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2017 MINNESOTA JOINT DISPARITY STUDY Metropolitan Airports Commission Executive Summary

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EXECUTIVE SUMMARY

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The 2017 Minnesota Joint Disparity Study examines whether there is a level playing field for minority- and women-owned firms in the Minnesota marketplace and in public contracts. Keen Independent Research LLC (Keen Independent) performed the study for the Metropolitan Airports Commission (MAC) and eight other state and local government entities. Participating entities will use study results when making decisions about programs to assist minority- and women-owned companies and other small businesses.

MAC has a wide range of construction, professional services, goods and other services contracts to operate Minneapolis-St. Paul International Airport and reliever airports in the MAC system. The study analyzes whether the Targeted Group Business (TGB) Program effectively addresses barriers in contracting and procurement for minority- and women-owned firms (MBEs and WBEs). Businesses owned by persons with disabilities are also eligible for the TGB Program.

In addition to MBE/WBEs, the disparity study analyzes marketplace conditions for veteran-owned businesses and companies owned by persons with disabilities.

This report was released as a draft for public comment on January 29, 2018. It has been expanded based on public input received through February 28, 2018. The 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

MAC operates the TGB Program under the direction of the Commissioner of the Minnesota Department of Administration. State and local governments periodically conduct disparity studies to determine whether they need to continue to operate programs that assist minority- and women-owned firms in their contracts. The previous disparity study for MAC was conducted in 2009.¹

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 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 Airports Commission*, October 23, 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 applies to MAC’s construction, professional services, goods and other services contracts. Certified businesses may receive up to a 6 percent price or evaluation preference when bidding on MAC contracts. MAC also sets TGB contract goals on contracts that have subcontracting opportunities. Based on the Commissioner of the Minnesota Department of Administration’s review of the results of the 2009 disparity study for MAC, some minority groups have not been eligible for the program in certain industries.² MAC also operates the Federal Disadvantaged Business Enterprise (DBE) Program for its U.S. Department of Transportation-funded contracts and Federal Airport Concessions DBE Program for its concessions agreements. These USDOT-funded contracts were not part of the study.

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, C J Petersen & Associates, LLC, Fondungallah & Kigham, and KLD Consulting. Team members from outside Minnesota were Holland & Knight, BBC Research & Consulting and Customer Research International.

MAC contracts and subcontracts. Keen Independent obtained information about MAC contracts from data maintained by the MAC Office of Diversity and Business Development, and Airport Development — Contracts and Grants Division, and Purchasing Department. Keen Independent examined payments made within the five-year study period (July 1, 2011 through June 30, 2016). Keen Independent augmented MAC data with information from Contractor Affidavits (IC134 Forms) that prime contractors and subcontractors submit to the Minnesota Department of Revenue.

In the MAC utilization analysis, Keen Independent included more than 2,470 contracts, subcontracts and other procurements totaling \$616 million over the study period. This includes subcontracts on MAC construction contracts. This amount does not encompass all MAC spending. For example, the study team excluded the types of purchases typically made from national markets (including software and computers) as well as utilities, leases, insurance, payments to banks and purchases from government and not-for-profit organizations. MAC purchases less than \$20,000 were also excluded.

Relevant geographic market area. About 94 percent of combined MAC contract dollars go to firms with locations in the Twin Cities Metropolitan Area. This geographic area was the focus of the marketplace and availability analyses in the MAC disparity study.

² Based on the 2009 MAC Disparity Study, African American- and Asian American-owned firms do not count toward a TGB goal for construction subcontracts; American Indian-owned firms do not count as an underutilized business for professional services contracts, and American Indian- and Asian American-owned firms do not count as an underutilized business for goods and supplies.

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 MAC 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 contracts and subcontracts. Of those businesses, 9 percent were minority-owned and 18 percent were white women-owned.
- Keen Independent then determined the availability of MBEs, WBEs and majority-owned firms for each of the 2,470 MAC contracts and subcontracts examined in the study. For some MAC contracts, MBE/WBEs were a relatively large percentage of total firms available. There were other contracts for which only a few firms were available and none were MBE/WBEs. Keen Independent combined the results of these contract-by-contract availability analyses to calculate overall availability benchmarks. Based on this availability analysis, one might expect MBE/WBEs to have received 19.95 percent of MAC contract dollars during the study period.

