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2017 MINNESOTA JOINT DISPARITY STUDY Metropolitan Mosquito Control District Draft Executive Summary

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DRAFT EXECUTIVE SUMMARY

January 29, 2018

EXECUTIVE SUMMARY

The 2017 Minnesota Joint Disparity Study examines whether there is a level playing field for minority- and women-owned firms in the local marketplace and in public procurement. Keen Independent Research LLC (Keen Independent) performed the study for the Metropolitan Mosquito Control District (MMCD) and eight other state and local government entities. Participating entities can use study results when making decisions about programs to assist minority- and women-owned companies and other small businesses. The last MMCD disparity study was in 2009.¹

MMCD purchases construction, professional services, goods and other services to control mosquitoes and other insects and to support those operations. MMCD operates the Targeted Group Business and the Veteran (TGB/VO) Small Business Procurement Program to help open procurement opportunities to minority- and women-owned firms, businesses owned by persons with disabilities, and veteran-owned companies. MMCD operates the TGB Program based on direction from the Commissioner of the Minnesota Department of Administration.

This report is a draft released for public input, including comments received at public forums to be held in February 2017. This Executive Summary includes:

- A. Background on the study;
- B. Disparity Study research activities;
- C. Quantitative and qualitative information for the Twin Cities marketplace;
- D. Disparity analysis;
- E. Recommendations; and
- F. Public participation in the Disparity Study.

A. Background on the Study

State and local governments conduct disparity studies to determine whether there is sufficient need for programs that assist minority- and women-owned firms in their procurement.

Legal framework for the disparity study. In 1989, the U.S. Supreme Court established substantial limitations on the ability of state and local governments to have MBE programs or any other initiatives benefitting businesses based on the race of their owners. Legal restrictions also apply to programs for women-owned firms. Disparity studies help to provide the information that state and local governments require to determine whether programs are needed and supportable.

¹ MGT of America, Inc. *State of Minnesota Joint Availability and Disparity Study, Metropolitan Mosquito Control District*, October 22, 2009.

Even if a targeted business program does not consider race or gender, it can still be subject to legal challenge. However, such programs are more easily defended by the enacting jurisdiction. These types of programs include small business enterprise (SBE) programs and those that provide assistance to firms based on whether they are owned by veterans or by persons with disabilities. Although disparity studies typically do not examine these groups, the Minnesota Joint Disparity Study added analysis of marketplace conditions for businesses owned by veterans and persons with disabilities.

Programs. The TGB Program provides price and evaluation preferences to certified minority- and women-owned firms and companies owned by people with a substantial physical disability. MMCD can also set contract goals on its contracts. Eligible businesses must be based in Minnesota and fit below the U.S. Small Business Administration size ceilings for their subindustry. The program applies to construction, professional services, goods and other services contracts.

B. Disparity Study Research Activities

The Keen Independent study team began work in summer 2016 and completed draft reports in late 2017. Local team members included Felton Financial Forensics, CJ Petersen & Associates, Fondungallah & Kigham, and KLD Consulting. Team members from outside Minnesota were Holland & Knight, BBC Research & Consulting and Customer Research International.

MMCD contracts and subcontracts. Keen Independent compiled information about construction, professional services, goods and other services procurements from data provided by the District. Keen Independent examined payments made from July 1, 2011 through June 30, 2016.

In the MMCD utilization analysis, Keen Independent included more than 2,291 procurements totaling \$19 million over the study period. This includes subcontracts on MMCD construction contracts. Many of MMCD's procurements during the study period were for insecticides, which were not included in the study as they were purchases made from a national market. The study team also excluded other purchases typically made from national markets (software and computers) as well as utilities, leases, insurance and payments to banks. Also excluded were payments to not-for-profit organizations and public agencies.

Relevant geographic market area. About 92 percent of the MMCD procurement dollars included in the study went to firms with locations in the Twin Cities Metropolitan Area. This geographic area was the focus of the marketplace analyses in the MMCD disparity study.

Analysis of marketplace conditions. The study team compiled and analyzed quantitative information about outcomes for minorities and women, and minority- and women-owned firms in the Twin Cities marketplace. Keen Independent also researched conditions for firms owned by veterans and persons with disabilities.

The study team conducted in-depth interviews, surveys and focus groups that obtained input from 2,449 business owners and other individuals. Keen Independent also held public forums and received comments from the website, dedicated email address and dedicated telephone hotline for the study. Companies interviewed included minority- and women-owned firms, majority-owned firms, veteran-owned businesses and companies owned by persons with disabilities.

