that after accounting for capacity, any variation in revenues of Hispanic American-owned, Asian American-owned firms and White female- owned firms from similarly situated Non-M/WBEs was purely due to chance. There may be other factors that attribute to African American-owned firms’ lower revenues.

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, other than for African American-owned firms, where there is a negative and consistent relationship between African American ownership status and revenues, no other race, gender and 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]³⁵⁵ 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 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]³⁵⁶. 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.

³⁵⁵Black, 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.

³⁵⁶ Meyer, B. 1990. "Why Are There So Few Black Entrepreneurs?" National Bureau of Economic Research, Working Paper No. 3537.

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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 others³⁵⁷ provide an excellent summary of the research in 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 (2007b) 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)³⁵⁸ 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 *Croson* 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 several programs constitutional³⁵⁹. 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. Based on the 2002 Economic Census Survey of Business 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 population³⁶⁰ 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.

³⁵⁷Blanchflower, 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)

³⁵⁸Blanchflower, D.G., "Minority self-employment in the United States and the impact of affirmative action programs", *Ann Finance* (2009) 5:361–396.

³⁵⁹Also 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)

³⁶⁰Based on the 2008 Statistical Abstract of the United States, population in 2006.

- 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.

A. Self-Employment Decision

First, M³ Consulting attempted to examine the factors that impact the self-employment decision and if 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

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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 if they contribute to the “yes” or “no” response, and if 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:

$$\ln(\pi/1-\pi) = \alpha + \beta_1 X_1 + \epsilon_1$$

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 if self-employment income is impacted by race and/or gender.

Linear regression is used to determine if 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:

$$Y = \beta_0 + \beta_1 X_1 + \beta_2 X_2 + \beta_3 X_3 + \beta_4 X_4 + \dots + \epsilon_1$$

where,

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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

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 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.

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Table 8.12. "Odds Ratio" For Self-Employment for Minority Groups Relative to Non-Minority Males Controlling for Economic and Demographic Factors		
Race/Ethnicity/Gender	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 8.13, 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 a Hispanic American to be self-employed in Florida. Also, Females are a little over half as likely as Males to be self-employed.

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The full results of the binary logistic regression are presented in the following table.

Table 8.13.
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

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business. Those in the Construction and professional services in Florida appear to favor self-employment as well.

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 8.14 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 8.14. "Odds Ratio" For Self-Employment for Minority Groups Relative to Non-Minority Males Controlling for Economic and Demographic Factors- Construction Only		
Race/Ethnicity/Gender	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 8.15.

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-

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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. Married individuals and those living in higher-value homes, perhaps with higher means, and those that last worked in the past twelve months are more likely to be self-employed. Those who are non-native and those who earned wages for the past twelve months are less likely to be self-employed.

Table 8.15.
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, 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; moreso than is seen in Asian Americans and Other races. The results as presented in Table 8.16 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.

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Table 8.16. "Odds Ratio" For Self-Employment for Minority Groups Relative to Non-Minority Males Controlling for Economic and Demographic Factors- Professional Services Only		
Race/Ethnicity/Gender	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 8.17.

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.

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Table 8.17.
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 8.18 below show that a non-minority 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.

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Table 8.18.
“Odds Ratio” For Self-Employment for Minority Groups Relative to Non-Minority Males Controlling for Economic and Demographic Factors- Maintenance and Maintenance-Related Services Only

Race/Ethnicity/Gender	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 8.19.

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.

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Table 8.19.
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.

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- 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.
- 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 the industries, this holds true with an exception of Military where there are no self-employment benefits.

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Table 8.20.
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;

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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.

Table 8.21.
Linear Regression Results for the Determinants of Self-Employment Income by Race and Gender for the Construction Industry

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

For the professional services industry, we document below in Table 8.22 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.

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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 8.22.
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

For the maintenance and Maintenance-Related services industry, we document below in Table 8.23 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

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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.

Table 8.23.
Linear Regression Results for the Determinants of Self-Employment Income by Race and Gender for the Maintenance and Maintenance-Related services Industry

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 SUMMARY OF FINDINGS

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.

- Based on Census SBO data, Hispanic American- and Asian American-owned firms appear to have higher capacity among M/WBEs, but these are smaller in absolute size than Non-M/WBEs based on number of employees and revenues among the race, gender and ethnic groups in the MSA. If relative capacity (compared to Non-M/WBEs) was considered, the differences in capacities among M/WBEs and Non-M/WBEs is small in Maintenance and Maintenance-Related Services, but is still high in Services and Goods & Supplies.
- Based on D&B, using number of employees, until the 500-employee range, there is little difference in capacity between the race, gender and ethnic groups; yet over 500 employees, there are few M/WBEs in the Tri-County MSA. Based on revenues however, the capacity differences among race, gender and ethnic groups diminish and MBEs, WBEs, M/WBEs and Non-M/WBEs are represented in all revenue ranges, including those over \$10 million.
- To analyze capacity of M/WBEs compared to Non-M/WBEs, M³ Consulting conducted a survey of vendors that register to do business with M-DCPS and examined the differences in capacity by race, gender and ethnic groups. Some summary highlights from the survey are as follows:
 - On average, Female-owned firms are statistically significantly younger and do not have significantly lower start-up capital than their male counterparts. They are also smaller with regards to full-time employees, as well as gross receipts, than Male-owned firms.
 - MBEs and White female-owned firms are significantly younger, with fewer full-time employees and lower gross receipts than Non-M/WBEs and hence have lower capacity, based on the survey responses. However, there is not sufficient evidence to show differences in initial levels of capital or number of contracts won by M/WBEs compared to Non-M/WBEs.
 - Female-owned firms apply significantly fewer number of times for a loan than their male counterparts and get denied fewer times as well.

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- The number of times that MBEs applied or got denied for a loan/line of credit or for a bond is not significantly different than Non-M/WBEs.
- After accounting for variables that may impact revenues of firms, race, gender and ethnicity of the firm's owner does not seem to have any influence, except for African American-owned firms, wherein they seem to negatively influence revenues. Any variation in revenues of other race, gender and ethnic groups from similarly situated Non-M/WBEs was purely due to chance.
- 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. 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-African-American firm. This holds true in the Maintenance and Maintenance-Related Services as well as Professional Service industries with self-employment earnings for an African Americans lower by \$1,173 and \$1,347 respectively. In contrast, Hispanic

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Capacity and Regression Analysis

Americans that are self-employed earn \$756 higher in professional services, but \$525 lower in Maintenance and Maintenance-Related industries.

While 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 and 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 and 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 the 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.

A. Summary of Anecdotal and Survey Participants

The anecdotal data was gathered through a series of 13 one-on-one in-depth interviews and two focus groups, which included ten and four participants, respectively (See Tables 9.1 and 9.2). Three focus group participants also agreed to in-depth one-on-one interviews to further explore the comments provided in their respective focus groups. Those interviewed included both minority and women business owners. The objective of the in-depth interviews was to capture the experiences, attitudes, issues, and perceptions of business owners seeking opportunities with M-DCPS.

Survey responses were gathered from 138 respondents, although respondents did not respond to all questions on the survey, as noted on each survey question summarized later in this chapter. M-DCPS assisted M³ Consulting by emailing all M-DCPS vendors, encouraging them to respond if they received a survey.

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 marketplace barriers and to corroborate statistical findings.

Collecting the findings and responses proved to be difficult due to Hurricane Irma causing the closure of businesses in South Florida and, most importantly, Miami-Dade County. The time delay of this natural occurrence created difficulty for the researchers to contact the businesses.

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 from interviews contained in this chapter was gathered by conducting confidential, in-depth interviews with minority and women business owners, as well as conducting two focus groups.

To identify business owners to contact for in-depth interviews, M³ Consulting utilized the M-DCPS vendor database, Master M/WBE List and the D&B database. D&B included a minority identifier. M-DCPS' vendor database was cross-matched against the Master M/WBE List to identify M/WBE firms by race and gender.

Each vendor listed was identified in one of the three procurement categories: Goods & Supplies, Maintenance & Maintenance-Related Services and 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. Based on the random sample pulled from the vendor and Master M/WBE lists, M³ Consulting attempted to contact over 478 firms for interviews, in our effort to secure interviews with at least 40 firms, including both Non-M/WBEs and M/WBEs. Each firm was called a minimum of five times. Firms willing to participate in one-on-one interviews were primarily African American-owned businesses. To buttress the one-on-one interviews, M³ Consulting conducted focus groups. The first focus group was sponsored by the Business Advisory Council and consisted of ten African American-owned businesses, race neutral providers and advocacy groups. The second focus group was geared to increasing the participation of Hispanic American- and Women-owned businesses. The focus group was sponsored by the Florida State Minority Supplier Development Council, which sent an invitation to its entire membership, specifically inviting Hispanic American- and Women-owned businesses to participate. Three separate focus group sessions were coordinated, of which two of the focus groups did not have any participants in attendance and the third focus group had four participants, all of which were African American-owned businesses. A total of 24 interviews through one-on-one interviews and focus groups were conducted. (See Tables 9.1 and 9.2).

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Several attempts were made to reach firms to participate in the interviews and focus groups. 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 interviews and surveys are a waste of time.
- Interviewees did not want any involvement with the disparity study.
- Interviewee was a certified business with M-DCPS, but had never responded to a bid or tried to do business with M-DCPS.
- Interviewee had already participated in surveys for different disparity studies and did not want to participate in another.
- Hurricane Irma caused a backlog of work and interviewee’s schedule would not permit participation until 2018, the following year.

Efforts to schedule interviews commenced approximately three to four weeks prior to Hurricane Irma. The hurricane caused a delay that pushed the researchers to follow up with the vendors after nearly a month, resulting in significant disinterest after the event occurred.

Table 9.1. One-on-One In-Depth Interview and Focus Group Participants	
Interview Count	Firm Owner Race and Gender
0	Non-M/W/SBE
1	Asian American Male-owned
16	African American Male-owned
3	African American Female-owned
0	Hispanic American Male-owned
4	Hispanic American Female-owned
0	White Female-owned
0	SBE (White male-owned)
24	Total

Source: M³ Consulting

Table 9.2.	
One-on-One In-Depth Interview and Focus Group Participants	
Interview Count	Firm Industry Category
3	Goods & Supplies
8	Maintenance and Maintenance-Related Services (includes firms who identified as Construction or A&E)
7	Services
6	M&TA, Advocacy, Ethnic Chambers of Commerce
24	Total

Source: M³ Consulting

Interviewers used M³ Consulting’s in-depth interview guide to probe and direct questions. Interviews were taped only when interviewees gave permission.

The M³ Consulting team analyzed all interviews. Common themes across interviews were grouped into similar and repetitive themes under eight topic headings. Interview excerpts are provided to support each theme and the race and/or gender are indicated. The excerpts illustrate interviewee experiences relating to each theme heading.

A. Interview Confidentiality

Each interviewee 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 interview may subject the interviewee 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 interviewees from any retaliatory actions by others.

9.3 ANECDOTAL 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.

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- Theme 1: Access to public sector opportunities
- Theme 2: Cooperation of Non-M/W/SBEs with M/WBEs
- Theme 3: Exclusionary practices by M-DCPS that create barriers to contracts
- Theme 4: Exclusionary practices by prime contractors that create barriers to 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: Suggestions and comments

Survey findings reflecting the experiences of 138 survey respondents follows the anecdotal interview discussion. Lastly in this chapter, overall observations drawn from the interviews and survey responses are discussed.

Theme 1: Access to opportunities

These remarks refer to the access that business owners believe they should contract work with the Miami-Dade County Public School.

Interviewee 1, Hispanic American Female, Construction (M&MRS):

Interviewee 1 stated she has had a positive experience working in the sector. Currently, one hundred percent of her contracts derive from the public sector. She has been in business for a very long time and has a twenty-five plus year business relationship with M-DCPS procurement department and with subcontractors. She understands the procurement process, when there is an opportunity, and how to access the opportunity. Her greatest concern is that the designation as a minority-women owned company creates more difficulty for her to compete with non-minority companies and large businesses. She plans to continue working in the public sector.

Interviewee 3, Hispanic American Female, Professional Services (Services):

Interviewee 3 expressed disappointment with her experience with M-DCPS. She stated that she feels she has not received adequate firm recognition and contracts. She does not understand how she can win bids and receive contracts with Miami-Dade County, but has

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been unable to bid on any opportunities with M-DCPS. She believes there is an issue with fairness as it relates to disadvantaged businesses participation in the bid process. “I think there is a ton of business that the school is purchasing directly that we are missing out on. Case and point, we actually won a bid for a couple of HP servers for one of the schools in Miami Dade County and they sent the purchase order. I called the end user to tell them we had won and were shipping and needed to clarify where it was going. She requested, I guess, a different part number for the hard drive, and what we had given her was a faster hard drive, but she questioned that and wanted to check with the IT person. When I spoke to the IT person and got back to her, all of a sudden, she wasn’t returning my phone calls and two weeks later, she sent it out to bid because it was a faster hard drive and they cancelled the purchase order”.

Interviewee 5, African American Male, Professional Services (Services)

Interviewee 5 has seen a serious decline in opportunities for his services since becoming certified with M-DCPS. He has successfully provided his services throughout the State of Florida. He expressed that becoming a certified firm has created a challenge with bidding on RFPs and RFQs. He explained that as a non-certified registered vendor, he was not required to go through a bidding process, but instead schools purchased his products and services through a regular purchase order. He expressed that he is frustrated with the lack of opportunities with M-DCPS and it has caused him to look for business opportunities with other counties in the state of Florida. Per Interviewee 5, there are readily available opportunities in other county school systems that are not in Miami-Dade County, and specifically not for local business owners.

Interviewee 10 and FG2, Participant 8 (P8), African American Male, Professional Services (Services)

Interviewee 10 expressed that as a small African American Professional Services firm, he has not been able to find the advocacy he needs in his area of specialty. “And when you're a small business, the pursuit cost, the dollars you spend looking to generate business, that's an important consideration as to how you manage your business.”

Theme 2: Cooperation of Non-M/W/SBEs with M/WBES

This group of anecdotal comments refers to the amount of goodwill shown M/WBES by Non-M/W/SBEs and the level of cooperation between M/WBES and Non-M/W/SBEs.

Interviewee 2, African American Female, Professional Services (Services)

Interviewee 2 stated she knows that M-DCPS has placed her firm's name on a list of certified firms with whom the prime vendor could possibly contract because she has received job orders from the Non-M/W/SBEs. Although she has received work from the Non- M/W/SBEs and has had a positive interaction with M-DCPS, she has found herself in a predicament where she has not been paid by a Non- M/W/SBE.

Interviewee 6, Asian American Male, A&E (M&MRS)

Interviewee 6 realizes that he is breaking through an area where being a minority small business does not mean that there is not competition with larger companies with a long history of business relationships with M-DCPS. He expressed that it is unfair for him to compete with larger firms that have greater resources and are in the same category, as it creates an uneven playing field. "Major barriers for growth and development as an agency is that there is a huge disconnect between the policy makers who institute these types of programs and the departments who utilize the services of consultants like myself or newer firms, or new vendors, or contractors who ever it may be. The general tendency is to go along with the people they have experience with and if you have not dealt with them before or they don't know you in that capacity, then you know there is a lot of reluctance to even consider you. That has been one of the major obstacles I have seen and I continue to face."

FG1, Participant 4 (P4), African American Male, Construction (M&MRS)

FG1, P4 does not see any cooperation between the Non-M/W/SBEs. He says it is unfair to compete with these large companies because it automatically creates favoritism.

Interviewee 4, Hispanic American Female, Construction (M&MRS)

Interviewee 4 says that it is difficult when there is not a requirement for prime contractors to use an M/WBE. She also stated that, if there is a prime contractor who wants to bring in a subcontractor or a separate vendor, they would ask her company for a quote with no assurance that the quote would not be shared with larger companies that can take on several

smaller projects. She expressed that she does not hear back from the prime contractor until weeks later and feels like it is a constant cycle of wasting her time to create quotes and follow up without a response. She is not currently working with M-DCPS, but is working with Miami-Dade County.

Interviewee 10 and FG2, Participant 8 (P8), African American Male, Professional Services (Services)

Interviewee 10 believes that he has secured some opportunities because “as an African American lead in my firm, what I find is I'm often really only considered as a useful addition to the team if the program has a diversity consideration that's a part of it, if it be a mandate, a priority of focus, or something of this sort.”

Theme 3: Exclusionary practices by M-DCPS and other public entities that create barriers to contracts

This section relates experiences of vendors and contractors in encountering practices by M-DCPS that could be attributable to discrimination.

Interviewee 1, Hispanic American Female, Construction (M&MRS)

Interviewee 1, overall has a positive experience with M-DCPS. There have not been any requirements, standards, or practices that have created barriers for her company to do business with M-DCPS. She has done business with M-DCPS for over two decades and observed that M-DCPS' bonding and insurance requirements are the same in comparison to other county public schools.

Interviewee 13: African American Male SBE Program Director

Interviewee 13 talked about the challenge of obtaining SBE participation under the Guaranteed Maximum Price. “I found that there was a problem down here in Miami-Dade County and definitely down south in Florida where there'd be contractors run everything. They tell you what you can do and what you can't do when I was like, ‘First of all, you're working for us, so you should be able to meet what we want to do.’ So I created a subcontracting form. And they were like, ‘Well you can't make us sign that and we can't really do it,’ because they get a GMP, which is our guaranteed maximum price. And they were like, ‘We don't know what the subs are going to do.’ And I'm telling them, ‘You're sitting here telling me in the interview that we've done these jobs over and over again, we know that

there's concrete, we know there's drywall, we know there's electrical, all of these different things, plumbing, and you're telling me you can't send down a price?"

FG1, Participant 1 (P1) African American Male, Construction (M&MRS)

FG1, P1, expressed what he believes to be a unique issue as it relates to the barriers his firm has faced with M-DCPS. The company is not allowed to receive a certification designation because of the structure of their company's ownership. He stated that, while most of the firm's owners are minorities, they all have equal shares and rights and thus, under the current policies, they are unable to become certified. In addition, his firm is not identified or accepted as a large entity either. He finds this restriction unnecessary and a barrier with M-DCPS' procurement process, as his firm has been successful in doing work with the county.

Focus Group 2 discussion about F2, P5, African American Male, Services experience with M-DCPS; also, FG2, P1, African American Male, Executive Director, African American M&TA Organizations, FG2, P7, African American Male, Goods & Supplies and Executive Director, African American Advocacy Org, FG2, P10, Executive Director, African American Advocacy Organization

FG2, P5 shared his experience doing business with M-DCPS over the twenty-five years of his business. "I developed over years a relationship with the school board and the people in capital improvement. And so, over the years, I would get, 'Oh I told somebody about you. You should be getting a call from so and so.' And that's how I developed my relationship with the school board. And so, with that, much or all of the people that are there know who I am, and I pretty much go to the school board every other day... So I don't send a courier to deliver my stuff. I take it myself because I want to be in front of these people who in some way or some form send me a project. So that's how I do my work over the years."

FG2, P10 cautioned FG2, P5 that the way he is doing business with M-DCPS is hindering his growth and development. "But I think it has more to do with, and you tell me if I'm mischaracterizing or not, the perception that he has to pay [attention], the lead business development person, who could be in Orlando, at Disney or Coca-Cola. Instead of being able to do that and assign, just say, generic rep, he has to pay so much attention to the relationship because the system doesn't allow him to feel comfortable with that... So he should be able to hire someone just to do it while he's chasing around the country."

FG2, P7 added his experience with trying to maintain relationships with M-DCPS. "But once I've established relationship with one school, I'm gone, because now I can pass it off to my

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girls on my team. So, not like him, I'm always in that love-hate relationship with the district. But on the school site, those are relationships we established years ago. Our frustration, I think your question-- you had that question for us was, is when you say, "preferred [vendor]." There's no such thing. Because there's a revolving door. Maybe on his floor, at the district, that rarely changes. But for us, you're principal [is there] two or three years. Next thing, they move you or promote you to move you. So it's always constantly having to go out there, making sure they see you. They know you're still in business. But the door changes every so many years.”

FG2, P1 added to this conversation that “The issue is how many times do they call him [FG2, P5] when it's not specs and plans? And who is getting that business? And that's what we have to find out because now he's been cut out of something that he does for the private sector. He does other plans. He does a lot of reproduction for private sector businesses and other institutions. So the issue is do they cut him out now?”

Theme 4: Exclusionary practices by prime contractors that create barriers to contracts

This section relates experiences of contractors in encountering practices by prime contractors that could be attributable to discrimination.

Interviewee 1, Hispanic American Female, Construction (M&MRS)

Interviewee 1 mostly bids as a prime contractor. She does not see any practices with prime contractors as exclusionary.

Interviewee 2, Hispanic American Female, Professional Service (Services)

Interviewee 2 can access bid opportunities. However, she expressed that it is difficult to work with the prime contractor as the prime does not allow direct contact with the project manager or whomever is supervising the project. She believes that, due to the lack of enforcement and procedures for prime contractors that are uncooperative, complaints and issues with the prime are difficult to deal with and handle.

Interviewee 7, African American Male, Goods & Supplies

Interviewee 7 feels isolated because there is no consideration for his industry at M-DCPS. He has worked with purchase orders received directly from the schools in the past. However,

since becoming certified, he has seen no change in his business and has grown frustrated, even after working with M-DCPS for ten to fifteen years.

Interviewee 3, Hispanic American Female, Professional Services (Services)

Interviewee 3 has not experienced any issues dealing with owners or firms. She stated that getting the jobs are based on relationships and price. Her biggest challenge is when her prices are shared with her larger competitors by the prime contractors or the schools and when her suppliers give the same or lower rate to the competition.

Interviewee 10 and FG2, Participant 8 (P8), African American Male, Professional Services (Services)

Interviewee 10, who works mainly as a subcontractor, would like public institutions to recognize that his terms are dictated by the prime contractor's terms negotiated with the public institutions. He would like the public institution to ensure that those negotiated terms are passed on to the prime's subcontractor to ensure "fair contracting." "The public institutions, as the client, have the ability to require and direct the prime to pass on fair contracting terms to me. I don't need the same level of insurance to do a sliver of the work as the prime would need for the entire work. I should be paid as promptly as the prime is paid. I should be given the opportunity to cure any default that may occur in a contract, which could be something as simple as you forgot to submit a report. I should be given the opportunity to cure that default within a reasonable period of time. I should have some forum for managing a dispute that doesn't translate to me having to incur an excessively lengthy or costly legal process, and absent a sort of intervener or a referee, the primes have the power to extract and negotiate, for many people, fairly onerous terms. In my case, I'm informed as to the terms, but many people aren't even technically informed as to what they are signing, because most of the small firms don't have - if they should or not's another matter - but they certainly don't have the same legal resources available to them."

Interviewee 13: African American Male, SBE Program Director

Interviewee 13 said M/WBE availability is impacted by nepotism and favoritism, with firms hiring family members and other people they feel comfortable with. He gave an example of a contractor doing business with his agency. "They have a landscaping company, a security company, and a janitorial company, okay? Now, I'm not saying that you can't do that, but we're in Miami, okay? Why should they hold all three contracts, okay? And, all right, you can't tell me that a security guard can be a custodial as well and maybe even cut the grass.

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But something, and I can't pinpoint it, as far as capacity, but something ain't right with that picture but they're getting a majority of the larger contracts...It happens and I've seen it...They tend to lie and then act like they don't know what you're talking about when it's written in black and white. And they claim they don't understand. They'll set up through a shell company if you let them get away with it. They'll lie that they have an office and they really don't. They just using somebody's address so they can get—like if we have locality in a contract and you get a certain amount of points. They do a lot of little sneaky stuff and they play like they don't know that it's going on now.”

FG1, Participant 4 (P4), African American Male, Construction (M&MRS)

FG1, P4 found that there is not an equal playing field with prime contractors and it is an unfair situation overall. “It’s unfair to have SMWB companies compete with large companies because it causes automatic favoritism. It is really about the relationship and that in itself can be a barrier, and there is nothing you can do about it because relationships are your competitive advantage.”

FG2, Participant 4 (P4), African American Male, M&MRS and Executive Director, Afro-Caribbean Business Organization

FG2, P4 stated that while he does a considerable amount of work in the Caribbean, in the local market, “It’s difficult to win contracts because our industry is considered still the good old boy industry.”

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.

Interviewee 1, Hispanic American Female, Construction (M&MRS)

Interviewee 1 has had positive experiences with M-DCPS, however, the portion of the bidding process that she believes creates the largest disadvantage is the presentation. She mentioned that she has the experience and the supportive documentation and M-DCPS should make their decision based on the paperwork submitted. She believes the process is unfair.

Interviewee 3, Hispanic American Female, Professional Services (Services)

Interviewee 3 believes that she is missing out on a lot of business because the opportunities are going through a bidding process and not being directly purchased. She believes that for bids and contracting opportunities, there are clear preferences and the same people are being hired and contacted for bids and direct contracts.

Interviewee 8 and FG2, Participant 3 (P3), African American Male, Goods & Supplies

Interviewee 8 believes there is no clear process for bidding and the same construction companies are constantly getting the jobs.

Interviewee 5, African American Male, Professional Services (Services)

Interviewee 5 was asked if he believes M-DCPS uses the same vendors, he quickly agreed that they do, but it was something he cannot fault them for in his industry. He stated in his industry, there are not as many competitors, but that does not remedy the lack of attention or opportunity that M-DCPS has given.

Interviewee 14, African American Male, Executive Director, African American Advocacy Organization

When asked about the availability of M/WBEs, Interviewee 14 said the issue is not simply availability of firms. A firm should, “from a provider of goods or services, of being able to have the ability to compete at the level, in terms of inventory supply and prices that are competitive.” So how the opportunity is presented by the public entity is very important. He gave an example of what his organization did to ensure that an African American painter had access to their opportunities. “So I had a painter who did not have the deep pockets to handle the whole job at one time. So I broke the job down into six sections and just contracted him on each section, as opposed to trying to give him the whole project at one time. He did the whole project, but he did it one section at a time. He did it in basically the same amount of time he would have done with the whole project, but he was able to manage it in terms of managing his cash flow, his suppliers. I never had an issue out of him. And I've used him subsequent to that on some other deals... immediately after he was done, guy made the personal sacrifice, went out, did whatever he needed to do, got his insurance levels up so that he could do some bigger stuff. He began to put some relationships in place that allowed him to kind of increase his access to capital. So it's a two-way street at the end of the day. But if we don't create a window of opportunity, and I'm talking about really creating, not with lip

service, really creating a window of opportunity, then y'all are going to be out of work at the end of the day.”