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

MAC applies the TGB Program to its contracts, so any lack of disparity in MAC contracts 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 MAC contracts 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 MAC 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

MAC contracts. Minority- and women-owned businesses received 11.60 percent of the MAC contracts dollars examined in this study, including payments to non-certified MBE/WBEs. Utilization of minority- and women-owned firms in MAC contracts was below the 19.95 percent that might be expected from the availability analysis (see Figure ES-1).

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 MAC contracts is 58 (11.60% divided by 19.95%, multiplied by 100). Because the index is below 80, the disparity is “substantial,” according to guidance from the courts. The disparity occurred even though MAC operated the TGB Program.

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

Note:
 2,470 contracts and subcontracts examined.

Source:
 Keen Independent utilization and availability analyses for MAC contracts.

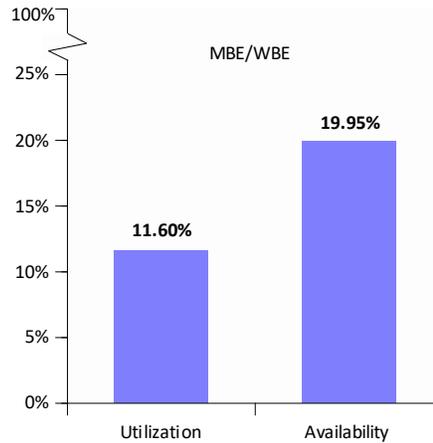


Figure ES-2 shows utilization, availability and disparity results for individual MBE groups as well as white women-owned firms. There were disparities for MBEs and WBEs overall.

Figure ES-2.
Disparity analysis for MAC contracts, July 2011–June 2016

	Utilization	Availability	Disparity index
African American-owned	0.20 %	2.99 %	7
Asian American-owned	1.88	1.33	141
Hispanic American-owned	0.11	0.79	14
Native American-owned	0.15	2.30	7
Unknown MBE	0.00		
Total MBE	2.35 %	7.41 %	32
WBE (white women-owned)	9.25	12.53	74
Total MBE/WBE	11.60 %	19.95 %	58

Note: Disparity index = 100 x Utilization/Availability.

Source: Keen Independent utilization and availability analyses for MAC contracts.

Finally, Figure ES-3 presents results for MAC construction, professional services, goods and other services contracts. There were substantial disparities for each group except for African American-owned other services businesses, Asian American-owned construction, professional services and goods firms, and white woman-owned construction and other services companies. But for the TGB Program, substantial disparities might have occurred for some of those groups as well.

Figure ES-3.

Disparity analysis for MAC contracts by industry, July 2011–June 2016

	Utilization	Availability	Disparity index
Construction			
African American-owned	0.06 %	2.41 %	2
Asian American-owned	1.29	1.50	86
Hispanic American-owned	0.16	0.97	16
Native American-owned	0.24	3.22	7
Total MBE	1.75 %	8.10 %	22
WBE (white women-owned)	11.84	13.52	88
Total MBE/WBE	13.59 %	21.62 %	63
Professional services			
African American-owned	0.00 %	4.53 %	0
Asian American-owned	2.80	1.30	215
Hispanic American-owned	0.00	0.30	0
Native American-owned	0.00	0.93	0
Total MBE	2.80 %	7.06 %	40
WBE (white women-owned)	1.70	11.76	14
Total MBE/WBE	4.50 %	18.81 %	24
Goods			
African American-owned	0.00 %	0.62 %	0
Asian American-owned	4.46	0.32	999+
Hispanic American-owned	0.00	1.00	0
Native American-owned	0.00	0.05	0
Total MBE	4.46 %	1.99 %	224
WBE (white women-owned)	2.11	8.50	25
Total MBE/WBE	6.57 %	10.49 %	63
Other services			
African American-owned	6.29 %	6.47 %	97
Asian American-owned	0.00	0.26	0
Hispanic American-owned	0.25	1.38	18
Native American-owned	0.00	0.52	0
Total MBE	6.54 %	8.63 %	76
WBE (white women-owned)	45.64	7.15	638
Total MBE/WBE	52.19 %	15.78 %	331

Note: Disparity index = 100 x Utilization/Availability.

