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2017 MINNESOTA JOINT DISPARITY STUDY City of Saint Paul Executive Summary

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EXECUTIVE SUMMARY

March 2018

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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 procurement. Keen Independent Research LLC (Keen Independent) performed the study for the City of Saint Paul and eight other state and local government entities. The City can use study results when making decisions about programs to assist minority- and women-owned companies and other small businesses.

The City operates the Vendor Outreach Program (VOP) to increase opportunities for minority- and women-owned firms and other small business in City contracts, including those for the Saint Paul Housing and Redevelopment Authority. To be eligible for the VOP, firms must be certified through the Central Certification (CERT) program, which includes woman-owned, minority-owned and other small businesses. CERT is also recognized by the City of Minneapolis, Hennepin County and Ramsey County, with the City of Saint Paul serving as the lead certifying agency. Eligible businesses must be based in the 15-county Minneapolis-St. Paul Metropolitan Statistical Area and fit below the U.S. Small Business Administration size ceilings for their subindustry.

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

The City periodically conducts disparity studies to determine whether there is sufficient need for programs that assist minority- and women-owned firms in its procurement. It last conducted a disparity study in 2008.¹

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 minority business 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. *A Disparity Study for the City of Saint Paul and the Saint Paul Housing and Redevelopment Authority, Saint Paul, Minnesota*, August 4, 2008.

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 City of Saint Paul sets annual goals for small businesses, women-owned companies and minority-owned firms. The overall goal is 25 percent, with the sub-goals of 10 percent for SBEs, 10 percent for WBEs and 5 percent for MBEs. The City meets these overall goals primarily through a contract goals program. It sets separate SBE, MBE and WBE goals for its contracts with subcontracting opportunities. Bidders and proposers must meet those goals or show good faith efforts to do so.

In 2016, the City approved a program that would allow it to restrict bidding on small procurements to CERT businesses (yet to be implemented at the time of this report). The City has implemented a number of other neutral measures, including a Construction Partnering Program, to increase opportunities and build capacity of CERT businesses. The City also revised its bonding ordinance to alleviate as much of the bonding barrier as possible under state law.

The City participates in many other efforts to assist small businesses. Examples include:

- A low-interest working capital loan fund through the Neighborhood Development Center to provide loans to firms that cannot access capital in the private marketplace;
- The “Pathways to Success Program,” a partnership between the CERT program, the Federal Reserve Bank of Minneapolis, the Saint Paul NAACP, Community Reinvestment Fund Connect 2 Capital, Wells Fargo Bank, and the Neighborhood Development Center;
- Bloomberg Philanthropies “What Works Cities” initiative to increase the number of bidders bidding on City projects;
- Annual procurement fairs, focusing particularly on the inclusion of CERT-certified vendors, contractors and subcontractors;
- Monthly certification workshops to assist eligible CERT vendors complete the certification process, register on procurement websites, and access resources, capital and technical expertise (partnership with the CERT Collaborative, Legal Corps and the Service Core of Retired Executives);
- Technical assistance on how to prepare bids and strategically price services; and
- Financial literacy training for business owners.

The City of Saint Paul has also adopted the African American Leadership Forum’s 5-Point Plan to End Economic Inequality. This wide-ranging initiative includes increasing participation of African American-owned businesses in public contracting.

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.

City contracts and subcontracts. Keen Independent analyzed the participation of minority- and women-owned firms in City procurement from July 2011 through June 2016. This analysis included 9,423 procurements totaling \$1.6 billion over this time period, which includes subcontracts. This does not encompass all City spending. For example, the study team excluded the types of purchases typically made from national markets (software and computers) as well as utilities, leases, insurance, payments to banks and small purchases. Also excluded were payments to not-for-profit organizations and public agencies and procurements from industries in Minnesota principally composed of those organizations (e.g., most type of health care and social services procurements).

Relevant geographic market area. About 92 percent of City procurement dollars went to firms with locations in the Twin Cities Metropolitan Area. This geographic area was the focus of the marketplace analyses in the City 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 study website, dedicated email address and dedicated telephone. 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. The availability analysis requires information about the availability of minority-, women- and majority-owned businesses for specific types and sizes of public sector procurement.

- 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 the City 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 9,423 City procurements examined in the study. MBE/WBEs tended to be a higher percentage of total firms available for procurements in certain fields and for smaller procurements. There were some large contracts for highly specialized work for which no MBE/WBEs were available. Keen Independent then combined the results of these contract-by-contract availability analyses. From this analysis, one might expect MBE/WBEs to have received 21.09 percent of City 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.