Interviewee 8 and FG2, Participant 3 (P3), African American Male, Goods & Supplies

Interviewee 8 said that his firm is the only African American-owned firm selling products in his specialty. “And therefore, we are not able to get any set-asides because there is no competition. And yet still, even though we are willing to compete open market, we hear that, “Oh, I forgot to call you,” or more importantly, “We didn't know you sold that.”

FG2, Participant 7 (P7), African American Male, Goods & Supplies

FG2, P7 stated that M-DCPS sometimes tailors their scope to specific firms. He provided an example of a supply firm. “[Firm name], the biggest [type of firm] supplier in the entire tri-county area, his friend wrote the legislation in Tallahassee. The specs for the RFP was written strictly for them. I happened to go in there and say, “Well, wait a minute. This was designed for somebody else.” So, your procurement director did not say, “Every time we put a procurement, I'm going to see this scope.” You're denying people to compete because the scope... in here is written for a certain result.”

FG2, P7 went on to discuss the exclusion of African American-owned firms based on the use of exceptions from Procurement. He stated that African American-firms are often not listed on the emergency purchases list which does not have to go through the regular bid process. As it relates to informal quotes, he said that “Even though there is a policy that says anything under a thousand dollars, you need three quotes. One must be a black. So, we become quote dummies because the discretion is still on the school site of whether or not I'm going to go at your low price. I like you Bob. I trust you, Bob. I know you, Bob. I'm going to go to Bob.”

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 SBE 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.

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Interviewee 1, Hispanic American Female, Construction (M&MRS)

Interviewee 1 said that she has participated in M/WBE programs mostly to build relationships and get to know the competition. She has not used the programs to improve the business concerning financial, technology or marketing standards.

Interviewee 2, African American Female, Professional Service (Services)

Interviewee 2 has participated in programs, but finds that none are applicable to her. She has attended meetings, but there is no follow up or even an understanding of the help the program will provide.

Interviewee 5, African American Male, Professional Services (Services)

Interviewee 5 stated he believes M/WBE programs were not needed. He has not used them to his advantage and has done well in his business. He does not have work with any of the schools in M-DCPS and said the material he offers is not biddable.

Interviewee 7, African American Male, Professional Services (Services)

Interviewee 7 said the M/WBE program is too focused on construction businesses and leaves a small window of opportunity for other industries to receive attention. He believes that if the program exists, then it should treat all vendors equally.

Interviewee 10 and FG2, Participant 8 (P8), African American Male, Professional Services (Services)

Interviewee 10 defined the objective of effective outreach as not simply getting firms on a list, but working to increase the amount of work done with those firms. From his experience conducting outreach, there is availability of M/WBEs in the broader market, but many of them are not certified because these firms have seen “in many cases, a real modern history of being certified and/or registered and not seeing any work for the effort and money it takes to do so...African Americans are broadly available in the market but minimally present as registered firms for the public institutions. And what we have found is, particularly for African Americans, most of the programs that have been advertised in the past have historically focused on targeting them. And those promises, unkept or unmet, have turned into a degree of discouragement on their part as to whether or not the particular project effort or particular program effort will actually yield anything.”

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Interviewee 10 also expressed concerned that the quality of the people hired in M-DCPS OEO does not match the significance of the issue. In his opinion, this reflects leadership's commitment. "...I would say about that is it also suggests a certain naïveté about the complexity of rolling out a diversity program at the same time that there is so much procurement activity coming down the pipeline, right? It's very hard. You've got hundreds of millions of dollars of stuff. You've got people responding and bidding, and you're trying to change a culture internally. It's very taxing on the structure to do so, and if you don't have a seasoned professional who can step in to do it, you have people who are learning on the job and people who are of the culture."

Interviewee 11 and FG2, P9, African American Male, M&MRS

Interviewee 11 has made a firm decision not to become certified. "[Corporate firm name] doesn't certify. [Corporate firm name] doesn't certify because the contractor buys the product and use it on the building because they like the product. So we're saying we're not going to play that game. We have a product for the entire industry just like anybody else. We didn't ask for nothing special. We just saying we got a good product in doing business. Now, we happen to be black owned, African American owned...but that has nothing to do with being certified. And the president decided, no, we ain't playing that game."

He went on to discuss the lack of impact on his business of goals and mentor-protégé programs. Interviewee 11 states that the only people impacted by a public institution not meeting its goals is the institution. "It hurts the people trying to establish goals. That's who it hurts. It hurts them. It's not hurting us...That's part of the problem with the disparity studies here, is that you always trying to prove and answer somebody statistics where you helping them, but you're not making any money... He went on to provide an example of participating in a public entity's mentor-protégé program. "Well, my lawyer at the time, one of my partners, said, "Man, this is not going anywhere. It's just games." Sure enough, I spent a whole year going to meetings, showing my products, sending samples, delivering samples to [public entity], ... not one opportunity to do business. Not even a bid. Not even an opportunity to say, "We don't want it."

When asked about access to capital, Interviewee 11 stated emphatically that he does not want or need loans. "I kept telling people, I don't need nobody to loan me no money. I need business. You follow what I just said? 'Do business with me, and that would take care of the rest. You getting me deeper in debt. I'm trying to sustain myself and you loaning me money. I don't need that."

Interviewee 13, African American Male, SBE Program Director

Interviewee 13 said that taking contracts of a million or less and putting them in a sheltered market for small and local firms has worked very well in getting contracts to M/WBEs. He admitted that he received more push back on sheltered market contracts for Goods & Supplies. “ And if I see that we have enough vendors and go show up to market and the dollar amount is not too large or it's not anything that is specific because—let's do janitorial supplies. I had one put into a sheltered market and I've got so much pushback from the larger companies across the nation because they had this [locked] down that they made me take it back and not even do it.”

Interviewee 13 believes he has a great deal of support from his leadership. Unlike M-DCPS, where he believes the board changes its responses depending on the level of community pressure, his board and executive leadership has been steady and affirms the direction of his organization when employees and contractors go over his head to complain.

Interviewee 14, African American Male, Executive Director, African American Advocacy Organization

When asked about the effectiveness of M-DCPS programs targeted to M/WBEs, Interviewee 14 stated “they say all of the right things, but in terms of really putting a real commitment and providing what I call political leadership in terms of making things different, that doesn't happen. We'll create some initiatives and "programs," ... But the actual implementation, follow-up and things that really make it viable are absent. There is no real commitment for seeing this thing through. ... in terms of what they do on a day-to-day basis related to making opportunities available, making sure that people are getting opportunities, and making sure that the folk on the other side of the table, in terms of people who work within the school systems are being sensitive about trying to get work to folks, I don't think that's happening. And I'm pretty sure it's not happening. And well let me add, I'm pretty sure it's not happening for African Americans”. He recommends that M-DCPS do more to ensure that small opportunities are made available to M/WBEs. “I think it also starts in terms of making a concerted effort to reach out to minority vendors or African American vendors in terms of who gets the calls and those kinds of things”.

Interviewee 14 also said he has watched the effectiveness of OEO fade over time. “What I saw with them was again their involvement in my mind's eye diminish - it just diminished. Their compliance, their monitoring, again, I saw it began to sort of wane; staff being cut, the quality of the people there diminishing in terms of folk who understood this work.”

FG2 Participant 1 (P1), African American Male, Professional Services (Services)

FG2, P1 expressed his frustration with the lack of implementation of M-DCPS' policy encouraging participation of M/WBEs. "Because it is all a bunch of rhetoric. But if you're talking about the school board, which is where you were going, policy has been put in place, but the minions aren't going to allow whatever policy that has been put in place to be enacted."

FG2, Participant 6 (P6), African American Female, Executive Director, Advocacy and Management and Technical Assistance Program for Minority Businesses

FG2, P6 discussed the difference in the quality of outreach and overall business support available to M/WBEs in another Florida city as compared to Miami. "I was embarrassed that Miami is as segregated as it is. And you don't realize that, until you go to other communities, how much support—the major bank presidents were there, Universal was there, Disney, Orlando Health, the school board, everybody was there. And they didn't just bring their black employees. Senior level team members were there." She went on to provide an example of an African American-owned firm in Orlando winning a multi-million-dollar school board project as the prime contractor. "And two African American firms, these are multi-million dollar schools that they're building. Bid, beat out primes. That don't happen in Miami-Dade County."

FG2, Participant 7 (P7), African American Male, Professional Services (Services)

FG2, P7 suggested that both the County and M-DCPS need to be more creative in getting M/WBEs involved in their procurement activities. "We know the manufacturer, so what could that manufacturer do different if he wants the district to continue to buy that product? We have to be, as a community, more demanding of the district, and they got to be more creative in saying, "We've been buying this thing for 20 years. You've been buying it through this same distributor here. We need to see you increase your number of distributorships." He suggested that part of the problem is a lack of business acumen on the part of the procurement staff.

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 ethnicity.

Interviewee 6, Asian American Male, A&E (M&MRS)

Interviewee 6 stated, “I feel isolated from the larger business community, I do not feel a part of the business community. I do recognize that it takes a while to get set up. But the system is actually a system problem and it is just not Miami Dade Public School”.

Interviewee 10 and FG2, Participant 8 (P8), African American Male, Professional Services (Services)

Having reviewed M-DCPS Phase 1 Disparity Study, Interviewee 10 found that the study was impacted by poor data capture systems at the District, which he believes is prevalent in many public institutions in South Florida. The lack of data capture reflects a general lack of responsiveness to litigation and procurement changes required to truly address the concerns expressed in the litigation. “A standard was established, and after that, just nothing. So no one did anything to drastically alter policies and procedures to meet the standard while still pursuing race-conscious procurement. None of the major public institutions put in place data systems that could accurately collect and track, based on racial categories, the level of procurement. So the data is poor, and that translates into difficulty undertaking the disparity study that they all have done or are considering. And it translates into difficulty interpreting that study and truly assessing the depth of the disparity that exists, right? And the shame of it all is that's all occurring at the same time that they're spending the most money that they've spent in the history of these organizations when you look at the county school board, Dade, Broward, and Palm Beach.”

Interviewee 11 and FG2, P9, African American Male, M&MRS

In responding to a question on if race impacts his ability to sell his product to prime contractors, Interviewee 11 responded “Out of 10 presentations, I may get rejected—when I say we fail purely on race, one out of three. So we'll say at 30 percent there was purely turned down because of race, but not—okay. Yeah, it still happens.”

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Interviewee 12, Hispanic-American Female, Executive Director, Ethnic Chamber of Commerce

Interviewee 12 stated the business environment for Hispanic-owned businesses “is pretty good, considering that 67 percent of the population is Hispanic. So in reality, since it's a majority, I don't see a lot of people complaining about not being accepted or not being given an opportunity. I do see, though, that sometimes, since many of the people that are Hispanic origin come from different countries, different backgrounds, and they may have a problem acculturating and assimilating to the American way of life. So there's language barriers. There's some acculturation barriers as well, so sometimes it's not that easy to become integrated into a community... So sometimes it's not that they're being discriminated against, it's just that they're new, and they have to slowly try to integrate themselves and take advantage of the programs that are available.”

Interviewee 14, African American Male, Executive Director, African American Advocacy Organization

Interviewee 14 feels that people do business with those that they are familiar with. Given the demographic make-up of South Florida, “...of the people who are making decisions about who gets what in this community, in 2017 there is a lack of African American representation in those roles. So at the end of the day, I think that that influences where work goes and how it goes, how it's put together at the end of the day. And that ought not to be a surprise to anybody.” He understands that African American-owned firms must be competent and available and engaging in the business community. “And the frustration, I think, that you may hear about in and around South Florida and again Miami-Dade County, in particular, is that for those who have done that and they are technically proficient, it is still very, very difficult for them to have an equitable shot at opportunities.”

FG 1, Participant 1 African American Male, Construction

FG 1, Participant 1 stated “The Hispanic community, primarily Cubans, began to grow in power. And what you began to see are white firms changing into Hispanic firms. They would either bring in a Cuban partner [and] that firm would totally change. And it became so obvious that most of the large white architectural firms overnight became Hispanic firms. And the same with engineering firms, and the same with contracting firms. And at that same time, minority wasn't popular anymore because there was no need for it. And then the cry was, "Well, why do we have to have these specialized programs?" And I think it's because the Hispanics could be on both sides of the coin at that point. The blacks never came back after

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that set-aside program. Then you had the—in '07, the economic downturn and the whole bit, and a lot of people just disappeared.”

FG2, P1, African American Male, Executive Director, African American M&TA Organizations

When asked if there is any difference in the treatment of Hispanic-owned businesses, based on national origin, he responded that Cubans are the favorite and now see themselves as more White than Hispanic. “Do I see a different treatment of—when you break it down by national origin or different areas like Cuban versus Hondurans or Venezuelans...Cubans are the favorite and they do more favoritism with each other to other Cubans and they will look out for each other...it's almost a class system to me. Cubans are top of the Hispanic echelon when it comes to Miami. But here, Cubans are—they call themselves the equivalent to the white.

FG2, Participant 6 (P6), African American Female, Executive Director, Advocacy and Management and Technical Assistance Program for Minority Businesses

FG2, P6 discussed the segregation and discrimination against African Americans based on national origin and/or ethnicity. “So I came to the US when I was five from Haiti. And one of my first jobs was as a jobs [inaudible] for Haitian social service organizations. Literally, I had hotels tell me, "Don't send them African Americans." Send them everyone else, but. Send me Haitians, send me Jamaicans. And I think people don't talk about that as honestly as they need to. And when I was the director of the Black Business Association, we got free office space in Little Haiti, somebody said, 'I'm not going to Haitian Town. There are black... I'm like, Hey, you know I'm Haitian. But you're not them.’”

FG2, Participant 10 (P10), African American Male, Executive Director, African American Advocacy Organization

FG2, P10 added to the historical perspective of FG 1 by saying that “What came out of that was all the disparities, issues, in all areas of qualities of life. Not just in quality of education, of criminal justice, you go right on down the line. There were disparities that were unified. And the riots were just the reaction to what was happening, the idea of lack of opportunity, lack of businesses, lack of access to capital for the black businesses in Miami-Dade County.”

Theme 8: 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.

Interviewee 1, Hispanic American Female, Construction (M&MRS)

Interviewee 1 overall is happy with her work with M-DCPS and did not have any suggestions or additional remarks at the end of the interview.

Interviewee 2, African American Female, Professional Service (Services)

Interviewee 2 expressed that she would want there to be follow up and care for subcontractors or hired vendors when it comes to dealing with prime contractors that have a contract with M-DCPS. She would like to see prime contractors held accountable.

Interviewee 3, Hispanic American Female, Professional Services (Services)

Interviewee 3 is happy with her work with M-DCPS.

Interviewee 4, Hispanic American Female, Construction, (M&MRS)

Interviewee 4 suggested “to have a minority business owned certified business own... because I don’t think there’s enough pressure from this government agency giving those job to these contractors that are winning the bid but they are granted the contracts and there not putting enough pressures to emphasize the importance of having to have business like mine that are smaller you know minority owned disadvantage business to enter that realm and basically be part of that whole movement. Basically, we are usually left out, we are not giving much of an opportunity.”

Interviewee 5, African American Male, Professional Services (Services)

Interviewee 5 expressed the following: “What I would like to talk to the powers that be whether its ... chief strategy officer, the superintendent, school board members and basically show the result and show our commitment that we have had to the school system through current and past sponsorship and based upon the data and try to figure out and partner together because I’m not asking I’m showing you data that is unmatched.”

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Interviewee 10 and FG2, Participant 8 (P8), African American Male, Professional Services (Services)

In making recommendations on how to increase opportunities for firms doing business in his industry area, Interviewee 10 differentiated between mandates and incentives. He stated, “while there are mandates and reporting, these do not lead to the culture shift within the institution necessary to encourage utilization of M/WBEs. The public institution needs to create some level of incentives for the professionals managing their program to be motivated to engage with firms like mine, which identify as a minority-business enterprise that also is a small-business enterprise. The incentives often aren't there. There are mandates and there are reports, but there are limited incentives to encourage a shift in the culture to adopt this focus.” He also expressed the differentiation between mandates and aspirational goals. “Aspirational goals that do not have the feel of a mandate can undermine the program’s intent and outcomes”. When a public institution utilizes aspirational goals, “... all someone has to say is, "I don't know where to find them," or "I can't find them." Right? And in the face of aspirational goals, the only thing that regulates the effort that the prime bidders go through are the practices of the public institutions. So the procurement officers or the procurement director or the diversity department, whoever it is on the public side, if they are not setting a tone of mandate in a level of effort by the private sector in the face of aspirational goals instead of mandates, you have something that looks good on paper in terms of the existence of a policy, but if policy doesn't ultimately flow to practice, right, then it's sort of insignificant.”

Interviewee 10 also suggested that public institutions develop pipeline projections with longer lead times so M/WBEs that need to get certified or pre-qualified to participate on a specific project have sufficient notice and time to “prepare themselves to be competitive...And if folks aren't registered with the public institutions, they're not "available" to do work.”

Interviewee 13, African American Male, SBE Program Director

Interviewee 13 made three recommendations on how M-DCPS could improve its outcomes with M/WBEs. “One, first strengthen up your OEO department. Two, go back and review your policies and procedures and then make sure that you're adhering to them. That's the first thing. The second [third] thing I think you take a look at again is the opportunity that you're making available to the business public, and to see and make a concerted effort in terms of how you get those into the hands of people that you have not been getting those into heretofore.”

F2 Participant 6 (P6), African American Female, Executive Director, Advocacy and Management and Technical Assistance Program for Minority Businesses

Focus Group 2 Participant 6 made several recommendations for improving M-DCPS' initiatives:

- Make sure that at least one M/WBE is getting a call on contracts at different thresholds;
- Create a letter of leadership commitment and who is accountable for ensuring that commitment is actualized;
- All procurement and business diversity [staff] should be certified in supplier diversity;
- Ensure website is updated and accessible;
- Put all bids on the website—term, state, etc., and who is responsible for the bid and the category that the bid falls into; and,
- Provide directory with buyer information.

9.4 SURVEY FINDINGS

The methodology utilized by M³ Consulting to conduct the survey has been described previously in Chapter IV: Statistical Methodology. In response to the survey, M³ Consulting received 138 survey responses. The race and gender of the 138 firms that responded to the survey is represented below in Tables 9.4 and 9.5, based on responses to Survey Question 16, Is at least 51 % of your firm owned and controlled by one or more women? and Question 17 Is at least 51% of your firm owned and controlled by a member of one or more of the following racial/ethnic/gender groups?

Based on responses to Question 16, 46.38 percent of respondents were majority-owned by women, and 52.90 percent had male majority-owners. Based on response to Question 17, MBEs represented 48.55 percent of respondents, while White Males represent 23.91 percent of respondents. Other race and gender mixtures represented 8.70 percent of respondents.

The respondents include 58 companies (42.03 percent) in the Goods & Supplies, 28 companies (20.29 percent) in the Maintenance and Maintenance-Related Services (which includes A&E and construction firms) and seven (5.1 percent) and 49 companies (35.51 percent) in Non-professional and Professional Services, respectively. Three companies (2.17 percent) did not

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respond to this questions. Most MBEs were in Goods & Supplies or in Professional Services (22 in each) with a good number of MBE respondents in Maintenance and Maintenance-Related Services. White male-owned firms were largely in Goods & Supplies, as were WBEs.

Table 9.3 Question 16, Is at least 51% of your firm owned and controlled by one or more women?		
	#	%
No response	1	100.00
Female-owned	64	100.00
Male-owned	73	100.00
Grand Total	138	100.00

Source: M³ Consulting

Table 9.4. Question 17, Is at least 51% of your firm owned and controlled by a member of one or more of the following racial/ethnic/gender groups?		
Race/Ethnicity/Gender	#	%
No response	10	7.25
African American	23	16.67
Hispanic American	39	28.26
Asian American	4	2.90
White Male	33	23.91
Native American	1	0.72
White Female	16	11.59
Other Race	12	8.70
Grand Total	138	100.00

Source: M³ Consulting

The results of Tables 9.7 and 9.8 were cross-tabulated against questions on the respondents' experiences attempting to do business with M-DCPS as a prime and with prime contractors as a subcontractor. Because of the procurement types for this study, which results heavily in prime vendor participation, we are reporting here results of firms' experiences as prime vendors.

Cross Tabulation of Questions 16 and 17 Against Question 37, If you did not submit a bid as a prime contractor to M-DCPS in the past 2 years, why not?

In question 37 of the survey, we sought feedback in the following areas:

Table 9.5. Q38 If you did not submit a bid as a prime contractor to M-DCPS in the past 2 years, why not?
1. No bids for what I sell
2. No notice of bids from M-DCPS
3. No relationship with M-DCPS
4. Too much bureaucracy/red tape
5. Language barriers make it difficult to communicate
6. Can't meet bonding, insurance or financial requirements
7. Contract size to large
8. M-DCPS favors certain contractors
9. Not certified by M-DCPS
10. Bid requirements unfair
11. Adequate and on-going technical assistance lacking
12. Technology

Source: M³ Consulting

Female-owned (31.6 percent) and Male-owned firms (25.6 percent) stated the contract size being too large and not having bids that match their products/services (21.1 percent and 33.3 percent respectively) as primary reasons not to submit a bid as a prime contractor. Both Female-owned and Male-owned business, 13.2 percent and 17.9 percent respectively, were discouraged from bidding, as they believed that M-DCPS favors certain contractors. Many Female-owned firms (15.8 percent as opposed to 2.6 percent of Male-owned firms) also claimed that the bidding requirements were unfair.

Minority-owned and White Female-owned firms found the contract size being too large (29 percent and 30 percent, respectively) and not having bids that match their products/services (24 percent and 20 percent respectively) as primary reasons not to submit a bid as a prime contractor. Over 20 percent of MBEs were also discouraged from bidding, as they believed that M-DCPs favors certain contractors claimed that the bidding requirements were unfair.

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In question 38 of the survey, we sought feedback in the following areas:

Table 9.6.	
Q38 In general, what has your firm experienced while bidding for contracts with the MDCPS or with a Prime Contractor? On a scale from 1 to 5 circle one number: 1 Never; 2 Rarely; 3 Sometimes; 4 Frequently; 5 Always.	
1.	Received timely notification of bid requests
2.	Officials followed bid procedures
3.	Officials evaluated bids/sub-bids
4.	Contract/subcontract was denied despite being lowest bidder
5.	Listed as a sub on a bid, but not utilized or substituted out post- award
6.	Could access an M/WBE procurement counselor or M/WBE officer to obtain information
7.	Changes in contract awards (cut or reduced work)
8.	Changes in scope of work (after work was started)
9.	Received payments too slowly as a prime contractor
10.	Received payments too slowly as a subcontractor
11.	Experienced solicitation of subcontractor bids after contract awards (i.e., bid shopping, problems contacting buyers)
12.	Unfair insurance or bond requirements
13.	Experienced discriminatory treatment from MDCPS when acting a prime contractor
14.	Experienced discriminatory treatment from prime when acting a subcontractor
15.	Experienced language barriers that made communicating with MDCPS difficult

Source: M³ Consulting

Cross-Tabulation of Question 38 Against Question 16

Table 9.7.	
Q38 In general, what has your firm experienced while bidding for contracts with the MDCPS or with a Prime Contractor? On a scale from 1 to 5 circle one number: 1 Never; 2 Rarely; 3 Sometimes; 4 Frequently; 5 Always.	
Question	Results
1. Received timely notification of bid requests	Almost 30 percent of Female-owned firms reported either never or rarely receiving timely notification, compared to only about 10 percent among Male-owned firms. 40.58 percent of respondents either found the questions not applicable or did not respond.
2. Officials followed bid procedures	Female-owned firms and Male-owned firms similarly found that officials did not follow bid procedures, with 1-never receiving the highest percentage of responses. 18.75 percent reported that officials never follow bid procedures, compared to 21.92 percent among Male-owned firms. 53.63 percent of responses were not responsive/not applicable.
3. Officials fairly evaluated bids/sub-bids	Female-owned firms reported that officials fairly evaluated bids/sub-bids at similar rates for 1-never (10.94 percent) and 5-always at 12.50 percent. 22 percent of Male-owned firms report that officials always fairly evaluated bids/sub-bids. 54.35 percent of responses were not responsive/not applicable.
4. Contract/subcontract was denied	Female-owned firms and Male-owned firms did not find denial as low bidder to be a significant issue, with Female-owned firms reporting a rates of 17.19 percent for

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despite being lowest bidder	1-Never, as compared to Male-owned firms who reported a rate of 23.29 percent. 69.57 percent of responses were not responsive/not applicable.
5. Listed as a sub on a bid, but not utilized or substituted out post-award	Female-owned firms reported substitution as less of an issue than Male-owned firms, with 12.50 percent of Female-owned firms reporting they never experienced this problem (1-Never), compared to 5.48 percent of Male-owned firms. 73.92 percent of responses were not responsive/not applicable.
6. Could access an M/WBE procurement counselor or M/WBE officer to obtain information	Female-owned firms had more of a problem accessing M/WBE procurement counselor than Male-owned firms, at 18.75 percent reporting 1-Never, compared to Male-owned firms at 9.59 percent. 68.04 percent of responses were not responsive/not applicable.
7. Changes in contract awards (cut or reduced work)	Female-owned firms reported changes in contract awards as less of a problem than Male-owned firms, at 14.06 percent for Female-owned firms and 9.59 percent for Male-owned firms (1-Never). 68.84 percent of responses were not responsive/not applicable.
8. Changes in scope of work (after work was started)	There was a closer comparison between Female-owned firms and Male-owned firms for changes in scope of work, with 17.19 percent of Female-owned firms reporting never experiencing this issue, as compared to 13.70 percent of Male-owned firms. 63.77 percent of responses were not responsive/not applicable.
9. Received payments too slowly as a prime contractor	Slow payments did not appear to be a significant issue for Female-owned firms or Male-owned firms. Female-owned firms reported the same rate (9.38 percent) for those who never experienced slow payments (1-Never) and those who always experienced slow payment (5-Always). Male-owned firms reported the same rate (10.96 percent) for those who never experienced slow payments (1-Never) and those who sometimes experienced slow payments (3-Sometimes). 53.63 percent of responses were not responsive/not applicable.
10. Received payments too slowly as a subcontractor	Payments as a subcontractor yielded similar results as the prime vendor results. However, a higher number of respondents did not respond to this question. 76.82 percent of responses were not responsive/not applicable.
11. Experienced solicitation of subcontractor bids after contract awards (i.e., bid shopping, problems contacting buyers)	Female-owned firms and Male-owned firms reflected similar patterns of not experiencing this issue (1-Never), with Female-owned firms reporting a rate of 17.19 percent, compared to 16.44 percent for Male-owned firms. 68.84 percent of responses were not responsive/not applicable.
12. Unfair insurance or bond requirements	The fairness of insurance and bonding requirements did not appear to be a significant issue for these respondents, with Female-owned firms reporting a rate of 21.88 (1-Never) and Male-owned firms at 21.92 percent. 66.67 percent of responses were not responsive/not applicable.
13. Experienced discriminatory treatment from MDCPS when	Similarly, discriminatory treatment did not appear to be a significant issue, with Female-owned firms reporting a rate of

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acting a prime contractor	28.13 percent, compared to Male-owned firms at 24.66 percent. 63.77 percent of responses were not responsive/not applicable.
14. Experienced discriminatory treatment from prime when acting a subcontractor	Discriminatory treatment at the subcontractor level reflected a similar pattern with Female-owned firms reporting they never had this issue at a rate of 20.31 percent, compared to 20.55 percent for Male-owned firms. 73.92 percent of responses were not responsive/not applicable.
15. Experienced language barriers that made communicating with MDCPS difficult	Language barriers also was not a significant issue for respondents, with Female-owned firms reporting language as never an issue at a rate of 29.69 percent, compared to Male-owned firms at 23.29 percent. 63.05 percent of responses were not responsive/not applicable.