Availability, utilization and disparity analyses. Disparity analyses compare the percentage of entity contract dollars going to minority- and women-owned firms with what might be anticipated given the relative availability of MBEs and WBEs for individual entity contracts and subcontracts.

- Data for the availability analysis came from Keen Independent’s online and telephone surveys that reached thousands of companies in Minnesota. Firms were asked about their availability for different types, sizes and locations of prime contracts and subcontracts for public agencies in the state.
- After completing surveys with 20,527 businesses in Minnesota, the study team reviewed responses to develop a database of companies that are potentially available for MMCD and other participating entity work. The study team’s research identified 5,064 businesses reporting that they were available for specific types of public sector procurements and subcontracts. Of those businesses, 9 percent were minority-owned and 18 percent were white women-owned (27.6% MBE/WBE in total).
- Keen Independent then determined the availability of MBEs, WBEs and majority-owned firms for each of the 2,291 MMCD procurements examined in the study. For some procurements, MBE/WBEs were a relatively large percentage of total firms available. There were other contracts for which none of the available firms were MBE/WBEs (helicopter spraying services, for example). Keen Independent then combined the results of these contract-by-contract availability analyses. From this analysis, one might expect MBE/WBEs to have received 7.29 percent of MMCD contract dollars, including subcontracts.

Keen Independent compared the share of procurement dollars going to minority- and women-owned firms (“utilization”) with what might be expected based on the availability analysis.

MMCD applies the TGB Program to its contracts, so any lack of disparity in MMCD procurements might indicate success of this race- and gender-conscious program. Therefore, Keen Independent also considered disparity analysis results from other participating entities. This information helped the study team evaluate whether there would have been disparities in MMCD procurement but for the TGB Program.

C. Quantitative and Qualitative Information for the Twin Cities Marketplace

Keen Independent examined marketplace conditions based on U.S. Census data, information collected through surveys and in-depth interviews, public forums and other sources.

Marketplace conditions for minority- and women-owned businesses. There is quantitative and qualitative information suggesting that there is not a level playing field for minority- and women-owned businesses in the Twin Cities construction, professional services, goods and other services industries. This includes evidence of unequal opportunities to:

- Enter and advance as employees within certain study industries;
- Start and operate businesses within study industries; and
- Obtain financing and bonding.

As a result, there are fewer minority- and women-owned firms in certain industries than there would be if there were a level playing field for minorities and women in the Twin Cities marketplace.

Business outcomes also differed for MBE/WBEs compared with majority-owned companies.

- Compared with majority-owned companies, minority- and women-owned businesses in the Twin Cities area are more likely to be small. Therefore, any disadvantages for small businesses disproportionately affect MBEs and WBEs.
- There is evidence that outcomes for minority- and women-owned firms differ from similarly-situated white male-owned companies, even after controlling for other factors. In particular, female business owners earned less than men who owned businesses.
- Success in the Twin Cities marketplace depends on relationships with other individuals, including customers, suppliers, bankers, prime contractors and subcontractors, depending on the type of business. Some of the minority and female interviewees reported unequal access to these relationships, stereotyping and other unequal treatment based on their race or gender.

Such information is important when MMCD and other participating entities examine programs that assist MBE/WBE businesses.

Results for persons with disabilities and veterans. Persons with disabilities and veterans in the Twin Cities area are more likely than other groups to own businesses in the study industries. However, there is also evidence that persons with disabilities who own businesses earn less than other business owners. Veterans who own businesses have slightly lower earnings than non-veteran business owners.

D. Disparity Analysis

MMCD procurement. Minority- and women-owned businesses received 2.96 percent of the MMCD procurement dollars examined in this study, including payments to non-certified MBE/WBEs. Utilization of minority- and women-owned firms in MMCD procurement was below the 7.29 percent that might be expected from the availability analysis. Figure ES-1 presents these overall results from the disparity analysis.

The study team compared utilization and availability results using a “disparity index,” which is calculated by dividing utilization by availability and multiplying by 100 (“100” is parity). The disparity index for MBE/WBE utilization in MMCD procurement is 41 (2.96% divided by 7.29%, multiplied by 100). Because the index is below 80, the disparity is “substantial,” according to guidance from the courts. The disparity occurred even though MMCD operated the TGB Program.

Figure ES-1.
MBE/WBE utilization and availability
for MMCD procurements,
July 2011–June 2016

Note:
2,291 procurements examined.

