

# City of Raleigh

## DISPARITY STUDY

April 2023

**FINAL REPORT**



**PREPARED BY:**

Miller<sup>3</sup> Consulting, Inc.  
400 Pryor St., Suite 4068, Atlanta, GA 30302  
404-827-9019 • [www.miller3group.com](http://www.miller3group.com)



# Contents

## **CHAPTER 1: INTRODUCTION..... 1-1**

- 1.1 SCOPE OF THE DISPARITY STUDY .....1-1
- 1.2 ORGANIZATION OF THE DISPARITY STUDY.....1-2

## **CHAPTER 2: LEGAL ANALYSIS..... 1**

- 2.1 INTRODUCTION .....2-1
- 2.2 CONSTITUTIONALITY OF RACE AND GENDER-CONSCIOUS PROGRAMS ..... 2-2
- 2.3 FACTUAL PREDICATE STANDARDS (CONDUCTING THE DISPARITY STUDY).... 2-30
- 2.4 SUMMARY OF FINDINGS.....2-44

## **CHAPTER 3: PROCUREMENT ANALYSIS .....3-1**

- 3.1 INTRODUCTION .....3-1
- 3.2 BEST PRACTICES IN PUBLIC SECTOR PROCUREMENT ..... 3-2
- 3.3 RALEIGH’S ORGANIZATIONAL STRUCTURE AND PROCUREMENT PROCESS .....3-6
- 3.4 ANALYSIS OF RALEIGH’S DIVERSITY, INCLUSION, AND ASSISTANCE INITIATIVES.....3-25
- 3.5 IMPACT OF THE CITY OF RALEIGH’S POLICIES, PROCEDURES, AND PRACTICES ON M/WBES..... 3-30
- 3.6 SUMMARY OF FINDINGS AND RECOMMENDATIONS .....3-32

## **CHAPTER 4: STATISTICAL METHODOLOGY..... 4-1**

- 4.1 INTRODUCTION .....4-1
- 4.2 STATISTICAL METHODOLOGY .....4-1
- 4.3 DATA SOURCES UTILIZED FOR STATISTICAL ANALYSIS FOR THE CITY OF RALEIGH..... 4-16
- 4.4 SUMMARY OF FINDINGS..... 4-23

## **CHAPTER 5: STATISTICAL ANALYSIS OF M/WBE DISPARITY IN CONTRACTING..... 5-1**

- 5.1 INTRODUCTION .....5-1
- 5.2 AVAILABILITY DEFINITION .....5-6
- 5.3 TOTAL AVAILABILITY.....5-9
- 5.4 AVAILABILITY IN AES-DESIGN SERVICES... 5-12
- 5.5 AVAILABILITY IN CONSTRUCTION..... 5-14
- 5.6 AVAILABILITY IN PROFESSIONAL SERVICES..... 5-16
- 5.7 AVAILABILITY IN NONPROFESSIONAL SERVICES..... 5-18
- 5.8 AVAILABILITY IN GOODS & SUPPLIES..... 5-20
- 5.9 SUMMARY OF FINDINGS.....5-22

## **CHAPTER 6: STATISTICAL ANALYSIS OF M/WBE UTILIZATION..... 6-1**

- 6.1 INTRODUCTION .....6-1
- 6.2 TOTAL UTILIZATION BASED ON CONTRACT AWARDS, PURCHASE ORDERS AND PAYMENTS.....6-2
- 6.3 UTILIZATION BY PROCUREMENT TYPE.....6-8
- 6.4 AES-DESIGN SERVICES UTILIZATION .....6-9
- 6.5 CONSTRUCTION AND CONSTRUCTION-RELATED SERVICES UTILIZATION ..... 6-13
- 6.6 PROFESSIONAL SERVICES UTILIZATION ... 6-18
- 6.7 NONPROFESSIONAL SERVICES UTILIZATION .....6-22
- 6.8 GOODS & SUPPLIES UTILIZATION ..... 6-26
- 6.9 UTILIZATION THRESHOLDS .....6-30
- 6.10 TOP TEN BIDDERS AND AWARDEES ..... 6-42
- 6.11 SUMMARY OF FINDINGS..... 6-62

# Contents (cont'd)

## **CHAPTER 7: STATISTICAL ANALYSIS OF M/WBE DISPARITY IN CONTRACTING.....7-1**

7.1	INTRODUCTION .....	7-1
7.2	DISPARITY RATIOS METHODOLOGY .....	7-1
7.3	DISPARITIES IN AES-DESIGN SERVICES.....	7-2
7.4	DISPARITIES IN CONSTRUCTION AND CONSTRUCTION-RELATED SERVICES.....	7-6
7.5	DISPARITIES IN NONPROFESSIONAL SERVICES.....	7-10
7.6	DISPARITIES IN PROFESSIONAL SERVICES.....	7-14
7.7	DISPARITIES IN GOODS & SUPPLIES.....	7-18
7.8	SUMMARY OF FINDINGS.....	7-21

## **CHAPTER 8: CAPACITY AND REGRESSION ANALYSIS..... 8-1**

8.1	INTRODUCTION .....	8-1
8.2	CAPACITY ANALYSIS.....	8-1
8.3	MULTIVARIATE REGRESSION ANALYSIS....	8-64
8.4	DISPARITIES IN BUSINESS FORMATION: PUMS ANALYSIS.....	8-69
8.5	SUMMARY OF FINDINGS.....	8-83

## **CHAPTER 9: ANECDOTAL COMMENTS FROM THE MARKETPLACE ..... 9-1**

9.1	INTRODUCTION .....	9-1
9.2	ANECDOTAL INTERVIEW METHODOLOGY .....	9-3
9.3	ANECDOTAL INTERVIEW FINDINGS.....	9-3
9.4	SUMMARY OF FINDINGS.....	9-16

## **CHAPTER 10: MARKETPLACE ANALYSIS .....10-1**

10.1	INTRODUCTION .....	10-1
10.2	DEMOGRAPHIC AND ECONOMIC PROFILE OF THE RELEVANT MARKET .....	10-1
10.3	EDUCATION AND TRAINING: PATHWAYS TO THE CONSTRUCTION SECTOR .....	10-4
10.4	ANALYSIS OF DODGE GENERAL CONSTRUCTION DATA.....	10-15
10.5	CITY OF RALEIGH BUILDING PERMITS ANALYSIS .....	10-22
10.6	CITY OF RALEIGH BUILDING LICENSE ANALYSIS .....	10-30
10.7	SUMMARY OF FINDINGS.....	10-33

## **CHAPTER 11: RACE NEUTRAL ANALYSIS .....11-1**

11.1	INTRODUCTION .....	11-1
11.2	METHODOLOGY .....	11-2
11.3	MASTER LIST OF RACE-NEUTRAL PROGRAMS .....	11-3
11.4	ANECDOTAL INTERVIEWS WITH EXECUTIVE DIRECTORS.....	11-14
11.5	ANECDOTAL INTERVIEW FINDINGS.....	11-16
11.6	SUMMARY OF FINDINGS.....	11-22

## **CHAPTER 12: RECOMMENDATIONS .....12-1**

12.1	INTRODUCTION .....	12-1
12.2	CONCLUSIONS ON RACE- AND GENDER-CONSCIOUS GOAL POSSIBILITIES.....	12-2
12.3	RECOMMENDATIONS .....	12-3
12.4	SUMMARY .....	12-27

# Figures

<b>Figure 3.1.</b>	10 Components of an Inclusive and Sustainable Procurement System .....	3-3
<b>Figure 3.2.</b>	M <sup>3</sup> Consulting Six Essential M/WBE and SBE Program Elements .....	3-5
<b>Figure 3.3.</b>	City of Raleigh Organizational Chart.....	3-9
<b>Figure 3.4.</b>	City of Raleigh Department of Equity and Inclusion (DEI) Organizational Chart .....	3-10
<b>Figure 3.5.</b>	City of Raleigh Procurement Functions.....	3-12
<b>Figure 3.6.</b>	Authorization Matrix—Contract Actions .....	3-14
<b>Figure 3.7.</b>	Authorization to Award Contracts .....	3-15
<b>Figure 3.8.</b>	Analysis of Policies and Procedures.....	3-16
<b>Figure 3.9.</b>	Informal Procurement or Small Purchases: Goods (supplies, apparatus, and equipment including leases and purchases).....	3-18
<b>Figure 3.10.</b>	Professional Services (only for architectural, engineering, design-build, surveying, and construction management at risk, and public-private partnership construction).....	3-19
<b>Figure 3.11.</b>	All Other General Services (excludes architectural, engineering, design-build, surveying, construction management at risk, and public-private partnership construction).....	3-19
<b>Figure 3.12.</b>	Construction And Repairs .....	3-19
<b>Figure 3.13.</b>	M <sup>3</sup> Consulting Six Essential M/WBE and SBE Program Elements .....	3-26
<b>Figure 4.1.</b>	RWA <sup>SM</sup> Availability Model.....	4-7
<b>Figure 4.2.</b>	City of Raleigh Specific RWA <sup>SM</sup> Availability Levels.....	4-8
<b>Figure 4.3.</b>	RWA <sup>SM</sup> Availability Estimate Venn Diagram .....	4-8
<b>Figure 4.4.</b>	Disparity Ratio Indicating Areas of Significant and Nonsignificant Disparity and Overutilization .....	4-14
<b>Figure 5.1.</b>	RWA <sup>SM</sup> Availability Model.....	5-7
<b>Figure 5.2.</b>	Raleigh Specific RWA <sup>SM</sup> Availability Levels .....	5-8
<b>Figure 5.3.</b>	Raleigh Bidder Frequency.....	5-8

# Tables

<b>Table 4.1.</b>	Summary of Bid Activity on City of Raleigh Solicitations Above \$300,000, FY 2017 to FY 2021 .....	4-17
<b>Table 4.2.</b>	Contract Awards, Commercial Activities .....	4-21
<b>Table 5.1.</b>	Summary of Relevant Market Determination .....	5-4
<b>Table 5.2.</b>	Relevant Market Summary: AES-Design Services, FY 2017–FY 2021 .....	5-4
<b>Table 5.3.</b>	Relevant Market Summary: Construction and Construction-Related Services, FY 2017–FY 2021 .....	5-4
<b>Table 5.4.</b>	Relevant Market Summary: Professional Services, FY 2017–FY 2021 .....	5-5
<b>Table 5.5.</b>	Relevant Market Summary: Nonprofessional Services, FY 2017–FY 2021 .....	5-5
<b>Table 5.6.</b>	Relevant Market Summary: Goods & Supplies, FY 2017–FY 2021 .....	5-6
<b>Table 5.7.</b>	RWA <sup>SM</sup> Availability: Levels 1–2 Total Availability City of Raleigh. Nationwide, FY 2017–FY 2021 .....	5-10
<b>Table 5.8.</b>	Data Axle Availability Total Availability Raleigh-Durham-Cary, NC (CBSA), FY 2021 .....	5-11
<b>Table 5.9.</b>	RWA <sup>SM</sup> Availability: Levels 1–2 AES-Design Services City of Raleigh, Raleigh-Cary, NC MSA, FY 2017–FY 2021 .....	5-12
<b>Table 5.10.</b>	Data Axle Availability, AES-Design Services, Raleigh-Durham-Cary, NC (CBSA), 2021 .....	5-13
<b>Table 5.11.</b>	RWA <sup>SM</sup> Availability: Levels 1–2 Construction and Construction-Related Services City of Raleigh, State of North Carolina, FY 2017–FY 2021 .....	5-14
<b>Table 5.12.</b>	Data Axle Availability, Construction and Construction-Related Services, Raleigh-Durham-Cary, NC (CBSA), 2021 .....	5-15
<b>Table 5.13.</b>	RWA <sup>SM</sup> Availability: Levels 1–2 Professional Services City of Raleigh, State of North Carolina, FY 2017–FY 2021 .....	5-16
<b>Table 5.14.</b>	Data Axle Availability Professional Services Raleigh-Durham-Cary, NC (CBSA), 2021 .....	5-17
<b>Table 5.15.</b>	RWA <sup>SM</sup> Availability: Levels 1–2 Nonprofessional Services City of Raleigh, State of North Carolina, FY 2017–FY 2021 .....	5-18
<b>Table 5.16.</b>	Data Axle Availability Nonprofessional Services Raleigh-Durham-Cary, NC (CBSA), 2021 .....	5-19
<b>Table 5.17.</b>	RWA <sup>SM</sup> Availability: Levels 1–2. Goods & Supplies City of Raleigh, Nationwide, FY 2017–FY 2021 .....	5-20
<b>Table 5.18.</b>	Data Axle Availability Goods & Supplies Raleigh-Durham-Cary, NC (CBSA), 2021 .....	5-21
<b>Table 5.19.</b>	Summary Table—RWA <sup>SM</sup> Level 2 Availability Percentage Representation City of Raleigh Relevant Market; FY 2017–FY 2021 .....	5-23
<b>Table 5.20.</b>	Summary Table—Marketplace Availability Relevant Market, 2021 .....	5-24
<b>Table 6.1.</b>	Total Utilization, Contract Awards—Dollars, City of Raleigh, Nationwide, FY 2017–FY 2021 .....	6-5
<b>Table 6.2.</b>	Total Utilization, Purchase Orders—Dollars, City of Raleigh, Nationwide, FY 2017–FY 2021 .....	6-6



# Tables (cont'd)

<b>Table 6.3.</b>	Total Utilization, Payments—Dollars, City of Raleigh, Nationwide, FY 2017–FY 2021.....	6-7
<b>Table 6.4.</b>	Summary of Relevant Market Determination .....	6-8
<b>Table 6.5.</b>	AES-Design Services Utilization, Purchase Order—Dollars, City of Raleigh, Raleigh-Cary, NC MSA FY 2017–FY 2021 .....	6-10
<b>Table 6.6.</b>	AES-Design Services Utilization Comparison, Contract Awards, Purchase Orders, Payments—Dollars, City of Raleigh, Raleigh-Cary, NC MSA FY 2017–FY 2021 .....	6-12
<b>Table 6.7.</b>	Construction and Construction-Related Services Utilization, Contract Awards—Pure Prime + Subcontractor Dollars, City of Raleigh, State of North Carolina, FY 2017–FY 2021 .....	6-14
<b>Table 6.8.</b>	Construction and Construction-Related Services, Contract Awards Breakdown of Pure Prime + Subcontractor Dollars, City of Raleigh, Raleigh-Cary, NC MSA FY 2017–FY 2021 .....	6-15
<b>Table 6.9.</b>	Construction and Construction-Related Services Utilization Comparison, Contract Awards, Purchase Orders, Payments—Dollars, City of Raleigh, State of North Carolina, FY 2017–FY 2021.....	6-17
<b>Table 6.10.</b>	Professional Services Utilization, Purchase Order—Dollars, City of Raleigh, State of North Carolina, FY 2017–FY 2021 .....	6-19
<b>Table 6.11.</b>	Professional Services Utilization Comparison, Contract Awards, Purchase Orders, Payments—Dollars, City of Raleigh, State of North Carolina, FY 2017–FY 2021 .....	6-21
<b>Table 6.12.</b>	Nonprofessional Services Utilization, Purchase Order—Dollars, City of Raleigh, State of North Carolina, FY 2017–FY 2021 .....	6-23
<b>Table 6.13.</b>	Nonprofessional Services Utilization Comparison, Contract Awards, Purchase Orders, Payments—Dollars, City of Raleigh, State of North Carolina, FY 2017–FY 2021.....	6-25
<b>Table 6.14.</b>	Goods & Supplies Utilization, Purchase Order—Dollars, City of Raleigh, Nationwide, FY 2017–FY 2021.....	6-27
<b>Table 6.15.</b>	Goods & Supplies Utilization Comparison, Contract Awards, Purchase Orders, Payments—Dollars, City of Raleigh, Nationwide, FY 2017–FY 2021.....	6-29
<b>Table 6.16.</b>	AES-Design Services Utilization Thresholds, Purchase Orders—Dollars, City of Raleigh, Nationwide, FY 2017–FY 2021 .....	6-32
<b>Table 6.17.</b>	Construction and Construction-Related Services Utilization Thresholds, Purchase Orders—Dollars, City of Raleigh, Nationwide, FY 2017–FY 2021.....	6-34
<b>Table 6.18.</b>	Professional Services Utilization Thresholds, Purchase Orders—Dollars, City of Raleigh, Nationwide, FY 2017–FY 2021 .....	6-36
<b>Table 6.19.</b>	Nonprofessional Services Utilization Thresholds, Purchase Orders—Dollars, City of Raleigh, Nationwide, FY 2017–FY 2021 .....	6-38
<b>Table 6.20.</b>	Goods & Supplies Utilization Thresholds, Purchase Orders—Dollars, City of Raleigh, Nationwide, FY 2017–FY 2021 .....	6-40
<b>Table 6.21.</b>	Top Ten Bidders, AES-Design Services, Raleigh-Cary, NC MSA FY 2017–FY 2021 .....	6-43