Source: M³ Consulting

9.4.2 Cross-Tabulation of Question 30 Against Question 17

Table 9.8.	
Q30 In general, what has your firm experienced while bidding for contracts with the MDCPS or with a Prime Contractor? On a scale from 1 to 5 circle one number: 1 Never; 2 Rarely; 3 Sometimes; 4 Frequently; 5 Always.	
Question	Results
1. Received timely notification of bid requests	While timely notification is represented fairly evenly across all race/ethnicity/gender and scales, it is less of an issue (5-Always) for White Males at 30.30 percent than M/WBEs, which reflected between 8.70 percent for African Americans and 16.67 percent for Other Races. 40.58 percent of respondents either found the questions not applicable or did not respond.
2. Officials followed bid procedures	African Americans at 4.35 percent (1-Never) and 21.74 percent (2-Rarely) and Asian Americans at 25 percent (1-Never) reflected the highest concern over officials following bid procedures. Even so, African Americans were also well represented among those who believed officials did follow bid procedures at 17.39 percent (5-Always), along with Hispanic Americans at 15.38 percent, White Males at 33.33 percent, White Females at 25 percent and Other Race at 16.67 percent. 53.63 percent of responses were not responsive/not applicable.
3. Officials fairly evaluated bids/sub-bids	Almost 40 percent of White Male-owned firms found that officials fairly evaluated bids/sub-bids (5-Always), followed by African Americans at 17.39 percent and Other Race at 16.67 percent. For the most part, firm responses were fairly evenly distributed across scales. 54.35 percent of responses were not responsive/not applicable.
4. Contract/subcontract was denied despite being lowest bidder	Denial of award was not much of an issue for any group, with presentation heavily reflected for all race/ethnicity/gender groups between 1-Never and 3-Sometimes. 69.57 percent of responses were not responsive/not applicable.
5. Listed as a sub on a bid, but not utilized or substituted out post-award	Responses for substitution were fairly evenly distributed across scales for African Americans, White Males and Hispanics, except a slightly higher representation for Hispanics in 1-Never at 12.82 percent. 73.92 percent of responses were not responsive/not applicable.
6. Could access an M/WBE	Accessing M/WBE officer appears to be an issue for Hispanic Americans (17.95 percent at 1-Never and 7.69 percent at 2-Rarely),

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procurement counselor or M/WBE officer to obtain information	White Males (12.12 percent at 1-Never), White Females (18.75 at 1-Never) and Other Races (16.67 percent at 1-Never). African Americans appear to have a little less of an issue gaining access (4.35 percent at 1-Never, 8.70 percent at 2-Rarely). On the other hand, 8.70 of African Americans, 10.26 of Hispanic Americans, 12.12 percent of White males and 18.75 percent of White Females always have access to the M/WBE officers (5-Always). 63.04 percent of responses were not responsive/not applicable.
7. Changes in contract awards (cut or reduced work)	Changes in contract award does not appear to be an issue for the different race/ethnicity/gender groups, with it being less of an issue for Hispanic Americans at 17.95 percent, White Males at 15.15 percent and White Females at 12.50 percent at the scale 1-Never. 68.84 percent of responses were not responsive/not applicable.
8. Changes in scope of work (after work was started)	Similarly, changes in scope of work does not appear to be an issue for the different race/ethnicity/gender groups, with it being less of an issue for Hispanic Americans at 17.95 percent, White Males at 18.18 percent, White Females at 18.75 and Other Races at 16.67 percent of the scale 1-Never. Other Races had the same representation of 16.67 percent for the scale 5-Always, while African Americans were fairly evenly distributed across scales. 63.77 percent of responses were not responsive/not applicable.
9. Received payments too slowly as a prime contractor	Responses to slow payment were fairly evenly distributed across scales for all race/ethnicity/gender groups. 64.50 percent of responses were not responsive/not applicable.
10. Received payments too slowly as a subcontractor	Slow payment at the subcontractor level reflected similar results as prime contractor. 76.82 percent of responses were not responsive/not applicable.
11. Experienced solicitation of subcontractor bids after contract awards (i.e., bid shopping, problems contacting buyers)	Solicitation of subcontractor does not appear to be much of a concern for those who responded, with it being less of an issue for Hispanic Americans at 17.95 percent, White Males at 27.27 percent and 12.50 percent for White Females in the scale 1-Never. 68.84 percent of responses were not responsive/not applicable.
12. Unfair insurance or bond requirements	Unfair insurance and bond requirements does not appear to be much of a concern, with the highest level of responses for those who responded at the scale 1-Never. African Americans reported 13.04 percent, Hispanic Americans 23.08 percent, White Males at 33.33 percent, White Females ant 18.75 percent and Other Races at 16.67 percent. 66.67 percent of responses were not responsive/not applicable.
13. Experienced discriminatory treatment from MDCPS when acting a prime contractor	Among those who responded, 25 to 33 percent of respondents at the scale of 1-Never for Hispanic Americans, White Males, White Females and Other Races. African Americans were represented at this scale to a lesser degree at 13.04 percent. 63.77 percent of responses were not responsive/not applicable.
14. Experienced discriminatory treatment from prime when	At the subcontractor level, Hispanic Americans at 30.77 percent and White Males at 24.24 percent reflected that they never experienced discriminatory treatment (1-Never). White Females at 12.50 percent

acting a subcontractor	and African Americans at 13.04 percent were represented at this scale to a lesser degree. 73.92 percent of responses were not responsive/not applicable.
15. Experienced language barriers that made communicating with MDCPS difficult	Language barriers were not an issue for those who responded (1-Never), with Hispanic Americans at 35.90 percent, white Males at 24.24 percent, White Females at 37.50 percent, Other at 16.67 percent and African Americans at 13.04 percent. 63.05 percent of responses were not responsive/not applicable.

Source: M³ Consulting

9.5 SUMMARY OF FINDINGS

After analyzing the anecdotal evidence collected from twenty-four business owners and representatives in Miami-Dade County and 138 survey respondents, 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.

Impact of MWBE Certification on Ability of MWBEs to Participate in M-DCPS Procurement and Contracting Opportunities

Some interviewees appear to suggest that M/WBE certification has caused them to lose business opportunities with M-DCPS. These interviewees noted that they were receiving Purchase Orders—assumedly informal purchases—prior to certification. However, these opportunities ended, once they became certified with M-DCPS.

Challenges for Small and MWBE Firms to Sell at School Site and User Department Level

A few interviewees discussed their experience doing business at the school site or with User Departments. These interviewees were getting work from M-DCPS, but the level of effort required to maintain the relationship on these informal purchases could distract the CEO who is primarily responsible for business development in being able to pursue additional opportunities that allow their companies to grow and expand.

Fairness in Contracting

Several issues arose around the topic of fairness in contracting, particularly with Prime Vendors and Prime Contractors, including:

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- Desire for M-DCPS to ensure that Prime Contractor passed on negotiated contract terms to subcontractors, and does not allow the Prime to require terms prohibitive to subcontractor, when M-DCPS has not done the same with the Prime Contractor;
- Prime Contractors in South Florida dictate terms to public entities;
- Prime Contractors bid shop subcontractor quotes;
- Both M-DCPS and Prime Vendors engage in contracting based on preferences to do business with firms with whom they have prior relationships within the marketplace; and,
- Concerns about Business Acumen of Procurement Management Services and Office of Economic Opportunity Staff.

Several interviewees expressed concerns about the operations of both Procurement Management Services and OEO, including:

- Lack of knowledge and capabilities of PMS and OEO staff, which interviewees believed reflected a lack of commitment;
- Lack of understanding by staff of how businesses make money, therefore unable to increase contracting to M/WBEs;
- Ineffective implementation of current policy and programs; and,
- Limited ability to be creative in offering opportunities to the M/WBE community in a manner that they are capable of performing.

As for survey results, there was a high level of non-responses to questions related to firms' experiences with M-DCPS. However, areas that may require the attention of M-DCPS are as follows:

- Firms reported that the primary reasons that they do not bid with M-DCPS as prime contractors are contract size, M-DCPS does not purchase what the vendor sells and M-DCPS favors certain contractors.
- Female-owned firms have greater concerns about M-DCPS officials not following bid procedures than Male-owned firms. Asian American-owned firms and African

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American-owned firms found this issue more problematic than other M/WBE groups and Non-M/WBEs.

- White Female-owned firms and Hispanic American-owned business expressed difficulty gaining access to procurement counselors and M/WBE officer.
- Non-M/WBEs and Hispanic American-owned businesses reported fewer concerns about discriminatory treatment than African American-owned businesses and White Female-owned firms.

CHAPTER 10: ANALYSIS OF PRIVATE SECTOR DISPARITIES

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 role of the private sector was 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 participation in the private sector.

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.³⁶¹ 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 market place (based on EEO census tabulations);
- Miami-Dade County Business License data.

The present analysis may offer some evidence of the existence of passive participation, if any, by M-DCPS, in discriminatory acts in the private 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. First 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.

Unlike the State of Florida, which has over 56 percent White Americans, the MSA is skewed toward Hispanic Americans (42.82 percent) and about a third of White Americans (33.06

³⁶¹ A fundamental constraint, however, is the scarcity of economic and historical research that is sufficiently localized to address the first *Crosen* standard.

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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.

Table 10.1. Population by Race and Ethnicity Census 2010				
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.

Table 10.2 reflects the civilian labor force in the State by percentage per ethnic group, as well as in the Miami-Dade MSA 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 19 percent of the labor force and Asian Americans at 2.4 percent. In terms of gender, men have slightly higher participation at 52.3 percent compared to women at 47.7 percent.

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**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 directly impact business formation. Relevant 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 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, Laborers and Helpers and Service workers.³⁶² They also have 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. However, African American males have a small presence in all of 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 reaching two percent. White females largely participate in Administrative jobs, with an equal presence as White males in Sales, Technical and professional positions.

State of Florida

The State of Florida employment in Construction and Professional Services (Table 10.5 and 10.6) appear like 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.

³⁶² Contracts in the Maintenance and Maintenance-Related Services category often are construction-related, as such M³ Consulting analyzed construction data in this chapter.

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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			
	Race/Ethnicity/ Gender	Total #	Male %	Female %	Total #	Male %	Female %	Total #	Male %	Female %	Total #	Male %	Female %
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.

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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

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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.

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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, White Americans and African 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. This is in sync with RWASM Availability in Chapter 5 for Maintenance and Maintenance-Related Services, where Hispanic American-owned firms and African American-owned firms have a large presence, along with Non-M/WBEs. However, Non-M/WBEs dominate availability in the public-sector space, as in the case of M-DCPS, although Hispanic Americans dominate these occupations.

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.

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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.

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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			
	Race/Ethnicity/ Gender	Total #	Male %	Female %	Total #	Male %	Female %	Total #	Male %	Female %	Total #	Male %	Female %	Total #	Male %	Female %
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 are seen mostly 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 Americans, 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.

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Analysis of Private Sector Disparities

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.

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Analysis of Private Sector Disparities

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 like 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.

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Analysis of Private Sector Disparities

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
Race/Ethnicity/Gender	#	%	%	#	%	%	#	%	%	#	%	%
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.

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Analysis of Private Sector Disparities

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.

Based on the above discussion of demographics and occupational experience, we would anticipate the availability of businesses (thus the confirmation of business formation) that is consistent with the previous findings. M³ Consulting utilizes Miami-Dade County business license data and Dun and Bradstreet data to provide two measures of participation by firms in the marketplace (both public and private). Thus, the marketplace availability analysis also serves as an indicator of entrepreneurship by firms in the private sector and possible limitations in this regard.

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 5.7).

We see that in Goods & Supplies procurement, M/WBEs obtained about three percent (Table 10.13) of the business licenses to do business in Miami-Dade County, compared to 13.03 percent available in the M-DCPS Level 2 for Nationwide (relevant market for M-DCPS).

For Maintenance and Maintenance-Related Services, about 7.2 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 and 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 92 percent of the licenses are issued to Non-M/W/SBEs in the latter.

In Services procurement, a similar picture may be noted, with over 96 percent of licenses issued to Non-M/W/SBEs as an indicator of availability of firms doing business in the private sector, with 3.81 percent M/WBEs. In comparing this to M-DCPS availability, 14.08 percent of firms that are available to do business are M/WBEs. While the public sector has greater availability, Non-M/W/SBEs dominate this procurement area in the marketplace.

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Table 10.13.
Miami-Dade County Business License Data
FY-2013-2015

Ethnicity	Goods & Supplies		Maintenance and Maintenance-Related Services		Services	
	#	%	#	%	#	%
Non-M/W/SBE	19,120	96.99	13,459	92.76	115,819	96.17
African-American	8	0.04	99	0.68	191	0.16
Asian-American	1	0.01	4	0.03	33	0.03
Hispanic-American	12	0.06	397	2.74	707	0.59
Native-American	-	0.00	1	0.01	-	0.00
MBE	170	0.86	292	2.01	1,104	0.92
Total MBE	191	0.97	793	5.47	2,035	1.69
WBE	278	1.41	144	0.99	1,718	1.43
Non M-DCPS Certified M/WBE	123	0.62	107	0.74	838	0.70
Total M/WBE	592	3.00	1,044	7.20	4,591	3.81
SBE	-	0.00	2	0.01	4	0.00
Total MWSBE	592	3.00	1,046	7.21	4,595	3.82
Service-Disabled Veteran	1	0.01	4	0.03	16	0.01
Grand Total	19,713	100.00	14,509	100.00	120,430	100.00

Source: M³ Consulting; Miami-Dade County Business License Data

10.5 ANALYSIS OF DUN & BRADSTREET DATA

10.5.1 TOTAL AVAILABILITY

To gain some insight into the extent of M/WBE penetration of the private sector, we examine the marketplace data using Dun & Bradstreet that includes many small and micro private firms that may not have done business with M-DCPS. It provides an idea of firms that exist that M-DCPS may potentially attract to bid in the future. As presented in Table 10.14, in the Tri-County Area, there are 388,677 Non-M/WBEs and a total of 7,147 M/WBEs. The percentage of M/WBE firms in the marketplace (which includes the private sector) is much smaller at 6.88 percent than that of M-DCPS at 14.50 percent (see Chapter V, Table 5.5).

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Table 10.14.
Dun & Bradstreet Availability
Total Availability
Tri-County Area
FY 2016

Ethnicity	#	%
Non-M/WBE	388,677	93.12
MBE	6,874	1.65
M/WBE	5,599	1.34
WBE	16,228	3.89
<i>Total M/WBE</i>	<i>28,701</i>	<i>6.88</i>
Total	417,378	100.00

Source: 2016 D&B Hoovers Data; M³ Consulting

10.5.2 GOODS & SUPPLIES

Focusing on D&B to determine the potential firms in Goods & Supplies, there are a total 71,189 firms, with 6,449 M/WBE suppliers (9.06 percent). Of the M/WBEs, 1,484 (2.08) are categorized by D&B as MBEs, 1,147 (1.61 percent as M/WBEs), and 3,818 (5.36 percent) as WBEs. Comparatively, based on Table 5.7, there were a total of 233 Goods & Supply RWASM firms, representing 11.86 percent of the total pool of firms.

Table 10.15.
Dun & Bradstreet Availability
Goods & Supplies
Tri-County Area
FY 2016

Ethnicity	#	%
Non-M/WBE	64,740	90.94
MBE	1,484	2.08
M/WBE	1,147	1.61
WBE	3,818	5.36
<i>Total M/WBE</i>	<i>6,449</i>	<i>9.06</i>
Total	71,189	100.00

Source: 2016 D&B Hoovers Data; M³ Consulting

10.5.3 MAINTENANCE AND MAINTENANCE-RELATED SERVICES

While M-DCPS RWASM availability reflected high participation by M/WBEs at 34.52 percent, the broader marketplace, which includes small and micro firms in the D&B database in Table 10.16, shows a much smaller participation percentage by M/WBEs at only 7.38 percent in the Tri-County area. WBE contractors represented 2.33 percent (986 firms) of total in the marketplace, whereas 29 WBEs are shown as ready, willing and able to bid in formal or informal contracts in M-DCPS (See Table 5.9). The marketplace indicates there is a larger pool of Total M/WBE contractors in this procurement type at 3,115 firms, as compared to RWASM at 233 firms. These firms may potentially be available to M-DCPS through outreach.

Table 10.16.		
Dun & Bradstreet Availability		
Maintenance and Maintenance-Related Services		
Tri-County Area		
FY 2016		
Ethnicity	#	%
Non-M/WBE	39,118	92.62
MBE	1,441	3.41
M/WBE	688	1.63
WBE	986	2.33
<i>Total M/WBE</i>	<i>3,115</i>	<i>7.38</i>
Total	42,233	100.00

Source: 2016 D&B Hoovers Data; M³ Consulting

10.5.4 SERVICES

Marketplace availability includes firms that do business with the public and private sectors in Services' procurement in Table 10.17 and shows a much smaller percentage of M/WBE firms at 6.59 percent compared to RWASM availability of 14.08 percent in Table 5.10. The marketplace availability reflects a much larger pool of firms at 18,684 Total M/WBE firms out of 283,432 total firms. In comparison, there were 147 Total M/WBE firms out of 1,044 total firms in the RWASM availability pool that participate in M-DCPS (See Table 5.11). While these firms fall into NAIC codes representing M-DCPS products, through outreach

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efforts, M-DCPS could determine if these firms provide services utilized by M-DCPS and meet RWASM requirements and encourage them to bid on Service contracts.

Ethnicity	#	%
Non-M/WBE	264,748	93.41
MBE	3,834	1.35
M/WBE	3,692	1.30
WBE	11,158	3.94
<i>Total M/WBE</i>	18,684	6.59
Total	283,432	100.00

Source: 2016 D&B Hoovers Data; M³ Consulting

10.6 PRIVATE SECTOR SURVEY ANALYSIS

The survey data as discussed below provides some insight into a firm's willingness and ability to participate in the private sector. Examining firm's participation broadly by public versus private sector participation (Table 10.18), we note that only 11 of the 138 respondents participated exclusively in the private sector. The 11 firms were M/WBEs. All other firms participated in both the private and public sectors.

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Table 10.18.
Private v. Public Sector Survey Analysis

Respondents	Public sector v private sector		Total
	Only Private Sector Participation	Private and Public Sector Participation	
Did not respond	0	10	10
	0.00%	7.90%	7.20%
1 African American	2	21	23
	18.20%	16.50%	16.70%
2 Hispanic American	7	32	39
	63.60%	25.20%	28.30%
3 Asian American	0	4	4
	0.00%	3.10%	2.90%
4 Caucasian Male	0	33	33
	0.00%	26.00%	23.90%
5 Native American	0	1	1
	0.00%	0.80%	0.70%
6 Caucasian Female (WBE)	1	15	16
	9.10%	11.80%	11.60%
7 Other	1	11	12
	9.10%	8.66%	9.44%
Total	11	127	138
	100.00%	100.00%	100.00%

Source: M³ Consulting

To the extent possible from the survey analysis, we looked at the owner(s)'s prior experience as a possible reason to work in either only private sector or only public sector. We note the following, based on Table 10.19:

- Owners who worked previously in the private sector appear to bid with M-DCPS as well as other public-sector schools or agencies, but only a few of them continue to bid with the private sector.
- Firms with experience only in the public sector bid with M-DCPS and a few of them with other public sector/agencies as well, but none of them bid with the private sector.
- Those who have experience in both public and private sector in the past, work largely with the public sector, including M-DCPS, although a few bid in the private sector also.

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Table 10.19.
Bidding Experience of Private Sector Firms v. Public Sector Firms
Survey Analysis

Previous experience of owner(s)	Bid with M-DCPS			Bid with Private sector			Bid with Other Public School Systems			Bid with Other Public Entities		
	Did not respond	Yes	Total	Did not respond	Yes	Total	Did not respond	Yes	Total	Did not respond	Yes	Total
Did not respond	3	0	3	3	0	3	3	0	3	3	0	3
Private sector	46	29	75	62	13	75	69	6	75	69	6	75
Public Sector	6	6	12	12	0	12	9	3	12	9	3	12
Both	30	18	48	44	4	48	39	9	48	39	9	48
Total	85	53	138	121	17	138	120	18	138	120	18	138

Source: M³ Consulting

10.7 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, Reed Construction data and Miami-Dade County Business License data was reviewed.

10.7.1 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 a fifth 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 mimic the Civilian Labor force with Hispanic Americans taking the lead followed by White Americans and then African Americans. Furthermore, Hispanic American employment in construction and extractive occupations is in sync with RWASM Availability in Chapter 5 for Maintenance and Maintenance-Related Services. However, Non-M/WBEs dominate availability in the public-sector space as in the case of M-DCPS, unlike the private sector where Hispanic Americans dominate these occupations.

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.

10.7.2 Other Sources - Business License Data, D&B Data, Survey Data

Business License Data

Comparing business license data as a measure of firm availability for private sector to M-DCPS RWASM availability in Chapter 5 (Table 5.7), M/WBEs represented a rather small proportion of the marketplace, which includes firms doing business in both the private and public sector. Given their participation in the public sector, M/WBEs may be facing passive discrimination in the private sector, limiting their growth. Their largest presence in both the private and public sector was in Maintenance and Maintenance-Related Services.

Dun & Bradstreet

D&B data provides an indication of potentially available firms able to participate in the marketplace, inclusive of both the public and private sector. Given that D&B represents viable businesses, the lower percentage availability of M/WBEs in D&B, as compared to RWASM seems to indicate that M/WBEs may have a better chance in participating in the M-DCPS bidding process than the private sector market.

Survey

While very limited, the survey data provides an insight into determining if owners' prior experience leads them to bid with the public or private sector markets. From the responses, it appears that most respondents choose to participate in the bidding process with M-DCPS as well as other public-sector schools, but only a few of them continue to bid with the private sector. Those without previous experience with the private sector seem to shy away from trying to do so.

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.³⁶³
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.³⁶⁴

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.

11.2 METHODOLOGY

This chapter's race-neutral analysis is based on a review of seventy 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

³⁶³ 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).

³⁶⁴ Concrete Works I at 841.

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review are reflected in 11.4. 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

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11.3 MASTER LIST OF RACE NEUTRAL PROGRAMS

Agency/Organization		Type of Goal-Based Programs				Support Services
Organization's Name	County	SBE (also LBE and Veterans)	MBE	WBE	DBE	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 subcontractors 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 subcontractors. • 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
Broward County Public Schools M/WBE Office	Broward		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.

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						<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 Office of Economic and Small Business Development	Broward	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 subcontractors) 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.
City of Hollywood Office of Equal Opportunity	Dade	X	x			<ul style="list-style-type: none"> The City of Hollywood operates a race neutral Local Minority and Local Small Business Program. The goal of the program is to set aside procurement opportunities in the areas of construction, goods, and professional and non-professional services for qualified local minority and qualified local small businesses which in turn helps economic development in Hollywood and affects the entire community.

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Florida Department of Transportation	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 distinct programs. The Equal Opportunity Office is responsible for promoting and monitoring the participation of minority businesses. • 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
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						<p>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.</p> <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. <ul style="list-style-type: none"> • 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.
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						<ul style="list-style-type: none"> 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 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

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						<p>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.</p> <ul style="list-style-type: none"> • 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. • 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/offers directly to state agency purchasing agents.
Miami Dade College	Dade	Dade	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 subcontractor arises. • The College may award points for Architecture and Engineering (Professional Design), and Construction Services contracts based on an evaluation criteria of ten (10) total points (maximum). Points may be awarded, as follows, based

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						<p>on a 100 - point scale or an alternately proportionate scale being used by the College:</p> <p>TABLE A SLBE Project Participation Award Points</p> <p> Certified SLBE Prime Contractor 10</p> <p> 41% - 49% 8</p> <p> 31% - 40% 6</p> <p> 21% - 30% 4</p> <p> 11% - 20% 2</p> <p> Less Than 10% 0</p> <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.
Miami-Dade County Office of Community & Economic Development	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, subcontractor goals, bid preferences or selection factor. The County has three SBE Programs: <ul style="list-style-type: none"> 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

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						<p>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.</p> <ul style="list-style-type: none"> • 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 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 • 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 Minority Affairs	Miami-Dade	X	x	x	x	<ul style="list-style-type: none"> • 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.
Palm Beach County Schools Office of Business Diversity	Palm Beach	x	x	x		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:

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						<ul style="list-style-type: none"> • Bid preferences on prime contractors and subcontractor goals on Invitations to Bid • Evaluation preferences in the form of points for prime and subcontractor 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, subcontractors, 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	x				<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 subcontractors with all applications for payment from the County. OSBA personnel will also conduct on-site inspections of job sites and interview subcontractors to ensure compliance.