Source:
Keen Independent utilization and availability analyses
for MMCD procurements.

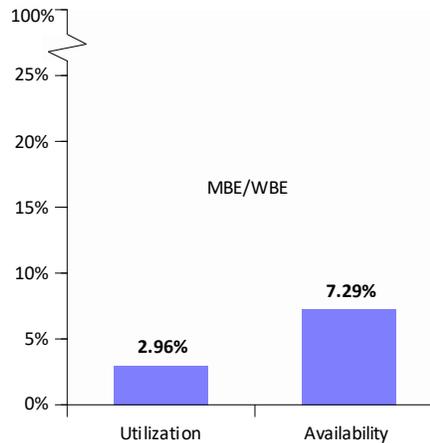


Figure ES-2 shows utilization, availability and disparity results for individual MBE groups as well as white women-owned firms. Overall, there were disparities for each MBE group and for WBEs.

Figure ES-2.
Disparity analysis for MMCD procurements, July 2011–June 2016

	Utilization	Availability	Disparity index
African American-owned	0.00 %	1.71 %	0
Asian American-owned	0.02	0.37	5
Hispanic American-owned	0.33	0.45	72
Native American-owned	0.02	0.18	11
Total MBE	0.36 %	2.72 %	13
WBE (white women-owned)	2.60	4.57	57
Total MBE/WBE	2.96 %	7.29 %	41

Note: Disparity index = 100 x Utilization/Availability.

Source: Keen Independent utilization and availability analyses for MMCD procurements.

Finally, Figure ES-3 presents results for MMCD construction, professional services, goods and other services procurements. There were substantial disparities for each group except for white woman-owned goods firms and Hispanic American-owned other services companies. But for the TGB Program, there might have been a substantial disparity for Hispanic American-owned other services firms.

Figure ES-3.

Disparity analysis for MMCD procurements by industry, July 2011–June 2016

	Utilization	Availability	Disparity index
Construction			
African American-owned	0.00 %	3.96 %	0
Asian American-owned	0.18	0.90	20
Hispanic American-owned	1.05	2.77	38
Native American-owned	<u>0.00</u>	<u>1.91</u>	0
Total MBE	1.23 %	9.53 %	13
WBE (white women-owned)	<u>3.33</u>	<u>15.71</u>	21
Total MBE/WBE	4.56 %	25.25 %	18
Professional services			
African American-owned	0.00 %	4.98 %	0
Asian American-owned	0.00	2.51	0
Hispanic American-owned	0.00	1.51	0
Native American-owned	<u>0.00</u>	<u>0.85</u>	0
Total MBE	0.00 %	9.85 %	0
WBE (white women-owned)	<u>2.22</u>	<u>21.41</u>	10
Total MBE/WBE	2.22 %	31.26 %	7
Goods			
African American-owned	0.00 %	3.25 %	0
Asian American-owned	0.00	0.63	0
Hispanic American-owned	0.00	0.63	0
Native American-owned	<u>0.00</u>	<u>0.04</u>	0
Total MBE	0.00 %	4.55 %	0
WBE (white women-owned)	<u>13.65</u>	<u>11.21</u>	122
Total MBE/WBE	13.65 %	15.75 %	87
Other services			
African American-owned	0.00 %	1.01 %	0
Asian American-owned	0.01	0.16	6
Hispanic American-owned	0.35	0.17	206
Native American-owned	<u>0.02</u>	<u>0.03</u>	67
Total MBE	0.38 %	1.37 %	28
WBE (white women-owned)	<u>0.26</u>	<u>1.27</u>	20
Total MBE/WBE	0.64 %	2.64 %	24

Note: Disparity index = 100 x Utilization/Availability.

Source: Keen Independent utilization and availability analyses for MMCD procurements, including subcontracts.

The TGB Program has not eliminated disparities for minority- and women-owned firms in MMCD procurement. Even with these efforts in place, there were substantial disparities, overall, for white women-owned firms and each MBE group.

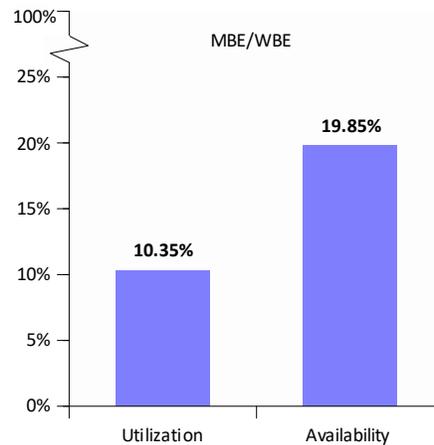
Combined participating entity procurement. The study team also analyzed whether there were disparities between MBE/WBE utilization and availability for combined participating entity procurement. Figure ES-4 reports aggregate results for participating entities.