Source: Keen Independent utilization and availability analyses for MAC contracts and subcontracts.

The TGB Program has not eliminated disparities for minority- and women-owned firms in all areas of MAC contracts. Even with these efforts in place, there were substantial disparities for certain groups.

Combined participating entity contracts. The study team also analyzed whether there were disparities between MBE/WBE utilization and availability for entity contracts combined. Figure ES-4 aggregates results for Admin, Minnesota State, Minnesota Department of Transportation, Metropolitan Airports Commission, Metropolitan Mosquito Control District, Metropolitan Council, City of Minneapolis, City of Saint Paul and Hennepin County.

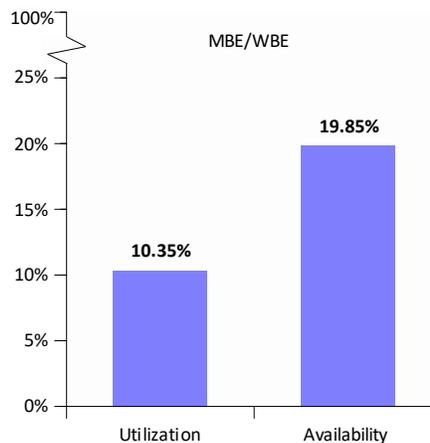
The combined utilization of minority- and women-owned firms in participating entity contracts during the study period — 10.35 percent of total contract dollars — was below the 19.85 percent that might be expected from the availability analysis.

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 largely MBE/WBEs.

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

Note:
125,474 contracts, subcontracts and other
procurements analyzed.

Source:
Keen Independent utilization and availability analyses
for combined entity contracts.



E. Recommendations

The TGB Program has not eliminated disparities for minority- and women-owned firms in MAC contracts. Keen Independent recommends that MAC 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 existing programs and more fully implementing them;
3. Pursue opportunities for new and better tools to address barriers;
4. Better 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. MAC and other participating entities might work together to:

- a. Better communicate contracts 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 contracting 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 contracts embedded in state law.

2. Based on all information available, consider retaining existing programs and more fully implementing them. MAC operates the TGB Program based on direction from the Commissioner of the Minnesota Department of Administration. MAC's program includes provisions for:

- Price and evaluation preferences; and
- Contract goals.

In addition, MAC encourages staff to obtain bids from TGBs.

The Commissioner of the Minnesota Department of Administration might consider retaining MAC's current authority to operate the TGB Program. MAC might consider more broadly implementing program measures for which it already has authority, after reviewing the information it has from this report and other sources and conducting further legal review.

For example, MAC might:

- a. Expand its lists of TGBs available for specific types of airport work; and
- b. Explore ways to directly procure small goods and services from TGBs.

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

- a. Increase the maximum amount of preference (currently up to 6%) for TGB businesses.
- b. Evaluate whether it can enact a sheltered market program for certain types of contracts. The sheltered market program might be limited to bids from eligible firms where there are at least three TGB firms that can submit bids or proposals for those contracts, or perhaps from TGBs and SBE bidders.

4. Better track and report results on MBE/WBE participation. MAC should continue to report participation of TGB businesses in its non-USDOT-funded contracts, and should add information about race, ethnicity and gender of the TGB utilization. It should also explore systems to record ownership information for its contractors and vendors and report combined utilization of certified and non-certified minority- and women-owned firms.

5. Carefully consider study results and other information to determine future program eligibility by group. MAC operates the TGB Program based on direction from the Commissioner of the Department of Administration. MAC and the Commissioner should consider all of the results of the disparity study and other information when considering whether MAC 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).

- Some groups previously ineligible for program participation in certain industries at MAC showed a disparity.
- Based on disparity results described here, there may be a need to closely review whether Asian American-owned firms should remain eligible for TGB Program benefits for MAC professional services contracts. There may be reasons to change eligibility for other groups as well.

MAC 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 have future application of race- and gender-conscious programs and eligibility for those 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. These activities 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 and after the draft report release to obtain input from stakeholders and other interested groups.
- 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 sought public input regarding the study and draft Disparity Study report. The public was able to give feedback and provide written comments:

1. In person at public forums (including comment cards collected at those meetings);
2. Through the study website;
3. By calling the study telephone hotline;
4. Via email; and
5. Through regular mail to Keen Independent Research.

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