# Tables (cont'd)

<b>Table 6.22.</b>	Top Ten Awardees, AES-Design Services, Contract Awards, Raleigh-Cary, NC MSA FY 2017–FY 2021.....	6-44
<b>Table 6.23.</b>	Success Rate of Top Ten Bidders: AES-Design Services, Raleigh-Cary, NC MSA FY 2017–FY 2021 .....	6-45
<b>Table 6.24.</b>	Top Ten Bidders, Construction and Construction-Related Services, State of North Carolina, FY 2017–FY 2021 .....	6-47
<b>Table 6.25.</b>	Top Ten Awardees, Construction and Construction-Related Services, Contract Awards, State of North Carolina, FY 2017–FY 2021.....	6-48
<b>Table 6.26.</b>	Success Rate of Top Ten Bidders: Construction and Construction-Related Services, State of North Carolina, FY 2017–FY 2021.....	6-49
<b>Table 6.27.</b>	Top Ten Bidders, Professional Services, State of North Carolina, FY 2017–FY 2021 .....	6-51
<b>Table 6.28.</b>	Top Ten Awardees, Professional Services Utilization, Awards, State of North Carolina, FY 2017–FY 2021.....	6-52
<b>Table 6.29.</b>	Success Rate of Top Ten Bidders: Professional Services, State of North Carolina, FY 2017–FY 2021 .....	6-53
<b>Table 6.30.</b>	Top Ten Bidders, Nonprofessional Services State of North Carolina, FY 2017–FY 2021.....	6-55
<b>Table 6.31.</b>	Top Ten Awardees, Nonprofessional Services, Contract Awards State of North Carolina, FY 2017–FY 2021 .....	6-56
<b>Table 6.32.</b>	Success Rate of Top Ten Bidders: Nonprofessional Services, State of North Carolina, FY 2017–FY 2021 .....	6-57
<b>Table 6.33.</b>	Top Ten Bidders, Goods & Supplies Nationwide, FY 2017–FY 2021.....	6-59
<b>Table 6.34.</b>	Top Ten Awardees, Goods & Supplies, City of Raleigh Nationwide, FY 2017–FY 2021 .....	6-60
<b>Table 6.35.</b>	Success Rate of Top Ten Bidders: Goods & Supplies, Nationwide, FY 2017–FY 2021.....	6-61
<b>Table 6.36.</b>	M/WBE Utilization in Percent of Dollars of Purchase Orders, Payments, and Contract Awards, City of Raleigh, Summary of M/WBE Utilization by Relevant Market, FY 2017–FY 2021 .....	6-64
<b>Table 6.37.</b>	Total Utilization, Purchase Orders—Dollars, City of Raleigh, Nationwide, FY 2017–FY 2021.....	6-65
<b>Table 7.1.</b>	Purchase Order Utilization vs. RWA <sup>SM</sup> Availability Level 2, AES-Design Services, City of Raleigh, Raleigh-Cary, NC MSA, FY 2017–FY 2021.....	7-3
<b>Table 7.2.</b>	Summary Disparity Ratios by Race, Ethnicity and Gender, Utilization vs. RWA <sup>SM</sup> Availability Level 2 .....	7-4
	AES-Design Services, City of Raleigh, Raleigh-Cary, NC MSA, FY 2017–FY 2021 .....	7-4
<b>Table 7.3.</b>	Purchase Order Utilization vs. Data Axle Availability, AES-Design Services, City of Raleigh, Raleigh-Cary, NC MSA, FY 2017–FY 2021.....	7-5
<b>Table 7.4.</b>	Contract Awards Utilization vs. RWA <sup>SM</sup> Availability Level 2, Construction and Construction- Related Services, City of Raleigh, State of North Carolina, FY 2017–FY 2021 .....	7-7
<b>Table 7.5.</b>	Summary Disparity Ratios by Race, Ethnicity and Gender, Utilization vs. RWA <sup>SM</sup> Availability Level 2, Construction and Construction-Related Services, City of Raleigh, State of North Carolina, FY 2017–FY 2021 .....	7-8

# Tables (cont'd)

<b>Table 7.6.</b>	Contract Awards Utilization vs. Data Axle Availability, Construction and Construction-Related Services, City of Raleigh, State of North Carolina, FY 2017–FY 2021.....	7-9
<b>Table 7.7.</b>	Purchase Order Utilization vs. RWA <sup>SM</sup> Availability Level 2, Nonprofessional Services, City of Raleigh, State of North Carolina, FY 2017–FY 2021.....	7-11
<b>Table 7.8.</b>	Summary Disparity Ratios by Race, Ethnicity and Gender, Utilization vs. RWA <sup>SM</sup> Availability Level 2, Nonprofessional Services, City of Raleigh, State of North Carolina, FY 2017–FY 2021.....	7-12
<b>Table 7.9.</b>	Purchase Order Utilization vs. Data Axle Availability, Nonprofessional Services, City of Raleigh,   State of North Carolina, FY 2017–FY 2021.....	7-13
<b>Table 7.10.</b>	Purchase Order Utilization vs. RWA <sup>SM</sup> Availability Level 2, Professional Services, City of Raleigh, State of North Carolina, FY 2017–FY 2021.....	7-15
<b>Table 7.11.</b>	Summary Disparity Ratios by Race, Ethnicity and Gender, Utilization vs. RWA <sup>SM</sup> Availability Level 2, Professional Services, City of Raleigh, State of North Carolina, FY 2017–FY 2021 .....	7-16
<b>Table 7.12.</b>	Purchase Order Utilization vs. Data Axle Availability, Professional Services, City of Raleigh, State of North Carolina, FY 2017–FY 2021.....	7-17
<b>Table 7.13.</b>	Purchase Order Utilization vs. RWA <sup>SM</sup> Availability Level 2, Goods & Supplies, City of Raleigh, Nationwide, FY 2017–FY 2021.....	7-18
<b>Table 7.14.</b>	Summary Disparity Ratios by Race, Ethnicity and Gender, Utilization vs. RWA <sup>SM</sup> Availability Level 2, Goods & Supplies, City of Raleigh, Nationwide, FY 2017–FY 2021.....	7-19
<b>Table 7.15.</b>	Purchase Order Utilization vs. Data Axle Availability, Goods & Supplies, City of Raleigh, Nationwide, FY 2017–FY 2021 .....	7-20
<b>Table 7.16.</b>	Summary Disparity Ratios by Race, Ethnicity and Gender, Utilization vs. RWA <sup>SM</sup> Availability Level 2, City of Raleigh, Relevant Market, FY 2017–FY 2021 .....	7-22
<b>Table 8.1.</b>	Census Capacity, Construction, Raleigh-Cary, NC MSA, 2020 .....	8-3
<b>Table 8.2.</b>	Census Capacity Goods & Supplies, Raleigh-Cary, NC MSA, 2020 .....	8-4
<b>Table 8.3.</b>	Census Capacity, Nonprofessional Services, Raleigh-Cary, NC MSA, 2020 .....	8-5
<b>Table 8.4.</b>	Census Capacity, Professional Services, Raleigh-Cary, NC MSA, 2020.....	8-6
<b>Table 8.5.</b>	Data Axle, Capacity Based on Total Number of Employees, Total, Raleigh-Durham-Cary, NC (CBSA), FY 2021 .....	8-9
<b>Table 8.6.</b>	Data Axle, Capacity Based on Total Number of Employees, AES Design Services, Raleigh-Durham-Cary, NC (CBSA), FY 2021.....	8-11
<b>Table 8.7.</b>	Data Axle, Capacity Based on Total Number of Employees, Construction and Construction-Related Services, Raleigh-Durham-Cary, NC (CBSA), FY 2021 .....	8-13
<b>Table 8.8.</b>	Data Axle, Capacity Based on Total Number of Employees, Goods & Supplies, Raleigh-Durham-Cary, NC (CBSA), FY 2021 .....	8-15



# Tables (cont'd)

<b>Table 8.9.</b>	Data Aisle, Capacity Based on Total Number of Employees, Nonprofessional Services, Raleigh-Durham-Cary, NC (CBSA), FY 2021 .....	8-17
<b>Table 8.10.</b>	Data Aisle, Capacity Based on Total Number of Employees, Professional Services, Raleigh-Durham-Cary, NC (CBSA), FY 2021 .....	8-19
<b>Table 8.11.</b>	Data Aisle, Capacity Based on Sales Volume, Total, Raleigh-Durham-Cary, NC (CBSA), FY 2021 .....	8-22
<b>Table 8.12.</b>	Data Aisle, Capacity Based on Sales Volume, AES Design Services, Raleigh-Durham-Cary, NC (CBSA), FY 2021.....	8-24
<b>Table 8.13.</b>	Data Aisle, Capacity Based on Sales Volume, Construction and Construction-Related Services, Durham-Cary, NC (CBSA), FY 2021 .....	8-26
<b>Table 8.14.</b>	Data Aisle, Capacity Based on Sales Volume, Goods & Supplies, Raleigh-Durham-Cary, NC (CBSA), FY 2021.....	8-28
<b>Table 8.15.</b>	Data Aisle, Capacity Based on Sales Volume, Nonprofessional Services, Raleigh-Durham-Cary, NC (CBSA), FY 2021 .....	8-30
<b>Table 8.16.</b>	Data Aisle, Capacity Based on Sales Volume, Professional Services, Raleigh-Durham-Cary, NC (CBSA), FY 2021.....	8-32
<b>Table 8.17.</b>	Q12a: What is his/her current marital status?.....	8-35
<b>Table 8.18.</b>	Q12b: What is his/her current marital status? .....	8-35
<b>Table 8.19.</b>	Q12: What is the highest degree or level of education that your principal has completed? .....	8-36
<b>Table 8.20.</b>	Q14: Prior to the principal's involvement with your company, how many years did he or she work in the same profession that the company specializes in presently?.....	8-36
<b>Table 8.21.</b>	Q18: Which of the following categories best describes your company's total gross receipts from all sources for fiscal year (FY) 2021? .....	8-37
<b>Table 8.22.</b>	Q26: Which of the following programs to obtain company funding/financing, if any, has your company used in the past five years? (Multiple answers were accepted.).....	8-38
<b>Table 8.23.</b>	Q19: Which, if any, of the following has your company applied for in the past five years? (Multiple answers were accepted.) .....	8-38
<b>Table 8.24.</b>	Q20: How many times in the past five years has your company applied for a bond?.....	8-39
<b>Table 8.25.</b>	Q21: How many times in the past five years has your company been denied a bond? .....	8-39
<b>Table 8.26.</b>	Q22: How many times in the past five years has your company applied for a loan/line of credit? .....	8-40
<b>Table 8.27.</b>	Q23: How many times in the past five years has your company been denied a loan/line of credit? .....	8-40
<b>Table 8.28.</b>	Q24: What challenges, if any, did your company encounter in attempting to secure a loan or line of credit from a financial institution in the past five years. (Multiple answers were accepted.).....	8-41

# Tables (cont'd)

<b>Table 8.29.</b>	Q26a: Does your company bid on projects as a prime or subcontractor? .....	8-41
<b>Table 8.30.</b>	Q27a: Thinking about all the bids (supplying a quote or proposal) your company has submitted in the past two years as a prime contractor (or consultant), what percentage has gone to each of the following agency or company types? — City of Raleigh.....	8-42
<b>Table 8.31.</b>	Q27b: Thinking about all the bids (supplying a quote or proposal) your company has submitted in the past two years as a prime contractor (or consultant), what percentage has gone to each of the following agency or company types? — Other public sector agencies in North Carolina.....	8-43
<b>Table 8.32.</b>	Q27c. Thinking about all the bids (supplying a quote or proposal) your company has submitted in the past two years as a prime contractor (or consultant), what percentage has gone to each of the following agency or company types? — Other public sector agencies outside of North Carolina.....	8-44
<b>Table 8.33.</b>	Q27d. Thinking about all the bids (supplying a quote or proposal) your company has submitted in the past two years as a prime contractor (or consultant), what percentage has gone to each of the following agency or company types? — Private sector agencies/companies.....	8-45
<b>Table 8.34.</b>	Q27aa. If you did not submit a bid as a prime contractor/consultant to the City of Raleigh in the past two years, why not? .....	8-46
<b>Table 8.35.</b>	Q29a: Thinking about all the bids (supplying a quote or proposal) your company has submitted in the past two years as a subcontractor (or subconsultant), what percentage has gone to each of the following agency or company types? — City of Raleigh.....	8-47
<b>Table 8.36.</b>	Q29b: Thinking about all the bids (supplying a quote or proposal) your company has submitted in the past two years as a subcontractor (or subconsultant), what percentage has gone to each of the following agency or company types? — Other public sector agencies in North Carolina.....	8-48
<b>Table 8.37.</b>	Q29c: Thinking about all the bids (supplying a quote or proposal) your company has submitted in the past two years as a subcontractor (or subconsultant), what percentage has gone to each of the following agency or company types? — Other public sector agencies outside of North Carolina.....	8-49
<b>Table 8.38.</b>	Q29d: Thinking about all the bids (supplying a quote or proposal) your company has submitted in the past two years as a subcontractor (or subconsultant), what percentage has gone to each of the following agency or company types? — Private sector agencies/companies. ....	8-50
<b>Table 8.39.</b>	Q29aa. If you did not submit a sub-bid as a subcontractor/subconsultant to a prime contractor/consultant on a City of Raleigh project in the past two years, why not? (Multiple answers were accepted.) .....	8-51
<b>Table 8.40.</b>	Q28: In the past two years, has your company won a contract or been awarded a contract as a prime contractor (consultant) on contracts in or with any of the following? (Multiple answers were accepted.) .....	8-52
<b>Table 8.41.</b>	Q30: In the past two years, has your company won a contract or been awarded a contract as a subcontractor (subconsultant) on contracts for any of the following? (Multiple answers were accepted.) .....	8-52
<b>Table 8.42.</b>	Q31: Which of the following categories best describes the average bid range that your company has submitted in the past two years? .....	8-53
<b>Table 8.43.</b>	Q32: Which of the following categories best describes the single largest contract dollar award received as a prime contractor (consultant) from the City of Raleigh? .....	8-53

# Tables (cont'd)

<b>Table 8.44.</b>	Q33: Which of the following categories best describes the single largest contract dollar award received as a subcontractor (subconsultant) for a City of Raleigh contract? .....	8-54
<b>Table 8.45.</b>	Q34: Which of the following categories best describes the single largest contract dollar award received as a prime contractor from a private sector agency or company? .....	8-55
<b>Table 8.46.</b>	Q35: Which of the following categories best describes the single largest contract dollar award received as a subcontractor from a private sector agency or company? .....	8-56
<b>Table 8.47.</b>	Q36: Which of the following categories best describes the single largest contract dollar award received as a prime contractor from a public sector agency or company? .....	8-57
<b>Table 8.48.</b>	Q37: Which of the following categories best describes the single largest contract dollar award received as a subcontractor from a public sector agency or company? .....	8-58
<b>Table 8.49.</b>	Q38: The City of Raleigh administers a program targeted to promote inclusion of DBEs and SBEs. What is the general consensus of opinion in your company's leadership as to the general fairness of this policy? .....	8-58
<b>Table 8.50.</b>	Q38: The City of Raleigh administers a program targeted to promote inclusion of DBEs and SBEs. What is the general consensus of opinion in your company's leadership as to the general fairness of this policy? .....	8-59
<b>Table 8.51.</b>	Q42: Has your company ever experienced any of the following issues while bidding as a prime contractor or subcontractor? .....	8-60
<b>Table 8.52.</b>	Q42: Has your company ever experienced any of the following issues while bidding as a prime contractor or subcontractor? .....	8-61
<b>Table 8.53.</b>	Q44a: Please use the space below to record any other comments you may wish to share on the subject of the City of Raleigh and bidding and award opportunities for DBEs or SBEs. (Responses were coded from an open-ended question.).....	8-62
<b>Table 8.54.</b>	Q10: Is at least 51% of your firm owned and controlled by one or more women? .....	8-62
<b>Table 8.55.</b>	Q11: Is at least 51% of your firm owned and controlled by a member of one of the following racial/ethnic/gender groups? Please select which group.....	8-63
<b>Table 8.56.</b>	Final Designation .....	8-63
<b>Table 8.57.</b>	All respondents.....	8-65
<b>Table 8.58.</b>	Non-WMSBE .....	8-66
<b>Table 8.59.</b>	WMSBE .....	8-67
<b>Table 8.60.</b>	Non-M/WBE vs. M/WBE.....	8-68

# Tables (cont'd)

<b>Table 8.61.</b>	“Odds Ratio” For Self-Employment for Minority Groups Relative to Nonminority Males Controlling for Economic and Demographic Factors.....	8-73
<b>Table 8.62.</b>	Results of the Binary Logistic Regression Analysis for the Full Sample.....	8-73
<b>Table 8.63.</b>	“Odds Ratio” For Self-Employment for Minority Groups Relative to Nonminority Males Controlling for Economic and Demographic Factors – Construction Industry Only .....	8-75
<b>Table 8.64.</b>	Results of the Binary Logistic Regression Analysis for Construction Industry only.....	8-75
<b>Table 8.65.</b>	“Odds Ratio” For Self-Employment for Minority Groups Relative to Nonminority Males Controlling for Economic and Demographic Factors – Professional, Scientific and Technical Services Only.....	8-76
<b>Table 8.66.</b>	Results of the Binary Logistic Regression Analysis for Professional, Scientific and Technical Services Only.....	8-77
<b>Table 8.67.</b>	Linear Regression Results for the Determinants of Self-Employment Income by Race and Gender for the Full Sample.....	8-79
<b>Table 8.68.</b>	Linear Regression Results for the Determinants of Self-Employment Income by Race and Gender for Construction Only.....	8-81
<b>Table 8.69.</b>	Linear Regression Results for the Determinants of Self-Employment Income by Race and Gender for Professional, Scientific and Technical Services Only .....	8-82
<b>Table 9.1.</b>	1-on-1 Interview and Focus Group Participants, Race and Gender Distribution .....	9-1
<b>Table 9.2.</b>	1-on-1 Interview and Focus Group Participants, Industry Distribution .....	9-2
<b>Table 10.1.</b>	Total Population 16 Years and Older by Race and Hispanic Origin, Census 2019.....	10-2
<b>Table 10.2.</b>	Civilian Labor Force Total Population 16 Years and Older by Race and Hispanic Origin Census 2019 .....	10-3
<b>Table 10.3.</b>	Employment in Selected Apprenticeable EEO Construction Occupations by Hispanic Origin and Race, 2014–2018, North Carolina .....	10-5
<b>Table 10.4.</b>	Employment in Selected Apprenticeable EEO Construction Occupations by Hispanic Origin and Race, 2014–2018, Raleigh, NC, Metro Area .....	10-6
<b>Table 10.5.</b>	Employment in Selected Apprenticeable EEO Construction Occupations by Hispanic Origin and Race, 2014–2018, City of Raleigh, NC.....	10-7
<b>Table 10.6.</b>	Employment in Selected Apprenticeable EEO Professional Occupations by Hispanic Origin and Race, 2014–2018, North Carolina .....	10-9
<b>Table 10.7.</b>	Employment in Selected Apprenticeable EEO Professional Occupations by Hispanic Origin and Race, 2014–2018, Raleigh, NC, Metro Area .....	10-11
<b>Table 10.8.</b>	Employment in Selected Apprenticeable EEO Professional Occupations by Hispanic Origin and Race, 2014–2018, City of Raleigh, North Carolina.....	10-13
<b>Table 10.9.</b>	Counts and Project Value of Unique Projects by Project Owner, State of North Carolina, 2021.....	10-15

# Tables (cont'd)

<b>Table 10.10.</b>	Firm Availability by Role, State of North Carolina, FY 2021 .....	10-17
<b>Table 10.11.</b>	Distribution of M/WBEs by Bidder Ranking by Project Owner: Public, State of North Carolina, FY 2021.....	10-19
<b>Table 10.12.</b>	Distribution of M/WBEs by Bidder Ranking by Project Owner: Private, State of North Carolina, FY 2021.....	10-20
<b>Table 10.13.</b>	Count of Bids Rank #1 by Project Owner, State of North Carolina, FY 2021 .....	10-21
<b>Table 10.14.</b>	Contractor Data, Count of Commercial Building Permits, City of Raleigh, FY 2017–FY 2021.....	10-22
<b>Table 10.15.</b>	Contractor Data, Valuation (\$) of Commercial Building Permits, City of Raleigh, FY 2017–FY 2021 .....	10-23
<b>Table 10.16.</b>	Contractor Data by Threshold, Valuation (\$) of Commercial Building Permits, City of Raleigh, FY 2017–FY 2021 .....	10-24
<b>Table 10.17.</b>	Count of Discrete Contractors by Threshold, Public and Private Sector, City of Raleigh, FY 2017–FY 2021 .....	10-26
<b>Table 10.18.</b>	Count of Discrete Contractors, City of Raleigh, FY 2017–FY 2021 .....	10-28
<b>Table 10.19.</b>	Top 20 Awardees Based on Count of Building Permits Received, City of Raleigh, FY 2017–FY 2021.....	10-29
<b>Table 10.20.</b>	City of Raleigh Business License Data, FY 2017–FY 2021 .....	10-31
<b>Table 11.3.</b>	Master List of Race-Neutral Programs.....	11-3
<b>Table 12.1.</b>	Inference of Discrimination Based on Findings of Statistically Significant Disparity, By Race/Ethnicity/Gender, By Procurement Type, For the City of Raleigh.....	12-2
<b>Table 12.2.</b>	Categories for Race/Ethnicity/Gender-Conscious and Race/Ethnicity/Gender-Neutral Means of Addressing Disparity, By Procurement Type .....	12-13
<b>Table 12.3.</b>	M <sup>3</sup> Consulting Six Essential M/WBE and SBE Program Elements.....	12-18

# Glossary of Terms

**Actual availability**—refers to firms that have affirmatively shown interest in doing business with the City of Raleigh in one or more of the following ways: bidding for a City contract; being awarded a City contract; or, being included on the City’s 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 women-owned businesses through its contracting and procurement activities, or any other of its activities (e.g. employment).