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						<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.
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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 County	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. EDC mentors out of the Pipeline Brickell office located in Downtown Miami. EDC also manages several incubator facilities in South Florida

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						<p>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.</p> <ul style="list-style-type: none"> • 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 Tampa Bay area and is typically a lead or co-investor in transactions totaling between \$0.5 million and \$2.5 million. • Emerging Technology Business Showcase--ETBS provides entrepreneurs, business leaders, investors and service providers a
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						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	Broward	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 • Offering financial assistance for export transactions to small- and medium-sized Florida companies • Providing the Florida Export Directory

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						<ul style="list-style-type: none"> • 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
Palm Beach SBDC	Palm Beach					<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 • Accounting Systems and Financial Literacy • Feasibility Analysis and Start-up Assistance • <i>Specialized Services</i>

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						<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: <ul style="list-style-type: none"> • 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. • <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
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						<p>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.</p> <ul style="list-style-type: none"> 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. <i>Business Continuity and Risk Management</i> <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. <i>Small Business Resource Network</i> <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, 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

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						<p>businesses, secure long-term, below market, fixed-rate financing for acquisition of fixed assets.</p> <ul style="list-style-type: none"> 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 Executive Coaching for Small Businesses M/WBE Business Conferences Coordination & Hosting of 828 Matchmakers

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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"> • Regional Planning Councils (RPCs) in Florida exist 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 prosperous and equitable communities, a healthier and cleaner environment, and a more vibrant economy. • Services Provided <ul style="list-style-type: none"> • GIS/Mapping • Data Center

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						<ul style="list-style-type: none"> • 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
Southern Florida Minority Supplier Diversity Council NAME CHANGED TO: Florida State Minority Supplier Development Council (FSMSDC)	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 minority-owned and operated in accordance with the guidelines set by the National Minority Supplier Development Council. • Programs offered by FSMSDC and activities in which members are engaged included the following:

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						<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
BAC Funding Corporation	Miami	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. • Traditional Loan Funds • Franchisee Financing Fund • Emerge Fund for infrastructure and business expansion and

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					<ul style="list-style-type: none"> • 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> <table border="1"> <tr> <td>Accommodates 800 employees who contribute to the local economy.</td> <td>Miami-Dade County will not encumber its borrowing capacity for the new facility.</td> </tr> </table>	Accommodates 800 employees who contribute to the local economy.	Miami-Dade County will not encumber its borrowing capacity for the new facility.
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						<p>Created more than 200 temporary construction jobs.</p> <p>Provides ten (10) permanent jobs, five (5) for area residents.</p> <p>Has increased rider-ship 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>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. 	

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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: <ul style="list-style-type: none"> • 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 Pompano Beach. The firm also has an ongoing working relationship with the Town of Davie over the past seven years: <ul style="list-style-type: none"> ▪ Prepared a Housing Needs Assessment and Mobile Home Task Force report (2008) ▪ Prepared a NSP 2 application to HUD (2010) ▪ Prepared the 2011 to 2015 Town of Dav

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Chamber South	Broward		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. • 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.

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						<ul style="list-style-type: none"> • 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 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. • 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	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

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Development Coalition						<p>and practice to invest in people, neighborhoods and social capital throughout Miami-Dade County.</p> <ul style="list-style-type: none"> • 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 non-profit 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 settings and webinars as organized and/or facilitated by SFCDC. • Technical Assistance and Consultant Services--SFCDC 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--SFCDC conducts policy research and advocates for policies that lead to more effective community development investment, accountability and oversight, programs and impact. SFCDC members use their voice and expertise help shape public policy through our housing and economic development policy committees. The committees are staffed by SFCDC and chaired by a SFCDC board member and/or general member. SFCDC 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 SFCDC's Board of Directors and executive team's advocacy work. • Facilitating Partnerships--SFCDC facilitates partnerships by creating opportunities for members and strategic partners to engage with each other. We build partnerships through:
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						<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 SFCDC members to network with each other and to introduce individuals who are working to expand affordable housing, create economic opportunities and develop vibrant communities. ○ Partnering with our diverse and growing member organizations and individual members to advocate policies, organize events and implement programs. <ul style="list-style-type: none"> ● 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.

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						<ul style="list-style-type: none"> • Incoming Delegations--To welcome international leaders to Miami-Dade County, The Beacon Council hosts receptions, seminars and networking events for delegations from key international locations. • 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 Chamber of Commerce	Latin of	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 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

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						<p>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 Chambers 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			<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			<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>

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						<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 • 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
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						<ul style="list-style-type: none"> • 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 • 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
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Greater Miami Chamber of Commerce	Miami of Miami-Dade		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. 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
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						<p>sponsorships, networking receptions and special events -- in all more than 200 events each year.</p> <ul style="list-style-type: none">• 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 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.• 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.
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Greater Miami Gardens Chamber of Commerce	Miami-Dade		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.
Haitian American Chamber of Commerce	Broward & Palm Beach	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	Miami-Dade		x			<ul style="list-style-type: none"> Promotes local businesses & works to enhance the economic engine in Hialeah.
Homestead/Florida City Chamber of Commerce	Miami-Dade		x			<ul style="list-style-type: none"> 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.
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.
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.

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Miami Chamber of Commerce	Dade of 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. • Annual Awards Gala – A Black Tie Affair, recognizing three outstanding individuals in the following areas. The H. T. Smith Life Time Achievement Award, The Community Service Award, and The Outstanding Citizen Award. This event is held the first Saturday in the month of December.
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						<ul style="list-style-type: none"> 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			<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 Miami Dade	X				<ul style="list-style-type: none"> The primary purpose of the Minority Chamber is advancing the commercial, financial, industrial, educational, preservation, and civic interest of the Minority business community. 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 Chamber of Commerce	Miami-Dade		x	x	x	Work to identify and better meet the changing needs of member businesses for commerce through:

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						<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 Florida Hispanic Chamber of Commerce	Miami-Dade	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

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						<ul style="list-style-type: none"> • 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 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 forums of empowerment where women can support each other in all aspects of business. • The WCC serves as a bridge to connect other professional and industry related organizations, creating one voice for all women in our County.

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Trade Organizations, Business Associations and Other Advocacy Group					
Agency/Organization		Type of Trade Organization, Business Associations or Other Advocacy Group			Support Services
Organization's Name	County	Trade Organization	Business Association	Other Advocacy Group	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, 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

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					<p>network of chapters. The South Florida Chapter focuses on the following areas for its members:</p> <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 • 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

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					<p>correct code violations in owner occupied homes of persons 60 years or older. Services are provided to Broward County residents.</p> <ul style="list-style-type: none"> 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: <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
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.

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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. It’s 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. 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.
The 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-

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					<p>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.</p> <ul style="list-style-type: none"> 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 of South Florida	Broward	x			<ul style="list-style-type: none"> The UCA of South Florida is a chapter of the National Utility Contractors Association (NUCA). 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 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 of Advancement for 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

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					<ul style="list-style-type: none"> 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	Miami-Dade			x	<ul style="list-style-type: none"> Provides support to professionals involved in the management of law firms, corporate legal departments and government legal agencies. Activities include knowledge sharing and networking opportunities; professional recognition; chapter and leadership support; and multiple educational tools, exchanges, and educational events.
Urban League	Miami-Dade		x	x	<ul style="list-style-type: none"> Provides services in the Liberty City community in 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 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

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					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 growth through advocacy and monitoring of economic conditions and economic development initiatives in Miami-Dade County. 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 SUMMARY OF FINDINGS

There are a significant number of race-neutral programs targeted to assisting and supporting M/WBEs. Some organizations continue to rely on goal-based programs to ensure M/WBEs participation in procurement opportunities. Though race-neutral programs within the Tri-County Area have made some progress in improving M/WBEs management skills, access to capital, and greater exposure to the larger business community, M/WBEs still face some difficulty in gaining access to public and private sector contracting opportunities.

As such, 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 issues and barriers faced by M/WBEs in the Tri-County area.

CHAPTER 12: CONCLUSIONS AND RECOMMENDATIONS

12.1 INTRODUCTION

Miller³ Consulting, Inc. (M³ Consulting) was commissioned by M-DCPS to conduct a Phase 2 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 Goods & Supplies, Maintenance and Maintenance-Related Services, and Services. 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
- Private Sector 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 CONCLUSIONS

12.2.1 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, when compared to the availability of ready, willing and able firms (RWASM), appears to be less inclusive than warranted, thus M³ Consulting draws an inference of discrimination against the following race, ethnicity and gender groups:

Table 12.1			
Inference of Discrimination Based on Findings of Statistically Significant Disparity			
By Race/Ethnicity/Gender			
By Procurement Type			
	Goods & Supplies	Maintenance and Maintenance-Related Services	Services
African American	Under**	Under**	Under**
Asian American	Under**	Under**	Over*
Hispanic American	Over*	Over*	Over
WBE	Under**	Under**	Under**

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

*Significant Overutilization

**Significant Underutilization

Below is a discussion of the factors leading to and impacting the findings of statistically significant disparities above. This discussion is followed by recommendations to address the factors creating the disparity. The recommendations include both race and gender-conscious and race and gender-neutral recommendations. These conclusions and recommendations should assist M-DCPS Board of Education and M-DCPS staff to determine if the disparity rises to a level of discrimination warranting the utilization of race and gender-conscious remedies within the parameters of the U.S. Supreme Court’s *Richmond v. Croson* decision and its progeny.

12.2.2 STATISTICAL FINDINGS IMPACTING STATISTICALLY SIGNIFICANT DISPARITY

A. Availability Issues

Based upon industry standards, M³ Consulting’s practice, experience and understanding of data available, credence is typically placed on RWASM estimates derived from bidders, sub-bidders and awardees in that order of importance. Marketplace availability measures, based on Census SBO, are presented as a benchmark of minority and women-owned firm availability and for M-DCPS to consider potentially available firms for outreach purposes.

The difference in Potential Availability and Actual Availability 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 awardees are presumed to be actually available, whereas the Census SBO includes firms that may not be actually available due to discrimination or other factors. Significantly more research and analysis is necessary to

determine the reasons for differences in availability levels between RWASM and Census SBO. Other than race and gender-conscious goals, such factors influencing the difference between RWASM Availability measures and Census SBO (and Business License and D&B Availability) figures could include, but not be limited to:

- Firms available in Census SBO, while falling into a North American Industry Classification System code utilized by M-DCPS, do not provide the specific goods and services required by M-DCPS;
- Firms within the Census SBO and D&B 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 begins to conduct inclusive outreach to and surveying of firms on the D&B and Business License lists to determine their interest and ability to provide their services to M-DCPS and the willingness of unverified D&B and Business Licenses Minority/Women-business enterprises to become certified to be eligible for M-DCPS' race and gender-conscious initiatives, more conclusive determinations can be made regarding the difference between RWASM and marketplace availability figures.³⁶⁵

B. Utilization Issues

Utilization findings are similar to findings in other analysis—Availability, Capacity, Anecdotal and Private Sector. Non-M/WBEs and Hispanic American-owned firms are utilized at the highest rates by M-DCPS. African American and Asian American-owned firms are consistently utilized at lower rates across the procurement categories in this Phase 2 Disparity Study.

Based on Purchase Orders, Hispanic-American-owned firm participation was highest in Maintenance and Maintenance-Related Services at almost 36 percent and lowest in Services at 5.04 percent; their participation was 19.80 percent in Goods & Supplies. WBE participation hovered around 1.2 – 1.3 percent for Goods & Supplies and Maintenance and Maintenance-Related Services and about 2.7 percent in Services. African American-owned and Asian American-owned firms received less than one percent of Goods & Supplies and Maintenance and Maintenance-Related Services POs, and a little over one percent in Services.

³⁶⁵ Specific firm information is not available from Census SBO.

C. Capacity Issues

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 could hinder firms from being actually and potentially available to M-DCPS. Because the pool of 13 firms that have exclusively contracted with M-DCPS is too small to draw definitive conclusions, M³ Consulting can only conduct an analysis on the pool of total respondents that include potential and actually available firms. Therefore, this analysis does not support drawing conclusions on any disparity outcomes since the sample of respondents is too small to generalize toward the population of all firms. Moreover, on important questions that discussed contracts and awards, the response rate was also small.

Even so, M³ Consulting was able to draw some conclusions from the various capacity analysis conducted. We found that, while M/WBEs have less capacity than Non-M/WBEs, Hispanic American-owned firms have the highest capacity among M/WBEs; African American-owned firms have the least capacity when compared to Non-M/WBEs.

12.2.3 QUALITATIVE FINDINGS IMPACTING STATISTICALLY SIGNIFICANT DISPARITY

A. Procurement

M-DCPS operates in a fairly centralized procurement environment for the procurement types under review for this study. However, on informal purchases below \$50,000, school sites continue to have significant purchasing authority. It is important to note that a decentralized procurement process is viewed in the context of the sufficiency of infrastructure support and organizational oversight to ensure transparency, accountability, efficiencies and above all, fairness and inclusiveness on an on-going basis on all purchases.

Procurement Management Services serves in a mostly administrative role on procurements that it does not directly procure. M-DCPS' procurement objectives of creating an inclusive, efficient, fair and open procurement process are sometimes secondary to providing School Sites and User Department's the greatest degree of flexibility in achieving their departmental objectives. In other areas where the Procurement Management Services does directly procure, M-DCPS' procurement staff appears to defer to the Goal Setting Committee when asked about efforts to include M/WBEs. There also appears to be limited knowledge and cross-training on procurement and M/WBE Supplier Diversity techniques, consistent with the level of detail and sophistication of the M-DCPS M/WBE program objectives and design and the operations of an inclusive procurement environment.

B. Anecdotal

The anecdotal data from 24 participants was gathered through a series of one-on-one in-depth interviews and two focus groups. Those interviewed included both minority and women business owners and management and technical assistance providers and advocates. 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 anecdotal testimony tended to reflect firms' perception of and concerns about the impact of unfair contracting practices and staff inexperience on the ability of S/MBEs and M/WBEs to do business with M-DCPS in a fair and open manner. Interviewees expressed concerns about the repeated use of the same firms, the negative impact of certification on their ability to obtain contracts, the lack of M-DCPS support in ensuring that prime contractors provide their subcontractors the same contract terms as M-DCPS' provides to the prime contractors. Interviewees also provided comments on their perceptions of M-DCPS and prime contractor preferences to do business with firms with whom they have prior relationships within the marketplace, bid shopping of quotes, and the manner in which public agencies appear to defer to their prime contractors in South Florida.

Interviewees also discussed the impact of the lack of experience and business acumen of M-DCPS staff and its negative impact on the ability of S/MBEs and M/WBEs to do business with M-DCPS. A few also expressed concerns about the challenges in doing business with M-DCPS school sites.

African American-owned firms and M&TA leaders were most willing to participate and voice their concerns. All analysis, including Anecdotal evidence, point to African American-owned firms as the group with the greatest challenges within the Miami-Dade area.

C. Private Sector

The local demographics in the Miami-Ft. Lauderdale-Pompano Beach MSA is dominated by Hispanic Americans at almost 43 percent, followed by White Americans at about 33 percent and African Americans at about 20 percent. The civilian labor force mirrors the population.

It is expected that the differences in the availability of firms in the relevant market would be representative of these statistics. As such, it is important to study the degree to which the population is gaining education and experience that could lead to business formation.

Chapter XII

Conclusions and Recommendations

Among all racial and ethnic groups, Hispanic Americans have the greatest employment presence in construction in the Miami-Ft. Lauderdale-Pompano Beach MSA. They lag behind White Americans in Professional Services, while tracking White Americans fairly closely in Support Services. African American and Asian Americans reflect smaller employment numbers than Hispanic Americans and White Americans, with Asian Americans having a very small presence in all categories.

Both Miami-Dade County Business License data and D&B data suggests that M/WBEs are represented in smaller proportion in the marketplace, which includes both public sector and private sector, than they are with M-DCPS. These findings are buttressed by survey findings, which further suggests that most of the survey respondents tend to do business in the public sector. Even the few that reported having previously done business in the private sector appear to have moved toward the public sector.

We further compared the expectations of business formation discussed in Chapter 8: Capacity and Regression to actual business formation in Chapter 10: Private Sector. From data on business formation in Chapter 8, it appears that African American-owned firms are the most unlikely to be self-employed and if self-employed, likely to have lower earnings than similarly situated individuals with similar economic and demographic profiles. Most other race, gender and ethnic groups are likely to be self-employed. We did note that race and gender do have a significant impact on the probability of being self-employed in the State of Florida. As seen in Chapter 8, the likelihood of self-employment by M/WBEs (other than African Americans) is seen in Maintenance and Maintenance-Related Services, which perhaps explains why the Business License data indicates their higher presence in this procurement category. Consistently, M-DCPS data in Chapters 5 and 6 also indicates higher presence (availability) and utilization of M/WBEs in this procurement category. These findings also appear to be consistent with the civilian labor force data, which reflects higher levels of minority employment in the Construction fields, which most closely correlates to Maintenance and Maintenance-Related Services.

African Americans lagged behind in employment across all categories. Asian Americans reflected their highest levels of employment in Professional Services, particularly Males in STEM professions, which would portend higher levels of business formation in these areas. Even so, their availability as reflected in both RWASM Availability and Business License Available are very low, which has led to their overutilization in the Services area, based on Disparity ratios.

D. Race Neutral

M³ Consulting reviewed over 70 Management, Financial and Technical Assistance providers, along with Chambers of Commerce and other networking organization, primarily in Miami-Dade County.

M³ Consulting found that, while these organizations had some impact on improving M/WBEs management skills, access to capital, and greater exposure to the larger business community, M/WBEs still face difficulty in gaining access to public and private sector contracting opportunities. Additionally, while there have been some efforts to address capacity in the Tri-County Area, in general, the slow growth in increased capacity remain an issue. Hispanic American-owned firms may be the exception to this general rule for M/WBEs. While race and gender-neutral efforts may have contributed in some degree to increased capacity and participation in contract awards, race and gender-neutral programs alone have not been fully effective in increasing availability, capacity or utilization of M/WBEs.

12.3 RECOMMENDATIONS

In light of the findings discussed in the previous chapters and the conclusions above, M³ Consulting is providing the following recommendations to M-DCPS. The recommendations contain both race and gender-neutral and race and gender-conscious elements. The recommendations are grouped under the following categories:

- *Crososn* Parameters for Recommendations
- Enhancements to Purchasing Procedures and Practices
- Identification of Race and gender-Conscious Goal Possibilities

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 in light of 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.

12.3.1 CROSON PARAMETERS FOR RECOMMENDATIONS

If M-DCPS chooses to continue to utilize some form of a race and gender-conscious program, it will need to meet the U.S. Supreme Court requirements of *Richmond v. Crososn*. Narrow tailoring is the crucial element in crafting appropriate *Crososn* remedies. 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, post-*Crososn* case law presents several broad guidelines for crafting recommendations for M/WBE programs by a public entity, based on the factual predicate findings.

- Race and gender-conscious M/WBE programs should be instituted only after, or in conjunction with, race and gender-neutral programs.
- 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. 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 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 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/WBEs availability and to addressing identified discrimination.
- M/WBE programs should limit their impact on the rights and operations of 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.

These measures are designed to address the underlying systemic factors that contributed to the disparity in contracting. Procurement adjustments, in particular, are considered by the U.S. Supreme Court as race-neutral. The Court requires a public entity to employ race-neutral means to the degree available. While the statistical findings suggest that M-DCPS can continue to utilize race and gender-conscious goals, the courts may question if M-DCPS has aggressively worked to change its own practices, as well as prime vendor practices, to eliminate statistical disparities. A review of the *Croson's* Courts views on this issue is relevant here:

Many of the barriers to minority participation in the construction industry relied upon by the city to justify a racial classification appear to be race neutral. *If MBEs disproportionately lack capital or cannot meet bonding requirements, a race-neutral program of city financing for small firms would, a fortiori, lead to greater minority participation.* The principal opinion in *Fullilove* found that Congress had carefully examined and rejected race-neutral alternatives before enacting the MBE set-aside.³⁶⁶

Given the existence of an individualized procedure, the city's only interest in maintaining a quota system rather than investigating the need for remedial action in particular cases would seem to be simple administrative convenience. *But the interest in avoiding the bureaucratic effort necessary to tailor remedial*

³⁶⁶ 488 U.S. 469, 508 (1989)

*relief to those who truly have suffered the effects of prior discrimination cannot justify a rigid line drawn on the basis of a suspect classification...*³⁶⁷

Even in the absence of evidence of discrimination, the city has at its disposal a whole array of race-neutral devices to increase the accessibility of city contracting opportunities to small entrepreneurs of all races. Simplification of bidding [488 U.S. 469, 510] 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. *Many of the formal barriers to new entrants may be the product of bureaucratic inertia more than actual necessity, and may have a disproportionate effect on the opportunities open to new minority firms.* Their elimination or modification would have little detrimental effect on the city's interests and would serve to increase the opportunities available to minority business without classifying individuals on the basis of race. The city may also act 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.*³⁶⁸

(Emphasis added.)

The Eleventh Circuit summed it up in this manner:

“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...”³⁶⁹

The Eleventh Circuit found that the County had taken no steps to “inform, educate, discipline, or penalize” discriminatory misconduct by its own employees.³⁷⁰ Nor had the County passed any local ordinances expressly prohibiting discrimination by local contractors, subcontractors, 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.”³⁷¹

³⁶⁷ *Id.* at 509.

³⁶⁸ *Id.* at 510-511.

³⁶⁹ 122 F.2d 895, 929 (11th Cir. 1997)

³⁷⁰ *Id.* at 929.

³⁷¹ *Id.*

12.3.2 ENHANCEMENTS TO PROCUREMENT AND S/MBE and M/WBES PROCEDURES AND PRACTICES

Below are recommendations to M-DCPS for organizational, cultural, structural and programmatic changes that will lead to transformative and sustainable change in M-DCPS' procurement operations and that will bring M-DCPS into regulatory compliance and alignment with best practices.

A. Change inclusion focus from programmatic (*compliance* with M/WBE regulations) to organizational (*commitment* to inclusive procurement environment)

M-DCPS has created strong M/WBE programmatic initiatives, but their implementation has been impacted by organizational and organizational culture issues. Much of the focus at M-DCPS has been on certification and establishment of goals. These efforts, while important to the issues of inclusion, are programmatic (related to operation of a specific program) and functional (focused on departmental function) in nature, and not focused on organizational and District-wide change. These programmatic efforts do not have a transformative impact on procurement and contracting operations that will lead to real and sustained change in organizational culture and practices as it relates to doing business with M/WBEs. Furthermore, the effectiveness of these programmatic efforts will not be maximized until underlying organizational issues impacting the inclusiveness of M-DCPS' procurement operations are addressed.

Many of the recommendations below focus on District-wide organizational changes that can lead to the transformation of M-DCPS' procurement system to become more inclusive, whether or not M-DCPS employs race and gender-conscious or race and gender-neutral programmatic initiatives. When implemented, these recommendations will also enhance the effectiveness of many recent M/WBE programmatic initiatives. Lastly, as we noted in Chapter IV: Statistical Methodology, under EEO requirements, employers must be able to "track" its **decision-making points**—applicants, promotions, terminations, etc. Similarly, M-DCPS should be able to "track" its **procurement and contracting-related decision-making points** in order to more effectively determine if M-DCPS' current practices in any way promote active discrimination or other exclusionary practices.

The importance of leadership commitment and organization-wide implementation cannot be underestimated in either a race and gender-conscious or race and gender-neutral environment. Most of M-DCPS' major vendors perform work statewide, nationally and/or

internationally and are intimately familiar with responding to various public sector inclusion efforts at the local, state and federal levels. Their degree of responsiveness often correlates to the public entity's degree of commitment to inclusion in which these firms are pursuing opportunities.

B. Identify Community Economic Development and Inclusive Procurement Objectives

To achieve the Vision, Mission and Goals as established by the Board of Education, procurement plays a pivotal role, along with proper planning and budgeting, which starts the execution and implementation of the process that actualizes the Board's objectives. Procurement Management Services and the Office of Economic Opportunity must operate in a manner that is both consistent with the policy objectives established by the Board and programmatically sound. M-DCPS can do so through striving toward inclusive procurement, which focuses in an on-going manner on working to ensure that all vendors—regardless of race, ethnicity, gender, national origin, sexual orientation, or disability—have the opportunity to bid and win M-DCPS procurement and contracting prime and subcontracting opportunities, thereby participating in the economic prosperity of the Tri-County Area. An inclusive procurement environment will incorporate the following elements:

- **Mission Driven**—The procurement and OEO objectives are tied directly to the overall vision, mission and goals of M-DCPS.
- **Opportunity Driven**—OEO, along with Procurement Management Services, is driven by M-DCPS' opportunities—identifying them, understanding them, managing them, communicating them.
- **Relationship Driven**—With the foundation that being opportunity driven provides, OEO and M-DCPS will be in the relationship development business. PMS and OEO will know its businesses that are capable of doing M-DCPS' work and ask the business community to share its goal of inclusive economic development.
- **Data Driven**—Sound data and fully integrated systems will provide senior management with the information it needs to report on successfully meeting its objectives and maximizing economic development, equity, organizational performance, along with the other objectives established by the Superintendent.

C. Training and Development

Many organizations engage their staff in diversity and sensitivity training. However, skills-based training is needed to create an inclusive procurement environment. We must

emphasize that inclusivity is an integral part of an efficient procurement process. As such, in order to create a baseline of knowledge, the following training should occur:

- All PMS, OEO and other appropriate Department staff should be provided basic training on both procurement operations, as well as M/WBE operations. If feasible, some staff members in OEO should become certified buyers through organizations such as National Institute of Government Purchasing and certified compliance officers through organizations such as the American Contract Compliance Association.
- All procurement staff and school sites and departmental staff engaged in procurement activity should attend a seminar on the components of the S/MBE and M/WBE program and established strategies for achieving established objectives.
- Once procurement, OEO and other appropriate Departmental staff have baseline training, the Chief Procurement Officer and the OEO Director are then positioned to train on higher level negotiating strategies and tactics in the various procurement categories and for particular types of goods and services that can be deployed, consistent with the tenets of sound procurement laws and regulations at both the formal and informal levels.