The combined utilization of minority- and women-owned firms in participating entity procurement during the study period — 10.35 percent of total procurement dollars — was below the 19.85 percent that might be expected from the availability analysis. The resulting disparity index for MBE/WBEs is 52. The disparity occurred even though eight of the nine entities operated race- and gender-based programs during this time period and the ninth entity drew from a pool of certified firms that was mostly MBE/WBEs.

Figure ES-4.
MBE/WBE utilization and availability for
combined entity procurements,
July 2011–June 2016

Note:
125,474 procurements analyzed.

Source:
Keen Independent utilization and availability analyses for Minnesota Department of Administration, Minnesota Department of Transportation, Minnesota State Colleges and Universities, Metropolitan Airports Commission, Metropolitan Council, Metropolitan Mosquito Control District, City of Minneapolis, City of Saint Paul and Hennepin County procurements.



E. Recommendations

The TGB Program has not eliminated disparities for minority- and women-owned firms in MMCD procurement. Even with these efforts in place, there were substantial disparities overall for white women-owned firms and each MBE group.

Keen Independent recommends that MMCD and other participating entities:

1. Work together to address barriers and open opportunities for minority- and women-owned firms and other small businesses;
2. Based on all information available, consider retaining and fully implementing existing programs;
3. Pursue opportunities for new and better tools to address barriers;
4. Track and report results on MBE/WBE participation; and
5. Carefully consider study results and other information to determine future program eligibility by group.

1. Work together to address barriers and open opportunities for MBE/WBEs and other small businesses. There is a need for a broad combined effort by participating entities and other partners to address the effects of race and gender discrimination in employment, entrepreneurship and business success. MMCD and other participating entities might work together to:

- a. Better communicate procurement opportunities, coordinate outreach and build a joint bidders list.
- b. Strengthen local technical assistance, financing, bonding assistance and other capacity-building efforts.
- c. Improve virtual assistance portals for businesses in Minnesota.
- d. Maintain efforts that enforce non-discrimination in employment as well as further training, employment and advancement for women and people of color in certain industries.
- e. Jointly work to streamline and simplify public procurement processes, including unbundling large contracts, removing unnecessary contract specifications, writing procurement documents in plain language, routinely providing feedback to bidders and proposers, and prompt payment.
- f. Share best practices and results of pilot programs among government entities.
- g. Streamline certification and pursue reciprocity or joint certification when possible.
- h. Jointly pursue action by the State Legislature to reduce barriers to public sector procurement embedded in state law.

2. Based on all information available, consider retaining and fully implementing existing programs. MMCD operates the TGB Program based on direction from the Commissioner of the Minnesota Department of Administration. MMCD's program includes provisions for price and evaluation preferences and contract goals.

Price and evaluation preferences are applied across MMCD procurements, with the bidder or proposer responsible for submitting documentation that they are eligible for the preference along with its bid. MMCD does not currently operate a contract goals program. Many years ago, MMCD set contract goals on certain contracts that had subcontract opportunities.

MMCD and the Commissioner of the Minnesota Department of Administration should consider retaining these programs and more broadly implementing them, after reviewing the information it has from this report and other sources, and conducting further legal review. For example:

- a. Setting contract goals for construction contracts that are above a certain size.
- b. Awarding preference points for certified TGB/VO participation as subcontractors in professional services contracts if MMCD is unable to develop a system for setting contract goals.

3. Pursue opportunities for new and better tools to address barriers. After reviewing all available information and legal issues, MMCD and the Commission of the Department of Administration might evaluate and consider seeking authority to:

- a. Increase the maximum amount of preference (currently up to 6%) and the maximum for any price preference (currently \$60,000) for TGB/VO businesses (or perhaps just TGB businesses).
- b. Implement an Equity Select Program that allows for MMCD direct selection of TGB/VO businesses for purchases up to \$25,000, mirroring program provisions for the Minnesota Department of Administration under Minnesota Statutes section 16C.16, subdivision 6(b).
- c. Relax requirements for using State cooperative agreements when MMCD makes small purchases.