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

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

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

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

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

**Awardees**—firms that receive a contract award from the City as reflected through contract awards, purchase orders and payments data.

**Bidders**—firms that submitted a bid or sub-bid on a City formal purchasing opportunity or submitted a quote for a the City 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/or females.

**City Certified DBE**—firms certified by the City’ Office of Economic Development as a DBE.

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

**Construction and Construction-Related Services**—Capital construction projects and contracts that cover general construction trade services.

**Contract award data**—data gleaned from the City’ bid history data and contract logs that were provided to M<sup>3</sup> Consulting in a shared folder. Access to the shared folder was provided by the City’s Point of Contact. The contract logs represent the universe of formal competitive contracts let by the City.

**Croson 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.



# Glossary of Terms (cont'd)

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

**Disadvantaged Business**—new, small or local business, whether a sole proprietorship, partnership, corporation, or other entity, or any business that is at least 51 percent owned and controlled by one or more socially disadvantaged individuals who, in fact, control the management and daily business operations of that business.

**Discrete Contractor**—within the data analysis process, a contractor is counted only once, and duplicates are removed.

**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.

**Dodge 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.

**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 \$60,000. Formal purchasing at the City is done using Invitations for Bid and Requests for Proposals.

**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 less than \$60,000.

**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**—any entity with its headquarters' office or principal place of business within the city boundaries and in the tax year preceding application for certification has (1) earned at least 25 percent of its gross receipts from work performed on construction projects within the city boundaries; or (2) employed a workforce of which at least 25 percent were economically disadvantaged individuals or were residents of a targeted business development area within the city boundaries.

**Marketplace Availability**—all firms' available in the City' marketplace, as measured by Data Axle and Dodge Construction data.

**Master S/M/W/DBE List**—list of certified SBEs, MBEs, WBEs and DBEs from the City of Raleigh, State of North Carolina, and the following directories: City of Raleigh Certified M/WBE; State of NC HUB; NC DOT DBE Directory; NC DOT SBE Directory; SC DOT Unified Certification Program DBE Directory; SC DOT DBE Directory; NC DOT Prequalified Consultants Directory (only those identified as having a minority certification were included); and NC DOT Prequalified Bidders and Subcontractors Directory (only those identified as having a minority certification were included).

# Glossary of Terms (cont'd)

**Matchmaking**—efforts to bring together potential DBEs, Non-DBEs and City 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 Raleigh-Cary MSA metropolitan area consists of: Wake, Johnston and Franklin counties.

**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, and Hispanic Americans.

**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:

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; and,
3. The program must be limited in its effective scope to the boundaries of the governmental entity.

**Non-DBEs**—for computation of availability, utilization and disparity tables, represents all other firms, exclusive of DBEs.

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

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

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

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

**Political Jurisdiction**—the geographical area of a political body's power and authority.

**Potential Availability**—refers to firms present in the City's market beyond those “actually available,” to include those that have not bid on the City work or taken other affirmative steps toward doing business specifically with the City (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.

**Public Sector Availability**—Includes lists of available firms known to various public sector agencies, including, but not limited to, the City in the relevant market region. These firms are closer to RWA<sup>SM</sup>, having expressed an interest in contracting opportunities with other public sector agencies with similar standards and limitations as the City.

# Glossary of Terms (cont'd)

**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- and Gender-Conscious**—any business development plan or program which uses race and gender as a criterion for participation.

**Race- and Gender-Neutral**—any business development plan or program in which race and gender 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 (RWA<sup>SM</sup> Estimate)**—the number of DBEs 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.\*

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.

**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 the City:

- City of Raleigh
- Raleigh-Cary, NC MSA
- State of North Carolina
- 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 DBEs vary based on characteristics such as race, gender, years of experience, and gross annual receipts.

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

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

# Glossary of Terms (cont'd)

**Small Business Enterprise**—an entity that has had less than \$500,000 of gross revenues in each of its last two fiscal years.

**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 DBE program efficacy, goals, and utilization.

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

**Technical Assistance**—the transfer of skills or information from one party or entity to another, through on-site consultation, conferences, brokering

of services, training, or general dissemination of information.

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

**Unknown DBE**—Firms certified as a DBE business without specific race or ethnic designations.

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

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

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

**Woman-owned Business**—firms that are at least 51% owned and controlled by female individuals.



## E.1 INTRODUCTION

### E.1.1 Purpose of Disparity Study

On November 22, 2021, the City of Raleigh (Raleigh) commissioned Miller<sup>3</sup> Consulting, Inc. (M<sup>3</sup> Consulting) to conduct a Disparity Study (the Study). The purpose of the study is to determine if there is evidence showing disparity among ready, willing, and able Minority- and Women-Owned Business Enterprises (M/WBEs) in AES-Design Services, Construction and Construction-Related Services, Professional Services, Nonprofessional Services and Goods & Supplies from FY 2017 through FY 2021.

### E.1.2 Overview of the City of Raleigh's Current Race and Gender-Conscious and Race and Gender-Neutral Programs

#### Brief History and Background

The precursor to Raleigh's current M/WBE Program was placed under the direction of the Raleigh Department of Administrative Services and was itself executed as a purely administrative function. An M/WBE Program Manager worked under an Assistant City Manager. There is no definitive detail regarding the origin of or the decision process that originated the aspirational M/WBE participation goal of 15% for City construction and repair projects of \$300,000 or more (or \$100,000 or more with

state funding). This percentage has been an official SOP since becoming effective on September 3, 2002.

Over time, Raleigh contemplated a further delineation of the 15% aspirational goal to break out as 8% participation by Minority-owned firms and 7% participation by Non-minority female-owned firms. This split approach was presented to the Raleigh City Council but never completed the official City Management approval process and was relegated to an unofficial practice. The split approach is not consistently invoked or enforced. The M/WBE program was later transitioned to be housed within the Housing and Neighborhoods Department, with the M/WBE program manager continuing to run the program without additional staffing support.

An M/WBE Workgroup was established in December 2017 and was directed by the Economic Development and Innovation Department. The charge of the M/WBE Workgroup, which had representation from various Raleigh departments, was to strengthen the M/WBE program and ensure the implementation of the existing policy. After prolonged advocacy for a dedicated M/WBE program manager, one was hired in September 2018. The M/WBE Workgroup had no official charter but ushered in changes such as amendments to the contract routing process (July 2018); a requirement for an M/WBE



Participation Letter to accompany all construction contracts of \$300,000 and over (or construction contracts of \$100,000 or more with State funding); and updates to the M/WBE SOP (March 2021). Although there are currently no participation goals on professional services contracts, M/WBE staff began tracking M/WBE participation on professional services contracts as of Raleigh's FY19–20 fiscal year. Departmental data request forms were implemented as of March 2021.

### M/WBE Program

The stated goal of Raleigh's M/WBE program is to increase contracting opportunities for historically underutilized businesses (HUBs). Raleigh defines HUBs as those that have been categorized as such by the North Carolina Department of Administration's HUB Office or HUB Office as well as NCDOT's Disadvantaged Business Enterprise Program. It was noted that as per Raleigh SOP 501-3, Public Bidding, City departments defer to the State of North Carolina's more stringent guidelines for M/WBE participation in construction projects when the contracting opportunity includes state funding and requires associated on contracts awarded by the City for (i) construction and building projects of \$300,000 or more and (ii) construction and building projects of \$100,000 or more that include any state funding.

The City of Raleigh currently has an aspirational goal of 15% of the total contract values to be performed by certified M/WBE businesses in contracts awarded by the City of Raleigh for construction and building projects of \$300,000 or more. This goal also applies to construction and building projects of \$100,000 or more, if the funding sources supporting the project include any North Carolina State funding.

### Disadvantaged Business Enterprise Program

The City of Raleigh also has a separate Disadvantaged Business Enterprise (DBE) Office embedded within its Transportation Department. The DBE Office manages a 13% DBE inclusion goal that is underpinned by their Federal Transportation Administration (FTA) triennial goal-setting activity and the requirement to enter contractor and payment data annually into the Federal Transit Award Management System (TrAMS), FTA's

platform to award and manage federal grants. An analysis of the most recent TrAMS report shows that during the federal fiscal reporting periods of 2017–2020 Raleigh either met or exceeded its participation goal with a range of achievements between a floor of 13% (2018) and a high of 20% (2019)

### E.1.3 Croson and Fourth Circuit Standards

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

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

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

Narrow tailoring is a crucial element in crafting appropriate *Croson* remedies.<sup>2</sup> Courts have struck down many M/WBE programs due to the failure of local jurisdictions to narrowly tailor their remedies. Once government policymakers have established and relied upon a factual predicate in devising M/WBE programs, post-*Croson* case law provides more detailed guidance for crafting M/WBE programs:

<sup>2</sup>Narrow tailoring elements include good faith consideration of race-neutral alternatives for elimination of barriers to M/WBE participation; project-specific goal setting; flexibility in the size of goals based upon the relative availability of qualified, ready, and willing M/WBEs; and limiting the scope of such remedies to those specific firms that are significantly underutilized within an industry segment.



- 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 governmental purchasing system without regard to eradicating bias in standard purchasing operations, or in the private sector contracting arena in which the governmental entity is a participant. Consequently, each M/WBE program should have a sunset provision and provisions for regular review. In addition, there is the implication that purchasing systems should be reformed.
- M/WBE programs should have sensible graduation provisions for M/WBEs that have largely overcome the effects of discrimination and are no longer in need of a remedy.
- Rigid numerical quotas are at considerable risk of being overturned by judicial review; flexible, rational, contract-specific goals are more legally defensible.
- Race- and gender-conscious goals should be tied to the relative M/WBE availability of qualified firms to perform a given contract and to addressing identified discrimination within an industry.
- M/WBE programs should limit their adverse impact on the rights and operations of innocent third parties.
- M/WBE programs should be limited in scope to only those group(s) and firms that suffer the ongoing effects of past or present discrimination.
- Public entities cannot establish across-the-board goals with no regard for specific race/gender and industry variables.
- Waiving bonding, insurance and corporate experience requirements is considered race-conscious if directed only to M/WBES.
- Acceptable variables in calculating availability include vendor lists with approved subcontractors, subcontractors that performed on a contract and contractors who have been qualified to perform on an entity's contracts.
- Challengers of race-based remedial measures must provide credible, particularized evidence to rebut the public entity's showing of a strong basis in evidence for the necessity for remedial action. Race- and gender-conscious goals should be tied to the relative M/WBE availability of qualified firms to perform a given contract and to addressing identified discrimination within an industry.
- M/WBE programs should limit their adverse impact on the rights and operations of innocent third parties.
- M/WBE programs should be limited in scope to only those group(s) and firms that suffer the ongoing effects of past or present discrimination.

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

In applying the *Croson* standard, the Fourth Circuit has developed several distinctive standards. Key findings that have evolved from *Croson* case law in the Fourth Circuit are:

- There must be a strong basis in evidence that race-conscious remedial action is necessary.
- The strong basis in evidence must be satisfied by pre-enactment evidence; post-enactment evidence can be used to show that the race-conscious program is narrowly tailored.
- Contractor associations have standing to challenge set-aside programs.
- Post-enactment evidence may be considered in evaluating the legality of a program preference.
- Any preference for any specified group must be supported by evidence of discrimination or an inference of discrimination against that particular group.

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

The Third Circuit has developed several distinctive standards as discussed above. The foundation of current Third Circuit standards was established from the *Croson* decision in 1989 through 1996 in the *Contractors I, II, III and Independent* cases. The Third Circuit's relevant standards from *Contractors I, II, III and Independent* are summarized here:

- For equal protection analysis, the party challenging the government action bears the ultimate burden of persuasion.
- Instances where contractors that were awarded government contracts were also members of contractor associations that discriminated against minority contractors did not amount to passive participation in private discrimination by the relevant government actors.
- Post-enactment evidence may be sufficient as a basis for race- and gender-conscious programs but must also address other potential causes for disparity.
- A “narrowly tailored” program must correlate any race-conscious program to the identified discrimination or inferences of discrimination.
- Any numeric goal must be supported by evidence.
- Race-conscious initiatives can only be used after consideration of race-neutral alternatives.
- Nondiscrimination efforts can include the use and analysis of race/sex information without being subject to *Croson* standards.
- The factual predicate for any constitutional race-conscious relief may consist of proper statistical evidence of disparity and anecdotal evidence:
  - Proper statistical evidence of disparity for any race-conscious relief must assess the “relevant statistical pool”—the percentage of minority businesses engaged in the local construction industry.
  - Availability, for disparity purposes, is defined by the proportion of minority-owned businesses that were available or qualified to perform the contracts or work at issue.
  - Proper statistical evidence of disparity includes the “disparity index.” This index consists of the percentage of minority contractor participation in City contracts divided by the percentage of minority contractor availability in the relevant statistical pool.
  - Evidence of marketplace or private sector discrimination offered by way of general testimony of discrimination is insufficient as a basis for race-conscious relief. Generalized affidavits will not satisfy the “compelling government interest” required by *Croson*.
  - Race-neutral efforts, including any revolving loan fund, technical assistance and training, and bonding assistance, must also be assessed and considered prior to the use of race-conscious relief.



## E.2 M<sup>3</sup> CONSULTING'S APPROACH AND METHODOLOGY

M<sup>3</sup> Consulting's exclusive study methodology includes 10 analyses, which lead to overall conclusions and recommendations.

### E.2.1 M<sup>3</sup> Consulting's 10-Part Disparity Study Methodology

M<sup>3</sup> Consulting's 10-part study methodology provides a complete factual predicate consistent with evolving case law and the City of Raleigh's regulatory environment. The statistical analysis—relevant market, availability, utilization, disparity and capacity—conforms 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 Peña*, 515 U.S. 200, 115 S. Ct. 2097 (1995) and Fourth Circuit progeny, and determines if there are statistically significant disparities from which an inference of discrimination may be drawn. The remaining industry and market analysis assists in determining if organizational factors (active discrimination or exclusion) or private sector and marketplace factors in which the City of Raleigh participates (passive discrimination or exclusion) cause any disparity. Together, these findings allow the City of Raleigh to determine if there is a compelling governmental interest in using 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.

## The City of Raleigh Disparity Study

INDUSTRY ANALYSIS	STATISTICAL ANALYSIS	MARKET ANALYSIS	CONCLUSIONS	RECOMMENDATIONS
<ul style="list-style-type: none"> <li>Legal Analysis</li> <li>Procurement and DBE Program Operational Analyses</li> </ul>	<ul style="list-style-type: none"> <li>Relevant Market Analysis</li> <li>Availability Analysis</li> <li>Utilization Analysis</li> <li>Disparity Ratios</li> <li>Regression and Capacity Analyses</li> </ul>	<ul style="list-style-type: none"> <li>Anecdotal and Survey Analyses</li> <li>Race- and Gender-Neutral Analysis</li> <li>Marketplace Analysis</li> </ul>	<ul style="list-style-type: none"> <li>Finding of Passive or Active Discrimination, if Any</li> <li>Identification of Barriers to DBE Participation</li> </ul>	<ul style="list-style-type: none"> <li>Procurement and DBE Programmatic Initiatives</li> <li>Goal-setting</li> <li>Nondiscrimination Initiatives</li> <li>Management and Technical Assistance</li> </ul>

### Description of Disparity Study Components

- Legal Analysis** outlines the legal standards of *City of Richmond v. J.A. Croson Company*, *Adarand v. Peña* and their progeny in the Fourth Circuit 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 study analysis.
- Procurement and M/WBE Program Operational Analyses** examine Raleigh's contracting history to determine the impact of the City of Raleigh's policies, procedures and practices on M/WBEs' ability to do business with the City of Raleigh and the effectiveness of the M/WBE operations on increasing M/WBE participation.
- Relevant Market Analysis** determines the geographic boundaries within which the City of Raleigh performs the substantial part (about 70%) of its business activities. The identification of the bounds is also guided by legal criteria that require the City of Raleigh to refine its efforts to impact M/WBE business activity in its market area.
- Availability Analysis** determines the available M/WBEs and Non-M/WBEs that are available to do business with the City of Raleigh within the determined relevant market.
- Utilization Analysis** quantitatively examines the City of Raleigh's contracting history and determines the number of contracts and levels of expenditures with M/WBEs.
- Disparity Ratios** determine the difference between the availability of M/WBEs and their utilization by the City of Raleigh, and whether any disparity is statistically significant.
- Regression and Capacity Analyses** examine differences in capacity of firms based on race and gender, using established statistical methods, and examine if race, gender and ethnicity still impact the participation decision once a set of variables that represent capacity are controlled for. Further, the survey provides information on business characteristics, such as owner qualifications, years in business, capacity and credit market experiences.
- Anecdotal and Survey Analyses** determine the experiences of M/WBEs and Non-M/WBEs attempting to do business with the City of Raleigh and in the business community overall.
- 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.
- Marketplace Analysis** determines M/WBE participation in the marketplace, which consists of both public and private sector opportunities. Factors that impact business formation and self-employment are also assessed in this analysis.

The methodology components M<sup>3</sup> Consulting deploys reflect the continuing development of case law, which 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 M<sup>3</sup> Consulting's "Ready, Willing and Able" (RWA<sup>SM</sup>) model. M<sup>3</sup> Consulting has adapted this model to data sources specific to Raleigh that were available for this study. Also discussed are the types of utilization analysis M<sup>3</sup> Consulting performed. The statistical methodology section concludes by defining the disparity ratio and significance tests, crucial for drawing conclusions regarding any disparity in Raleigh's recent history of contracting with M/WBEs.