D. Full Implementation of M/WBE Programmatic Initiatives

M-DCPS has earlier established a sound M/WBE program and conducted strategic planning around those programs. Previously, M-DCPS made efforts to implement this program, but recent efforts have fallen due to significant leadership and staffing changes and cutbacks. M-DCPS needs to first work to implement its currently established initiatives before making programmatic adjustments. This can only be done sufficiently when items A-C are addressed. M-DCPS' current M/WBE programs require Procurement Management Services, OEO and Department staff who are well-grounded in procurement, M/WBE programs and supplier diversity to achieve the programs' outlined objectives. Otherwise, these programs and initiatives become no more than subcontractor goal programs, supported by certification and redundant outreach.

E. Budgeting, Forecasting and Scheduling

On an annual basis, M-DCPS should develop a budgeting and forecasting process appropriate for each procurement category that provides project information necessary for planning its activities as it relates to M/WBEs participation. With this pipeline information, M-DCPS is able to make transparent:

- Type of possible opportunities at prime and subcontractor levels, as well as formal and informal levels;
- Funding source; and,
- Timeframe that opportunity may be available.

With this information, M-DCPS can begin to (a) project the impact of M-DCPS' purchases on economic, business and employment growth in the Tri-County Area, (b) conduct matchmaking and (c) identify areas where local capacity is needed among M/WBEs and begin pre-bid capacity building efforts.

F. Consider Breaking Down Hispanic-Owned Firms by Sub-ethnicity

Hispanic-owned businesses reflect overutilization in all procurement categories. However, based on some anecdotal interviews, the overutilization may be caused by the participation of Cuban American-owned businesses. At this juncture, M-DCPS and other certifying agencies do not collect sufficient data to allow tracking based on Sub-ethnicity. The Census SBO data for all firms in the relevant procurement categories reflect that, of Hispanic-owned firms in the Miami-Ft. Lauderdale-Pompano Beach MSA, 45 percent were Cuban American-owned businesses, about six percent were Puerto Rican American-owned firms, another 3.75 percent were Mexican American-owned firms, and All Other Hispanic-owned firms represented almost 46 percent. M-DCPS OEO and PMS should consider tracking by sub-ethnicity to determine if there is any difference in experiences between Cuban American-owned firms and other Hispanic American-owned firms in M-DCPS bids and awards. If so, M-DCPS is positioned to further tailor its programmatic initiatives.

There is some precedent for this as California DOT delineates Asian American-owned businesses in two categories: Asian-Pacific Americans and Subcontinent Asian Americans. In Massachusetts, because of the historical discriminatory experience of Portuguese Americans, Portuguese American-owned firms are also eligible for certification, although their status was changed in 2016 from being included in the MBE definition to being shown separately as PBEs.

G. Monitor Contracts for Issue of Concentration

M-DCPS should continuously review its contracts to ensure that (1) the same Non-M/WBEs and M/WBEs are not securing a significant percentage of M-DCPS contracts and that (2) the same M/WBEs are not accounting for a significant percent of M-DCPS M/WBEs participation.

Concentration can be addressed in the following ways:

- Ensure that there is no steering of contracts at the prime or subcontractor levels;
- Expand pool of available firms;
- Expand capacity of available firms; and,
- Ensure that firms repeatedly submitting low bids are not requesting change orders post award or providing substandard work.

H. Promoting M/WBEs Participation at the Prime Contractor Level

To ensure that the responsibility for M/WBEs participation is shared by *both* M-DCPS and its prime vendors, M-DCPS should take steps to ensure that M/WBEs are involved in M-DCPS' procurement opportunities at the prime levels. Below is a listing of those efforts that M-DCPS can undertake:

- Identify prime-level procurement opportunities where a significant pool of M/WBEs are available;
- Establish prime-level participation targets to ensure that M-DCPS is focused on securing participation at the prime level, as well as subcontracting level;
- Improve procurement forecasting to allow for inclusive planning, matchmaking and outreach;
- Utilize race and gender-conscious initiatives, such as goals, evaluation factors, joint venture incentives, price preferences, targeted solicitation;
- Increase the utilization of S/MBE set-asides and sheltered market opportunities, where S/MBE availability supports doing so;
- Provide notice of small business opportunities (below \$50,000) and ensure that S/MBEs and M/WBEs are included in pool of firms being solicited;
- Consistently review pool of S/MBEs and M/WBEs sub-bidders and subcontractors to identify those that have done a significant level of subcontracting with M-DCPS

and/or other public agencies, thereby building a track record to support prime level awards;

- Unbundle contracts into commercially viable units;
- Optimize joint ventures, develop and encourage mentor/protégé program, recognize prime opportunities for distributors;
- Review and revise all technical specifications to exclude proprietary language that discourage M/WBEs from bidding; and,
- Develop evaluation mechanisms for measuring M-DCPS senior management commitment and staff's efforts toward M/WBE participation in M-DCPS contracting opportunities.

I. Increase Small Business Set-Asides and Sheltered Market Projects

Several recommendations above should assist M-DCPS in increasing the success of its small business set-aside programs. M-DCPS should:

- Consistently establish S/MBE goals, small business set-asides, and sheltered market projects.
- Forecast and publish annually list of anticipated small business purchases on website, based on current and historical purchases to minimize small business need to consistently check for upcoming bids;
- Ensure that M-DCPS has strong relationships with MT&A providers who are in constant communication with M/WBEs;
- Provide notice of small business opportunities on its website and/or through DemandStar;
- Allow for online submission of quotes and bids;
- Work collaboratively with and provide incentive to (where allowable) prime vendors to refer small business capable of performing small prime contracting opportunities;

J. Joint Ventures, Mentor-Protégé Programs, and Distributorships

M-DCPS should develop specific procedures for verifying, counting and tracking the participation of M/WBEs in:

- Joint Ventures
- Mentor-Protégé
- Distributorships

OEO should review and sign off on any teaming arrangements, where the team anticipates receiving M/WBE participation credit. M-DCPS may look to FAA advisory documents available on-line for guidance.

K. Effective Matchmaking and Outreach Programs

Matchmaking

Matchmaking is fundamental to a successful inclusive procurement program, whether race and gender-conscious or race and gender-neutral. Central to matchmaking is advance notice of the universe (pipeline) of upcoming contracting opportunities, as determined during forecasting, budgeting and scheduling.

Currently, M-DCPS has not implemented a full matchmaking process. Matchmaking programs must be tailored to the dynamics of a particular procurement operation. We emphasize that the matchmaking session is not for the purpose of steering vendors to buyers. M-DCPS purchasing and OEO personnel will be required to have detailed knowledge of the capabilities of certified M/WBEs to fully maximize the matchmaking process. The matchmaking session can include only M/WBEs, Non-M/WSBEs or both. The matching sessions should include the following:

- Coordinate matchmaking sessions with construction schedules and plans, forecast release and/or solicitation schedule. In many instances, matchmaking sessions follow pre-bid conferences. Matchmaking sessions can also be utilized to identify available firms for particular projects in planning stages. While not called matching sessions, the federal government often allows vendors to provide qualification information in pre-bid research to determine the level of competitiveness it can expect once the bid is let.

- Focus on specific commodity areas in the three procurement categories allowing vendors specializing in specific goods and services to have the opportunity to meet with buyers responsible for those commodities.
- Buyers and contract specialists should have procurement projections such that they can discuss specific upcoming opportunities and the requirements and procurement mechanisms that will be utilized to procure the good or service. This specificity is the key factor that distinguishes matchmaking sessions from outreach and vendor fairs.
- Identify informal and formal opportunities during the matching session so that vendors can determine where they have the greatest likelihood of successfully marketing to M-DCPS.

Matchmaking at the subcontractor level. Matchmaking takes on a team building dynamic at this level. Prime contractors/consultants have the opportunity to identify potential S/MBEs and M/WBEs team members on upcoming opportunities to be let by M-DCPS. To be most effective, M-DCPS personnel will be required to have an in-depth knowledge of the capabilities of the pool of certified M/WBEs. OEO staff also need to have strong business development skills. *The matchmaking session* should focus on a particular project, either in planning or prior to bid. It is critical for success that matchmaking occur as early in the planning process as possible. Prime contractors, construction managers and large consultants' planning process begin well in advance of the actual Invitation to Bid or Request for Proposal.³⁷² At the time of bid letting, prime vendors and contract managers have often already identified team members to address commercially viable opportunities at the subcontractor/subconsultant level that build a firm's capacity and portfolio. Conformance to S/MBE and M/WBEs requirements often times does not produce quality and high level S/MBE and M/WBEs participation, because these firms are an "appendage" to the team already developed.

In addition to establishing matchmaking initiatives planned around budgets and forecasts, M-DCPS' legal counsel should consider the legality of including responsiveness to matchmaking efforts as a factor of good-faith under M-DCPS' M/WBE initiatives. Anecdotal interviews in other locales suggest that, while prime vendors attend sponsored matchmaking

³⁷²Some government online bid and marketing portals employ staff that is in constant contact with government procurement agents and planning departments to identify projects for its clients that may be in the initial planning stages and not yet included in procurement forecasts and budgets. Membership in these portals can be as high as \$10,000 or more.

sessions, prime vendors often do not communicate with or make themselves available to M/WBEs after the sessions, thus opportunities for M/WBE groups do not often materialize.

Outreach

As reported in the Availability Analysis, there is a significant difference, in terms of numbers and sometimes percentages, between potential availability and actual availability RWASM. As noted in the Statistical Methodology, those in the pool of potentially available firms may not provide the good or service actually procured by M-DCPS. M-DCPS should thus focus its outreach efforts on expanding the total vendor and bidder pools to include potentially available firms from sources, such as other agency certified lists, business license data and Dun & Bradstreet (D&B) lists. These firms would have to meet M-DCPS’ certification requirements to be counted toward M-DCPS’ goal-based program targets. Furthermore, the inclusive outreach should pay special attention to ensuring that firms capable of bidding on informal contracts, small contracts and sheltered market opportunities are included in the vendor/bidder pool.

L. Monitoring and Tracking Reports -- Overall and Project-by-Project

As suggested previously under Recommendation A., M-DCPS should always be able to determine that procurement and contracting decision-making is executed in a non-discriminatory manner. We believe it is useful to view RWASM tracking from the standpoint of statistical data supporting applicant flow and compliant reporting:

EEO Applicant Flow	RWASM and Disparity Analysis Equivalent
Labor Force	Potential Availability from D&B Firms, Firms Receiving Building Permits and/or Business License, certified S/MBEs and M/WBEs firms, non-certified S/MBEs and M/WBEs firms, trade organization membership; yellow pages
Potential Applicants	Registered Vendors, Plan Holders, Pre-Qualified Vendors
Actual Applicants	Bidders and Sub-bidders (inclusive of quotes)
Actual Hires	Awardees and Payees
Actual Promotions	Difference between prime and subcontracting opportunities; vendor performance
Actual Terminations	Contract terminations, for convenience and for cause; substitutions

Source: M³ Consulting

In annual reporting on the achievement of M/WBE efforts to the Board of Education, Procurement Management Services and OEO's reports should also include the degree to which M-DCPS' efforts have:

- Promoted and strengthened economic prosperity in the Tri-County area;
- Enhanced competition;
- Expanded business capacity; and,
- Removed barriers and reduced or eliminated disparities.

12.4 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.

12.4.1 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, when effectively implemented. If operations are inflexible, it falls into a quota. The annual goal should be utilized by M-DCPS to periodically evaluate the effectiveness of its program and its project-specific efforts, as well as to gauge if it is appropriate to increase or decrease the mix of more aggressive remedies. In order 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 and gender-conscious means are supportable activities toward the achievement of established goals, based on the findings of statistically significant disparity. These categories are repeated here for convenience and include:

Table 12.2 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
Goods & Supplies	<ul style="list-style-type: none"> • African American • Asian American • WBE 	<ul style="list-style-type: none"> • Hispanic American
Maintenance and Maintenance-Related Services	<ul style="list-style-type: none"> • African American • Asian American • WBE 	<ul style="list-style-type: none"> • Hispanic American
Services	<ul style="list-style-type: none"> • African American • WBE 	<ul style="list-style-type: none"> • Asian American • Hispanic American

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

As significant disparity is eliminated in the race and gender-conscious categories, the utilization of race and gender-neutral means in attaining the established goals should be increased. However, in all instances where race and gender-neutral means are utilized, if significant disparity re-emerges, then race and gender-conscious techniques can be utilized on a non-permanent basis to correct identified disparities. Prime and subcontracting goals, bid preferences, sheltered markets and SBE set-asides are all tools for achieving participation through both race/gender-conscious and race/gender-neutral means. See also Recommendation I above.

While M-DCPS should utilize race and 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 underutilization can emerge or re-emerge with lack of focus by M-DCPS to be inclusive.

12.4.2 GOAL-SETTING FORMULAS AND TECHNIQUES

M-DCPS has at its disposal a wide-array of goal-setting formulas and techniques, including:

- Bid Preferences
- M/WBE Goals
- S/MBE Set-Asides

- S/MBE and M/WBE evaluation factors

The actual setting of race and gender-conscious or race and gender-neutral goals is a policy decision that requires action by the Board of Education. The Board of Education can establish overall annual policy goals by industry. Project-by-project goals could then be established by staff based upon the relative M/WBE availability for performance of the specific contract. This type of goal-setting would probably be considered the most legally defensible flexible form of goal setting available to M-DCPS.

M³ Consulting adds to this list of offerings its own goal-setting formula, which is described below.

A. ATMSM Formula

The Annual Target Method (ATMSM) formula, developed exclusively by M³ Consulting, allows entities to develop goals based on both market conditions (availability) and actual levels of participation by M-DCPS (utilization). The ATMSM formula also allows M-DCPS to forecast the necessary DBE participation levels to achieve the desired outcome, correcting for stated disparity, by an established date. This methodology has been designed to assist M-DCPS to determine its goals through a realistic and statistically valid model.³⁷³

To ensure that goals properly reflect the opportunity being bid and that goals do not appear to be set-asides because the same goal for a procurement category is applied to every trade or commodity area within that procurement category, M³ Consulting recommends that M-DCPS implement project-by-project goals. The ATMSM formula can still be used, but availability should be computed for each project type and then that availability measure used in the ATMSM formula. To calculate availability by project-type, M-DCPS must have a well-functioning Central Bidder Registry or Vendor List.

In the ATMSM formula, *G_p* or the target goal is either availability, weighted availability or a goal established above availability. When calculating the project goal using the ATMSM formula, the project goals become a function of correcting disparity and bringing overall utilization in line with overall availability for a particular procurement category. As such, the project goal will reflect the volume of dollars in a particular trade, commodity or project area and, thus, calculate its appropriate weight in assisting in correcting overall disparity.

³⁷³ ATM operates most realistically for an organization over time. The ATM is designed to correct for any disparity found. As such, established goals will be higher than availability, if disparity exists. Thus, if an organization attempts to correct for this disparity in a very short period of time, the goal calculations will result in very high numerical percentages. Actual calculations would be based on specific availability and utilization data from M-DCPS.

The calculation of ATM^{SM} is a two-step process:

1. A weighted availability measure is developed by using Sum of the Year's Digits method which results in a higher amount of weight being given to an availability measure which is ranked higher or deemed more reliable or important than other weighted availability used to calculate an average. The following formula: $\{N*(N + 1)\}/2$, will calculate the sum of the number of availability measures being averaged.
2. This weighted availability measure is then used in the computation process identified below to establish the actual target goal.

ATMSM Formula

For Computing Annual Targets for Minority and Female Participation

$$ATM = \frac{G_p(TCE_t) - TME_p}{TE_a}$$

T - P

Where

G_p = target goal for DBE, SB and M/WBEs participation. When the policy goal is used to bring utilization in line with availability, then

TCE_t = total cumulative expenditure at time frame

TE_a = total annual M-DCPS expenditure

TME_p = total minority cumulative expenditure at present

T = time frame year

P = present year

B. Race-Neutral Means To Achieve Goals/Targets

M-DCPS should first exhaust all race and gender-neutral means to achieve any established target, goal or benchmark. Race and gender-neutral means include (1) purchasing adjustments, (2) prohibition of discrimination in purchasing, and (3) matchmaking.

C. Race and Gender-Conscious Tools

Again, in order to be legally defensible, Race and gender-conscious contract goals should be subject to a variety of limitations:

- Race and gender-conscious goals, where allowable at M-DCPS, should not be applied to every contract across all purchasing types.
- Race and gender-conscious goals should generally be “good faith efforts” subject to waivers.
- Race and gender-conscious goals should be reviewed by Procurement Management Services and OEO to ensure that such goals do not disproportionately fall on one class of Non-M/WBE contractors or subcontractors. For example, awards of all painting subcontracts to minority firms would impose an undue burden on non-minority-owned painting subcontractors.
- Race and gender-conscious goals (in purchasing) for subcontracting should apply to both Non-M/WBE and M/WBE prime contractors;
- Firms eligible to benefit from race and gender-conscious goals at M-DCPS should be subject to graduation provisions; and,
- M-DCPS race and gender-conscious elements should be subject to annual review and sunset provisions.

12.5 SUMMARY

In summary, Miller³ Consulting, Inc. found that M-DCPS purchasing activities suggest 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’ purchasing processes.

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Appendix A: M-DCPS Statistical Tables

A.1 Total Utilization Counts

Table A.1. Total Utilization Contract Awards—Counts Miami-Dade County Public Schools Nationwide, 2012/2013 – 2014/2015								
	Goods & Supplies		Maintenance and Maintenance-Related Services		Services		Total	
Race/Ethnicity/ Gender	#	%	#	%	#	%	#	%
Non-M/W/SBE	181	83.80	67	54.03	146	84.39	394	76.80
African American	1	0.46	14	11.29	2	1.16	17	3.31
Asian American	1	0.46	2	1.61	1	0.58	4	0.78
Hispanic American	23	10.65	28	22.58	14	8.09	65	12.67
Non M-DCPS Certified MBE	2	0.93	2	1.61	4	2.31	8	1.56
Total MBE	27	12.50	46	37.10	21	12.14	94	18.32
WBE	4	1.85	9	7.26	1	0.58	14	2.73
Non M-DCPS Certified M/WBE	-	0.00	1	0.81	4	2.31	5	0.97
Total M/WBE	31	14.35	56	45.16	26	15.03	113	22.03
SBE	4	1.85	1	0.81	1	0.58	6	1.17
Total M/W/SBE	35	16.20	57	45.97	27	15.61	119	23.20
Service-Disabled	-	0.00	-	0.00	-	0.00	-	0.00
Total	216	100.00	124	100.00	173	100.00	513	100.00

Source: M-DCPS Contracts Data, M³ Consulting

Appendix A: M-DCPS Statistical Tables

Table A.2. Total Utilization Purchase Orders—Counts Miami-Dade County Public Schools Nationwide, 2012/2013 – 2014/2015								
	Goods & Supplies		Maintenance and Maintenance-Related Services		Services		Total	
Race/Ethnicity/ Gender	#	%	#	%	#	%	#	%
Non-M/W/SBE	87,734	77.14	3,515	57.33	10,678	69.66	101,927	75.39
African American	252	0.22	42	0.69	190	1.24	484	0.36
Asian American	154	0.14	48	0.78	341	2.22	543	0.40
Hispanic American	15,066	13.25	1,035	16.88	1,991	12.99	18,092	13.38
Non M-DCPS Certified MBE	1,680	1.48	644	10.50	1,044	6.81	3,368	2.49
Total MBE	17,152	15.08	1,769	28.85	3,566	23.26	22,487	16.63
WBE	8,101	7.12	295	4.81	1,021	6.66	9,417	6.97
Non M-DCPS Certified M/WBE	-	0.00	25	0.41	-	0.00	25	0.02
Total M/WBE	25,253	22.20	2,089	34.07	4,587	29.92	31,929	23.62
SBE	737	0.65	527	8.60	61	0.40	1,325	0.98
Total M/W/SBE	25,990	22.85	2,616	42.67	4,648	30.32	33,254	24.60
Service-Disabled	8	0.01	-	0.00	3	0.02	11	0.01
Total	113,732	100.00	6,131	100.00	15,329	100.00	135,192	100.00

Source: M-DCPS SAP Data, M³ Consulting

Appendix A: M-DCPS Statistical Tables

Table A.3. Total Utilization Accounts Payable—Counts Miami-Dade County Public Schools Nationwide, 2012/2013 – 2014/2015								
	Goods & Supplies		Maintenance and Maintenance-Related Services		Services		Total	
Race/Ethnicity/ Gender	#	%	#	%	#	%	#	%
Non-M/W/SBE	395,352	92.88	8,536	27.79	55,210	89.15	459,098	88.58
African American	296	0.07	175	0.57	718	1.16	1,189	0.23
Asian American	249	0.06	92	0.30	459	0.74	800	0.15
Hispanic American	16,616	3.90	19,352	63.01	2,556	4.13	38,524	7.43
Non M-DCPS Certified MBE	1,904	0.45	1,330	4.33	1,384	2.23	4,618	0.89
Total MBE	19,065	4.48	20,949	68.20	5,117	8.26	45,131	8.71
WBE	7,814	1.84	532	1.73	1,500	2.42	9,846	1.90
Non M-DCPS Certified M/WBE	-	0.00	49	0.16	-	0.00	49	0.01
Total M/WBE	26,879	6.31	21,530	70.10	6,617	10.68	55,026	10.62
SBE	3,434	0.81	649	2.11	99	0.16	4,182	0.81
Total M/W/SBE	30,313	7.12	22,179	72.21	6,716	10.84	59,208	11.42
Service-Disabled	1	0.00	-	0.00	6	0.01	7	0.00
Total	425,666	100.00	30,715	100.00	61,932	100.00	518,313	100.00

Source: M-DCPS SAP Data, M³ Consulting

Appendix A: M-DCPS Statistical Tables

A.2 COUNTS BY PROCUREMENT TYPE

A. COUNTS FOR CONTRACT AWARDS

Table A.4. Goods & Supplies Utilization Contract Awards—Counts Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015								
Race/Ethnicity/ Gender	2012/2013		2013/2014		2014/2015		Period	
	#	%	#	%	#	%	#	%
Non-M/W/SBE	44	84.62	78	83.87	59	83.10	181	83.80
African American	0	0.00	0	0.00	1	1.41	1	0.46
Asian American	0	0.00	1	1.08	0	0.00	1	0.46
Hispanic American	7	13.46	12	12.90	4	5.63	23	10.65
Non M-DCPS Certified MBE	0	0.00	0	0.00	2	2.82	2	0.93
Total MBE	7	13.46	13	13.98	7	9.86	27	12.50
WBE	1	1.92	0	0.00	3	4.23	4	1.85
Non M-DCPS Certified M/WBE	0	0.00	0	0.00	0	0.00	0	0.00
Total M/WBE	8	15.38	13	13.98	10	14.08	31	14.35
SBE	0	0.00	2	2.15	2	2.82	4	1.85
Total M/W/SBE	8	15.38	15	16.13	12	16.90	35	16.20
Service-Disabled	0	0.00	0	0.00	0	0.00	0	0.00
Total	52	100.00	93	100.00	71	100.00	216	100.00

Source: M-DCPS Contracts Data, M³ Consulting, Relevant Market—Nationwide

Appendix A: M-DCPS Statistical Tables

Table A.5. Maintenance and Maintenance Related Services Utilization Contract Awards—Counts Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015								
Race/Ethnicity/ Gender	2012/2013		2013/2014		2014/2015		Period	
	#	%	#	%	#	%	#	%
Non-M/W/SBE	8	72.73	10	43.48	31	44.29	49	47.12
African American	-	0.00	1	4.35	11	15.71	12	11.54
Asian American	-	0.00	1	4.35	1	1.43	2	1.92
Hispanic American	-	0.00	10	43.48	18	25.71	28	26.92
Non M-DCPS Certified MBE	-	0.00	-	0.00	2	2.86	2	1.92
Total MBE	-	0.00	12	52.17	32	45.71	44	42.31
WBE	3	27.27	-	0.00	6	8.57	9	8.65
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	1	1.43	1	0.96
Total M/WBE	3	27.27	12	52.17	39	55.71	54	51.92
SBE	-	0.00	1	4.35	-	0.00	1	0.96
Total M/W/SBE	3	27.27	13	56.52	39	55.71	55	52.88
Service-Disabled	-	0.00	-	0.00	-	0.00	-	0.00
Total	11	100.00	23	100.00	70	100.00	104	100.00

Source: M-DCPS Contracts Data, M³ Consulting, Relevant Market—Miami-Dade/Ft. Lauderdale/Palm Beach Tri County Area

Appendix A: M-DCPS Statistical Tables

Table A.6. *Services Utilization Contract Awards—Counts Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015								
Race/Ethnicity/ Gender	2012/2013		2013/2014		2014/2015		Period	
	#	%	#	%	#	%	#	%
Non-M/W/SBE	21	77.78	27	84.38	65	80.25	113	80.71
African American	-	0.00	-	0.00	2	2.47	2	1.43
Asian American	-	0.00	-	0.00	1	1.23	1	0.71
Hispanic American	2	7.41	4	12.50	8	9.88	14	10.00
Non M-DCPS Certified MBE	1	3.70	1	3.13	2	2.47	4	2.86
Total MBE	3	11.11	5	15.63	13	16.05	21	15.00
WBE	-	0.00	-	0.00	1	1.23	1	0.71
Non M-DCPS Certified M/WBE	2	7.41	-	0.00	2	2.47	4	2.86
Total M/WBE	5	18.52	5	15.63	16	19.75	26	18.57
SBE	1	3.70	-	0.00	-	0.00	1	0.71
Total M/W/SBE	6	22.22	5	15.63	16	19.75	27	19.29
Service-Disabled	-	0.00	-	0.00	-	0.00	-	0.00
Total	27	100.00	32	100.00	81	100.00	140	100.00

Source: M-DCPS Contracts Data, M³ Consulting, Relevant Market—State of Florida, *Services includes both Professional and Non-Professional Services