The City applies the VOP program to its contracts, so any lack of disparity in City procurements might indicate success of this race- and gender-conscious program. Therefore, Keen Independent reviewed the utilization of CERT-certified firms in City procurements and considered disparity analysis results from other participating entities. This information helped the study team evaluate whether there would have been disparities in City procurement but for the VOP 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 the City and other participating entities examine programs that assist MBE/WBE businesses.

Results for persons with disabilities and veterans. The disparity study also examined marketplace conditions for businesses owned by persons with physical disabilities and firms owned by veterans. Persons with disabilities and veterans in the Twin Cities area are more likely than other groups to own businesses in the study industries. 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

City procurement. Minority- and women-owned businesses received 16.24 percent of the City procurement dollars examined in this study, including payments to non-certified MBE/WBEs. Utilization of minority- and women-owned firms in City procurement was below the 21.09 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 City procurement is 77 (16.24% divided by 21.09%, times 100). Because the index is below 80, the disparity is “substantial,” according to guidance from the courts.

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

Note:
 9,423 procurements examined.

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

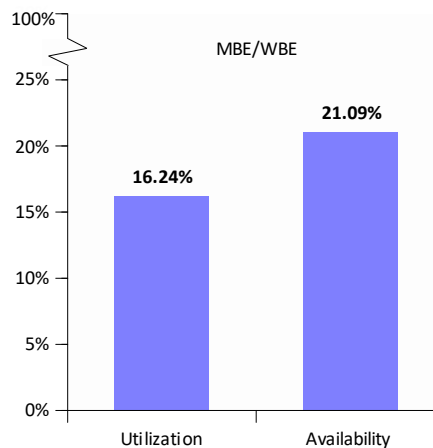


Figure ES-2 shows utilization, availability and disparity results for individual MBE groups as well as white women-owned firms. There were disparities for MBEs overall, and the disparity for MBEs was substantial. The disparities for African American-, Hispanic American- and Native American-owned companies were substantial. Utilization of Asian American-owned businesses matched the availability benchmark. There was a small disparity for white women-owned companies (disparity index of 93).

Figure ES-2.

Disparity analysis for City procurements, July 2011–June 2016

	Utilization	Availability	Disparity index
African American-owned	0.96 %	2.83 %	34
Asian American-owned	0.95	0.95	100
Hispanic American-owned	0.78	1.16	67
Native American-owned	0.98	2.62	37
Unknown MBE	0.03		
Total MBE	3.77 %	7.57 %	50
WBE (white women-owned)	12.53	13.52	93
Total MBE/WBE	16.24 %	21.09 %	77

Note: Disparity index = 100 x Utilization/Availability.

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

Finally, Figure ES-3 presents results for City construction, professional services, goods and other services procurements. There were substantial disparities for each group in each industry except for the following results that were close to “parity”: Asian American-owned construction firms and white women-owned construction, professional services and other services firms. Keen Independent further examines each of these four results at the end of this Executive Summary.

Figure ES-3.

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

	Utilization	Availability	Disparity index
Construction			
African American-owned	1.02 %	2.80 %	36
Asian American-owned	1.05	0.93	113
Hispanic American-owned	0.93	1.22	76
Native American-owned	1.21	3.11	39
Unknown MBE	0.04		
Total MBE	4.26 %	8.06 %	53
WBE (white women-owned)	13.26	13.69	97
Total MBE/WBE	17.52 %	21.75 %	81
Professional services			
African American-owned	1.37 %	3.70 %	37
Asian American-owned	1.39	2.52	55
Hispanic American-owned	0.46	1.06	43
Native American-owned	0.07	1.36	5
Unknown MBE	0.01		
Total MBE	3.29 %	8.64 %	38
WBE (white women-owned)	16.62	16.57	100
Total MBE/WBE	19.91 %	25.21 %	79
Goods			
African American-owned	0.58 %	2.15 %	27
Asian American-owned	0.27	0.61	44
Hispanic American-owned	0.00	0.90	0
Native American-owned	0.01	0.34	3
Total MBE	0.85 %	3.99 %	21
WBE (white women-owned)	6.25	13.41	47
Total MBE/WBE	7.10 %	17.41 %	41
Other services			
African American-owned	0.40 %	3.47 %	12
Asian American-owned	0.16	0.41	39
Hispanic American-owned	0.13	0.92	14
Native American-owned	0.03	0.45	7
Total MBE	0.73 %	5.24 %	14
WBE (white women-owned)	8.42	8.75	96
Total MBE/WBE	9.15 %	13.98 %	65

Note: Disparity index = 100 x Utilization/Availability.