To conduct the analysis, M<sup>3</sup> Consulting collected vendor, bidder, contract award, purchase order (PO) and payments data for years FY 2017 through FY 2021.

#### A. Relevant Market

The *Croson* statistical analysis begins with the identification of the relevant market. The relevant market establishes geographical limits for 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.<sup>3</sup>

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. M<sup>3</sup> Consulting has developed an alternative method for determining an entity's relevant market by combining the above methods and using an entity's bidder lists, vendor lists, and awardee lists as the foundation for market definition.

By examining the locations of bidders, vendors and awardees, M<sup>3</sup> 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 awardees that a relevant market must contain, M<sup>3</sup> Consulting has determined a reasonable threshold is somewhere around 70% 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 M/WBEs and Non-M/WBEs ready, willing and able to perform a specific service (i.e., "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 the City of Raleigh.

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.

##### 1. M<sup>3</sup> Consulting Availability Model

M<sup>3</sup> Consulting employs two general approaches to measuring availability: the RWA<sup>SM</sup> Availability Model and marketplace availability. The availability measures can fall into the following categories:

- **RWA<sup>SM</sup>**—Those firms that are ready, willing and able to do business with Raleigh;
- **Public Sector Availability**—Those firms that are ready, willing and able to do business with similar public sector agencies within Raleigh's marketplace<sup>4</sup>; and
- **Marketplace Availability**—All firms available in Raleigh's marketplace, as measured by Census, Data Axle, Dun & Bradstreet, Dodge Data & Analytics and/or business license data.

<sup>3</sup>*City of Richmond v. J.A. Croson*, 488 U.S. 469, 505-506 (1989).

<sup>4</sup>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



The matrix in Figure E.1 outlines M<sup>3</sup> Consulting's Availability Model. The matrix starts with the optimum availability measure of those firms ready, willing and able to do business with Raleigh and descends to less

optimum measures. Factors that determine which level of availability best suits Raleigh's environment include quality of available data, legal environment, and previous levels of inclusion of M/WBE in bidding and contracting activity.

**Figure E.1.**  
**RWA<sup>SM</sup> Availability Model**

Availability of firms ready, willing and able to do business	City of Raleigh RWA <sup>SM</sup> Availability
	1. Prime and sub-bidders by contract category for each year of study period
	2. Prime and sub-bidders by contract category for fewer years
	3. Prime bidders, sub-awardees, prime awardees (informal purchases) for each year of study period
	4. Prime bidders, sub-awardees, prime awardees (informal purchases) for fewer years period
	5. Prime bidders, sub-awardees, prime awardees (informal purchases) + vendors + certified M/W/DBEs for fewer years period
	Public Sector <sup>SM</sup> Availability
	6. City of Raleigh RWA measure + similar public entity prime and sub-bidders
	7. City of Raleigh RWA measure + similar public entity prime and sub-awardees
	8. City of Raleigh RWA measure + similar public entity prime, sub awardees and vendors + Master M/W/DBEs List
	Marketplace Availability
	9. Census
	10. Data Axle

Source: M<sup>3</sup> Consulting, Inc.

M<sup>3</sup> Consulting's RWA<sup>SM</sup> Availability Model is further tailored to the robustness of Raleigh's specific databases available for analysis. RWA<sup>SM</sup> availability is defined at Level

2 for the years FY 2017–FY 2021, which includes prime and sub-bidders, informal and noncompetitive awardees, and prime and sub-awardees.

**Figure E.2.**  
**City of Raleigh Specific RWA<sup>SM</sup> Availability Levels**

RWA <sup>SM</sup> Availability Level	RWA <sup>SM</sup> Availability Definition
Level 1	City of Raleigh Bidders and Sub-bidders
Level 2	City of Raleigh Bidders and Sub-bidders + AP/PO firms

Source: M<sup>3</sup> Consulting; \* list with requisite data elements was not available for analysis



### C. Utilization Analysis

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

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

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

For instance, if one Non-M/WBE received 30 contracts for \$5 million, and 10 African American-owned firms received one contract each worth \$100,000, then measured by the number of firms (one Non-M/WBE vs. 10 African American-owned firms), African American-owned firms would appear to be overutilized and Non-M/WBEs underutilized. Using the number of contracts (30 contracts vs. 10 contracts) and the dollar value of contracts awarded (\$5 million vs. \$1 million), the result would reverse, depending on relative availability.

### D. Disparity Analysis

A straightforward approach to establishing statistical evidence of disparity between the availability of M/WBEs and the utilization of M/WBEs by Raleigh is to compare the utilization percentage of M/WBEs with their availability percentage in the pool of total businesses in the relevant market area. M<sup>3</sup> 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 used in the M<sup>3</sup> 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.

$A_w = N_w / N_t$

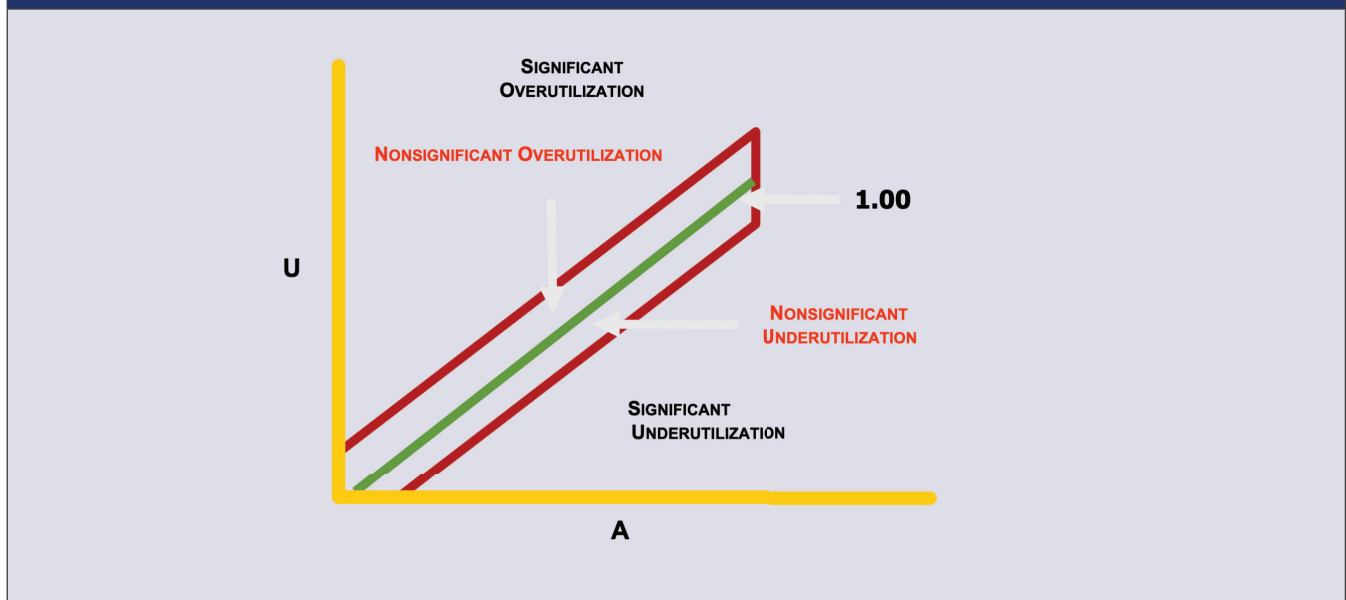
$A_m = N_m / N_t$

D = U/A

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

**Figure E.3.**

**Disparity Ratio Indicating Areas of Significant and Nonsignificant Disparity and Overutilization**



Source: M<sup>3</sup> Consulting, Inc.

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

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

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



## E.3 FINDINGS AND CONCLUSIONS

### E.3.2 Statistical Finding Impacting Statistically Significant Disparity

#### A. Relevant Market

M<sup>3</sup> Consulting tested the four relevant market categories below to determine where approximately 70% of Raleigh's commercial activity fell in bidders, awardees, POs and payments. Results are presented in Table E.1.

- City of Raleigh
- Raleigh-Cary, NC MSA
- State of North Carolina
- Nationwide

For AES-Design Services, M<sup>3</sup> Consulting concluded the MSA as the relevant market, based primarily on PO dollars, which represented 84.60% of AES-Design Services transactions. For Construction and Construction-Related Services, the relevant market is clearly the State of North Carolina when viewing the measures in totality. All measures reflected over 70% of Construction activity in the State; only PO counts reflected over 70% in the MSA. Similar to Construction and Construction-Related Services, PO dollars for Professional Services and Nonprofessional Services point to the State of North Carolina. For Professional Services, PO dollars reach 75% activity in the State, while PO counts reflect 70% activity in the State. For Nonprofessional Services, PO dollars and bidders/awardees are just shy of 70%, while PO counts are over 75% in the State. Goods & Supplies for the City of Raleigh are procured from bidders and sub-bidders across the nation. Less than 60% of bidders/awardees and PO dollars are within the State of North Carolina, and slightly under 40% of the dollars are invoiced and paid from within the State. Therefore, relevant market for Goods & Supplies is defined as the nation for this study period.

**Table E.1.**  
**Summary of Relevant Market Determination**

	City	MSA	State	Nationwide
AES-Design Services		✓		
Construction and Construction-Related Services			✓	
Professional Services			✓	
Nonprofessional Services			✓	
Goods & Supplies				✓

Source: M<sup>3</sup> Consulting; City of Raleigh contracts data, PeopleSoft PO and AP data, City of Raleigh vendor payment data ; P-Card data

### B. Availability Analysis

Table E.2 summarizes the availability estimates for M/WBEs within the relevant market for the City of Raleigh. It also provides the source of the information. M<sup>3</sup> Consulting typically relies upon RWA<sup>SM</sup> estimates derived from bidders, sub-bidders and awardees in that order of importance. Marketplace availability measures, based on Data Axle and reflected in Table E.3, are presented as a benchmark of Minority- and woman-owned firm availability and for the City of Raleigh to consider when looking for potential firms for outreach.

For all procurement categories, WBEs have higher representation than Minority-owned firms. Except for Construction and Construction-Related Services, Marketplace total M/WBE availability as a percentage of available firms in a particular industry group is higher than total RWA<sup>SM</sup> M/WBE availability.

For AES-Design Services, RWA<sup>SM</sup> Availability reflects total M/WBE representation of 20.12%. WBEs account for most of this representation at 15.38%, with Minority-owned firms representing only 4.74%. Total M/WBE Marketplace Availability was significantly higher at 38.85%, with WBE representation at 31.65% and total Minority-owned firm representation at 7.19%.

WBE and Minority-owned businesses RWA<sup>SM</sup> Availability is close for Construction and Construction-Related Services. WBE availability is 17.63% and Minority-owned business availability is 15.96% for overall M/WBE availability of 33.59%. As a percentage, RWA<sup>SM</sup> M/WBE

Availability is almost double that of Marketplace M/WBE Availability at 18.10%. Both WBEs at 9.85% and Minority-owned firms at 8.25% reflected a significant percentage decline in Marketplace Availability. The higher RWA<sup>SM</sup> Availability may reflect more intensive outreach efforts on the part of the City, particularly at the subcontractor level. Construction and Construction-Related Services is the only measure that includes sub-bidders and is based on contract awards. The contract award data was not robust for other procurement categories and thus reflects a prime-level analysis.

Professional Services and Nonprofessional Services reflected similar results as AES-Design Services. For Professional Services, WBEs represented 6.33% of total RWA<sup>SM</sup> firms, while Minority-owned firms represented 3.67% of the total. Conversely, M/WBE Marketplace available firms represented 41.13% of the 3,085 total firms in the Marketplace. WBEs represented 32.45% of these firms, compared to 6.33% for RWA<sup>SM</sup> Availability. Minority-owned firms were 8.69% for Marketplace Availability compared to 3.67% for RWA<sup>SM</sup> Availability.

Total M/WBE RWA<sup>SM</sup> Availability for Nonprofessional Services was 7.35%, higher than only Goods & Supplies. WBEs reflected 4.62% availability, while Minority-owned firms were at 2.59%. On the other hand, M/WBEs made up 39.52% of Marketplace Nonprofessional Availability, with WBEs accounting for 31.84% and Minority-owned firms 7.68% of total availability.

While Goods & Supplies had the highest level of Non-M/WBE RWA<sup>SM</sup> Availability for Goods and Services at

**Table E.2.**  
**Summary Table – RWA<sup>SM</sup> Level 2 Availability Percentage Participation**  
**City of Raleigh**  
**Relevant Market; FY 2017 – FY 2021**

Ethnicity	AES-Design Services <sup>2</sup>		Construction and Construction-Related Services <sup>3</sup>		Professional Services <sup>3</sup>		Nonprofessional Services <sup>3</sup>		Goods & Supplies <sup>1</sup>		Total Firms <sup>1</sup>	
	#	%	#	%	#	%	#	%	#	%	#	%
<b>Non-M/WBE</b>	<b>134</b>	<b>79.29</b>	<b>352</b>	<b>65.31</b>	<b>269</b>	<b>89.67</b>	<b>1,315</b>	<b>92.02</b>	<b>1,998</b>	<b>96.34</b>	<b>3,932</b>	<b>91.53</b>
African American	1	0.59	48	8.91	6	2.00	20	1.40	7	0.34	77	1.79
Asian American	3	1.78	5	0.93	2	0.67	3	0.21	2	0.10	15	0.35
Hispanic American	3	1.78	28	5.19	2	0.67	11	0.77	5	0.24	48	1.12
Native American	1	0.59	5	0.93	1	0.33	2	0.14	1	0.05	6	0.14
Other Minority	-	0.00	-	0.00	-	0.00	1	0.07	-	0.00	1	0.02
<b>Total Minority</b>	<b>8</b>	<b>4.74</b>	<b>86</b>	<b>15.96</b>	<b>11</b>	<b>3.67</b>	<b>37</b>	<b>2.59</b>	<b>15</b>	<b>0.73</b>	<b>147</b>	<b>3.42</b>
Woman-Owned (WBEs)	26	15.38	95	17.63	19	6.33	66	4.62	57	2.75	199	4.63
Unknown M/WBE	-	0.00	-	0.00	0	0.00	2	0.14	1	0.05	3	0.07
<b>Total M/WBE</b>	<b>34</b>	<b>20.12</b>	<b>181</b>	<b>33.59</b>	<b>30</b>	<b>10.00</b>	<b>105</b>	<b>7.35</b>	<b>73</b>	<b>3.53</b>	<b>349</b>	<b>8.12</b>
SBE	-	0.00	4	0.74	1	0.33	7	0.49	3	0.14	9	0.21
SDV/VBE	1	0.59	2	0.37	-	0.00	2	0.14	-	0.00	6	0.14
<b>Grand Total</b>	<b>169</b>	<b>100.00</b>	<b>539</b>	<b>100.00</b>	<b>300</b>	<b>100.00</b>	<b>1,429</b>	<b>100.00</b>	<b>2,074</b>	<b>100.00</b>	<b>4,296</b>	<b>100.00</b>

Source: M<sup>3</sup> Consulting; City of Raleigh contracts data, PeopleSoft PO and AP data; City of Raleigh vendor payment data; Other Minority is a firm identified as M/WBE with no specific race/ethnicity identified;

Unknown M/WBE is a firm identified as M/WBE with no specific race/ethnicity/gender identified.

<sup>1</sup>Nationwide

<sup>2</sup>Raleigh-Cary, NC MSA

<sup>3</sup>State of North Carolina

**Table E.3.**  
**Summary Table—Marketplace Availability**  
**Relevant Market, 2021**

Ethnicity	AES-Design Services <sup>2</sup>		Construction and Construction-Related Services <sup>3</sup>		Professional Services <sup>3</sup>		Nonprofessional Services <sup>3</sup>		Goods & Supplies <sup>1</sup>		Total Firms <sup>1</sup>	
	#	%	#	%	#	%	#	%	#	%	#	%
<b>Non-M/WBE</b>	<b>255</b>	<b>61.15</b>	<b>1,122</b>	<b>81.90</b>	<b>1,816</b>	<b>58.87</b>	<b>3,598</b>	<b>60.48</b>	<b>1,546</b>	<b>67.04</b>	<b>8,340</b>	<b>63.51</b>
African American	11	2.64	20	1.46	52	1.69	107	1.80	41	1.78	232	1.77
Asian American	7	1.68	10	0.73	110	3.57	106	1.78	79	3.43	312	2.38
Hispanic American	12	2.88	81	5.91	103	3.34	236	3.97	107	4.64	539	4.10
Native American	-	0.00	2	0.15	3	0.10	8	0.13	1	0.04	14	0.11
Other Minority	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00
<b>Total Minority</b>	<b>30</b>	<b>7.19</b>	<b>113</b>	<b>8.25</b>	<b>268</b>	<b>8.69</b>	<b>457</b>	<b>7.68</b>	<b>228</b>	<b>9.89</b>	<b>1,097</b>	<b>8.35</b>
Woman-Owned (WBEs)	132	31.65	135	9.85	1,001	32.45	1,894	31.84	532	23.07	3,694	28.13
Unknown M/WBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00
<b>Total M/WBE</b>	<b>162</b>	<b>38.85</b>	<b>248</b>	<b>18.10</b>	<b>1,269</b>	<b>41.13</b>	<b>2,351</b>	<b>39.52</b>	<b>760</b>	<b>32.96</b>	<b>4,791</b>	<b>36.49</b>
SBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00
SDV/VBE	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00	-	0.00
<b>Grand Total</b>	<b>417</b>	<b>100.00</b>	<b>1,370</b>	<b>100.00</b>	<b>3,085</b>	<b>100.00</b>	<b>5,949</b>	<b>100.00</b>	<b>2,306</b>	<b>100.00</b>	<b>13,131</b>	<b>100.00</b>

Source: Data Axle Firms as of February 2021; M<sup>3</sup> Consulting

<sup>1</sup>Nationwide

<sup>2</sup>Raleigh-Cary, NC MSA

<sup>3</sup>State of North Carolina



96.34%, followed by Nonprofessional Services at 92.02%. Professional Services was not far behind at 89.67%. Total M/WBE availability did not reach 4% with WBEs representing 2.75%. All Minority groups combined represented less than 1% of Goods & Supplies RWA<sup>SM</sup> availability. The picture changes with Marketplace Availability. M/WBEs account for 32.96% of available firms. WBEs account for 23.07% of Marketplace Availability compared to 2.75% for RWA<sup>SM</sup> Availability. Minority-owned firms represent almost 10% of Marketplace Availability, while less than 1% for RWA<sup>SM</sup> Availability.

### C. Utilization Analysis

Table E.4 summarizes utilization of M/WBEs by the three utilization measures: purchase orders, accounts payable, and contract awards.