Appendix A: M-DCPS Statistical Tables

B. Counts for Purchase Orders

Table A.7. Goods & Supplies Utilization Purchase Orders—Counts Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015								
Race/Ethnicity/ Gender	2012/2013		2013/2014		2014/2015		Period	
	#	%	#	%	#	%	#	%
Non-M/W/SBE	31,116	77.79	30,436	77.62	26,182	75.85	87,734	77.14
African American	111	0.28	78	0.20	63	0.18	252	0.22
Asian American	80	0.20	25	0.06	49	0.14	154	0.14
Hispanic American	4,398	11.00	5,408	13.79	5,260	15.24	15,066	13.25
Non M-DCPS Certified MBE	520	1.30	473	1.21	687	1.99	1,680	1.48
Total MBE	5,109	12.77	5,984	15.26	6,059	17.55	17,152	15.08
WBE	3,475	8.69	2,535	6.46	2,091	6.06	8,101	7.12
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	-	0.00
Total M/WBE	8,584	21.46	8,519	21.72	8,150	23.61	25,253	22.20
SBE	298	0.75	259	0.66	180	0.52	737	0.65
Total M/W/SBE	8,882	22.21	8,778	22.38	8,330	24.13	25,990	22.85
Service-Disabled	-	0.00	-	0.00	8	0.02	8	0.01
Total	39,998	100.00	39,214	100.00	34,520	100.00	113,732	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—Nationwide

Appendix A: M-DCPS Statistical Tables

Table A.8. Maintenance and Maintenance Related Services Utilization Purchase Orders—Counts Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015								
	2012/2013		2013/2014		2014/2015		Period	
Race/Ethnicity/ Gender	#	%	#	%	#	%	#	%
Non-M/W/SBE	883	52.22	745	44.64	721	44.98	2,349	47.33
African American	14	0.83	21	1.26	7	0.44	42	0.85
Asian American	2	0.12	42	2.52	4	0.25	48	0.97
Hispanic American	341	20.17	371	22.23	323	20.15	1,035	20.85
Non M-DCPS Certified MBE	194	11.47	212	12.70	238	14.85	644	12.98
Total MBE	551	32.58	646	38.71	572	35.68	1,769	35.64
WBE	96	5.68	99	5.93	98	6.11	293	5.90
Non M-DCPS Certified M/WBE	10	0.59	7	0.42	8	0.50	25	0.50
Total M/WBE	657	38.85	752	45.06	678	42.30	2,087	42.05
SBE	151	8.93	172	10.31	204	12.73	527	10.62
Total M/W/SBE	808	47.78	924	55.36	882	55.02	2,614	52.67
Service-Disabled	-	0.00	-	0.00	-	0.00	-	0.00
Total	1,691	100.00	1,669	100.00	1,603	100.00	4,963	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—Miami-Dade/Ft. Lauderdale/Palm Beach Tri County Area

Appendix A: M-DCPS Statistical Tables

Table A.9. *Services Utilization Purchase Orders—Counts Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015								
	2012/2013		2013/2014		2014/2015		Period	
Race/Ethnicity/ Gender	#	%	#	%	#	%	#	%
Non-M/W/SBE	2,991	66.82	1,827	54.65	1,906	53.69	6,724	59.14
African American	99	2.21	58	1.73	32	0.90	189	1.66
Asian American	95	2.12	205	6.13	41	1.15	341	3.00
Hispanic American	645	14.41	597	17.86	749	21.10	1,991	17.51
Non M-DCPS Certified MBE	372	8.31	334	9.99	337	9.49	1,043	9.17
Total MBE	1,211	27.06	1,194	35.72	1,159	32.65	3,564	31.35
WBE	270	6.03	271	8.11	476	13.41	1,017	8.95
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	-	0.00
Total M/WBE	1,481	33.09	1,465	43.82	1,635	46.06	4,581	40.29
SBE	3	0.07	50	1.50	8	0.23	61	0.54
Total M/W/SBE	1,484	33.15	1,515	45.32	1,643	46.28	4,642	40.83
Service-Disabled	1	0.02	1	0.03	1	0.03	3	0.03
Total	4,476	100.00	3,343	100.00	3,550	100.00	11,369	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—State of Florida, *Services includes both Professional and Non-Professional Services

Appendix A: M-DCPS Statistical Tables

C. Counts for Payments

Table A.10. Goods & Supplies Utilization Accounts Payable—Counts Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015								
Race/Ethnicity/ Gender	2012/2013		2013/2014		2014/2015		Period	
	#	%	#	%	#	%	#	%
Non-M/W/SBE	127,098	92.06	145,681	93.48	122,573	93.02	395,352	92.88
African American	108	0.08	107	0.07	81	0.06	296	0.07
Asian American	120	0.09	68	0.04	61	0.05	249	0.06
Hispanic American	5,505	3.99	5,566	3.57	5,545	4.21	16,616	3.90
Non M-DCPS Certified MBE	613	0.44	567	0.36	724	0.55	1,904	0.45
Total MBE	6,346	4.60	6,308	4.05	6,411	4.87	19,065	4.48
WBE	3,149	2.28	2,847	1.83	1,818	1.38	7,814	1.84
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	-	0.00
Total M/WBE	9,495	6.88	9,155	5.87	8,229	6.25	26,879	6.31
SBE	1,467	1.06	1,005	0.64	962	0.73	3,434	0.81
Total M/W/SBE	10,962	7.94	10,160	6.52	9,191	6.98	30,313	7.12
Service-Disabled	-	0.00	-	0.00	1	0.00	1	0.00
Total	138,060	100.00	155,841	100.00	131,765	100.00	425,666	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—Nationwide

Appendix A: M-DCPS Statistical Tables

Table A.11. Maintenance and Maintenance Related Services Utilization Accounts Payable—Counts Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015								
	2012/2013		2013/2014		2014/2015		Period	
Race/Ethnicity/ Gender	#	%	#	%	#	%	#	%
Non-M/W/SBE	3,546	31.08	1,427	15.92	1,390	17.18	6,363	22.35
African American	112	0.98	45	0.50	18	0.22	175	0.61
Asian American	3	0.03	11	0.12	3	0.04	17	0.06
Hispanic American	6,866	60.19	6,665	74.35	5,821	71.94	19,352	67.99
Non M-DCPS Certified MBE	447	3.92	376	4.19	507	6.27	1,330	4.67
Total MBE	7,428	65.11	7,097	79.17	6,349	78.46	20,874	73.33
WBE	223	1.95	155	1.73	151	1.87	529	1.86
Non M-DCPS Certified M/WBE	21	0.18	23	0.26	5	0.06	49	0.17
Total M/WBE	7,672	67.25	7,275	81.16	6,505	80.39	21,452	75.37
SBE	190	1.67	262	2.92	197	2.43	649	2.28
Total M/W/SBE	7,862	68.92	7,537	84.08	6,702	82.82	22,101	77.65
Service-Disabled	-	0.00	-	0.00	-	0.00	-	0.00
Total	11,408	100.00	8,964	100.00	8,092	100.00	28,464	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—Miami-Dade/Ft. Lauderdale/Palm Beach Tri County Area

Appendix A: M-DCPS Statistical Tables

Table A.12. *Services Utilization Accounts Payable—Counts Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015								
Race/Ethnicity/ Gender	2012/2013		2013/2014		2014/2015		Period	
	#	%	#	%	#	%	#	%
Non-M/W/SBE	22,319	91.98	12,036	85.43	8,876	79.72	43,231	87.36
African American	384	1.58	284	2.02	49	0.44	717	1.45
Asian American	1	0.00	1	0.01	3	0.03	5	0.01
Hispanic American	803	3.31	900	6.39	853	7.66	2,556	5.16
Non M-DCPS Certified MBE	531	2.19	430	3.05	419	3.76	1,380	2.79
Total MBE	1,719	7.08	1,615	11.46	1,324	11.89	4,658	9.41
WBE	218	0.90	350	2.48	925	8.31	1,493	3.02
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	-	0.00
Total M/WBE	1,937	7.98	1,965	13.95	2,249	20.20	6,151	12.43
SBE	3	0.01	87	0.62	9	0.08	99	0.20
Total M/W/SBE	1,940	8.00	2,052	14.56	2,258	20.28	6,250	12.63
Service-Disabled	5	0.02	1	0.01	-	0.00	6	0.01
Total	24,264	100.00	14,089	100.00	11,134	100.00	49,487	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—State of Florida, *Services includes both Professional and Non-Professional Services

A.3 TOP TEN AWARDEES

A. TOP TEN AWARDEES BASED ON CONTRACT AWARDS

Table A.13. Top Ten Awardees Goods & Suppliers Contract Awards Location; 2012/2013 – 2014/2015				
Company Name	Counts of Awardees	% of Counts	Race/Ethnicity/Gender	Location
The Produce Connection, Inc.	5	2.16	Non-M/W/SBE	State of FL
Freedom Fresh, LLC	4	1.73	Non-M/W/SBE	State of FL
Lace Foodservice Corp.	4	1.73	Hispanic American	State of FL
AFP Industries, Inc.	4	1.73	Non-M/W/SBE	State of FL
ATCI Communications, Inc.	4	1.73	Non-M/W/SBE	State of FL
National Chemical Laboratories, Inc.	3	1.30	Non-M/W/SBE	Nationwide
Century/AAA, Ltd. (dba AAA Supply)	3	1.30	Hispanic American	State of FL
Ideal Supply, Inc.	3	1.30	Hispanic American	State of FL
48 Firms with 2	2	0.87		

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market— Nationwide

Appendix A: M-DCPS Statistical Tables

Table A.14.
Top Ten Awardees
Maintenance and Maintenance Related Services
Contract Awards
Location; 2012/2013 – 2014/2015

Company Name	Counts of Awardees	% of Counts	Race/Ethnicity/Gender	Location
Thomas Maintenance Services, Inc.	4	3.17	African American	Tri-County
SFM Services, Inc.	2	1.59	Non-M/W/SBE	Tri-County
Kasas Construction, Inc.	2	1.59	Asian American	Tri-County
A Affordable Carpet & Maintenance, Inc.	2	1.59	Hispanic American	Tri-County
Dade Restaurant Repair Shop, Inc.	2	1.59	Non-M/W/SBE	Tri-County
M.A.C. Construction, Inc.	2	1.59	WBE	Tri-County
Florida Coast Services, Inc.	2	1.59	Non-M/W/SBE	Tri-County
Florida Turf & Landscape Horticulture, Inc.	2	1.59	Hispanic American	Tri-County
Superior Landscaping & Lawn Services, Inc.	2	1.59	Hispanic American	Tri-County

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—Tri-County

Appendix A: M-DCPS Statistical Tables

**Table A.15.
Top Ten Awardees
Services
Contract Awards
Location; 2012/2013 – 2014/2015**

Company Name	Count of Awardees	% of Counts	Race/Ethnicity/Gender	Location
Carlos & Susanne School Bus Service	6	1.73	Non-M/W/SBE	State of FL
Maria Gamboa Bus Service, Inc.	5	1.45	Non-M/W/SBE	State of FL
Air B School Bus Transportation, Inc.	5	1.45	Hispanic American	State of FL
Cool Kids Learn, Inc.	4	1.16	Non-M/W/SBE	State of FL
Accessible Communication for the Deaf, Inc.	4	1.16	MBE	State of FL
United Healthcare	4	1.16	Non-M/W/SBE	Nationwide
ADT Transportation, Inc.	4	1.16	Non-M/W/SBE	State of FL
Nationwide Interpreter Resource, Inc.	4	1.16	M/WBE	State of FL
One On One Learning Corporation	4	1.16	Hispanic American	State of FL
Catapult Learning, Inc.	4	1.16	Non-M/W/SBE	Nationwide
Florida Educational Leadership Council, Inc. dba FELC Tutors, Inc.	4	1.16	Non-M/W/SBE	State of FL

Source: M-DCPS Contracts Data, M³ Consulting, Relevant Market—State of Florida

Appendix A: M-DCPS Statistical Tables

B. TOP TEN AWARDEES BASED ON PAYMENTS

Table A.16. Top Ten Awardees Goods & Supply Firms Accounts Payable Location; 2012/2013 – 2014/2015						
Company Name	Dollars	% of Dollars	Count of Payments	% of Counts	Race/Ethnicity/ Gender	Location
US Foodservice	137,593,515	16.20	124,919	29.35	Non-M/W/SBE	Nationwide
Florida School Book Depository Inc	34,626,324	4.08	5,623	1.32	Non-M/W/SBE	State of FL
Mansfield Oil Company	34,155,561	4.02	1,536	0.36	Non-M/W/SBE	Nationwide
Borden Dairy Co Of Florida LLC	28,654,767	3.37	39,573	9.30	Non-M/W/SBE	State of FL
The Produce Connection Inc	18,773,267	2.21	58,189	13.67	Non-M/W/SBE	State of FL
Florida Transportation Systems	17,849,936	2.10	426	0.10	Non-M/W/SBE	State of FL
United Data Technologies Inc	17,385,237	2.05	2,400	0.56	Hispanic American	State of FL
McGraw Hill Publishing Co	11,563,023	1.36	402	0.09	Non-M/W/SBE	Nationwide
The College Board	6,671,799	0.79	79	0.02	Non-M/W/SBE	Nationwide
Frozen Treats	6,401,396	0.75	38,044	8.94	Non-M/W/SBE	State of FL

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market— Nationwide

Appendix A: M-DCPS Statistical Tables

Table A.17.
Top Ten Awardees
Maintenance and Maintenance Related Service Firms
Accounts Payable
Location; 2012/2013 – 2014/2015

Company Name	Dollars	% of Dollars	Count of Payments	% of Counts	Race/Ethnicity/Gender	Location
MCM Corporation	6,784,658	10.87	14	0.05	Non-M/W/SBE	Tri-County
Mexal Corporation	4,868,170	7.80	1,824	5.94	Hispanic American	Tri-County
BDI Construction Company	3,941,934	6.32	115	0.37	Hispanic American	Tri-County
Unitech Builders Corp	3,616,624	5.80	98	0.32	MBE	Tri-County
Trane U S Inc	2,649,613	4.25	43	0.14	Non-M/W/SBE	Tri-County
Mac Construction Inc	1,828,457	2.93	67	0.22	MBE	Tri-County
Coastal Construction Company	1,662,992	2.66	37	0.12	Non-M/W/SBE	Tri-County
Tecta America South Florida Inc	1,608,814	2.58	37	0.12	Non-M/W/SBE	Tri-County
Veitia Padron Inc.	1,447,696	2.32	39	0.13	Hispanic American	Tri-County
Stobs Brothers Construction Co	1,445,776	2.32	21	0.07	Non-M/W/SBE	Tri-County

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market— Miami-Dade/Ft. Lauderdale/Palm Beach Tri County Area, Highlighted firms represent outliers

Appendix A: M-DCPS Statistical Tables

Table A.18.
Top Ten Awardees
***Service Firms**
Accounts Payable
Location; 2012/2013 – 2014/2015

Company Name	Dollars	% of Dollars	Count of Payments	% of Counts	Race/Ethnicity/Gender	Location
Arthur J Gallagher Riskmgnt	85,317,761	27.91	166	0.27	Non-M/W/SBE	State of FL
Integrity Health Services	19,833,118	6.49	7,293	11.78	Non-M/W/SBE	State of FL
Gallagher Bassett Ins Serv	15,910,801	5.21	36	0.06	Non-M/W/SBE	Nationwide
City Year Inc	7,811,785	2.56	26	0.04	Non-M/W/SBE	Nationwide
Catapult Learning LLC	7,167,150	2.34	38	0.06	Non-M/W/SBE	Nationwide
Florida Virtual Schools	6,535,732	2.14	11	0.02	Non-M/W/SBE	State of FL
Shi International Corp	6,525,221	2.13	77	0.12	Non-M/W/SBE	Nationwide
Ricoh USA Inc	6,075,006	1.99	7,647	12.35	Non-M/W/SBE	Nationwide
E B S Healthcare Inc	5,369,770	1.76	48	0.08	Non-M/W/SBE	Nationwide
NCS Pearson Inc	5,190,318	1.70	303	0.49	Non-M/W/SBE	Nationwide

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—State of Florida, *Services includes both Professional and Non-Professional Services; Highlighted firms represent outliers

Appendix A: M-DCPS Statistical Tables

A.4 Dollars Exclusive of Outliers

A. Dollars Exclusive of Outliers Based on Purchase Orders

Table A.19. Goods & Supplies Utilization Purchase Orders—Dollars Exclusive of Outliers Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015		
	Total	
Race/Ethnicity/Gender	\$	%
Non-M/W/SBE	279,374,538	89.23
African American	444,170	0.14
Asian American	589,478	0.19
Hispanic American	17,088,407	5.46
Non M-DCPS Certified MBE	6,185,789	1.98
Total MBE	24,307,846	7.76
WBE	6,712,992	2.14
Non M-DCPS Certified M/WBE	-	0.00
Total M/WBE	31,020,838	9.91
SBE	2,681,113	0.86
Total M/W/SBE	33,701,951	10.76
Service-Disabled	16,000	0.01
Total	313,092,489	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market— Nationwide; Outliers: US Food Service; United Data Technologies; Outlier--determined based on any firm receiving over 7.5% of the dollars for a particular procurement type. The firms identified as outliers are also highlighted in the Top 10 worksheet of the tables provided.

Appendix A: M-DCPS Statistical Tables

Table A.20. Maintenance and Maintenance-Related Services Utilization Purchase Orders—Dollars Exclusive of Outliers Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015				
Race/Ethnicity/ Gender	Relevant Market		Total	
	\$	%	\$	%
Non-M/W/SBE	9,758,349	31.16	13,377,113	38.27
African American	346,290	1.11	346,290	0.99
Asian American	45,378	0.14	45,378	0.13
Hispanic American	7,904,016	25.24	7,904,016	22.61
Non M-DCPS Certified MBE	9,914,711	31.66	9,914,711	28.37
Total MBE	18,210,395	58.16	18,210,395	52.10
WBE	470,694	1.50	489,344	1.40
Non M-DCPS Certified M/WBE	1,066,661	3.41	1,066,661	3.05
Total M/WBE	19,747,750	63.07	19,766,400	56.56
SBE	1,807,191	5.77	1,807,191	5.17
Total M/W/SBE	21,554,941	68.84	21,573,591	61.73
Service-Disabled	-	0.00	-	0.00
Total	31,313,291	100.00	34,950,705	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—Miami-Dade/Ft. Lauderdale/Palm Beach Tri County Area; Outliers: Mexal Corporation
Outlier--determined based on any firm receiving over 7.5% of the dollars for a particular procurement type. The firms identified as outliers are also highlighted in the Top 10 worksheet of the tables provided.

Appendix A: M-DCPS Statistical Tables

Table A.21.				
*Services Utilization				
Purchase Orders—Dollars Exclusive of Outliers				
Miami-Dade County Public Schools				
Relevant Market, 2012/2013 – 2014/2015				
Race/Ethnicity/ Gender	Relevant Market		Total	
	\$	%	\$	%
Non-M/W/SBE	105,947,663	79.99	233,232,115	89.77
African American	2,544,104	1.92	2,550,604	0.98
Asian American	2,447,646	1.85	2,447,646	0.94
Hispanic American	11,202,446	8.46	11,202,446	4.31
Non M-DCPS Certified MBE	4,117,539	3.11	4,155,793	1.60
Total MBE	20,311,735	15.34	20,356,488	7.84
WBE	5,860,790	4.43	5,899,690	2.27
Non M-DCPS Certified M/WBE	-	0.00	-	0.00
Total M/WBE	26,172,525	19.76	26,256,178	10.11
SBE	152,998	0.12	152,998	0.06
Total M/W/SBE	26,325,523	19.88	26,409,177	10.16
Service-Disabled	170,361	0.13	170,361	0.07
Total	132,443,547	100.00	259,811,653	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—State of Florida, *Services includes both Professional and Non-Professional Services; Outliers: Arthur Gallagher Risk Management; Outlier--determined based on any firm receiving over 7.5% of the dollars for a particular procurement type.

The firms identified as outliers are also highlighted in the Top 10 worksheet of the tables provided.

Appendix A: M-DCPS Statistical Tables

B. Dollars Exclusive of Outliers Based on Payments

Table A.22. Goods & Supplies Utilization Accounts Payable—Dollars Exclusive of Outliers Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015		
	Total	
Race/Ethnicity/ Gender	\$	%
Non-M/W/SBE	292,850,817	89.76
African American	428,002	0.13
Asian American	390,213	0.12
Hispanic American	18,769,403	5.75
Non M-DCPS Certified MBE	5,851,722	1.79
Total MBE	25,439,340	7.80
WBE	5,709,477	1.75
Non M-DCPS Certified M/WBE	-	0.00
Total M/WBE	31,148,817	9.55
SBE	2,271,347	0.70
Total M/W/SBE	33,420,164	10.24
Service-Disabled	973	0.00
Total	326,271,954	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market— Nationwide; Outliers: US Food Service

Outlier--determined based on any firm receiving over 7.5% of the dollars for a particular procurement type. The firms identified as outliers are also highlighted in the Top 10 worksheet of the tables provided. Note: While United Data Tech was an outlier under POs, it was not an Outlier under AP. This is because United Data Tech was awarded a \$15M+, but there are no payments to date against this contract

Appendix A: M-DCPS Statistical Tables

Table A.23.
Maintenance and Maintenance-Related Services Utilization
Accounts Payable—Dollars Exclusive of Outliers
Miami-Dade County Public Schools
Relevant Market, 2012/2013 – 2014/2015

Race/Ethnicity/ Gender	Relevant Market		Total	
	\$	%	\$	%
Non-M/W/SBE	19,734,922	43.47	24,805,830	48.88
African American	598,902	1.32	598,902	1.18
Asian American	21,345	0.05	280,970	0.55
Hispanic American	12,110,167	26.68	12,110,167	23.86
Non M-DCPS Certified MBE	9,848,058	21.69	9,848,058	19.40
Total MBE	22,578,472	49.73	22,838,097	45.00
WBE	908,837	2.00	933,387	1.84
Non M-DCPS Certified M/WBE	805,951	1.78	805,951	1.59
Total M/WBE	24,293,260	53.51	24,577,435	48.43
SBE	1,369,518	3.02	1,369,518	2.70
Total M/W/SBE	25,662,777	56.53	25,946,953	51.12
Service-Disabled	-	0.00	-	0.00
Total	45,397,700	100.00	50,752,782	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—Miami-Dade/Ft. Lauderdale/Palm Beach Tri County Area; Outliers: MCM Corp., Mexal Corp; Outlier--determined based on any firm receiving over 7.5% of the dollars for a particular procurement type. The firms identified as outliers are also highlighted in the Top 10 worksheet of the tables provided.

Appendix A: M-DCPS Statistical Tables

Table A.24.				
*Services Utilization				
Accounts Payable—Dollars Exclusive of Outliers				
Miami-Dade County Public Schools				
Relevant Market, 2012/2013 – 2014/2015				
Race/Ethnicity/ Gender	Relevant Market		Total	
	\$	%	\$	%
Non-M/W/SBE	86,319,367	84.03	203,641,604	92.43
African American	2,463,995	2.40	2,470,495	1.12
Asian American	19,000	0.02	234,669	0.11
Hispanic American	6,899,323	6.72	6,899,323	3.13
Non M-DCPS Certified MBE	2,770,560	2.70	2,807,132	1.27
Total MBE	12,152,878	11.83	12,411,620	5.63
WBE	4,080,958	3.97	4,096,217	1.86
Non M-DCPS Certified M/WBE	-	0.00	-	0.00
Total M/WBE	16,233,835	15.80	16,507,837	7.49
SBE	44,035	0.04	44,035	0.02
Total M/W/SBE	16,277,870	15.85	16,551,872	7.51
Service-Disabled	125,220	0.12	125,220	0.06
Total	102,722,458	100.00	220,318,697	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—State of Florida, *Services includes both Professional and Non-Professional Services; Outliers: Arthur Gallagher Risk Management; Outlier--determined based on any firm receiving over 7.5% of the dollars for a particular procurement type. The firms identified as outliers are also highlighted in the Top 10 worksheet of the tables provided.

