

MEMPHIS-SHELBY COUNTY SCHOOLS



**GRIFFIN &
STRONG**

2023 Disparity Study

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I. INTRODUCTION

A. Scope of Work

In July of 2022, the Memphis-Shelby County School District (“MSCS” or “The District”) contracted with Griffin & Strong, P.C. (“GSPC”) to conduct a disparity study (“Study”), to evaluate and make improvement recommendations for contracting and procurement policies and practices with regard to minority and women-owned firms.

The Study focuses on the availability and utilization of Minority Business Enterprises (“MBE” or “Minority owned”), and Non-minority Woman Owned Business Enterprises (“WBE” or “Non-minority Woman”) (collectively “MWBES”) and examines relevant evidence of race or gender-based disparities in the District’s contracting.

Governmental entities across the country authorize disparity studies in response to *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989) and subsequent cases to determine whether there is a compelling interest for the creation or continuation of remedial procurement programs, based upon race, gender, and ethnicity. In order for the legal requirements of Croson and its progeny to be satisfied for any race or gender-based activities, GSPC must determine whether MSCS has been a passive or active participant in any identified disparities with regard to the access of MBEs and WBEs to its procurement and contracting opportunities. Toward achievement of these ends, GSPC has analyzed the prime contracting and subcontracting activities for the District’s purchases of Construction, Architecture & Engineering (“A&E”), Professional Services, Other Services, and Goods during the five (5) year study period based on the District’s fiscal years from FY2018 through FY2022 (“Study Period”).

B. Objectives

The principal research questions are to determine:

- Is there a statistically significant disparity in the relevant geographic and product markets between the percentage of certified minority and women-owned firms willing and able to provide goods or services to MSCS in each of the categories of contracts and the percentage of dollars spent by MSCS or MSCS contractors with such firms (whether as prime contractors/suppliers or subcontractors/sub-suppliers)?
- If a statistically significant disparity exists, have factors other than race and gender been ruled out as the cause of that disparity?
- Can the disparity(ies) be adequately remedied with race- and gender-neutral remedies?
- If race- and gender-neutral remedies are not sufficient, does the evidence from the Study legally support race and/or gender conscious remedial program elements?
- Are the proposed remedies narrowly tailored to the strong basis in evidence from the Study?

C. Technical Approach

In conducting this Study and preparing its recommendations, GSPC followed a carefully designed work plan that allowed Study team members to fully analyze availability, utilization, and disparity with regard to MWBE participation. The final work plan consisted of, but was not limited to, the following major tasks:

- Establishing data parameters and finalizing a work plan;
- Legal analysis;
- Reviewing policies, procedures, and programs;
- Collecting electronic data, inputting manual data, organizing, and cleaning data, as well as filling any data gaps;
- Conducting geographic and product market area analyses;
- Conducting utilization analyses;
- Determining the availability of qualified firms;
- Analyzing the utilization and availability data for disparity and statistical significance;
- Conducting private sector analysis including credit and self-employment analysis, as well as analysis of building permit data;
- Collecting and analyzing anecdotal evidence;
- Establishing findings of fact regarding the existence and nature of marketplace discrimination and / or other barriers to MWBE participation in MSCS contracts; and
- Preparing a final report that identifies and assesses the efficacy of various race- and gender-neutral and narrowly tailored race- and gender-based remedies if indicated by the findings.

Study definitions are contained in Appendix A.

D. Report Organization

This report is organized into the following sections, which provide the results of GSPC's analytical findings and recommendations for Memphis-Shelby County Schools. In addition to this introductory chapter, this report includes:

- Chapter II, which presents GSPC's detailed findings and recommendations.
- Chapter III, which is an overview of the legal framework and basis for the Study;
- Chapter IV, which provides a review of the District's purchasing policies, practices, and programs;
- Chapter V, which presents the methodology used in the collection of statistical data from MSCS and the analyses of the data regarding relative MWBE availability and utilization analyses, and includes a discussion on levels of disparity for the District's prime contractors;
- Chapter VI, which analyzes whether present or ongoing effects of past discrimination are affecting MSCS's marketplace; and
- Chapter VII, which outlines the qualitative analyses: the analysis of anecdotal data collected from the online survey, personal interviews, focus groups and public meetings.

II. EXECUTIVE SUMMARY OF FINDINGS AND RECOMMENDATIONS:

This chapter presents the findings and recommendations resulting from the 2023 Memphis-Shelby County Schools Disparity Study. Such findings are framed by the Study's evaluation of the following Industry Categories: Construction, Architecture & Engineering (A&E), Professional Services, Other Services, and Goods for the five (5) year period FY2018-FY2022.

As outlined in the Legal Analysis, the courts have indicated that for race-based or gender-based preference programs to be maintained there must be a strong basis in the evidence for the establishment of such programs or the continuation of existing programs. Consistent with the "narrow tailoring" requirements of the strict scrutiny analysis, Memphis-Shelby County School District ("MSCS") Memphis-Shelby County Schools continues to implement both race and gender-neutral measures and race and gender-conscious measures to try to increase utilization of MWBE firms. The present Study shows that those efforts have generally been effective in resolving most of the identified disparities.