The most robust measure for AES-Design Services is POs, which M<sup>3</sup> Consulting relied upon, with AES-Design Services M/WBEs securing 5.80%. During the study period FY 2017–FY 2021, M/WBEs achieved their highest utilization based on accounts payable data at 10.50%, followed by contract awards at 8.63%. Across all utilization measures for AES-Design Services, WBEs represented the majority of M/WBE participation. Minority-owned AES-Design Services firms achieved their highest utilization percentage in contract awards, where the achievement was based on a relatively small number of firms that accounted for over 90% of W/MBE utilization. Raleigh primarily engaged and contracted with Non-M/WBEs for AES-Design Services.

Utilization of M/WBEs in Construction and Construction-Related Services, proportionately, yielded the largest participation across contract awards, POs and payments. Based on contract awards, where subcontractor utilization is considered, M/WBEs received 21.45% of the \$522M during the study period FY 2017–FY 2021. When assessing M/WBE participation based on contract awards, the majority of the utilization stems from WBEs. In fact, WBEs represented 78% of the total M/WBE participation in contract awards. Based on POs and payments in Construction and Construction-Related Services, WBEs received 90% and 86% of total M/WBE encumbrances and expenditures, respectively. Overall, Minority-owned firm utilization at 4.60% based on contract awards data suggest an impact of M/WBE subcontractor activity. Comparatively, Minority-owned firm participation based on payments

and POs, which only reflect prime contractors that provide services directly to the City, was below 2%.

Within Professional Services, M/WBE participation was above 10% based on accounts payable data only. For POs and contracts, M/WBE participation was 5.06% and 8.87%, respectively. M<sup>3</sup> Consulting relied upon POs for conclusions because they captured the bulk of encumbered dollars. Minority-owned firms exceeded WBE participation in contract awards for professional services, and they were nearly even based on accounts payable data. Overall, Non-M/WBE utilization accounted for the lion's share of utilization in Professional Services irrespective of the measure, eclipsing 90% in POs and contract awards.

Table E.4 illustrates M/WBE utilization of Nonprofessional and Goods & Supplies, for which M/WBEs accounted for on average of 8% and less than 1%, respectively. Raleigh has a wealth of opportunity to improve its efforts to attract, engage, utilize and support increased participation of M/WBEs in Nonprofessional Services and Goods & Supplies.

Table E.5 presents utilization by race/ethnicity/gender for each procurement type. Utilization for AES-Design Services, Professional Services, Nonprofessional Services, and Goods & Supplies is based on PO data. Utilization for Construction and Construction-Related Services is based on contract awards data. Given Raleigh's primary focus on M/WBE inclusion at the subcontractor level, Construction and Construction-Related Services utilization is much larger proportionately than the other procurement types. Specifically, when considering the \$112M (21.45%) utilization of M/WBEs in Construction and Construction-Related Services, \$45.8M (41%) is from subcontractor opportunities on those projects valued over \$300K, which is tracked by the City's M/WBE Office. The balance of the M/WBE utilization at the pure prime level, which reflects less subcontractor participation, is primarily attributed to WBEs. Minority-owned firms at the pure prime level based on Construction and Construction-Related Services received 0.90% (see Table 6.8 in Chapter VI). African American- and WBE-owned firms had the highest levels of participation in Construction and Construction-Related Services at 3.13% and 16.85%, respectively. Hispanic American-owned firms followed at 1.29.

Based on POs, M/WBE utilization was 5.80% in AES-Design Services, 5.06% in Professional Services, 9.46% in Nonprofessional Services and 1.19% in Goods and Supplies.

## E.3 Findings and Conclusions

WBEs also had about 5% participation in Nonprofessional Services, followed by African American-owned firms at 2.78% and Hispanic American-owned firms at 1.62%.

Among M/WBEs, only WBEs reached 1% participation in Goods and Supplies. Minority-owned firms garnered only 0.11% participation.

**Table E.4.**  
**M/WBE Utilization in Percent of Dollars of POs, Payments, and Contract Awards**  
**City of Raleigh**  
**Summary of M/WBE Utilization by Relevant Market, FY 2017–FY 2021**

Procurement Category	M/WBE Utilization Based on POs (in percent)			M/WBE Utilization Based on Accounts Payable (in percent)			M/WBE Utilization Based on Contract Dollars (in percent)		
	Minority-owned firm	WBE	M/WBE <sup>4</sup>	Minority-owned firm	WBE	M/WBE <sup>4</sup>	Minority-owned firm	WBE	M/WBE <sup>4</sup>
<b>AES-Design Services<sup>2</sup></b>	0.41	5.39	5.80	0.18	10.32	10.50	1.94	6.70	8.63
<b>Construction and Construction-Related Services<sup>3</sup></b>	1.46	9.40	10.86	1.12	10.24	11.36	4.60	16.85	21.45
<b>Professional Services<sup>3</sup></b>	1.89	3.17	5.06	4.72	6.60	11.32	8.87	0.00	8.87
<b>Nonprofessional Services<sup>3</sup></b>	4.51	4.93	9.46	2.11	4.16	6.28	8.22	2.66	10.88
<b>Goods &amp; Supplies<sup>1</sup></b>	0.11	1.08	1.19	0.07	0.91	0.98	0.00	0.00	0.00

Source: M<sup>3</sup> Consulting, Raleigh Contracts data, PeopleSoft PO and AP data, Raleigh Vendor Payments data; Relevant Market; Other Minority is a firm identified as a Minority-owned firm with no specific race/ethnicity identified; Unknown M/WBE is a firm identified as an M/WBE with no specific race/ethnicity/gender identified.

<sup>1</sup>Nationwide

<sup>2</sup>Raleigh-Cary, NC MSA

<sup>3</sup>State of North Carolina

<sup>4</sup>Includes unknown M/WBEs

**Table E.5.**  
**Utilization Summary by Race/Gender**  
**City of Raleigh**  
**Nationwide, FY 2017–FY 2021**

Race/Ethnicity/Gender	Architecture & Engineering <sup>2,5</sup>		Construction and Construction-Related Services <sup>3,4</sup>		Professional Services <sup>3,5</sup>		Nonprofessional Services <sup>3,5</sup>		Goods & Supplies <sup>1,5</sup>	
	\$	%	\$	%	\$	%	\$	%	\$	%
Non-M/WBE	283,862,762	94.15	410,260,996	78.48	62,776,399	94.94	307,696,863	90.32	392,526,208	98.78
African American	-	0.00	16,352,394	3.13	193,050	0.29	9,481,778	2.78	171,722	0.04
Asian American	-	0.00	632,839	0.12	476,703	0.72	96,297	0.03	21,513	0.01
Hispanic American	625,542	0.21	6,752,187	1.29	340,376	0.51	5,516,570	1.62	232,280	0.06
Native American	595,568	0.20	288,833	0.06	240,404	0.36	97,216	0.03	4,301	0.00
Other Minority	-	0.00	-	0.00	-	0.00	188,479	0.06	-	0.00
Total Minority	1,221,110	0.41	24,026,254	4.60	1,250,533	1.89	15,380,341	4.51	429,816	0.11
WBE	16,256,280	5.39	88,085,310	16.85	2,094,154	3.17	16,805,099	4.93	4,300,694	1.08
Unknown M/WBE	-	0.00	-	0.00	-	0.00	57,633	0.02	804	0.00
<b>Total M/WBE</b>	<b>17,477,390</b>	<b>5.80</b>	<b>112,111,564</b>	<b>21.45</b>	<b>3,344,687</b>	<b>5.06</b>	<b>32,243,073</b>	<b>9.46</b>	<b>4,731,314</b>	<b>1.19</b>
SBE	-	0.00	-	0.00	3,314	0.01	272,926	0.08	99,710	0.03
SDV/VBE	155,046	0.05	396,406	0.08	-	0.00	451,449	0.13	-	0.00
<b>Grand Total</b>	<b>301,495,198</b>	<b>100.00</b>	<b>522,768,965</b>	<b>100.00</b>	<b>66,124,400</b>	<b>100.00</b>	<b>340,664,311</b>	<b>100.00</b>	<b>397,357,232</b>	<b>100.00</b>

Source: City of Raleigh contracts data, Peoplesoft data, M<sup>3</sup> Consulting

<sup>1</sup>Nationwide

<sup>2</sup>Raleigh-Cary, NC MSA

<sup>3</sup>State of North Carolina

<sup>4</sup>Contract awards

<sup>5</sup>Purchase orders

### D. Disparity Analysis

Table E.6 summarizes the disparity ratios discussed in this report for each procurement category at the race/ethnic/gender group level for Raleigh procurements for the period FY 2017–FY 2021. 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:

- **AES-Design Services**—Asian American-owned firms, Hispanic American-owned firms, WBEs
- **Construction and Construction-Related Services**—African American-owned firms, Asian American-owned firms, Hispanic American-owned firms, Native American-owned firms
- **Nonprofessional Services**—Asian American-owned firms, Native American-owned firms
- **Professional Services**—African American-owned firms, WBEs
- **Goods & Supplies**—African American-owned firms, Asian American-owned firms, Hispanic American-owned firms, Native American-owned firms, WBEs

**Table E.6.**  
**Summary Disparity Ratios by Race, Ethnicity and Gender**  
**Utilization vs. RWA<sup>SM</sup> Availability Level 2**  
**City of Raleigh**  
**Relevant Market, FY 2017–FY 2021**

Ethnicity	AES-Design Services <sup>2</sup> (POs)		Construction & Construction-Related Services <sup>3</sup> (Contract Awards)		Nonprofessional Services <sup>3</sup> (POs)		Professional Services <sup>3</sup> (POs)		Goods & Supplies <sup>1</sup> (POs)	
	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.	Ratio	Sign.
<b>Non-M/WBE</b>	<b>1.19</b>	<b>S</b>	<b>1.20</b>	<b>S</b>	<b>0.98</b>	<b>S</b>	<b>1.06</b>	<b>S</b>	<b>1.03</b>	<b>S</b>
African American	0.00	NS	0.35	S	1.99	S	0.15	S	0.13	S
Asian American	0.00	S	0.13	S	0.13	S	1.08	NS	0.06	S
Hispanic American	0.12	S	0.25	S	2.10	S	0.77	NS	0.24	S
Native American	0.33	NS	0.06	S	0.20	S	1.09	NS	0.02	S
Other Minority	0.00	S	0.00	S	0.79	NS	0.00	S	0.00	S
<b>Total Minority</b>	<b>0.09</b>	<b>S</b>	<b>0.29</b>	<b>S</b>	<b>1.74</b>	<b>S</b>	<b>0.52</b>	<b>S</b>	<b>0.15</b>	<b>S</b>
WBE	0.35	S	0.96	NS	1.07	NS	0.50	S	0.39	S
Unknown M/WBE	0.00	S	0.00	S	0.12	S	0.00	S	0.00	S
<b>Total M/WBE</b>	<b>0.29</b>	<b>S</b>	<b>0.64</b>	<b>S</b>	<b>1.29</b>	<b>S</b>	<b>0.51</b>	<b>S</b>	<b>0.34</b>	<b>S</b>
SBE	0.00	S	0.00	S	0.16	S	0.02	NS	0.17	S
VBE/DVOB	0.09	NS	0.20	NS	0.95	NS	0.00	S	0.00	S

Source: Raleigh Contracts Data, PeopleSoft PO and AP data; M<sup>3</sup> Consulting  
Significance is S and Ratio is Less than 1 –Statistically Significant Underutilization; Significance is S and Ratio is Greater than 1 –Statistically Significant Overutilization.

<sup>1</sup>Nationwide

<sup>2</sup>Raleigh-Cary, NC MSA

<sup>3</sup>State of North Carolina

African American- and Asian American-owned firms had no participation in AES-Design Services, while WBEs reflected 5.39% of the total 5.80% M/WBE participation.

### E. Capacity Analysis

The purpose of this analysis is to determine if there are any differences in the capacity of race, gender and ethnic groups, and after accounting for any differences in the capacity of firms, if race and gender are contributing factors to any disparities found.

#### Capacity Based on Census Annual Survey of Entrepreneurs

Based on U.S. Census Annual Survey of Entrepreneurs, Minority- and Women-owned firms in Construction were about a quarter of the firms with paid employees, with Hispanic American-owned firms and WBEs largely representing them. Goods & Supplies had WBEs and Asian American-owned firms with the highest capacity among the M/WBEs, although Minority-owned firms only represented 14.53% of firms with paid employees. Nonprofessional Service firms had a greater representation from M/WBEs at 34% with Asian American-owned and WBEs representing a majority of these firms with paid employees. Professional Services had a little less than a quarter of WBEs and 18.56% Minority-owned firms with paid employees. Among Minority-owned firms in Professional Services, Asian American- and African American-owned firms constituted the largest proportion of firms with paid employees. The percentage of Minority-owned firms with annual payroll is smaller across all procurement types compared to the firms with paid employees, implying that not all Minority-owned firms have paid employees.

#### Capacity Based on Data Axle

Data Axle data presenting average employees shows that overall M/WBES are concentrated in the lower range of employees with over 4,000 M/WBE firms with 1–19 employees. This number drops as the number of employees increases, with only eight M/WBEs with over 100–249 employees. This varied by procurement type with two African American-owned firms and one Hispanic American-owned firm in Construction at the 250–499 employee range; one African American-owned firm with 50–99 employees in Architecture and Engineering; one African American-owned firm in the 1,000–4,999-employee

range in Goods & Supplies procurement; one Asian American-owned firm with employees in the 100–249 range in Nonprofessional Services; and one Hispanic American-owned firms with 100–249 employees in Professional Services.

Using sales volume, one African American-owned firm has the capacity over \$50 million in Architecture and Engineering with most Minority-owned firms in the less than \$5 million in sales. In Construction Minority-owned firms and WBEs have a maximum capacity of \$20 million in sales. While Hispanic American-owned firms are represented across the various sales ranges, they are concentrated in the lower range of less than \$2.5 million, and African American-owned firms are concentrated in the less than \$500K range. Goods & Supplies have at least four WBEs and one African American-owned firm with a capacity of \$500 million, whereas in Non-Professional Services, except for African American- and Native American-owned firms, all other race/gender/ethnic groups had a capacity of \$20 million and WBEs had a capacity of \$100 million. In Professional Services, one Native American-owned firm has the capacity of \$100 million among the Minority-owned firms, and one WBE has the capacity of \$50 million. Other race/gender/ethnic groups had an upper limit of \$20 million in sales with the majority of them concentrated at the \$2.5 million mark or less in sales.

#### Capacity Based on Survey Regressions

Based on a survey conducted to gather data on capacity, M<sup>3</sup> Consulting conducted regression analysis to examine differences in capacity based on race/gender/ethnicity, if any, on a final sample of 422 firms. A majority of Minority- and Women-owned firms had average gross receipts in the \$200,000 or lower range, although the average was closer to \$1 million. Minority-owned business are more likely to use small business loan programs to obtain financing, and a majority of Minority-owned businesses were not denied a bond while about a third were denied a loan or line of credit at least one or more times. The survey results also showed that Minority- and Women-owned businesses were more likely to bid on projects as subcontractors than as prime contractors.

Employing the Blinder-Oaxaca decomposition, a method for exploring discrimination between groups, M<sup>3</sup> Consulting estimates the extent of disparity in the revenues between Non-M/WBE and M/WBE companies



after accounting for other influencing factors such as number of full-time employees, age of business, principal's experience and the average two-year bid size. The results find that on average, the total gross receipts were \$5,306,349 and \$1,460,893 for Non-M/WBE and M/WBE, respectively. Some of the difference can be explained by education, experience or other firm characteristics, while the remaining can be attributed to discrimination. The results note that the M/WBE group received 13.14% less in total gross receipts from all sources in 2021 than it would have if discrimination had not occurred.

### Capacity Based on PUMS

Entrepreneurship is often a means to upward economic mobility for Minorities and Women, but disparities in business formation often limit the development and growth of these firms. Data from the U.S. Census (PUMS) is used to analyze the impact of race and gender, along with other demographic and economic factors on (1) the choice of self-employment and (2) the level of self-employment income.

Overall, African Americans, American Indians, Asian Americans and White Females are significantly less likely to be self-employed in the State of North Carolina. Self-employment is more likely in Construction, Professional and Financial Services industry. In Construction, White Females, Asian Americans, American Indians and Hispanic Americans are significantly less likely to be self-employed, whereas in Professional Services White Females, Asian Americans and African Americans are significantly less likely to be self-employed.

In the State of North Carolina, older individuals, non-natives and those with higher property values are more likely to be self-employed. While this holds true in Construction as in Professional Services, the latter finds graduate education and personal earned income as factors that increase the likelihood of self-employment.

Estimating the impact of race and gender on self-employment earnings and controlling for economic and demographic characteristics, we find that a self-employed African American will earn about \$8,769 less than a similarly situated nonminority Male and a self-employed White Female will earn \$3,888 less than similarly situated nonminority Male in the State of North Carolina. In the Construction industry, however, a self-employed Hispanic

American will earn about \$20,084 more than a similarly situated nonminority Male, but in Professional Services, a self-employed White Female will earn about \$10,154 less than a similarly situated nonminority Male.

### E.3.3 Qualitative Findings Impacting Statistically Significant Disparity

#### A. Procurement and M/WBE Program Analysis

This procurement analysis seeks to determine if there are any systemic barriers within Raleigh's procurement policies, procedures, processes, and daily practices that impact a qualified vendor's access to the City of Raleigh (hereinafter, "Raleigh") procurement opportunities based on that vendor's race, ethnicity, and/or gender. This assessment will further assist in determining if any barriers found are a result of inherent, systemic, or purposeful discrimination or exclusion. In performing this analysis, the foundational doctrine, mission, and impact of Raleigh's current procurement practices on all prospective bidders were considered. To that end, the following three-pronged analysis and review was performed:

- Consideration of public sector procurement best practices
- A review of Raleigh's procurement policies and procedures
- A review of the impacts of Raleigh's procurement structure, policies, procedures, and practices on the ability of Minority and Women-Owned Business Enterprises (M/WBEs) to do business with Raleigh

Based on the analysis, M<sup>3</sup> Consulting found that, while Raleigh has attempted to promote greater community and vendor inclusion in its public messaging with regard to the City's Vendor Connection Portal, aspirational M/WBE goals, Strategic Plan focus areas, and mission and vision, there are still processes and practices that may create barriers to M/WBE participation in Raleigh's contracting and procurement opportunities. The following represents Raleigh's Procurement and M/WBE Program policies, procedures and practices that may adversely impact the ability of M/WBEs to participate in Raleigh's procurement and contracting opportunities.

### **Lack of integration of a more formalized diversity and inclusion model throughout Raleigh's Strategic Plan minimizes organizational focus on achievement of M/WBE inclusion in Raleigh opportunities as a policy objective.**

By not directly connecting its inclusive procurement objectives, which include M/WBE participation, in the Strategic Plan, Raleigh forgoes the opportunity to change its organizational culture from viewing these initiatives as an auxiliary appendage attached to the organization's mission to a compulsory component for achieving Raleigh's mission. This lack of connectivity lessens the opportunity for Raleigh to achieve its "stable platform of evolving services" mission, as well as its diversity, equity, and inclusion objectives through current race- and gender-neutral procurement means. This disconnect further reduces Raleigh's influence on its vendors who otherwise agree to partner with the City in achieving Raleigh's mission on the subset of procurements where good faith efforts for diverse vendor inclusion are required.