Appendix A: M-DCPS Statistical Tables

A.5. Thresholds

A. Contract Awards Thresholds

Table A.25. (1 of 2) Goods & Supplies Utilization Thresholds Contract Awards—Dollars Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015										
Race/Ethnicity/ Gender	5K-10K		10K-50K		50K-100K		100K-250K		250K-500K	
	\$	%	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	-	0.00	920,143	95.60	2,083,962	89.16	3,124,568	84.78	17,891,263	78.70
African American	10,000	100.00	-	0.00	-	0.00	-	0.00	-	0.00
Asian American	-	0.00	-	0.00	-	0.00	-	0.00	300,000	1.32
Hispanic American	-	0.00	17,284	1.80	100,000	4.28	560,970	15.22	3,608,598	15.87
Non M-DCPS Certified MBE	-	0.00	25,114	2.61	-	0.00	-	0.00	-	0.00
Total MBE	10,000	100.00	42,398	4.40	100,000	4.28	560,970	15.22	3,908,598	17.19
WBE	-	0.00	-	0.00	100,000	4.28	-	0.00	433,333	1.91
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00
Total M/WBE	10,000	100.00	42,398	4.40	200,000	8.56	560,970	15.22	4,341,932	19.10
SBE	-	0.00	-	0.00	53,333	2.28	-	0.00	500,000	2.20
Total M/W/SBE	10,000	100.00	42,398	4.40	253,333	10.84	560,970	15.22	4,841,932	21.30
Service-Disabled	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00
Total	10,000	100.00	962,541	100.00	2,337,295	100.00	3,685,538	100.00	22,733,195	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market— Nationwide

Appendix A: M-DCPS Statistical Tables

Table A.26. (2 of 2) Goods & Supplies Utilization Thresholds Contract Awards—Dollars Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015										
Race/Ethnicity/ Gender	500K-1M		1M-5M		5M-10M		Above 10M		TOTAL	
	\$	%	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	14,857,896	76.11	69,085,407	78.63	8,500,000	100.00	79,469,000	100.00	195,932,238	87.05
African American	-	0.00	-	0.00	-	0.00	-	0.00	10,000	0.00
Asian American	-	0.00	-	0.00	-	0.00	-	0.00	300,000	0.13
Hispanic American	3,885,402	19.90	8,823,529	10.04	-	0.00	-	0.00	16,995,784	7.55
Non M-DCPS Certified MBE	-	0.00	2,666,667	3.04	-	0.00	-	0.00	2,691,781	1.20
Total MBE	3,885,402	19.90	11,490,196	13.08	-	0.00	-	0.00	19,997,565	8.88
WBE	-	0.00	4,616,667	5.25	-	0.00	-	0.00	5,150,000	2.29
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00
Total M/WBE	3,885,402	19.90	16,106,863	18.33	-	0.00	-	0.00	25,147,565	11.17
SBE	777,729	3.98	2,666,667	3.04	-	0.00	-	0.00	3,997,729	1.78
Total M/W/SBE	4,663,131	23.89	18,773,529	21.37	-	0.00	-	0.00	29,145,294	12.95
Service-Disabled	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00
Total	19,521,027	100.00	87,858,936	100.00	8,500,000	100.00	79,469,000	100.00	225,077,532	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market— Nationwide

Appendix A: M-DCPS Statistical Tables

Table A.27. (1 of 2)										
Maintenance and Maintenance-Related Services Utilization Thresholds										
Contract Awards—Dollars										
Miami-Dade County Public Schools										
Relevant Market, 2012/2013 – 2014/2015										
Race/Ethnicity/ Gender	5K-10K		10K-50K		50K-100K		100K-250K		250K-500K	
	\$	%	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	-	0.00	225,551	32.28	744,286	60.51	4,479,447	59.09	888,889	19.75
African American	-	0.00	89,697	12.84	285,714	23.23	745,882	9.84	-	0.00
Asian American	-	0.00	13,333	1.91	-	0.00	-	0.00	444,444	9.88
Hispanic American	-	0.00	238,788	34.17	200,000	16.26	1,306,462	17.23	2,666,667	59.26
Non M-DCPS Certified MBE	-	0.00	36,364	5.20	-	0.00	155,882	2.06	-	0.00
Total MBE	-	0.00	378,182	54.12	485,714	39.49	2,208,226	29.13	3,111,111	69.14
WBE	-	0.00	95,069	13.60	-	0.00	536,765	7.08	500,000	11.11
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	155,882	2.06	-	0.00
Total M/WBE	-	0.00	473,251	67.72	485,714	39.49	2,900,873	38.27	3,611,111	80.25
SBE	-	0.00	-	0.00	-	0.00	200,000	2.64	-	0.00
Total M/W/SBE	-	0.00	473,251	67.72	485,714	39.49	3,100,873	40.91	3,611,111	80.25
Service-Disabled	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00
Total	-	0.00	698,802	100.00	1,230,000	100.00	7,580,321	100.00	4,500,000	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market— Miami-Dade/Ft. Lauderdale/Palm Beach Tri County Area

Appendix A: M-DCPS Statistical Tables

Table A.28. (2 of 2)										
Maintenance and Maintenance-Related Services Utilization Thresholds										
Contract Awards—Dollars										
Miami-Dade County Public Schools										
Relevant Market, 2012/2013 – 2014/2015										
	500K-1M		1M-5M		5M-10M		Above 10M		TOTAL	
Race/Ethnicity/ Gender	\$	%	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	900,000	51.81	2,500,000	100.00	-	0.00	-	0.00	9,738,173	53.37
African American	-	0.00	-	0.00	-	0.00	-	0.00	1,121,294	6.15
Asian American	-	0.00	-	0.00	-	0.00	-	0.00	457,778	2.51
Hispanic American	837,258	48.19	-	0.00	-	0.00	-	0.00	5,249,174	28.77
Non M-DCPS Certified MBE	-	0.00	-	0.00	-	0.00	-	0.00	192,246	1.05
Total MBE	837,258	48.19	-	0.00	-	0.00	-	0.00	7,020,492	38.48
WBE	-	0.00	-	0.00	-	0.00	-	0.00	1,131,834	6.20
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	-	0.00	155,882	0.85
Total M/WBE	837,258	48.19	-	0.00	-	0.00	-	0.00	8,308,208	45.53
SBE	-	0.00	-	0.00	-	0.00	-	0.00	200,000	1.10
Total M/W/SBE	837,258	48.19	-	0.00	-	0.00	-	0.00	8,508,208	46.63
Service-Disabled	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00
Total	1,737,258	100.00	2,500,000	100.00	-	0.00	-	0.00	18,246,381	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market— Miami-Dade/Ft. Lauderdale/Palm Beach Tri County Area

Appendix A: M-DCPS Statistical Tables

Table A.29. (1 of 2)
Services Utilization Thresholds
Contract Awards—Dollars
Miami-Dade County Public Schools
Relevant Market, 2012/2013 – 2014/2015

Race/Ethnicity/ Gender	5K-10K		10K-50K		50K-100K		100K-250K		250K-500K	
	\$	%	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	-	0.00	1,728,388	88.38	297,772	62.96	4,797,614	80.56	4,273,124	70.75
African American	-	0.00	30,000	1.53	-	0.00	-	0.00	-	0.00
Asian American	8,000	100.00	-	0.00	-	0.00	-	0.00	-	0.00
Hispanic American	-	0.00	147,278	7.53	175,175	37.04	797,002	13.38	400,000	6.62
Non M-DCPS Certified MBE	-	0.00	50,000	2.56	-	0.00	165,000	2.77	433,333	7.17
Total MBE	8,000	100.00	227,278	11.62	175,175	37.04	962,002	16.15	833,333	13.80
WBE	-	0.00	-	0.00	-	0.00	195,570	3.28	-	0.00
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	-	0.00	933,333	15.45
Total M/WBE	8,000	100.00	227,278	11.62	175,175	37.04	1,157,572	19.44	1,766,667	29.25
SBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00
Total M/W/SBE	8,000	100.00	227,278	11.62	175,175	37.04	1,157,572	19.44	1,766,667	29.25
Service-Disabled	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00
Total	8,000	100.00	1,955,665	100.00	472,947	100.00	5,955,186	100.00	6,039,791	100.00

Source: M-DCPS Contracts Data, M³ Consulting, Relevant Market—State of Florida

Appendix A: M-DCPS Statistical Tables

Table A.30. (2 of 2)										
Services Utilization Thresholds										
Contract Awards—Dollars										
Miami-Dade County Public Schools										
Relevant Market, 2012/2013 – 2014/2015										
Race/Ethnicity/ Gender	500K-1M		1M-5M		5M-10M		Above 10M		TOTAL	
	\$	%	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	3,698,478	61.91	12,550,980	70.71	26,775,000	76.99	179,000,000	100.00	233,121,355	92.53
African American	-	0.00	-	0.00	-	0.00	-	0.00	30,000	0.01
Asian American	-	0.00	-	0.00	-	0.00	-	0.00	8,000	0.00
Hispanic American	558,333	9.35	3,599,654	20.28	8,000,000	23.01	-	0.00	13,677,442	5.43
Non M-DCPS Certified MBE	558,333	9.35	-	0.00	-	0.00	-	0.00	1,206,667	0.48
Total MBE	1,116,667	18.69	3,599,654	20.28	8,000,000	23.01	-	0.00	14,922,109	5.92
WBE	-	0.00	-	0.00	-	0.00	-	0.00	195,570	0.08
Non M-DCPS Certified M/WBE	558,333	9.35	1,600,000	9.01	-	0.00	-	0.00	3,091,667	1.23
Total M/WBE	1,675,000	28.04	5,199,654	29.29	8,000,000	23.01	-	0.00	18,209,345	7.23
SBE	600,000	10.04	-	0.00	-	0.00	-	0.00	600,000	0.24
Total M/W/SBE	2,275,000	38.09	5,199,654	29.29	8,000,000	23.01	-	0.00	18,809,345	7.47
Service-Disabled	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00
Total	5,973,478	100.00	17,750,634	100.00	34,775,000	100.00	179,000,000	100.00	251,930,701	100.00

Source: M-DCPS Contracts Data, M³ Consulting, Relevant Market—State of Florida

Appendix A: M-DCPS Statistical Tables

B. PAYMENTS THRESHOLDS

Table A.31. (1 of 2)										
Goods & Supplies Utilization Thresholds										
Accounts Payable—Dollars										
Miami-Dade County Public Schools										
Relevant Market, 2012/2013 – 2014/2015										
Race/Ethnicity/ Gender	Below 5K		5K-10K		10K-50K		50K-100K		100K-250K	
	\$	%	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	177,129,743	92.47	64,915,857	90.20	95,374,638	81.95	31,081,401	90.10	14,420,543	87.48
African American	336,790	0.18	69,529	0.10	21,683	0.02	-	0.00	-	0.00
Asian American	153,117	0.08	18,205	0.03	147,163	0.13	71,728	0.21	-	0.00
Hispanic American	7,885,309	4.12	4,966,681	6.90	16,581,009	14.25	2,646,920	7.67	1,472,670	8.93
Non M-DCPS Certified MBE	1,413,578	0.74	766,579	1.07	2,643,962	2.27	298,650	0.87	474,938	2.88
Total MBE	9,788,794	5.11	5,820,994	8.09	19,393,817	16.66	3,017,299	8.75	1,947,608	11.81
WBE	3,200,884	1.67	1,069,602	1.49	1,149,815	0.99	173,130	0.50	116,046	0.70
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00
Total M/WBE	12,989,678	6.78	6,890,596	9.57	20,543,632	17.65	3,190,429	9.25	2,063,654	12.52
SBE	1,425,334	0.74	159,366	0.22	461,020	0.40	225,627	0.65	-	0.00
Total M/W/SBE	14,415,012	7.53	7,049,962	9.80	21,004,652	18.05	3,416,056	9.90	2,063,654	12.52
Service-Disabled	973	0.00	-	0.00	-	0.00	-	0.00	-	0.00
Total	191,545,728	100.00	71,965,819	100.00	116,379,290	100.00	34,497,457	100.00	16,484,196	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market— Nationwide

Appendix A: M-DCPS Statistical Tables

Table A.32. (2 of 2) Goods & Supplies Utilization Thresholds Purchase Orders—Dollars Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015												
Race/Ethnicity/ Gender	250K-500K		500K-1M		1M-5M		5M-10M		Above 10M		TOTAL	
	\$	%	\$	%	\$	%	\$	%	\$	%		
Non-M/W/SBE	13,684,404	90.47	12,390,400	89.76	21,447,347	100.00	-	0.00	-	0.00	430,444,332	89.44
African American	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	428,002	0.09
Asian American	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	390,213	0.08
Hispanic American	1,187,825	7.85	1,414,226	10.24	-	0.00	-	0.00	-	0.00	36,154,640	7.51
Non M-DCPS Certified MBE	254,015	1.68	-	0.00	-	0.00	-	0.00	-	0.00	5,851,722	1.22
Total MBE	1,441,840	9.53	1,414,226	10.24	-	0.00	-	0.00	-	0.00	42,824,577	8.90
WBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	5,709,477	1.19
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00
Total M/WBE	1,441,840	9.53	1,414,226	10.24	-	0.00	-	0.00	-	0.00	48,534,054	10.08
SBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	2,271,347	0.47
Total M/W/SBE	1,441,840	9.53	1,414,226	10.24	-	0.00	-	0.00	-	0.00	50,805,401	10.56
Service-Disabled	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	973	0.00
Total	15,126,244	100.00	13,804,626	100.00	21,447,347	100.00	-	0.00	-	0.00	481,250,706	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market— Nationwide

Appendix A: M-DCPS Statistical Tables

Table A.33. (1 of 2)										
Maintenance and Maintenance Related Service Utilization Thresholds										
Accounts Payable—Dollars										
Miami-Dade County Public Schools										
Relevant Market, 2012/2013 – 2014/2015										
	Below 5K		5K-10K		10K-50K		50K-100K		100K-250K	
Race/Ethnicity/ Gender	\$	%	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	4,223,081	39.80	1,288,089	31.29	4,563,683	29.57	3,867,016	45.29	5,253,882	52.78
African American	275,737	2.60	129,775	3.15	193,390	1.25	-	0.00	-	0.00
Asian American	21,345	0.20	-	0.00	-	0.00	-	0.00	-	0.00
Hispanic American	4,046,697	38.14	1,710,237	41.54	4,954,879	32.10	3,130,737	36.67	2,849,640	28.63
Non M-DCPS Certified MBE	954,329	8.99	777,351	18.88	4,231,692	27.42	1,351,529	15.83	1,747,101	17.55
Total MBE	5,298,107	49.93	2,617,364	63.58	9,379,961	60.77	4,482,266	52.50	4,596,741	46.18
WBE	446,436	4.21	90,808	2.21	267,883	1.74	-	0.00	103,710	1.04
Non M-DCPS Certified M/WBE	23,144	0.22	76,240	1.85	577,114	3.74	129,453	1.52	-	0.00
Total M/WBE	5,767,687	54.36	2,784,411	67.63	10,224,958	66.25	4,611,719	54.01	4,700,451	47.22
SBE	619,352	5.84	44,350	1.08	646,331	4.19	59,485	0.70	-	0.00
Total M/W/SBE	6,387,039	60.20	2,828,761	68.71	10,871,289	70.43	4,671,204	54.71	4,700,451	47.22
Service-Disabled	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00
Total	10,610,120	100.00	4,116,850	100.00	15,434,972	100.00	8,538,220	100.00	9,954,333	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market— Miami-Dade/Ft. Lauderdale/Palm Beach Tri County Area

Appendix A: M-DCPS Statistical Tables

Table A.34. (2 of 2)
Maintenance and Maintenance Related Service Utilization Thresholds
Accounts Payable—Dollars
Miami-Dade County Public Schools
Relevant Market, 2012/2013 – 2014/2015

Race/Ethnicity/ Gender	250K-500K		500K-1M		1M-5M		5M-10M		Above 10M		TOTAL	
	\$	%	\$	%	\$	%	\$	%	\$	%		
Non-M/W/SBE	2,391,499	69.04	4,932,331	100.00	-	0.00	-	0.00	-	0.00	26,519,580	46.48
African American	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	598,902	1.05
Asian American	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	21,345	0.04
Hispanic American	286,148	8.26	-	0.00	-	0.00	-	0.00	-	0.00	16,978,337	29.76
MBE	786,056	22.69	-	0.00	-	0.00	-	0.00	-	0.00	9,848,058	17.26
Total MBE	1,072,204	30.96	-	0.00	-	0.00	-	0.00	-	0.00	27,446,642	48.11
WBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	908,837	1.59
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	805,951	1.41
Total M/WBE	1,072,204	30.96	-	0.00	-	0.00	-	0.00	-	0.00	29,161,430	51.12
SBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	1,369,518	2.40
Total M/W/SBE	1,072,204	30.96	-	0.00	-	0.00	-	0.00	-	0.00	30,530,948	53.52
Service-Disabled	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00
Total	3,463,702	100.00	4,932,331	100.00	-	0.00	-	0.00	-	0.00	57,050,528	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market— Miami-Dade/Ft. Lauderdale/Palm Beach Tri County Area

Appendix A: M-DCPS Statistical Tables

Table A.35. (1 of 2)										
*Services Utilization Thresholds										
Accounts Payable—Dollars										
Miami-Dade County Public Schools										
Relevant Market, 2012/2013 – 2014/2015										
	Below 5K		5K-10K		10K-50K		50K-100K		100K-250K	
Race/Ethnicity/ Gender	\$	%	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	24,331,608	82.33	9,700,872	82.65	19,700,106	77.01	11,727,704	88.10	12,747,909	90.23
African American	1,301,950	4.41	695,549	5.93	466,496	1.82	-	0.00	-	0.00
Asian American	-	0.00	24,000	0.20	-	0.00	-	0.00	-	0.00
Hispanic American	1,341,175	4.54	417,999	3.56	2,575,401	10.07	1,069,647	8.04	1,195,823	8.46
Non M-DCPS Certified MBE	831,621	2.81	401,080	3.42	1,353,098	5.29	-	0.00	184,760	1.31
Total MBE	3,469,747	11.74	1,538,628	13.11	4,394,995	17.18	1,069,647	8.04	1,380,583	9.77
WBE	1,707,787	5.78	497,347	4.24	1,361,654	5.32	514,169	3.86	-	0.00
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00
Total M/WBE	5,177,534	17.52	2,035,974	17.35	5,756,649	22.50	1,583,817	11.90	1,380,583	9.77
SBE	44,035	0.15	-	0.00	-	0.00	-	0.00	-	0.00
Total M/W/SBE	5,221,569	17.67	2,035,974	17.35	5,756,649	22.50	1,583,817	11.90	1,380,583	9.77
Service-Disabled	1,035	0.00	-	0.00	124,186	0.49	-	0.00	-	0.00
Total	29,554,212	100.00	11,736,846	100.00	25,580,941	100.00	13,311,521	100.00	14,128,492	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market— Miami-Dade/Ft. Lauderdale/Palm Beach Tri County Area, *Services includes both Professional and Non-Professional Services

NOTE: In the AP data there are negative records. When isolating payments below the 5K threshold, the total for Asians end up negative. We will address as part of our continuing quality control review.

Appendix A: M-DCPS Statistical Tables

Table A.36. (2 of 2)
***Services Utilization Thresholds**
Accounts Payable—Dollars
Miami-Dade County Public Schools
Relevant Market, 2012/2013 – 2014/2015

Race/Ethnicity/ Gender	250K-500K		500K-1M		1M-5M		5M-10M		Above 10M		TOTAL	
	\$	%	\$	%	\$	%	\$	%	\$	%		
Non-M/W/SBE	12,256,194	97.62	14,321,380	100.00	44,123,016	100.00	22,728,339	100.00	-	0.00	171,637,128	91.28
African American	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	2,463,995	1.31
Asian American	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	19,000	0.01
Hispanic American	299,278	2.38	-	0.00	-	0.00	-	0.00	-	0.00	6,899,323	3.67
Non M-DCPS Certified MBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	2,770,560	1.47
Total MBE	299,278	2.38	-	0.00	-	0.00	-	0.00	-	0.00	12,152,878	6.46
WBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	4,080,958	2.17
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00
Total M/WBE	299,278	2.38	-	0.00	-	0.00	-	0.00	-	0.00	16,233,835	8.63
SBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	44,035	0.02
Total M/W/SBE	299,278	2.38	-	0.00	-	0.00	-	0.00	-	0.00	16,277,870	8.66
Service-Disabled	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	125,220	0.07

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—State of Florida, *Services includes both Professional and Non-Professional Services

Appendix A: M-DCPS Statistical Tables

A.6 AVAILABILITY AND UTILIZATION OF M-DCPS CERTIFIED FIRMS

A. M-DCPS Certified Firm Availability

Table A.37.						
RWASM Availability: Levels 1-3--Goods & Supplies						
M-DCPS Certified Firms						
Miami-Dade County Public Schools						
Relevant Market, 2012/2013 – 2014/2015						
	Level 1		Level 2		Level 3	
Race/Ethnicity/Gender	#	%	#	%	#	%
Cert. African American	7	12.73	14	6.01	53	6.23
Cert. Asian American	2	3.64	3	1.29	7	0.82
Cert. Hispanic American	16	29.09	58	24.89	140	16.45
Cert. Non M-DCPS Certified MBE	-	0.00	35	15.02	194	22.80
Cert. WBE	4	7.27	15	6.44	31	3.64
Cert. SBE	-	0.00	-	0.00	-	0.00
Total Cert. M/W/SBE	29	52.73	125	53.65	425	49.94
Other Cert. African American	2	3.64	6	2.58	57	6.70
Other Cert. Asian American	-	0.00	3	1.29	14	1.65
Other Cert. Hispanic American	12	21.82	38	16.31	178	20.92
Other Cert. Non M-DCPS Certified MBE	3	5.45	15	6.44	30	3.53
Other Cert. WBE	5	9.09	42	18.03	72	8.46
Other Cert. SBE	4	7.27	4	1.72	75	8.81
Total Other Cert. M/W/SBE	26	47.27	108	46.35	426	50.06
Total M/W/SBE	55	100.00	233	100.00	851	100.00

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data, M-DCPS Vendor data; Relevant Market— Nationwide

Appendix A: M-DCPS Statistical Tables

Note: All M/WBEs within M³ Consulting's analysis are represented on M³ Consulting's Master List of Certified firms consisting of several public agencies certifying/verifying M/WBEs. The above analysis reflects firms that are certified *only* by M-DCPS. Non-certified firms represent firms not certified by M-DCPS.

Table A.38.						
RWASM Availability: Levels 1-3						
Maintenance and Maintenance-Related Services						
M-DCPS Certified Firms						
Miami-Dade County Public Schools						
Relevant Market, 2012/2013 – 2014/2015						
	Miami-Dade/Ft. Lauderdale/Palm Beach Tri County Area					
	Level 1		Level 2		Level 3	
Race/Ethnicity/Gender	#	%	#	%	#	%
Cert. African American	16	21.92	23	9.87	62	8.05
Cert. Asian American	2	2.74	4	1.72	6	0.78
Cert. Hispanic American	31	42.47	91	39.06	197	25.58
Cert. Non M-DCPS Certified MBE	-	0.00	40	17.17	280	36.36
Cert. WBE	6	8.22	11	4.72	22	2.86
Cert. SBE	-	0.00	-	0.00	-	0.00
Total Cert. M/W/SBE	55	75.34	169	72.53	567	73.64
Other Cert. African American	2	2.74	4	1.72	25	3.25
Other Cert. Asian American	-	0.00	-	0.00	5	0.65
Other Cert. Hispanic American	6	8.22	33	14.16	120	15.58
Other Cert. Non M-DCPS Certified MBE	3	4.11	7	3.00	17	2.21
Other Cert. WBE	5	6.85	18	7.73	23	2.99
Other Cert. SBE	2	2.74	2	0.86	13	1.69
Total Other Cert. M/W/SBE	18	24.66	64	27.47	203	26.36
Total M/W/SBE	73	100.00	233	100.00	770	100.00

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data, M-DCPS Vendor data; Relevant Market—Miami-Dade/Ft. Lauderdale/Palm Beach County Tri-County Area

Note: All M/WBEs within M³ Consulting's analysis are represented on M³ Consulting's Master List of Certified firms consisting of several public agencies certifying/verifying M/WBEs. The above analysis reflects firms that are certified *only* by M-DCPS. Non-certified firms represent firms not certified by M-DCPS.

Appendix A: M-DCPS Statistical Tables

Table A.39.						
RWASM Availability: Levels 1-3						
*Services						
M-DCPS Certified Firms						
Miami-Dade County Public Schools						
Relevant Market, FY-2013-2015						
	State of Florida					
	Level 1		Level 2		Level 3	
Race/Ethnicity/Gender	#	%	#	%	#	%
Cert. African American	10	15.63	14	9.52	62	8.09
Cert. Asian American	1	1.56	1	0.68	5	0.65
Cert. Hispanic American	17	26.56	34	23.13	125	16.32
Cert. Non M-DCPS Certified MBE	-	0.00	14	9.52	270	35.25
Cert. WBE	-	0.00	5	3.40	22	2.87
Cert. SBE	-	0.00	-	0.00	-	0.00
Total Cert. M/W/SBE	28	43.75	68	46.26	484	63.19
Other Cert. African American	4	6.25	7	4.76	52	6.79
Other Cert. Asian American	2	3.13	2	1.36	9	1.17
Other Cert. Hispanic American	9	14.06	17	11.56	111	14.49
Other Cert. Non M-DCPS Certified MBE	5	7.81	14	9.52	25	3.26
Other Cert. WBE	9	14.06	32	21.77	53	6.92
Other Cert. SBE	7	10.94	7	4.76	32	4.18
Total Other Cert. M/W/SBE	36	56.25	79	53.74	282	36.81
Total M/W/SBE	64	100.00	147	100.00	766	100.00

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data, M-DCPS Vendor data; Relevant Market—State of Florida; * Services include Professional and Non-Professional Services
Note: All M/WBEs within M³ Consulting's analysis are represented on M³ Consulting's Master List of Certified firms consisting of several public agencies certifying/verifying M/WBEs. The above analysis reflects firms that are certified *only* by M-DCPS. Non-certified firms represent firms not certified by M-DCPS.

Appendix A: M-DCPS Statistical Tables

B. M-DCPS Certified Firm Utilization Based on Contract Awards

Table A.40. Goods & Supplies Utilization Contract Awards—Dollars M-DCPS Certified Firms Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015		
Total Dollars		
Race/Ethnicity/ Gender	\$	%
Cert. African American	10,000	0.04
Cert. Asian American	300,000	1.19
Cert. Hispanic American	12,453,798	49.52
Cert. Non M-DCPS Certified MBE	-	0.00
Cert. WBE	-	0.00
Cert. SBE	3,997,729	13.72
Total Cert. M/W/SBE	16,761,527	57.51
Other Cert. African American	-	0.00
Other Cert. Asian American	-	0.00
Other Cert. Hispanic American	4,541,985	18.06
Other Cert. Non M-DCPS Certified MBE	2,691,781	10.70
Other Cert. WBE	5,150,000	20.48
Other Cert. SBE	-	0.00
Total Other Cert. M/W/SBE	12,383,766	42.49
Total M/W/SBE	29,145,294	100.00

Source: M-DCPS Contracts Data, M³ Consulting, Relevant Market— Nationwide, Note: Over 55 Cert Hispanic Firms receive portions of certified Hispanic amount. One firm United Data had \$90M of this amount (87% of the \$104M) Note: All M/WBEs within M³ Consulting’s analysis are represented on M³ Consulting’s Master List of Certified firms consisting of several public agencies certifying/verifying M/WBEs. The above analysis reflects firms that are certified *only* by M-DCPS. Non-certified firms represent firms not certified by M-DCPS.

Appendix A: M-DCPS Statistical Tables

Table A.41. Maintenance and Maintenance-Related Services Utilization Contract Awards—Dollars M-DCPS Certified Firms Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015				
Race/Ethnicity/ Gender	Relevant Market		Total Dollars	
	\$	%	\$	%
Cert. African American	1,121,294	13.75	1,293,718	15.54
Cert. Asian American	457,778	5.62	457,778	5.50
Cert. Hispanic American	4,317,029	52.95	4,317,029	51.86
Cert. Non M-DCPS Certified MBE	-	0.00	-	0.00
Cert. WBE	907,549	11.13	907,549	10.90
Cert. SBE	200,000	2.39	200,000	2.35
Total Cert. M/W/SBE	7,003,650	83.85	7,176,074	84.18
Other Cert. African American	-	0.00	-	0.00
Other Cert. Asian American	-	0.00	-	0.00
Other Cert. Hispanic American	932,145	11.16	932,145	10.93
Other Cert. Non M-DCPS Certified MBE	192,246	2.30	192,246	2.26
Other Cert. WBE	224,285	2.69	224,285	2.63
Other Cert. SBE	-	0.00	-	0.00
Total Other Cert. M/W/SBE	1,348,676	16.15	1,348,676	15.82
Total M/W/SBE	8,352,325	100.00	8,524,749	100.00

Source: M-DCPS Contracts Data, M³ Consulting, Relevant Market—Miami-Dade/Ft. Lauderdale/Palm Beach Tri County Area

Note: All M/WBEs within M³ Consulting's analysis are represented on M³ Consulting's Master List of Certified firms consisting of several public agencies certifying/verifying M/WBEs. The above analysis reflects firms that are certified *only* by M-DCPS. Non-certified firms represent firms not certified by M-DCPS.