4. Track and report results on MBE/WBE participation. MMCD should develop procedures to record ownership information for its vendors and subcontractors (self-reported) and track participation of MBE/WBEs, by group and industry, in its procurement. This should be in addition to new efforts to track and report participation of certified TGB businesses (by race, ethnicity, gender and disability status) and veteran-owned businesses. MMCD should make annual reports available to the public. Implementing this recommendation will require new data collection and management systems, certain staff resources and time to develop these systems. MMCD might seek Minnesota Department of Administration assistance in developing such reports.

5. Carefully consider study results and other information to determine program future eligibility by group. MMCD operates the TGB Program based on direction from the Commissioner of the Minnesota Department of Administration. MMCD and the Commissioner should consider all of the results of the disparity study and other information when considering whether MMCD should continue to operate race- and gender-conscious programs, and if so, which groups will be eligible for programs in specific industries (construction, professional services, goods and other services).

- For construction and for professional services, there were substantial disparities for each MBE/WBE group even though the TGB preference applied.
- For goods purchases, there were substantial disparities for African American-, Asian American-, Hispanic American- and Native American-owned businesses, even though the TGB program applied. There were no disparities in the utilization of white women-owned goods firms. Since none of these firms were TGB-certified, it does not appear that the lack of disparities for WBEs was due to application of the TGB Program to MMCD goods purchases.
- For other services procurements, there were substantial disparities for all groups except for Hispanic American-owned firms. The utilization of Hispanic American-owned firms was largely TGB-certified companies. As discussed in Chapter 8, there is a strong indication that, but for the TGB Program, there would have been disparities for Hispanic American-owned other services firms.

The above results suggest that the TGB Program may have had a positive impact on the utilization of minority- and women-owned firms, but disparities persisted. Based on disparity results, MMCD and the Commissioner of the Department of Administration might consider not including white women-owned firms as eligible for TGB Program price preferences for MMCD goods purchases.

MMCD and the Commissioner of the Minnesota Department of Administration should review this evidence along with other information in the Joint Disparity Study and other sources when considering whether to apply race- and gender-conscious programs in the future, and the eligibility for any programs.

F. Public Participation in the Disparity Study

In addition to considerable time devoted to the study by their own staff, the government entities participating in the Joint Disparity Study implemented an extensive public participation process. To date, these activities have included:

- Obtaining regular feedback from an External Stakeholder Group that met with the study team once per quarter throughout the project. The External Stakeholder Group included representatives of the local business community and community groups that had an interest in entity contracting and programs, and small business development.
- Distribution of information to interested groups through press releases, email blasts and presentations.
- A study website that posted information about the 2017 Joint Disparity Study from the outset of the study.
- A telephone hotline and dedicated email address for anyone wishing to comment.
- Public forums at the start of the study to obtain input from stakeholders and other interested groups (held at the Minneapolis Central Library on August 31, 2016).
- Through online and telephone surveys, opportunities for company owners and managers to provide information about their businesses and any perceived barriers in the marketplace (the study team successfully reached 20,527 businesses).
- In-depth interviews and focus groups with businesses, trade associations and others.

Keen Independent and the participating entities now seek public input regarding this draft Disparity Study report. The public can give feedback and provide written comments:

1. In person public forums (see mn.gov/admin/disparity-study for more information);
2. Online at mn.gov/admin/disparity-study;
3. Via email at JointMNDisparityStudy2017@keenindependent.com; and
4. Through regular mail to Keen Independent Research, 100 Fillmore Street, 5th Floor, Denver CO 80206.

Figure ES-5 shows dates, times and locations of the upcoming public forums. Visit mn.gov/admin/disparity-study for more information on the public forum held via webinar.

Figure ES-5.
Public forum dates and locations

Date	Time	Location
February 12, 2018	5 pm to 7 pm	Minneapolis Urban League Laura Scott Williams Room 2100 Plymouth Avenue North Minneapolis, MN 55411
February 13, 2018	5 pm to 7 pm	The Wellstone Center Room 30 179 Robie Street East St. Paul, MN 55107
February 15, 2018	10 am to 12 pm	MnDOT Rochester Headquarters East and West Mississippi Rooms 2900 48th Street NW Rochester, MN 55901
February 16, 2018	11 am to 1 pm	MnDOT Duluth Headquarters Lake Superior Room 1123 Mesaba Avenue Duluth, MN 55811
	To be scheduled	Statewide webinar

Keen Independent will review information from the public forums and written comments before preparing a final Disparity Study report. This information will aid the City and other participating entities in making decisions concerning continuation or enhancement of existing programs and implementation of new programs.