### **Perceived bias toward larger familiar firms.**

Staff interviews suggest that Raleigh may tend to gravitate more toward larger established firms with whom they are familiar and have worked with previously. As one Raleigh staff interviewee stated, "I think, in my opinion, it could be too if you're more familiar with a vendor—or, I mean, a contractor or a consultant, you normally going to probably want to continue to use the same contractor and stuff." Another Raleigh staff interviewee said that until a couple of new firms finally moved into the market, "these older firms kind of had a stranglehold and would get all the jobs and we were kind of beholden to them."

### **The lack of more robust procurement forecasting reduces Raleigh's ability to engage in effective planning to maximize inclusive vendor engagement through its procurement opportunities.**

The documents provided did not speak to Raleigh's forecasting frequency or how far in advance they assess upcoming procurement needs. M<sup>3</sup> Consulting holds that truncated forecasting periods negatively impact the lead times that Raleigh would have to create for effective and inclusive outreach or vendor matchmaking strategies. In addition, the documents provided did not indicate any process for forecasting small dollar purchases that Raleigh anticipates in an upcoming fiscal year. It appears that firms

only become aware of these small dollar opportunities if there is a direct inquiry from a buyer seeking vendor quotes. Given that small purchases are reflective of procurements where small firms have the greatest capacity and ability to perform, lack of notice of these opportunities reduces small firms' ability to submit timely, well-informed, thorough quotes.

### **Decentralized procurement function reduces Raleigh's ability to develop an inclusive and sustainable procurement operation; lack of robust Enterprise Resource Planning (ERP) integration further exacerbates problems caused by decentralization.**

Any organization or municipality may choose a centralized or decentralized procurement operation and achieve sustainable inclusive procurement. However, once the organization or municipality has made that choice, the organization—to be effective, efficient, and inclusive—must intentionally build a procurement infrastructure that supports its choice of centralization or decentralization. Raleigh operates in a decentralized procurement environment steered by user department project management needs. There is no ERP-driven mandate that requires all procurement response components—particularly bid tab data—be electronically uploaded. Raleigh still receives handwritten procurement responses, often filed as hardcopies at the department level, with no unified repository.

Raleigh's decentralized environment and current procurement operations reduce the City's ability to define vendor availability and utilization with respect to M/WBEs in their current race- and gender-neutral environment. Raleigh's inclusive procurement initiatives appear to be primarily subcontractor-based, with no process in place for capturing nonminority subcontractor spend and little provisioning for enhancing M/WBE engagement at the prime level. In addition, no documents were provided during this review indicate that Raleigh's staff is held responsible for or evaluated on how and whether they are meeting the aspirational objectives of their inclusive procurement environment.

### **M/WBE Office engagement in post-award contract management and compliance oversight.**

The M/WBE Office has minimal engagement in some essential post-award contract administration functions, such as vetting contract change orders/amendments,

participation audits, audits of payments or after milestones, contract expirations and renewals, M/WBE vendor quality assurance, disputes and claims, vendor performance analysis/assessments, stakeholder communication, and contract closeout vendor scorecards. Without a line of sight into prime contractor/subcontractor behavior, there is potential for prime contractor and consultant behavior to become inconsistent with the spirit and intent of North Carolina laws and regulations, as well as Raleigh's desired inclusion model regarding subcontractor engagement. The M/WBE Office should be given appropriate resources to continue developing specific policy and procedures to address compliance, audit, and oversight issues. Otherwise, Raleigh risks a growing perception that its daily procurement actions and activities are counter to one of Raleigh's stated key focus areas regarding *Economic Development & Innovation by maintaining and growing a diverse economy to support large and small businesses and entrepreneurs*.

### B. Anecdotal Analysis

As part of the disparity study process, M<sup>3</sup> Consulting sought to explore the experiences of business owners in the Raleigh and Research-Triangle Area who seek business opportunities with the City of Raleigh. 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 the City of Raleigh.

Anecdotal interviews were scheduled with 21 businesses and completed with 20 businesses. One business chose to include two company representatives in their interview; they will be noted as interviewees 15A and 15B. Additionally, a small focus group with two participants was held to discuss the themes raised in individual interviews. The two focus group interviewees also completed individual interviews. Interviews were held with a cross-section of minority, women business, and non-minority male business owners. In two instances, the business owner designated a company representative to complete the interview. Interviewees included small businesses that have been established for a variety of time, ranging from less than two years to nearly 40 years.

After analyzing the experiences of those interviewed and considering all anecdotal evidence, the following observations illustrate the possible barriers that interviewees perceive to exist for small, minority and

women business owners as they attempt to transact business with the City of Raleigh:

- Interviewees detailed that they have trouble when attempting to access loans and grant funding, which can tremendously help small businesses grow and thrive.
- Small business owners, especially M/WBEs, struggle to get clear instruction/direction on how to navigate the process of finding work with the City and how to sustain visibility among City departments where their services are a fit. From initial start-up to attempts to scaling, many small businesses do not have a reliable go-to source for clear guidance regarding how to succeed in doing business with Raleigh.
- The Raleigh vendor community identified fostering relationships as being critical to being able to start a business, secure financing and establish public and private contracts. Small business owners reported struggling to network with City officials and foster the types of relationships that could support their growth.
- M/WBE owners often work within exceedingly small profit margins which impact how effectively they can compete with large and national firms. Programs and opportunities that could ultimately benefit them, such as obtaining M/WBE certification, competing for public sector contracts and seeking HUB certifications, are frequently time-consuming, take already limited staff resources away from other revenue-generating activities and often result in un-rewarded efforts.

The benefits of obtaining certifications to access opportunities with the City are a mixed bag as detailed by the interviewed members of the Raleigh vendor community. However, whether they reported tangible benefits or none, most interviewees relayed that there is a need for City officials to be more available and responsive when they reach out with questions about the perceived “arduous” certification process.

### C. Marketplace Analysis

To gain a better understanding of factors outside of the City of Raleigh that may limit participation of M/WBEs in Raleigh's procurement process, we examine the role of the

## E.3 Findings and Conclusions

private sector and overall marketplace. To the extent the data allows, this analysis may offer some evidence of the existence of passive participation, if any, in discriminatory acts in the private sector by the City of Raleigh.

The demographic configuration may explain in part the differences in the market availability and utilization of M/WBEs. The City of Raleigh has a large White population, while African Americans make up the second-largest group in terms of participation at the three geographical perspectives.

Taking a gauge of the civilian labor force, 69.5% of Whites, 71.0% of African Americans, 77.3% of Hispanic Americans and 67.5% of Asian Americans are part of the labor force in the City of Raleigh, and all 179 (100%) Native Americans are active in the labor force within the City of Raleigh. While White Americans, African Americans, Native Americans and Hispanic Americans see a drop in the percentage within the MSA and the State, Asian Americans maintain a nearly similar participation in the State and the MSA.

The EEO occupational breakdown provides a picture of Construction and Professional opportunities in the marketplace. In the City of Raleigh, Construction and Extraction occupations are dominated by Black or African American males, followed by White and Hispanic males. Among females, Black females (39.0%) dominate in Production Occupations, followed by Hispanic females (29.8%) and Asian American females (28.1%). In Transportation and Material Moving Occupations, Asian American females dominate with 34.3%, followed by Hispanic female (28.0%). Most male Laborers and Helpers are African American, Asian American, White and Hispanic American. In Installation, Maintenance and Repair occupations, only Hispanic males participate, followed by Whites and African Americans.

In Professional Services occupations, the City of Raleigh shows Management, Business and Financial occupations as well as Sales and related occupations are even across gender for all race and ethnic groups. In Computer Engineering and Science occupations, Whites, Hispanic Americans and Asian Americans see a greater male participation, whereas African Americans and American Indians see almost even participation among men and women within the City of Raleigh. Healthcare participants are similar to the Raleigh-Cary, NC MSA, with females dominating in all race and ethnic groups. Over 70% female participation is seen in technical occupations among all

racial and ethnic groups, with the lowest participation among Asian American females at 59%.

Using Dodge data, we examined M/WBE participation in Marketplace Construction activity. For the State of North Carolina, the data indicates that M/WBEs have limited penetration except in General Contracting, Consultant and Designer.

A comparison of bid activity and bidders across private and public owners of projects with their ranking provides insight about the winning bidders (awardees). Within the State of North Carolina, 2.43% of M/WBEs were ranked #1 (winner) in private sector projects, while 9.83% were ranked #1 in public sector projects. While Non-M/WBEs win about 96.7% of all private sector bids in the State of North Carolina, 1.28 were won by minority-owned firms and 1.15% were won by women-owned firms in FY 2021.

Building permits are an additional indicator of potential contracting activity. Based on the count of commercial building permits, M/WBEs had a distinctly greater percentage of public sector contracts compared to private sector contracts (6.87% versus 2.69%). For WBEs, the count and the dollars awarded in the private sector were much larger (at \$17.2 million or 0.62%) compared to the public sector (at \$702,201 or 0.28%). M/WBEs, however, won greater value in private commercial building permits (at \$24.6 million or 0.88%) compared to public sector building permits (valued at \$1.86 million or 0.73%). Furthermore, the largest value of building permits by MBEs is in the \$1 million to \$5 million range, whereas WBEs include Contractors with permits in the \$5 million to \$10 million range.

Using business license data to measure firm marketplace availability for both the private and public sector in the City of Raleigh shows that 99.6% of total business licenses in the City of Raleigh are held by Non-M/WBE firms. Minority-owned Businesses held 0.15% and WBEs held 0.10%.

### D. Race Neutral

There are a significant number of race-neutral programs that aid and support M/WBEs. M<sup>3</sup> Consulting reviewed the offerings of 44 organizations in the categories of:

- Goal-Based and Other Targeted Procurement Programs;

- Management and Technical Assistance Providers;
- Financial Assistance Providers;
- Community and Economic Development Organizations;
- Chambers of Commerce;
- Trade Organizations and Business Associations; and
- Other Advocacy Groups.

M<sup>3</sup> Consulting interviewed Executive Directors of five organizations to determine their experiences working with small, minority and women-owned businesses. The Executive Directors identified the following issues/themes impacting the M/WBEs that they service:

- Using M/WBEs to check the box on participation requirements;
- Raleigh community just starting to appreciate economic value/impact of diverse businesses;
- Lack of information, resources and financial backing to allow M/WBEs to compete for government contracting opportunities;
- Lack of networking opportunities and opportunities to build relationships;
- Lack of candidness and transparency as to how prime contractors select subcontractors;
- Need for advocacy at local, state and federal level for M/WBE participation; and
- Need for review of procurement policies, procedures and practices to determine impact on M/WBEs.

Though race-neutral programs within the City of Raleigh and throughout North Carolina 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.

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

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





## E.4 RECOMMENDATIONS

### E.4.1 Conclusions on Race- and Gender-Conscious Goal Possibilities

Based on the statistical findings in the disparity chapter, the utilization of qualified firms as reflected by the percentage of contracts or POs awarded and payments made, when compared to the availability of RWA<sup>SM</sup> firms, appears to be less inclusive than warranted, thus M<sup>3</sup> Consulting draws an inference of discrimination against the following race, ethnicity and gender groups.

**Table E.7.**  
**Inference of Discrimination Based on Findings of Statistically Significant Disparity**  
**By Race/Ethnicity/Gender**  
**By Procurement Type**  
**For the City of Raleigh**

	AES-Design Services (POs)	Construction & Construction- Related Services (Contract Awards)	Nonprofessional Services (POs)	Professional Services (POs)	Goods & Supplies (POs)
<b>African American</b>	Disparity	Disparity*	No Disparity*	Disparity*	Disparity*
<b>Asian American</b>	Disparity*	Disparity*	Disparity*	No Disparity*	Disparity*
<b>Hispanic American</b>	Disparity*	Disparity*	No Disparity*	Disparity	Disparity*
<b>Native American</b>	Disparity	Disparity*	Disparity*	No Disparity	Disparity*
<b>WBE</b>	Disparity*	Disparity	No Disparity	Disparity*	Disparity*

Source: M<sup>3</sup> Consulting

\*Statistically significant



Considering the findings discussed in the previous chapters and the disparity conclusions above, M<sup>3</sup> Consulting is providing the following recommendations to the City of Raleigh. The recommendations contain both race- and gender-neutral and race- and gender-conscious elements. The recommendations are grouped within the following categories:

- Organizational and Procurement Adjustment Recommendations;
- Recommendations for Targeted Initiatives—Race- and Gender-Conscious and Race- and Gender-Neutral; and
- Diverse Supplier Program Recommendations.

These recommendations consist of a listing of pertinent options from which Raleigh may select in narrow tailoring its efforts in response to the findings of this report. The options combine agency specific and best practices recommendations that are legally defensible considering the factual findings of this study. The City of Raleigh should consider adoption of those recommendations that are considered most appropriate in terms of cost, resources required, likely effectiveness, community acceptance and organizational feasibility.

### E.4.2 Organizational and Procurement Adjustment Recommendations

Below are recommendations to Raleigh for organizational, cultural, structural and programmatic changes that will lead to transformative and sustainable change in Raleigh's procurement operations and that will bring Raleigh into an inclusive procurement environment that ensures regulatory compliance and alignment with best practices.

## A. Procurement Systems and Culture Changes

### A.1 Change inclusion focus from programmatic (compliance with M/WBE regulations) to organizational (commitment to inclusive procurement environment)

Much of the focus at Raleigh has been on meeting the State of North Carolina's 10% M/WBE goals on building opportunities at \$300,000 or greater (or building projects at

\$100,000 or more with State funding). 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 City-wide change.

Many of the recommendations below focus on City-wide organizational changes that can lead to the transformation of Raleigh's procurement system to become more inclusive. Many of the recommendations for inclusion do not depend on Raleigh's decision to employ 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.

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 Raleigh's 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. The degree of responsiveness often correlates to the public entity's degree of commitment to inclusion in which these firms are pursuing opportunities.

### A.2 Four Pillars of Inclusive Procurement

To achieve the Vision, Mission and Goals as established by the Mayor and City Council, procurement plays a pivotal role, along with proper planning and budgeting, which starts the execution and implementation of the process that actualizes leadership's objectives. The Procurement Division and the M/WBE Office must operate in a manner that is both consistent with the policy objectives established by the Mayor and City Council and programmatically sound. Raleigh can do so through striving toward inclusive procurement, which will incorporate the following elements:

- **Mission Driven**—The procurement and M/WBE objectives are tied directly to the overall Vision, Mission and Goals of Raleigh.
- **Opportunity Driven**—The M/WBE Office, along with the Procurement Division, is driven by Raleigh's opportunities—identifying them, understanding them, managing them and communicating them.

- **Relationship Driven**—With the foundation that being opportunity driven provides, Raleigh will be in the relationship development business. The Procurement Division and the M/WBE Office will know its businesses that are capable of doing Raleigh's 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 and organizational performance, along with the other objectives established by the Superintendent.

### A.3. Culture Audit

M<sup>3</sup> Consulting recommends that Raleigh conduct a culture audit to assist it in moving toward an organizational culture that will more readily support the Mayor and City Council's Vision and Mission, as well as a more inclusive procurement environment. The culture audit will allow examination and explanation of the common rules of behavior and underlying beliefs of Raleigh that drive its organization and the way people approach their work. It also will assist in determining whether Raleigh's current organizational culture is an asset or liability in achieving its Vision and Mission and provides actual evidence for establishing the appropriate direction for Raleigh.

### A.4. Training and Development

Many organizations engage their staff in diversity training 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, to create a baseline of knowledge, the following training should occur:

- All Procurement Division, M/WBE Office and other appropriate Departmental staff should be provided basic training on procurement operations as well as M/WBE operations. If feasible, some staff members in the M/WBE Office should become certified buyers through organizations such as the National Institute of Government Purchasing (NIGP) and certified compliance officers through organizations such as the American Contract Compliance Association.

- All procurement staff and Departmental staff engaged in procurement activity should attend a seminar on the components of the M/WBE program and established strategies for achieving established objectives.
- Once the Procurement Division, M/WBE Office and other appropriate Departmental staff have baseline training, the Chief Procurement Officer and the M/WBE Program Manager are then positioned to train on higher-level negotiating strategies and tactics in the various procurement categories and for 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.

### A.5. Address Decentralized Nature of Raleigh Procurement Process and Impact on M/WBE Participation

M<sup>3</sup> Consulting does not advocate for a centralized or decentralized procurement process. We seek to determine the impact of either process on the ability of M/WBEs to contract with a public entity. Without appropriate infrastructure, management and operational support, an unwieldy bureaucracy can be created that serves as a de facto barrier to M/WBEs. It appears that Raleigh operates in a decentralized procurement environment that has the overall effect of decreasing accountability and transparency as it relates to M/WBE participation, resulting from lack of robust infrastructure and integration, coordination, and delegation. As such, Raleigh should ensure that the Procurement Division has the authority and ability to:

1. Report to the Mayor and City Council on the way Raleigh's annual procurement spend has assisted Raleigh to achieve its mission to build a stable platform of evolving services for the Raleigh community, thereby championing positive and sustainable growth, and realize visionary ideas for all;
2. Report to the Mayor and City Council, in conjunction with the M/WBE Office, on the way Raleigh has met stated M/WBE targets at both the prime and subcontractor levels across procurement categories, inclusive of change orders and work plans, as well as other inclusive procurement objectives; and

3. Make recommendations for the utilization of procurement techniques and contracting vehicles that best meet the Mayor's and City Council's objectives as it relates to community economic development and inclusive procurement, as well as User Department needs.

While the Procurement Division should have the authority necessary to achieve the recommendations above, based on Raleigh's decentralized system, the Procurement Division will need to work collaboratively with department leadership within the M/WBE Office, Engineering Services, Integrated Facility Services, Fleet Management, Roadway Design/Construction, Transportation and Raleigh Water. This group can form the participants in **Raleigh's Inclusive Procurement Committee**, which would be critical to procurement planning, budgeting and forecasting, utilization of appropriate contract vehicles, opportunity identification at prime and subcontractor levels, unbundling, contracting plan and goal-setting. Raleigh can also consider whether representative members from the business community and other User Departments should be included.

Raleigh's Inclusive Procurement Committee will also be responsible for developing Raleigh's Action Plan in response to the recommendations contained herein.