Appendix A: M-DCPS Statistical Tables

Table A.42. * Services Utilization Contract Awards—Dollars M-DCPS Certified Firms Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015				
	Relevant Market		Total Dollars	
Race/Ethnicity/Gender	\$	%	\$	%
Cert. African American	30,000	0.20	30,000	0.20
Cert. Asian American	-	0.00	-	0.00
Cert. Hispanic American	3,421,831	22.63	3,421,831	22.63
Cert. Non M-DCPS Certified MBE	-	0.00	-	0.00
Cert. WBE	-	0.00	-	0.00
Cert. SBE	600,000	3.82	600,000	3.82
Total Cert. M/W/SBE	4,051,831	25.78	4,051,831	25.78
Other Cert. African American	-	0.00	-	0.00
Other Cert. Asian American	8,000	0.05	8,000	0.05
Other Cert. Hispanic American	10,255,611	65.25	10,255,611	65.25
Other Cert. Non M-DCPS Certified MBE	1,206,667	7.68	1,206,667	7.68
Other Cert. WBE	195,570	1.24	195,570	1.24
Other Cert. SBE	-	0.00	-	0.00
Total Other Cert. M/W/SBE	11,665,848	74.22	11,665,848	74.22
Total M/W/SBE	15,717,679	100.00	15,717,679	100.00

Source: M-DCPS Contracts Data, M³ Consulting, Relevant Market—State of Florida, *Services includes both Professional and Non-Professional Services

Note: All M/WBEs within M³ Consulting's analysis are represented on M³ Consulting's Master List of Certified firms consisting of several public agencies certifying/verifying M/WBEs. The above analysis reflects firms that are certified *only* by M-DCPS. Non-certified firms represent firms not certified by M-DCPS

Appendix A: M-DCPS Statistical Tables

C. M-DCPS CERTIFIED FIRM UTILIZATION BASED ON PURCHASE ORDERS

Table A.43. Goods & Supplies Utilization Purchase Orders—Dollars M-DCPS Certified Firms Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015		
	Total Dollars	
Race/Ethnicity/Gender	\$	%
Cert. African American	374,944	0.30
Cert. Asian American	443,933	0.36
Cert. Hispanic American	104,026,503	83.52
Cert. Non M-DCPS Certified MBE	1,314,872	1.06
Cert. WBE	2,545,658	2.04
Cert. SBE	2,114,168	1.70
Total Cert. M/W/SBE	110,820,077	88.97
Other Cert. African American	69,227	0.06
Other Cert. Asian American	145,545	0.12
Other Cert. Hispanic American	3,913,249	3.14
Other Cert. Non M-DCPS Certified MBE	4,870,917	3.91
Other Cert. WBE	4,167,335	3.35
Other Cert. SBE	566,945	0.46
Total Other Cert. M/W/SBE	13,733,218	11.03
Total M/W/SBE	124,553,295	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market— Nationwide; Note: Over 55 Cert Hispanic Firms receive portions of certified Hispanic amount. One firm United Data had \$90M of this amount (87% of the \$104M); Note: All M/WBEs within M³ Consulting’s analysis are represented on M³ Consulting’s Master List of Certified firms consisting of several public agencies certifying/verifying M/WBEs. The above analysis reflects firms that are certified *only* by M-DCPS. Non-certified firms represent firms not certified by M-DCPS

Appendix A: M-DCPS Statistical Tables

Table A.44. Maintenance and Maintenance-Related Services Utilization Purchase Orders—Dollars M-DCPS Certified Firms Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015				
	Relevant Market		Total Dollars	
Race/Ethnicity/ Gender	\$	%	\$	%
Cert. African American	120,396	0.47	120,396	0.47
Cert. Asian American	45,378	0.18	45,378	0.18
Cert. Hispanic American	12,296,673	47.90	12,296,673	47.86
Cert. Non M-DCPS Certified MBE	9,886,301	38.51	9,886,301	38.48
Cert. WBE	329,494	1.28	348,144	1.36
Cert. SBE	1,763,071	6.87	1,763,071	6.86
Total Cert. M/W/SBE	24,441,313	95.20	24,459,963	95.20
Other Cert. African American	225,894	0.88	225,894	0.88
Other Cert. Asian American	-	0.00	-	0.00
Other Cert. Hispanic American	793,254	3.09	793,254	3.09
Other Cert. Non M-DCPS Certified MBE	28,410	0.11	28,410	0.11
Other Cert. WBE	141,200	0.55	141,200	0.55
Other Cert. SBE	44,120	0.17	44,120	0.17
Total Other Cert. M/W/SBE	1,232,879	4.80	1,232,879	4.80
Total M/W/SBE	25,674,192	100.00	25,692,842	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—Miami-Dade/Ft. Lauderdale/Palm Beach Tri County Area

Note: All M/WBEs within M³ Consulting's analysis are represented on M³ Consulting's Master List of Certified firms consisting of several public agencies certifying/verifying M/WBEs. The above analysis reflects firms that are certified *only* by M-DCPS. Non-certified firms represent firms not certified by M-DCPS.

Appendix A: M-DCPS Statistical Tables

Table A.45. * Services Utilization Purchase Orders—Dollars M-DCPS Certified Firms Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015				
	Relevant Market		Total Dollars	
Race/Ethnicity/ Gender	\$	%	\$	%
Cert. African American	2,431,819	9.24	2,438,319	9.23
Cert. Asian American	2,428,646	9.23	2,428,646	9.20
Cert. Hispanic American	9,997,989	37.98	9,997,989	37.86
Cert. Non M-DCPS Certified MBE	1,972,456	7.49	2,010,709	7.61
Cert. WBE	115,160	0.44	119,284	0.45
Cert. SBE	38,266	0.15	38,266	0.14
Total Cert. M/W/SBE	16,984,336	64.52	17,033,214	64.50
Other Cert. African American	112,285	0.43	112,285	0.43
Other Cert. Asian American	19,000	0.07	19,000	0.07
Other Cert. Hispanic American	1,204,457	4.58	1,204,457	4.56
Other Cert. Non M-DCPS Certified MBE	2,145,083	8.15	2,145,083	8.12
Other Cert. WBE	5,745,629	21.83	5,780,405	21.89
Other Cert. SBE	114,732	0.44	114,732	0.43
Total Other Cert. M/W/SBE	9,341,187	35.48	9,375,963	35.50
Total M/W/SBE	26,325,523	100.00	26,409,177	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—State of Florida, *Services includes both Professional and Non-Professional Services

Note: All M/WBEs within M³ Consulting's analysis are represented on M³ Consulting's Master List of Certified firms consisting of several public agencies certifying/verifying M/WBEs. The above analysis reflects firms that are certified *only* by M-DCPS. Non-certified firms represent firms not certified by M-DCPS.

Appendix A: M-DCPS Statistical Tables

D. M-DCPS CERTIFIED FIRM UTILIZATION BASED ON PAYMENTS

Table A.46. Goods & Supplies Utilization Accounts Payable—Dollars M-DCPS Certified Firms Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015		
	Total Dollars	
Race/Ethnicity/ Gender	\$	%
Cert. African American	362,236	0.75
Cert. Asian American	18,775	0.04
Cert. Hispanic American	30,400,369	62.64
Cert. Non M-DCPS Certified MBE	1,567,430	3.23
Cert. WBE	1,960,552	4.04
Total Cert. M/W/SBE	34,309,362	70.69
Other Cert. African American	65,765	0.14
Other Cert. Asian American	371,438	0.77
Other Cert. Hispanic American	5,754,272	11.86
Other Cert. Non M-DCPS Certified MBE	4,284,293	8.83
Other Cert. WBE	3,748,925	7.72
Total Other Cert. M/W/SBE	14,224,692	29.31
Total M/W/SBE	48,534,054	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market— Nationwide

Note: All M/WBEs within M³ Consulting's analysis are represented on M³ Consulting's Master List of Certified firms consisting of several public agencies certifying/verifying M/WBEs. The above analysis reflects firms that are certified *only* by M-DCPS. Non-certified firms represent firms not certified by M-DCPS.

Appendix A: M-DCPS Statistical Tables

Table A.47. Maintenance and Maintenance-Related Services Utilization Accounts Payable—Dollars M-DCPS Certified Firms Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015				
	Relevant Market		Total Dollars	
Race/Ethnicity/ Gender	\$	%	\$	%
Cert. African American	159,822	0.56	159,822	0.56
Cert. Asian American	21,345	0.08	21,345	0.07
Cert. Hispanic American	15,195,742	53.59	15,195,742	53.06
Cert. Non M-DCPS Certified MBE	9,843,138	34.71	9,843,138	34.37
Cert. WBE	278,387	0.98	297,037	1.04
Total Cert. M/W/SBE	25,498,433	89.92	25,517,083	89.10
Other Cert. African American	439,080	1.55	439,080	1.53
Other Cert. Asian American	-	0.00	259,625	0.91
Other Cert. Hispanic American	1,782,596	6.29	1,782,596	6.22
Other Cert. Non M-DCPS Certified MBE	4,920	0.02	4,920	0.02
Other Cert. WBE	630,450	2.22	636,350	2.22
Total Other Cert. M/W/SBE	2,857,046	10.08	3,122,571	10.90
Total M/W/SBE	28,355,479	100.00	28,639,654	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—Miami-Dade/Ft. Lauderdale/Palm Beach Tri County Area

Note: All M/WBEs within M³ Consulting's analysis are represented on M³ Consulting's Master List of Certified firms consisting of several public agencies certifying/verifying M/WBEs. The above analysis reflects firms that are certified *only* by M-DCPS. Non-certified firms represent firms not certified by M-DCPS.

Appendix A: M-DCPS Statistical Tables

Table A.48. * Services Utilization Accounts Payable—Dollars M-DCPS Certified Firms Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015				
Race/Ethnicity/ Gender	Relevant Market		Total Dollars	
	\$	%	\$	%
Cert. African American	2,360,656	14.54	2,367,156	14.34
Cert. Asian American	-	0.00	-	0.00
Cert. Hispanic American	6,127,920	37.75	6,127,920	37.12
Cert. Non M-DCPS Certified MBE	1,602,740	9.87	1,639,313	9.93
Cert. WBE	63,823	0.39	67,947	0.41
Total Cert. M/W/SBE	10,155,140	62.56	10,202,337	61.80
Other Cert. African American	103,339	0.64	103,339	0.63
Other Cert. Asian American	19,000	0.12	234,669	1.42
Other Cert. Hispanic American	771,403	4.75	771,403	4.67
Other Cert. Non M-DCPS Certified MBE	1,167,819	7.19	1,167,819	7.07
Other Cert. WBE	4,017,134	24.75	4,028,270	24.40
Total Other Cert. M/W/SBE	6,078,695	37.44	6,305,501	38.20
Total M/W/SBE	16,233,835	100.00	16,507,837	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—State of Florida, *Services includes both Professional and Non-Professional Services

Note: All M/WBEs within M³ Consulting's analysis are represented on M³ Consulting's Master List of Certified firms consisting of several public agencies certifying/verifying M/WBEs. The above analysis reflects firms that are certified *only* by M-DCPS. Non-certified firms represent firms not certified by M-DCPS.

Appendix A: M-DCPS Statistical Tables

A.7 P-Card Utilization

Table A.49. P-Card Utilization—Dollars Goods & Supplies Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015								
Race/Ethnicity/ Gender	2012/2013		2013/2014		2014/2015		Period	
	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	9,327,491	79.71	9,951,284	77.53	10,556,357	79.81	29,835,132	79.00
African American	-	0.00	3,865	0.03	7,545	0.06	11,410	0.03
Asian American	846,806	7.24	1,050,903	8.19	818,928	6.19	2,716,637	7.19
Hispanic American	930,146	7.95	1,017,571	7.93	750,159	5.67	2,697,875	7.14
Non M-DCPS Certified MBE	9,148	0.08	41,613	0.32	25,890	0.20	76,652	0.20
Total MBE	1,786,100	15.26	2,113,952	16.47	1,602,522	12.12	5,502,574	14.57
WBE	481,364	4.11	594,171	4.63	862,547	6.52	1,938,082	5.13
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	-	0.00
Total M/WBE	2,267,464	19.38	2,708,123	21.10	2,465,069	18.64	7,440,656	19.70
SBE	106,013	0.91	172,762	1.35	206,052	1.56	484,827	1.28
Total M/W/SBE	2,373,477	20.28	2,880,885	22.44	2,671,121	20.19	7,925,483	20.99
Service-Disabled	1,065	0.01	3,410	0.03	-	0.00	4,475	0.01
Total	11,702,033	100.00	12,835,579	100.00	13,227,478	100.00	37,765,090	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—Nationwide

Appendix A: M-DCPS Statistical Tables

Table A.50. P-Card Utilization—Counts Goods & Supplies Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015								
	2012/2013		2013/2014		2014/2015		Period	
Race/Ethnicity/ Gender	#	%	#	%	#	%	#	%
Non-M/W/SBE	27,436	87.13	56,606	92.30	77,112	94.05	161,154	92.19
African American	-	0.00	3	0.00	9	0.01	12	0.01
Asian American	424	1.35	519	0.85	434	0.53	1,377	0.79
Hispanic American	2,118	6.73	2,333	3.80	1,614	1.97	6,065	3.47
Non M-DCPS Certified MBE	18	0.06	166	0.27	295	0.36	479	0.27
Total MBE	2,560	8.13	3,021	4.93	2,352	2.87	7,933	4.54
WBE	1,129	3.59	1,183	1.93	1,994	2.43	4,306	2.46
Non M-DCPS Certified M/WBE	-	0.00	-	0.00	-	0.00	-	0.00
Total M/WBE	3,689	11.71	4,204	6.85	4,346	5.30	12,239	7.00
SBE	362	1.15	511	0.83	529	0.65	1,402	0.80
Total M/W/SBE	4,051	12.86	4,715	7.69	4,875	5.95	13,641	7.80
Service-Disabled	3	0.01	10	0.02	-	0.00	13	0.01
Total	31,490	100.00	61,331	100.00	81,987	100.00	174,808	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—Nationwide

Appendix A: M-DCPS Statistical Tables

Table A.51. P-Card Utilization—Dollars *Services Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015								
Race/Ethnicity/ Gender	2012/2013		2013/2014		2014/2015		Period	
	\$	%	\$	%	\$	%	\$	%
Non-M/W/SBE	2,131,651	73.31	2,632,104	75.60	2,027,829	71.68	6,791,584	73.67
African American	182,567	6.28	196,262	5.64	159,448	5.64	538,277	5.84
Asian American	-	0.00	-	0.00	-	0.00	-	0.00
Hispanic American	208,463	7.17	250,015	7.18	317,486	11.22	775,964	8.42
Non M-DCPS Certified MBE	107,381	3.69	137,412	3.95	109,735	3.88	354,527	3.85
Total MBE	498,411	17.14	583,689	16.76	586,668	20.74	1,668,768	18.10
WBE	250,106	8.60	243,994	7.01	179,035	6.33	673,136	7.30
Non M-DCPS Certified M/WBE	5,848	0.20	7,297	0.21	2,700	0.10	15,845	0.17
Total M/WBE	754,365	25.94	834,980	23.98	768,403	27.16	2,357,749	25.58
SBE	21,072	0.72	14,286	0.41	31,260	1.10	66,619	0.72
Total M/W/SBE	775,437	26.67	849,266	24.39	799,664	28.27	2,424,367	26.30
Service-Disabled	501	0.02	332	0.01	1,577	0.06	2,410	0.03
Total	2,907,590	100.00	3,481,702	100.00	2,829,070	100.00	9,218,362	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—State of Florida, *Services includes both Professional and Non-Professional Services

Appendix A: M-DCPS Statistical Tables

Table A.52. P-Card Utilization—Counts *Services Miami-Dade County Public Schools Relevant Market, 2012/2013 – 2014/2015								
Race/Ethnicity/ Gender	2012/2013		2013/2014		2014/2015		Period	
	#	%	#	%	#	%	#	%
Non-M/W/SBE	4,819	66.13	6,970	71.86	6,944	73.35	18,733	70.82
African American	548	7.52	555	5.72	618	6.53	1,721	6.51
Asian American	-	0.00	-	0.00	-	0.00	-	0.00
Hispanic American	631	8.66	884	9.11	1,129	11.93	2,644	10.00
Non M-DCPS Certified MBE	308	4.23	368	3.79	323	3.41	999	3.78
Total MBE	1,487	20.41	1,807	18.63	2,070	21.87	5,364	20.28
WBE	931	12.78	886	9.13	384	4.06	2,201	8.32
Non M-DCPS Certified M/WBE	13	0.18	10	0.10	5	0.05	28	0.11
Total M/WBE	2,431	33.36	2,703	27.87	2,459	25.97	7,593	28.70
SBE	35	0.48	25	0.26	61	0.64	121	0.46
Total M/W/SBE	2,466	33.84	2,728	28.13	2,520	26.62	7,714	29.16
Service-Disabled	2	0.03	1	0.01	3	0.03	6	0.02
Total	7,287	100.00	9,699	100.00	9,467	100.00	26,453	100.00

Source: M-DCPS SAP Data, M³ Consulting, Relevant Market—State of Florida, *Services includes both Professional and Non-Professional Services

Appendix A: M-DCPS Statistical Tables

A.8 DISPARITY BASED ON CONTRACT AWARDS AND PAYMENTS

A. Goods & Supplies Disparity

Table A.53. Contracts Pure Prime + Sub Payments Utilization vs. <i>RWASM</i> Availability Level 2 Goods & Supplies Miami-Dade County Public Schools Relevant Market; 2012/2013 – 2014/2015								
Nationwide								
Race/Ethnicity/Gender	2012/2013		2013/2014		2014/2015		Period	
	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.
Non-M/W/SBE	1.12	S	0.98	NS	0.92	NS	1.00	NS
African American	0.00	NS	0.00	NS	0.01	NS	0.00	NS
Asian American	0.00	NS	1.02	NS	0.00	NS	0.43	NS
Hispanic American	0.45	NS	2.85	S	0.72	NS	1.55	NS
Non M-DCPS Certified MBE	0.00	S	0.00	S	1.54	S	0.47	S
Total MBE	0.25	NS	1.62	NS	0.85	NS	1.01	NS
WBE	0.06	NS	0.00	NS	2.53	S	0.79	NS
Non M-DCPS Certified M/WBE	0.00	S	0.00	S	0.00	S	0.00	S
Total M/WBE	0.20	S	1.20	NS	1.24	NS	0.94	NS
SBE	0.00	NS	0.50	NS	4.27	S	1.52	S
Total M/W/SBE	0.18	S	1.14	S	1.52	S	0.99	S
Service-Disabled	0.00	S	0.00	NS	0.00	S	0.00	S

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data;; M³ Consulting; Relevant Market—Nationwide;
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 – Underutilized,, but not Statistically Significant;
ND: Not Defined

Appendix A: M-DCPS Statistical Tables

Table A.54. Payments Utilization vs. <i>RWA</i> SM Availability Level 2 Goods & Supplies Miami-Dade County Public Schools Relevant Market; 2012/2013 – 2014/2015								
Nationwide								
Race/Ethnicity/Gender	2012/2013		2013/2014		2014/2015		Period	
	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.
Non-M/W/SBE	1.03	S	1.03	S	1.02	S	1.03	S
African American	0.12	S	0.08	S	0.05	S	0.09	S
Asian American	0.56	S	0.13	S	0.07	S	0.26	S
Hispanic American	1.54	S	1.58	S	1.49	S	1.54	S
Non M-DCPS Certified MBE	0.41	S	0.46	S	0.57	S	0.48	S
Total MBE	1.01	NS	1.03	S	1.00	NS	1.02	S
WBE	0.36	S	0.34	S	0.54	S	0.41	S
Non M-DCPS Certified M/WBE	0.00	S	0.00	S	0.00	S	0.00	S
Total M/WBE	0.84	S	0.84	S	0.87	S	0.85	S
SBE	0.37	S	0.33	S	0.51	S	0.40	S
Total M/W/SBE	0.79	S	0.80	S	0.84	S	0.81	S
Service-Disabled	0.00	NS	0.00	NS	0.00	S	0.00	S

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

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 – Underutilized,, but not Statistically Significant;

ND: Not Defined

Appendix A: M-DCPS Statistical Tables

B. Maintenance and Maintenance-Related Services Disparity

Table A.55. Contracts Pure Prime + Sub Payments Utilization vs. <i>RWA</i> SM Availability Level 2 Maintenance and Maintenance-Related Services Miami-Dade County Public Schools Relevant Market; 2012/2013 – 2014/2015								
Tri-County								
Race/Ethnicity/Gender	2012/2013		2013/2014		2014/2015		Period	
	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.
Non-M/W/SBE	1.38	NS	0.51	S	0.86	NS	0.85	S
African American	0.00	NS	0.37	NS	3.46	S	1.54	NS
Asian American	0.00	NS	11.14	S	0.30	NS	4.24	S
Hispanic American	0.00	NS	3.10	S	1.04	NS	1.57	S
Non M-DCPS Certified MBE	0.00	S	0.00	S	0.00	S	0.15	S
Total MBE	0.00	S	2.17	S	0.37	S	1.29	NS
WBE	3.00	NS	0.00	NS	1.20	NS	1.44	NS
Non M-DCPS Certified M/WBE	0.00	S	0.00	S	1.89	NS	2.87	S
Total M/WBE	0.37	NS	1.88	S	7.12	S	1.32	S
SBE	0.00	NS	1.18	NS	1.33	S	0.44	S
Total M/W/SBE	0.35	S	1.84	S	1.24	S	1.26	S
Service-Disabled	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; Relevant Market—Miami-Dade/Broward/Palm Beach Tri-County Area;

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 – Underutilized,, but not Statistically Significant;

ND: Not Defined

Appendix A: M-DCPS Statistical Tables

Table A.56. Payments Utilization vs. <i>RWA</i> SM Availability Level 2 Maintenance and Maintenance-Related Services Miami-Dade County Public Schools Relevant Market; 2012/2013 – 2014/2015								
Tri-County								
Race/Ethnicity/Gender	2012/2013		2013/2014		2014/2015		Period	
	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.
Non-M/W/SBE	0.95	S	0.39	S	0.33	S	0.74	S
African American	0.24	S	0.40	S	0.20	S	0.26	S
Asian American	0.02	S	0.10	S	0.17	S	0.07	S
Hispanic American	1.48	S	1.88	S	1.85	S	1.62	S
Non M-DCPS Certified MBE	1.27	S	3.90	S	5.33	S	2.48	S
Total MBE	1.23	S	2.12	S	2.41	S	1.61	S
WBE	0.22	S	0.86	S	0.37	S	0.37	S
Non M-DCPS Certified M/WBE	2.70	S	13.30	S	2.67	S	4.76	S
Total M/WBE	1.12	S	2.06	S	2.16	S	1.48	S
SBE	0.49	S	1.72	S	1.81	S	0.95	S
Total M/W/SBE	1.08	S	2.03	S	2.13	S	1.45	S
Service-Disabled	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; Relevant Market— Miami-Dade/Broward/Palm Beach Tri-County Area;

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 – Underutilized,, but not Statistically Significant;

ND: Not Defined

Appendix A: M-DCPS Statistical Tables

C. Services Disparity

Table A.57. Contracts Pure Prime + Sub Payments Utilization vs. <i>RWA</i> SM Availability Level 2 Services Miami-Dade County Public Schools Relevant Market; 2012/2013 – 2014/2015								
State of Florida								
Race/Ethnicity/Gender	2012/2013		2013/2014		2014/2015		Period	
	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.
Non-M/W/SBE	1.10	NS	0.93	NS	1.12	S	1.09	S
African American	0.00	NS	0.00	NS	0.01	NS	0.00	NS
Asian American	0.00	NS	0.00	NS	0.00	NS	0.00	NS
Hispanic American	0.29	NS	4.21	S	0.60	NS	1.11	NS
Non M-DCPS Certified MBE	0.46	S	0.15	S	0.11	S	0.18	S
Total MBE	0.27	NS	2.13	S	0.33	S	0.60	NS
WBE	0.00	NS	0.00	NS	0.03	NS	0.02	S
Non M-DCPS Certified M/WBE	3.48	S	0.00	S	1.82	S	1.83	S
Total M/WBE	0.35	NS	1.49	NS	0.32	S	0.51	S
SBE	1.97	NS	0.00	NS	0.00	S	0.36	S
Total M/W/SBE	0.43	S	1.42	S	0.31	S	0.51	S
Service-Disabled	0.00	NS	0.00	NS	0.00	S	0.00	S

Source: M³ Consulting; M-DCPS Contracts Data, SAP PO and AP data.; M³ Consulting; Relevant Market—State of Florida;
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 – Underutilized,, but not Statistically Significant;
ND: Not Defined

Appendix A: M-DCPS Statistical Tables

Table A.58. Payments Utilization vs. <i>RWASM</i> Availability Level 2 Services Miami-Dade County Public Schools Relevant Market; 2012/2013 – 2014/2015								
State of Florida								
Race/Ethnicity/Gender	2012/2013		2013/2014		2014/2015		Period	
	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.
Non-M/W/SBE	1.08	S	1.08	S	1.06	S	1.07	S
African American	0.99	NS	0.73	S	0.15	S	0.65	S
Asian American	0.03	S	0.00	S	0.03	S	0.03	S
Hispanic American	0.75	S	0.78	S	0.72	S	0.75	S
Non M-DCPS Certified MBE	0.64	S	0.45	S	0.57	S	0.55	S
Total MBE	0.75	S	0.66	S	0.54	S	0.65	S
WBE	0.25	S	0.36	S	1.37	S	0.61	S
Non M-DCPS Certified M/WBE	0.00	S	0.00	S	0.00	S	0.00	S
Total M/WBE	0.59	S	0.55	S	0.73	S	0.61	S
SBE	0.00	S	0.07	S	0.03	S	0.03	S
Total M/W/SBE	0.56	S	0.53	S	0.69	S	0.59	S
Service-Disabled	0.99	NS	0.00	NS	0.00	S	0.37	S

Source: M-DCPS Contracts Data, SAP PO and AP data,; M³ Consulting; Relevant Market—State of Florida;

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 – Underutilized,, but not Statistically Significant;

ND: Not Defined