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

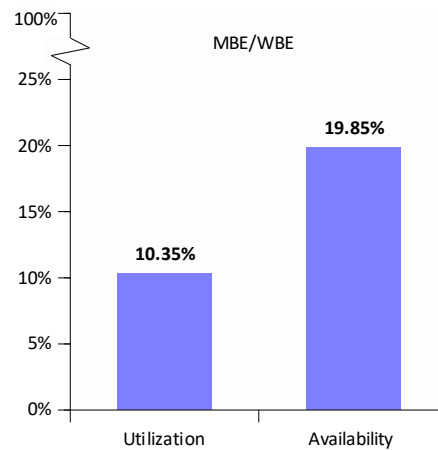
Combined participating entity procurement. The study team also analyzed whether there were disparities between MBE/WBE utilization and availability for combined participating entity procurement. Figure ES-4 reports aggregate results for participating entities.

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
combined entity procurements.



E. Recommendations

Keen Independent recommends that the City 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 more fully implementing existing programs;
3. Pursue opportunities for new and better tools to address barriers;
4. Expand the tracking and reporting of 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.

The City 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, consider retaining and fully implementing existing programs. The City might consider more broadly implementing the VOP and refining certain elements, after reviewing the information from this report and other sources and conducting further legal review. For example, the City might:

- a. Implement its Small Business Set Aside Program for CERT-certified businesses and work to expand the list of certified businesses for small procurements.
- b. Consider whether it can eliminate self-performance as automatic program compliance if there is evidence that contract elements can be reasonably subcontracted.
- c. Evaluate the advantages and disadvantages of its current regulations concerning the timing of meeting a contract goal.
- d. Evaluate whether it can expand the VOP contract goals to any additional development projects supported by the City.
- e. Ensure that the City is not only in compliance with the HUD Section 3 program on approved projects, but also HUD requirements for MBE outreach.
- f. Periodically update the City's overall goals for MBE and WBE participation, if it chooses to retain MBE and WBE overall annual goals.

3. Pursue opportunities for new and better tools to address barriers. After reviewing available information and legal issues, the City might evaluate and consider:

- a. Enacting a price and evaluation preference program for prime contractors and vendors similar to the State of Minnesota Targeted Group program. The State's program allows up to 6 percent price and evaluation preferences for certified businesses. The City might restrict this program to certified MBE/WBE firms, or consider implementing it as an SBE program.
- b. Creating a specialized prime contractor/prime consultant capacity-building program for specific types of small construction and professional services contracts. Such programs would prequalify eligible companies for participation, streamline the procurement process and require participation of companies in assistance programs.
- c. Reviewing industry-targeted programs implemented by other participating entities that have proven effective in increasing MBE/WBE participation.

4. Expand the tracking and reporting of results on MBE/WBE/SBE participation. The City prepares annual reports on its MBE/WBE participation. It might expand the information in those reports to capture more City spending. Additional information might also include the race and ethnicity of CERT-certified MBEs receiving work. The City would benefit from information about participation of non-certified MBE/WBEs in addition to CERT-certified companies.

5. Carefully consider study results and other information to determine future program eligibility by group. There was a pattern of disparities across MBE/WBE groups across industries, even with operation of the VOP. The following examines results where the City achieved parity in the participation of certain groups for certain types of procurement.

- One firm that was CERT-certified during the study period accounted for most of the participation of Asian American-owned firms. There would have been a substantial disparity for Asian American-owned firms absent the utilization of this firm. At the time of this report, this company was no longer CERT-certified. When examining results for Asian American-owned construction firms for other participating entities, there were substantial disparities for two of the entities but not for others (due to the utilization of the same firm). The combined results for participating entities showed no disparity in the utilization of Asian American-owned construction companies.
- But for the VOP, there would have been a larger disparity in the utilization of WBEs in construction (there was only a small disparity in City of Saint Paul contracts). But for the participation of certified firms, there would have been a substantial disparity for WBEs on professional services contracts. All of the other participating entities had disparities in the use of WBEs in construction and professional services (see Chapter 9). For other services contracts, there was only a small disparity for WBEs, but there would have been a substantial disparity without participation of CERT-certified companies. For combined entities, utilization of white women-owned other services firms was substantially below availability (disparity index of 65).

The City should review this evidence along with other information in the Joint Disparity Study and other sources when considering whether to have future application and eligibility for those programs.

F. Public Participation in the Disparity Study

The government entities participating in the Joint Disparity Study implemented an extensive public participation process as part of the study. 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 the City and other participating entities in making decisions concerning continuation or enhancement of existing programs and implementation of new programs.