### A.6. Budgeting, Forecasting and Scheduling

On an annual basis, Raleigh 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/WBE participation. Master construction schedules should also be available. From these sources, Raleigh can 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, Raleigh can begin to (a) project the impact of Raleigh's purchases on economic, business and employment growth in the Raleigh-Durham-Cary Core-Based Statistical Area (CBSA), (b) conduct matchmaking, and (c) identify areas where local capacity is needed among

both M/WBEs and Non-M/WBEs and begin pre-bid capacity building efforts.

### A.7. Contracting Vehicles

The types of contracting vehicles utilized by Raleigh and the degree to which they are utilized can impact the level of M/WBE participation pre- and post-award.

For many of the lower dollar threshold purchases, Raleigh's procurement vehicles do not include any policy-mandated consideration of race, ethnicity or gender when conducting outreach or evaluating respondents to select the awardee for the opportunity. Raleigh relies on leadership recommendations and staff culture to suffice when soliciting bids or proposals/qualifications to include submission responses from small or diverse-owned firms with no audit function in place to determine if quotes are being solicited and received from small and M/WBE firms.

Raleigh should review the usage of all its contracting vehicles for ways to:

- Ensure that the best contract vehicle for achieving Raleigh's inclusion policies, procurement and project objectives is a part of their contract vehicle selection process.
- Determine the best level of engagement regarding the Procurement Division's involvement in the post solicitation development of final execution of work plans. This should include the ability for Procurement to sign off on final M/WBE participation within the approved work plans and give final authorization or permission before approved plans are altered.
- Identify and deploy other management tools, such as rotating lists of successful firms and implementing "Sheltered Market" reserved competition solicitations to promote a greater distribution of vendor utilization.
- Dedicate resources to elevate post award M/WBE monitoring, auditing and tracking tasks.

### A.8. Monitor Contracts for Issue of Concentration

Modeling 49 CFR Part 26.33, Raleigh should monitor its contracts to ensure that M/WBEs are not overly concentrated in certain product areas as a means of

Raleigh meeting its M/WBE goals. Contracts should be continuously reviewed to ensure that (1) the same Non-M/WBEs and M/WBEs are not securing a significant percentage of Raleigh contracts and that (2) the same M/WBEs are not accounting for a significant percentage of Raleigh 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.

Due to policies like prequalification and practices like awarding contracts to a few firms in certain instances, Raleigh has limited competition on its opportunities. Raleigh should constantly monitor its contracting activity to determine whether contract awards are concentrated among a small group of firms and design strategies to increase the level of competition on Raleigh procurement and contracting opportunities.

### A.9. Deeper Dive of Bid/RFP/RFQ, Award and Payment Process

Raleigh should consider a deeper dive into bid, Request for Proposal (RFP)/Request for Quotation (RFQ), selection and evaluation results to ensure that the outcomes reflected in the Availability and Utilization chapters reflect a procurement process that is open, fair, transparent and inclusive. This deeper dive to review actual practices would include a review by an independent party of:

- **Pre-award activity**—Bid/RFP/RFQ and award documents for individual opportunities, including vendor solicitation, bid tabulations, inclusiveness of persons chosen, selection committee, evaluation score sheets, GMP and other contract negotiation documents, prime contractor selection and evaluation score sheets for subcontractors, and prime contractor solicitation list for subcontractors.

- **Post-award activity**—Selection process on multi-awardee contracts, M/WBE utilization through phases of project, payments to sub-contractors, impact of bonding on both prime and sub-contractors.

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

This deeper dive would also provide greater insight into the competitiveness of different race/gender/ethnic groups and provide the M/WBE Office with additional information on which to target and customize its support efforts.

### A.10 Conduct Economic Impact Analysis

A Disparity Study provides critical quantitative and qualitative data on the participation of M/WBEs in Raleigh opportunities and the factors impacting their ability to do so. An Economic Impact Analysis shows the impact on economic growth in a locale of procurement spend and of major capital improvement projects. This economic impact analysis can be conducted to further reflect the impact on economic growth in minority communities of Raleigh procurement and contracting dollars flowing to minority businesses. The analysis would assist in changing the outlook on supporting minority communities from one of simply addressing discrimination to one of promoting growth and development. While relatively new, some cities and states, such as the State of Maryland, have conducted economic impact analysis by race/gender to determine whether the benefits of tax dollars utilized for procurement and contracting of goods and services is benefiting its citizens in an equitable manner.

## B. Address Data Capture/ERP Issues

Critical to creating an inclusive procurement operation at Raleigh is an efficient and integrated procurement data infrastructure. These data recommendations are necessary because:

- Poor data systems can mask discriminatory actions or disparate impact, even where race and gender-conscious goals are utilized. Immediately addressing data issues is critical to protecting against unfairly discontinuing Raleigh's M/WBE programs due to temporary or permanent injunctions or internal decisions based on incomplete data that may allow the organization to continue to discriminate. Sound, accurate and complete data supports the Mayor, City Council and City Attorney's Office in fairly balancing all legal and regulatory implications, potential challenges, etc. arising from Raleigh's ability to sufficiently state, in this disparity study and any time thereafter, the level of M/WBE participation in its procurement and contracting activity at prime and subcontractor levels.

- We note that in the EEO environment, under 29 CFR Ch. XIV, Part 1607.4.D, a finding of an inference of adverse impact can be drawn from poorly maintained data system not in conformance with data tracking requirements of the regulations. While 49 CFR Part 26 does not have similar language, Section 26.47 covers Bad Faith Administration of the DBE Program.

- More refined and detailed procurement spend analysis cannot be performed without better data capture and tracking. This inability limits programmatic activity, including expansion of the pool of available firms through outreach; setting project-based goals; determining participation at the purchase code level (NIGP/North American Industry Classification System [NAICS]/Commodity) and tracking decision-making activities at procurement solicitation, evaluation, awards and commitments, and post-award utilization.
- To operate a race- and gender-neutral procurement operation, Raleigh must be able to adequately track levels of M/WBE participation to anticipate necessary adjustments. Further, under a race- and gender-conscious M/WBE program, tracking allows for proactive and real-time responses that allow Raleigh to utilize race- and gender-conscious programs when necessary and to respond quickly when tracking reveals that participation is dropping in a race- and gender-neutral environment.

- Data efficiency promotes Raleigh's ability to respond to M/WBE opportunities and challenges quickly and nimbly, such that it does not unnecessarily and perhaps unintentionally perpetuate "government inertia" referenced by Justice Sandra Day O'Connor in the Croson decision.

M<sup>3</sup> Consulting recommends that Raleigh address the following data issues outlined below to support transparent monitoring, tracking and reporting. Once these changes are implemented, M<sup>3</sup> Consulting recommends that Raleigh update the statistical portion of the disparity study to capture FY 2017 through FY 2021 data to provide both a more accurate reflection of M/WBE utilization at prime and subcontractor levels and as a test case for its M/WBE data capture process.

1. Expand data capture on vendor portal
2. Assign commodity codes to bids
3. Consider utilizing e-procurement or online bid portal to capture bid and quote information
4. Employ ERP systems that offer integrated procurement, project management and payments data modules
5. Consider utilizing an off-the-shelf M/WBE/DBE/SBE tracking system
6. Develop computerized formats for evaluation score sheets
7. Track awards, commitments and payments separately
8. Appropriate departmental access through a dashboard

### E.4.3 Recommendations for Targeted Initiatives—Race-/Gender-Conscious and Race-Gender-Neutral

#### A. Race-/Gender-Conscious Initiatives

##### A1. Establishment of Race- and Gender-Conscious Goals

The existence of established goals is an effective mechanism for establishing objectives for Raleigh and



## E.4 Recommendations

in achieving the desired outcome of increasing M/WBE participation, when effectively implemented. If operations are inflexible, it falls into a quota.

The concept of an annual aspirational goal for M/WBE participation, which is tied to the availability of M/WBE firms, should be utilized by Raleigh to periodically evaluate the effectiveness of its overall M/WBE program and its project-specific efforts, as well as to gauge whether it is appropriate to increase or decrease the mix of more aggressive remedies. The annual aspirational goal can be used to inform more specifically tailored goals by procurement category, department, etc. To be legally defensible, the annual goal should be a minimum achievable standard for M/WBE inclusion and not a maximum barometer of exclusion.

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

As significant disparity is eliminated in the race- 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 reemerges, then race- and gender-conscious techniques can be utilized on a nonpermanent basis to correct identified disparities.

While Raleigh 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 disparity can emerge or reemerge with lack of focus by Raleigh to be inclusive. Raleigh should continuously focus on an inclusive procurement environment that considers M/WBEs and narrow the focus, when necessary, based on meeting established goals.

Availability, Utilization and Disparity measures should be tracked on an annual basis and annual goals set as discussed above, as the recommendations below are implemented. RWA<sup>SM</sup> Availability is significantly impacted by bidding patterns and practices. Raleigh's RWA<sup>SM</sup> Availability analysis revealed that 58% of its bids had one bidder and 75% had three or fewer bidders. If the bidding patterns of Raleigh vendors are altered, due to internal adjustments within Raleigh or marketplace factors, the impact of those changes should be captured. Similarly, Utilization reflects issues that require further analysis and potential changes to increase competitiveness, provide

**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
<b>AES-Design Services</b>	<ul style="list-style-type: none"> <li>Asian American</li> <li>Hispanic American</li> <li>WBEs</li> </ul>	<ul style="list-style-type: none"> <li>African American</li> <li>Native American</li> </ul>
<b>Construction and Construction-Related Services</b>	<ul style="list-style-type: none"> <li>African American</li> <li>Asian American</li> <li>Hispanic American</li> <li>Native American</li> </ul>	<ul style="list-style-type: none"> <li>WBEs</li> </ul>
<b>Nonprofessional Services</b>	<ul style="list-style-type: none"> <li>African American</li> <li>WBEs</li> </ul>	<ul style="list-style-type: none"> <li>Asian American</li> <li>Hispanic American</li> <li>Native American</li> </ul>
<b>Professional Services</b>	<ul style="list-style-type: none"> <li>African American</li> <li>WBEs</li> </ul>	<ul style="list-style-type: none"> <li>Asian American</li> <li>Hispanic American</li> <li>Native American</li> </ul>
<b>Goods &amp; Supplies</b>	<ul style="list-style-type: none"> <li>African American</li> <li>Asian American</li> <li>Hispanic American</li> <li>Native American</li> <li>WBEs</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>

Source: M<sup>3</sup> Consulting



opportunities where capacity is not an issue and eliminate issues of concentration brought about by the low number of bidders.

Raleigh employs both a M/WBE Goal program and a DBE Goal Program. Raleigh's M/WBE program has an aspirational goal of 15% of the total contract values to be performed by certified M/WBE businesses in contracts awarded by the City for construction and building repair projects of \$300,000 or more. This goal also applies to construction and building repair projects of \$100,000 or more if the funding sources supporting the project include any North Carolina State funding. Its DBE goal program, under the Department of Transportation, has a 13% DBE inclusion goal that is underpinned by their Federal Transportation Administration (FTA) triennial goal setting activity. Our goal findings here are primarily related to Raleigh's M/WBE goal program.

To continuously test the need for race- and gender-conscious goals and as part of sunset provisions, we suggest removing a portion (e.g., 10%) of all contracts let each year within certain industry segments no longer experiencing widespread M/WBE underutilization from the assignment of race- and gender-conscious goals, evaluation preferences and remedies and carefully monitoring them on a quarterly basis to ensure that significant disparities in M/WBE utilization do not reappear. The City Council would determine the period that this gradual sunset review process would occur. This process would assist the Mayor and City Council to confirm whether race- and gender-conscious goals should be sunset for a particular group.

### A.2. Goal-Setting Formulas And Techniques

Raleigh has at its disposal a wide-array of goal-setting formulas and techniques, including:

- M/WBE Bid Preferences;
- M/WBE Goals;
- SBE Set-Asides and Sheltered Markets; 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 City Council. The Council 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 Raleigh. The U.S. Department of Transportation (DOT), under 49 CFR Part 26, allows five approaches to establishing DBE goals/availability:

- DBE Directory + U.S. Census;
- Bidders List;
- Disparity Study data;
- Goal from Another DOT recipient; and
- Alternative Methods.

M<sup>3</sup> Consulting adds to this list of offerings its own goal-setting formula, which is described below.

**ATM<sup>SM</sup> Formula**—The Annual Target Method (ATM<sup>SM</sup>) formula, developed exclusively by M<sup>3</sup> Consulting, allows entities to develop goals based on both market conditions (availability) and actual levels of participation by Raleigh (utilization). The ATM<sup>SM</sup> formula also allows Raleigh to forecast the necessary M/WBE participation levels to achieve the desired outcome, correcting for stated disparity, by an established date. This methodology has been designed to assist Raleigh to determine its goals through a realistic and statistically valid model.<sup>12</sup>

To ensure that goals properly reflect the opportunity being solicited 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, M<sup>3</sup> Consulting recommends that Raleigh implement project-by-project goals. The ATM<sup>SM</sup> formula can still be used, but availability should be computed for each project type and then that availability measure used in the ATM<sup>SM</sup> formula. To calculate availability by project-type, Raleigh must have a well-functioning Central Bidder Registry or Vendor Registry List.

In the ATM<sup>SM</sup> 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 ATM<sup>SM</sup> 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.

### A3. Race- and Gender-Conscious Tools

Raleigh should first exhaust all race- and gender-neutral means to achieve any established target, goal or benchmark. Again, 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 Raleigh, 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 the Procurement Division and the M/WBE Office to ensure that such goals do not disproportionately fall on one class. For example, awards of all painting subcontracts to minority firms would impose an undue burden on Non-M/WBE 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 Raleigh should be subject to graduation provisions.
- Raleigh race- and gender-conscious elements should be subject to annual review and sunset provisions.

### A.4 Goal Setting by Threshold

M<sup>3</sup> Consulting’s threshold utilization analysis suggests that, where capacity is not an issue, certain race/ethnic/gender groups are still reflecting disparity. The threshold utilization analysis was based on PO data. We acknowledge that some POs that appear “small” may be part of a requirements contract awarded to one or more vendors. As such, a deeper spend analysis is required before goal setting is conducted.

In conducting this spend analysis, Raleigh will obtain a greater understanding of the individual opportunities and the dollar values associated with them. The spend analysis allows Raleigh to review these individual opportunities

by size. This process is different from unbundling, where the organization starts with the larger contracts and attempts to break them down into component parts or smaller contracts. When individual opportunities are sorted by size, appropriate programmatic efforts by the M/WBE Office can be established. Furthermore, there is more transparency in contracts awarded, particularly on contracts where more firms are fully capable of competing.

### B. Race-/Gender-Neutral Initiatives

The City of Raleigh should utilize race- and gender-neutral programs to the extent possible and utilize race- and gender-conscious programs when demonstrably needed to address any disparity found. Race- and gender-neutral goal-based programs are an important tool to be utilized. Use of these programs and race- and gender-conscious initiatives are not an either/or decision on the part of the jurisdictions. Many public entities utilize race- and gender-neutral programs in conjunction with their race- and gender-conscious initiatives. By so doing, these public entities maximize the opportunity for inclusion and work to ensure that M/WBEs who reflect overutilization or nonsignificant disparity do not slip to a state of disparity because the public entity has focused all its efforts on M/WBEs where there is significant disparity. Race- and gender-neutral goal-based and set-aside programs and related initiatives include the following:

- **Small Business Enterprises/Micro Business Enterprises (SMBE)**—Establishes small business and/or micro goals on an annual basis, as well as goals, bid preferences, sheltered markets/set-asides or points on a project-by-project basis. Many small business and micro business programs are designed to ensure greater SMBE availability, capacity development and contract participation in the public entity’s procurement and contract opportunities.
- **Local Business Enterprises**—Establishes goals, bid preferences, points, and sheltered markets/set-asides targeted to local firms within the public entity’s jurisdiction. These programs are usually focused on spurring economic growth and development of locally based firms competing against non-native, larger state, national and international firms, thereby supporting the public entity in growing its own local economy.

- **Disadvantaged Business Enterprise/ Socioeconomic Enterprises**—Depending on the definition utilized for DBE and Socioeconomic Business Enterprise, these programs can be race- and gender-neutral. If inclusive of socioeconomically disadvantaged Non-M/WBEs, the program will be considered race- and gender-neutral. Additionally, these programs can establish small business goals and set-asides as a means of meeting its DBE goals.
- **Veteran/Service-Disabled Veteran Enterprise Program**—Establishes goals, bid preferences, points, sheltered markets and/or set-asides targeted to veterans or service disabled veteran programs, which are not members of a protected class subject to strict scrutiny.
- **Disabled Person Business Enterprise programs**—Establishes goals, bid preferences, points, sheltered markets and/or set-asides targeted to disabled business owners, which are not members of a protected class subject to strict scrutiny.
- **Lesbian, Gay, Bisexual, Transgender, Questioning (LGBTQ) Business Enterprise Programs**—Establishes goals, bid preferences, points, sheltered markets and/or set-asides targeted to LGBTQ Businesses, which are not members of a protected class subject to strict scrutiny.
- **Good faith efforts**—Includes actions by a business to identify its efforts to remove barriers to M/WBEs to participate in the business's procurement and contracting (and employment) opportunities or to expand procurement and contracting (and employment) opportunities. Examples of good faith efforts include but are not limited to:
  - **Pre-bid meetings**—Bidders should attend pre-bid meeting or matchmaking session.
  - **Identification of subcontracting opportunities**—Bidders must identify work categories for subcontracting opportunities and certified and capable M/WBEs within these work categories; bidder must document its efforts.
  - **Advertisement**—Bidder must advertise subcontracting opportunities no less than 21 days prior to bid opening date, public entity's bid schedule permitting; advertisements must be placed in daily or weekly minority or women focused trade organization newspapers, publications, or other media.
  - **Communications with M/WBEs**—Bidder will mail registered or certified letters no less than 21 days before bid opening to no less than 10 (or 100% of those available) M/WBEs capable of performing the identified work categories with which the bidder is willing to subcontract; email blasts are also utilized to fulfill this requirement.
  - **Follow-up of initial solicitation**—A bidder representative with knowledge of the project will follow up with M/WBEs within 10 days of mailing of solicitation letter; proper documentation of follow-up should be maintained.
  - **Responses from interested DBEs**—Bidder must maintain an appropriate record of responses.
  - **Bidder evaluation of interested M/WBEs**—Each bidder will submit documentation of its evaluation of bids or proposals received.
- **Non-discrimination program**—The purpose of a nondiscrimination program is to ensure that contractors do not discriminate in the award of subcontracts based on race, national origin, color, ethnicity or gender. Under a nondiscrimination program, elements may include, but are not limited to, the following:
  - Determining whether bidders have included M/WBE sub-bidders at anticipated availability targets, and if not, determining why not;
  - Requiring evidence of good faith efforts; and
  - Reviewing and/or investigating bids to determine whether any discrimination has occurred.

### E.4.4 Diverse Supplier Program Recommendations

M<sup>3</sup> Consulting has established six elements of an M/WBE program. We reviewed Raleigh's M/WBE program

against these six elements. Based on the model and the procurement findings, M<sup>3</sup> Consulting recommends the following:

Figure E.4. M <sup>3</sup> Consulting Six Essential M/WBE and SBE Program Elements	
	Race- and Gender-Conscious
1. Outreach and Matchmaking	Efforts to increase the business community's awareness of an entity's procurement and contract opportunities and match M/WBEs and SBEs to specific contract opportunities at prime and subcontracting levels.
2. Certification	Eligibility criteria for M/WBE participants.
3. Technical Assistance	Informational and strategic support of businesses to meet the entity's M/WBE plan objectives.
4. M/WBE Inclusion in Bid Opportunities	The mechanism by which the entity assures that material consideration of M/WBE participation is given in the award of a contract.
5. Contract Compliance	Ensuring adherence to 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: M<sup>3</sup> Consulting

## A. Outreach and Matchmaking

### A1. 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 (RWA<sup>SM</sup>). Additionally, the majority of Raleigh's contracts had only one bidder. Raleigh 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 Data Axle lists. These firms would have to meet Raleigh certification requirements to be counted toward Raleigh's 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.

### A.2 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, Raleigh 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. Raleigh purchasing and M/WBE 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/WBEs or both. The matching sessions should include the following:

- Coordinate matchmaking sessions with construction schedules and plans, forecast release and/or solicitation schedule, and hold session as early as possible. Matchmaking sessions can also be utilized to identify available firms for 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 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 Raleigh.

**Matchmaking at the subcontractor level**—Matchmaking takes on a team-building dynamic at this level. Prime contractors/consultants can identify potential M/WBEs team members on upcoming opportunities to be let by Raleigh. To be most effective, Raleigh personnel will be required to have an in-depth knowledge of the capabilities of the pool of certified M/WBEs. The M/WBE Office also needs 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 begins well in advance of the actual Invitation to Bid or RFP.<sup>8</sup> 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 M/WBEs requirements often does not produce quality and high levels of 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, Raleigh should consider the legality of including responsiveness to matchmaking efforts as a factor of good faith efforts under Raleigh's M/WBE initiatives. Anecdotal interviews in other locales suggest that, while prime vendors attend sponsored matchmaking 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.

### A.3 Availability and Capacity-Building Initiatives

To increase opportunities for M/WBEs, Raleigh should start with the consideration of increasing the pipeline of available firms. M/WBEs face discriminatory or exclusive practices in the general marketplace that inhibit their growth and development and thus their capacity. Raleigh should take great care to ensure its practices are not inhibiting growth and encourage inclusion in its procurement and contracting opportunities. The recommendations in this section are focused on how Raleigh can utilize both its resources and opportunities to contribute to the growth and development of M/WBEs, in addition to increasing the number of contract awards.

### Impact of Prequalification and Certification on Availability Pipeline

Prequalification processes can be exclusive and limit the number of available firms, even though required under State of North Carolina law for Construction procurements. Project managers must utilize prequalified firms on construction or repair projects (regardless of cost) that are bid under the single-prime, separate-prime (multi-prime) or dual-bidding methods. This can cause problems when Raleigh is seeking to identify M/WBEs to compete at the prime level in Construction. As such, in Construction, prequalification is one of the contributory factors to low M/WBE attainment at the prime contractor level, as well

<sup>8</sup>See Chapter VIII, *Capacity and Regression Analysis*, p. 8–65. Raleigh, working with local school systems, is in an invaluable position to impact values, behaviors and attitudes toward discrimination and bias and to cultivate a culture of entrepreneurship. By inculcating students early, it allows minority and women communities to expand their social capital and the Raleigh community to begin the change the narrative of the historical, social and economic factors that have ultimately stunted the natural growth and development of minority and women entrepreneurs



as why most M/WBE participation is primarily at the sub-contractor level. The combination of certification requirements and prequalification requirements can deter M/WBEs from even attempting to do business with Raleigh.

While a necessary part of Raleigh initiatives, the M/WBE Office should work to ensure that prequalification and certification processes are promoting inclusion. To do so, M/WBE Office should start by identifying all small and minority- and women-owned firms in the Raleigh-Durham-Cary CBSA. The Disparity Study assists with this effort by its compilations in availability spreadsheets using data sources from Raleigh, Data Axle and Business Licenses, along with the Master Small/M/W/DBE certification list. While all these firms may not meet the RWA<sup>SM</sup> standard, the firms on these lists represent the starting point of the Raleigh pipeline of available firms. Before proceeding to other initiatives of certification and prequalification, the M/WBE Office should:

- Review compiled list with community organizations, Chambers of Commerce and M&TA providers to determine whether firms of which they are aware are listed in this “phone book.” Organizations with private membership lists should also be encouraged to participate to construct the most exhaustive list of firms.
- For firms on the list that are not certified, conduct survey to obtain data on type of goods and services provided and interest in doing business with Raleigh.
- Measure Raleigh progress in increasing the number of firms certified and number of firms prequalified against this list of identified firms.
- For those available firms that do not meet M/WBE and prequalification requirements, work to include as many available firms as possible on the Raleigh vendor registry and in Raleigh’s race- and gender-neutral programs, and then develop these race- and gender-neutral goals and initiatives accordingly.

Additionally, because certification and prequalification both request very similar information, Raleigh should consider streamlining the application processes, such that M/WBEs are not required to submit the same information in a duplicative fashion when avoidable.

### The Starting Point: Youth Entrepreneurship

Croson makes it clear that public entities cannot address social discrimination through legal race- and gender-conscious remedies. However, Raleigh is positioned to support local school systems to begin to reshape some of the social dynamics that impact their success.

Entrepreneurship requires a certain skill set that is cultivated over time. Young people with no access to entrepreneurial education and training are less likely to obtain these skill sets on their own. And by the time that these young people may have an opportunity to obtain these skills, they are close to adulthood and well behind young people who have access to parents with entrepreneurial and/or managerial skill sets. As discussed previously in Chapter VIII, Capacity Analysis, Fairlie and Robb (2007) found that Black business owners were much less likely than White counterparts to have had a self-employed family-member owner prior to starting their business and are less likely to have worked in that family member’s business. Fairlie and Robb noted that the lack of prior work experience in a family business among Black business owners, perhaps by limiting their acquisition of general and specific business human capital, negatively affects Black business outcomes.<sup>3</sup>

Efforts can include:

- Youth entrepreneurship and financial literacy programs.
- Mentorship and apprenticeship programs with Raleigh vendors/contractors/consultants.
- Targeted entrepreneurship career tracks—with emphasis on exposure to entrepreneurs, as opposed to large corporations—in conjunction with local technical colleges. We note that the State of North Carolina has one of the strongest two-year college programs in the country.
- Expanded access to entrepreneurship and financial literacy programs to students’ parents/family members.



- Ultimately, providing graduates of the Wake County Public School System who become entrepreneurs with access to Raleigh opportunities through SMBE programs, such as set-asides, sheltered markets and mentor/protégé. Initiatives focused on students that have matriculated at a Wake County public school would be considered race- and gender-neutral, with a desired outcome of promoting economic and social development.

These initiatives should be combined with strong diversity initiatives. Focus should not simply be on antibias, but multiculturalism efforts that build social capital.

### B. Certification

#### B.1. Refocus Certification and Prequalification Efforts to Identification of Qualified Firms

The City of Raleigh does not certify M/WBEs and accepts certifications from the North Carolina Department of Administration's Historically Underutilized Business (HUB) Office and the North Carolina Department of Transportation's (NCDOT) Disadvantaged Business Enterprise Program. Certification of firms as minority- or woman-owned is part of narrow tailoring, designed to ensure that only firms discriminated against have access to goal-based remedies. Because of a few Non-M/WBEs that have attempted to illegally access these programs, over time, the certification application process has become increasingly burdensome to the M/WBEs that public entities are trying to reach. As a result, the certification process is increasingly seen as a bar that M/WBEs should reach to gain access to these race- and gender-conscious "benefits." Goals are a remedy, not a benefit. This framing of goals and how the certification process supports the "remedy" should be included in the City's training protocols.

Furthermore, a burdensome certification process can reduce the number of available M/WBEs. As a matter of practice, when Raleigh staff and prime vendors search for available minority- and women-owned businesses, they are searching Raleigh certified M/WBEs, not the list of available M/WBEs. As such, as a matter of practice, while there is a larger pool of M/WBEs that are available, many of these firms may not be considered because they cannot be counted toward goal attainment or achievement. We note there were 174 certified firms on the M/WBE Office's

list, compared to 4,791 on the Data Axle Availability list refined to the Raleigh area and 7,475 M/WBEs on the State of North Carolina list.

### C. Technical Assistance

Technical, Financial and Management assistance (TF&MA) providers can support M/WBEs in increasing their capacity, obtaining critically needed financial assistance, networking and even responding to the City of Raleigh's procurement and contracting opportunities. Raleigh's M/WBE Office has established relationships with TF&MA providers. The City also provides technical assistance directly with simplification of bidding procedures, relaxation of bonding requirements, financial aid through the Division of Community & Small Business Development, prompt pay and training on doing business with the City of Raleigh.

M<sup>3</sup> Consulting suggests below additional technical assistance initiatives for Raleigh's consideration:

#### C.1. Bonding Assistance

Four approaches may be taken to remove the barrier that bonding requirements sometimes can represent. The efficacy of these programs must be reviewed considering bonding requirements from the State of North Carolina. North Carolina law requires payment and performance bonds for a local government construction contract that exceeds \$300,000. In that case, the bonding requirement cannot be waived. The approaches include waiving bonding requirements, removing customary bonding stipulations at the subcontract level, reducing bonding and phasing bonding. Each is described below:

- **Waiving bonding requirements**—While bonding may be required by local, state or federal statute in particular instances, all governmental entities have some latitude in requiring a bond in the first place. Typically, small dollar-value contracts are not required to have bonds. An honest assessment of the actual risk involved to the owner ought to be performed before deciding to always require a bond on every job. Bid bonds, when required, are due with submittal of the bid.

- **Removing bonding stipulations at subcontract level**—Typically, on larger construction jobs, the owner requires bonds of the prime contractor. This means, essentially, that the total job is bonded. The practice of requiring bonds of subcontractors is just that, a practice. It is not required by the owner. Therefore, the owner may develop a policy that does not permit a prime's requirement of a subcontract bond to constitute a barrier to M/WBE participation. Both the owner and the prime contractor should be willing to undertake special activities to monitor subcontractors' performance and lend technical assistance, if necessary. Currently, Raleigh does not require subcontractor bonding on its projects and discourages its use. According to anecdotal interviews, this has a negative impact on M/WBE prime contractors. Raleigh should review its processes to ensure that it is providing the appropriate support to ensure that its policy can continue in a manner that is fair to both prime and subcontractors.
- **Reducing bonding**—Rather than requiring a 100% payment and performance bond, consideration also can be given to reducing the dollar coverage of the bond. A 50% bond, for example, can be required, thus reducing the size and cost of bonding. In this way, a company's bonding capacity is not reached so quickly, and bonding is made more affordable. The owner benefits by still being protected by a bond and in the form of lower bids since the cost of bonding is built into contractor's bids.
- **Phasing bonding**—This technique can be used in instances where bonding cannot be waived but where there are limitations of the low bidder to obtain a full bond. For example, the owner can divide the job into three phases, each requiring a separate notice to proceed. The successful bidder is then required to obtain a bond for each phase. Upon completion of the first phase of the work, the bond is released, and the contractor is required to provide a second bond in a like amount. This process is then repeated for a third time. The owner thereby accommodates a M/WBE that might not otherwise qualify, the owner is still protected from risks, and the contractor builds a track record of completing work under three bonds, thereby building bonding capacity and lowering the cost of bonding. (Note that on local government construction contracts in excess of \$300,000, State law requires 100% payment and performance bonds. The amount of these bonds cannot be reduced for these contracts.)

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

### C.2. Wrap-Up Insurance

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

### C.3. Working Capital Loan Programs

The tenets of a well-structured Working Capital Loan Program allow a public entity to leverage its contracting activity with M/WBEs to secure bids from banks to provide those M/WBEs with Working Capital Loans against their awarded contract. Many study participant vendors pointed to capital and cash flow as a major inhibitor to their firms being positioned to pursue Raleigh opportunities and promote the further growth of their businesses.

M<sup>3</sup> Consulting also recommends that Raleigh should increase its marketing and promotion of its partnerships with the Carolina Small Business Development Fund (CSBDF) because currently very few in their community have any awareness of the programs' existence.

### C.4. Prompt Pay

Prompt Payment Programs provide a framework for the timing of payments to M/WBEs and Small Businesses by both the public entity and its prime contractors. The time frame is usually a short period (i.e., 7–14 days) after receipt of invoice. For the prime contractor, the period begins when it receives payment from the public entity. We note that Raleigh currently employs prompt pay measures.

## D. M/WBE Inclusion in Bid Opportunities

### D.1. M/WBE Program Which Addresses Requirements of Large Construction and Development Projects

Developing project-based M/WBE goals for large capital improvement/development projects requires an understanding of construction planning and budgeting, construction scheduling and the opportunities that are available on those projects. To facilitate opportunity identification and goal setting, M<sup>3</sup> Consulting developed the Seven Phases of a Development Project<sup>SM</sup> that allows Raleigh to meet its planning, procurement and M/WBE needs across the life cycle of the development project.

The Seven Phases of a Development Project<sup>SM</sup>, along with possible opportunities (list intended to provide examples, not be exhaustive) at each stage are:

- **Planning**—Opportunities exist in the acquisition of right-of-way, acquisition of property, legal services, environmental studies, land use studies, geotechnical studies and feasibility studies.
- **Financing**—Opportunities may include investment banking, lobbyists, grant proposers and legal services.
- **Designing**—Design services include both architectural and engineering services, with other additional services that may be required such as geotechnical services and environmental services. Design services may also include the development of a bulk purchasing plan. Construction Management services would also be included here.
- **Constructing**—These services include prime contractor/subcontractor activities, including general contractors, tradesmen and soil testing.
- **Equipping**—Involves the furnishing of facilities and buildings.
- **Maintaining**—Involves the maintenance of equipment, facilities, and buildings.
- **Operating**—Covers the provision of those services that contribute to the overall continued function of the facility and buildings.

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

### D.2. Promoting M/WBE Participation at the Prime Contractor Level

Raleigh had very small levels of M/WBE participation at the prime level, even at smaller procurement thresholds where capacity is not an issue. To ensure that the responsibility for M/WBE participation is shared by both Raleigh and its prime vendors, Raleigh should take steps to ensure that M/WBEs are involved in Raleigh's procurement opportunities at the prime levels. Below is a listing of those efforts that Raleigh can undertake:

- Identify prime-level procurement opportunities where a significant pool of M/WBEs are available;
- Establish prime-level participation targets to ensure that Raleigh 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, and targeted solicitation;
- Increase the utilization of SDBE set-asides and sheltered market opportunities, where SDBE availability supports doing so;
- Provide notice of small business opportunities (below \$50,000) and ensure that M/WBEs are included in pool of firms being solicited;
- Consistently review pool of M/WBEs sub-bidders and subcontractors to determine those that have done a significant level of subcontracting with Raleigh 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 and recognize prime opportunities for distributors;
- Review and revise all technical specifications to exclude proprietary language that discourage SDBEs and M/WBEs from bidding; and,
- Develop evaluation mechanisms for measuring Raleigh senior management commitment and staff's efforts toward SDBE and M/WBE participation in Raleigh contracting opportunities.

### D.3. Increase Small Business Set-Asides and Sheltered Market Projects

Several recommendations above should assist Raleigh in increasing the success of its small business set-aside programs. Raleigh should:

- Consistently establish SDBE 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;

- Provide notice of small business opportunities on its website;
- Allow for online submission of quotes and bids/proposals; and
- Work collaboratively with and provide incentive to (where allowable) prime vendors to refer small businesses capable of performing small prime-contracting opportunities.

### D.4. Joint Ventures, Mentor-Protégé Programs and Distributorships

Raleigh should develop specific procedures for verifying, counting and tracking the participation of M/WBEs in:

- Joint Ventures;
- Mentor-Protégé; and
- Distributorships.

The M/WBE Office should review and sign off on any teaming arrangements where the team anticipates receiving M/WBEs participation credit. Raleigh may look to FAA advisory documents available online for guidance.

## E. Contract Compliance

Earlier, under Data Issues/ERP, M<sup>3</sup> Consulting outlined issues that should allow Raleigh to enhance its ability to monitor and track bid/proposal/qualifications, award, and payment data to ensure that vendors are complying with stated M/WBE objectives. Also, as suggested previously, Raleigh 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 RWA<sup>SM</sup> tracking from the standpoint of statistical data-supporting applicant flow and compliant reporting:

EEO Applicant Flow	RWA <sup>SM</sup> and Disparity Analysis Equivalent
<b>Labor Force</b>	Potential Availability from Data Axle Firms, Firms Receiving Building Permits and/or Business License, certified SMBEs and M/WBE firms, noncertified SMBEs and M/WBE firms, trade organization membership; yellow pages
<b>Potential Applicants</b>	Registered Vendors, Plan Holders, Prequalified Vendors
<b>Actual Applicants</b>	Bidders and Sub-bidders (inclusive of quotes)
<b>Actual Hires</b>	Awardees and Payees
<b>Actual Promotions</b>	Difference between prime and subcontracting opportunities; vendor performance
<b>Actual Terminations</b>	Contract terminations, for convenience and for cause; substitutions

Source: M<sup>3</sup> Consulting

In annual reporting on the achievement of M/WBE efforts to the Mayor and City Council, Procurement Division and M/WBE reports should also include the degree to which Raleigh's efforts have:

- Promoted and strengthened economic prosperity in Raleigh-Durham-Cary CBSA;
- Enhanced competition;
- Expanded business capacity; and
- Removed barriers and reduced or eliminated disparities.

## F. Organizational Performance Evaluation—Assess Performance of Personnel with Buying Authority

At the end of the day, increasing M/WBE participation in Raleigh falls to Raleigh personnel making the buy decision. Raleigh should be able to track the performance of individuals with buying authority to determine the degree to which they are making inclusive procurement decisions such as measuring the effort by buyers in contacting RWA<sup>SM</sup>-certified vendors, as well as any effort to identify new sources. The individual track record can be considered in annual or semiannual performance evaluations. We noted in the Statistical Methodology Chapter that, in EEO Disparate Impact analysis, failure to maintain records necessary to monitor the race/gender of an organization's workforce can be deemed as adverse impact.





## E.5 SUMMARY

In summary, M<sup>3</sup> Consulting found that Raleigh purchasing activities suggest that M/WBEs continue to have some difficulties obtaining significant contracts with Raleigh. In submitting specific findings within the Disparity Study for Raleigh, M<sup>3</sup> Consulting formulated recommendations that allow Raleigh 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 Raleigh's purchasing processes.