However, the study did show some remaining disparities for certain MWBE groups. The regression analysis and anecdotal evidence revealed that there are still some barriers to MWBE participation that MSCS should still address.

The anecdotal evidence gathered provides additional context to the empirical analyses and highlights the lived experiences of firms in the MSCS marketplace.

A. FINDINGS

1. Legal Finding

FINDING 1: LEGAL FINDING

Memphis-Shelby County Schools continues to implement both race and gender-neutral measures and race and gender-conscious measures to try to increase utilization of MWBE firms. The present Study shows that those efforts have generally been effective in resolving most of the identified disparities.

However, the study did show some remaining disparities for certain MWBE groups. The regression analysis and anecdotal evidence revealed that there are still some barriers to MWBE participation that should still be addressed by MSCS.

2. Policy Findings

FINDING 2: GOAL SETTING

MSCS currently has a program that employs contract-by-contract goal setting for MBE, WBE, and SBE participation for bids or RFPs that have an estimated cost of \$100,000 or more. The MWSBE program is managed separately by the Department of Minority, Women-Owned and Small Business Enterprise (“MWSBE Office”).

The goals are based on the availability of the number of certified firms and scope of work, but there is some dispute over the goal setting process is implemented consistent with the written policy; staff interviews indicated that the MWSBE Office sets the goals, whereas the policy provides that the Superintendent or his/her designee recommends districtwide MWBE and SBE annual aspirational goals to the School Board for its approval.

FINDING 3: PURCHASING THRESHOLDS

With respect to purchasing thresholds, MSCS requires varying solicitation requirements for purchases under \$500, between \$500 - \$24,999, between \$25,000 - \$100,000, and above \$100,000.

Purchases under \$500 do not require a purchase order prior to purchase. Invoices for purchases up to \$500 (in aggregate) are submitted directly to the MSCS Accounts Payable Office. For purchases over \$500 but below \$25,000 a purchase order is required.

Purchases equal to or greater than \$25,000 must be submitted for a competitive bid. Purchases equal to or greater than \$100,000 have the additional requirement of being submitted to the MWSBE Office for MWBE goal setting and must be approved by the Board.

FINDING 4: MWBE GOAL EXCEPTIONS ON FEDERALLY FUNDED PROJECTS

During the Study period MSCS had numerous projects funded by the federal government through the Elementary and Secondary School Emergency Relief (ESSER) program. MSCS staff stated they cannot set goals on projects funded by ESSER. Staff members estimated this policy has exempted vast portions of school construction projects from minority, women, and small business goal setting.

FINDING 5: ROTATING LISTS

The MSCS policy states that typically MSCS solicits procurement for professional services. However, MSCS policy does not require that professional services be submitted to the open market, rather only requiring that contracts for professional “services...be obtained through a process that is equitable and fair”. MSCS uses a rotating list of professionals for some services. Other departments stated that the rotating list is a closed list of professional vendors that is rarely opened for additional vendors to join the

rotation. Staff interviews revealed some inconsistency amongst departments regarding the efficacy of this procurement process.

FINDING 6: VENDOR REGISTRATION AND COMMODITY CODES / USER AREAS

MSCS registers vendors by “commodity” or “user areas.” Vendors register with MSCS and are notified of upcoming projects in their commodity area. This system is utilized for all commodity areas and is particularly utilized in the professional services category.

FINDING 7: BONDING REQUIREMENTS

Bonding is required for all construction projects equal to or greater than \$25,000. The successful bidder must provide a performance bond executed by a surety or bonding company in the full amount of the bid price of the project.

FINDING 8: CONFUSION ABOUT INSURANCE

Proof of insurance is required in certain amounts for successful construction bidders. The policy does not discuss insurance requirements for other user areas, but MSCS staff members have indicated that there is some confusion amongst potential bidders (for example, in transportation), regarding insurance requirements.

FINDING 9: PROMPT PAYMENT

MSCS staff stated there have been some prompt payment complaints in the construction user area, but not in any others. The primary issue with prompt pay in the construction area stems from a long pay application process that includes a verification process with subcontractors.

FINDING 10: SHELTERED MARKET PROGRAM

There is a Sheltered Market for small businesses for purchases and contracts under \$100,000, but only if there are at least three certified SBE firms available. To qualify for a Sheltered Market procurement, an SBE must perform a prescribed percentage of the contract; for manufacturing contracts, at least 50% of the cost of manufacturing, including the cost of materials, must be performed by an SBE prime contractor, and for services contracts, at least 50% of the contract cost for personnel must be performed by the SBE prime contractor’s own employees.

FINDING 11: CERTIFICATION

Firms must be certified as an MWBE, SBE, or LSB for their participation to count toward the participation goal numbers. MSCS does not independently certify, but accepts the certification from the City of Memphis, Shelby County Government, Memphis and Shelby County Airport Authority, the Mid-South Minority Business Council Continuum/Uniform Certification Agency (MMBC-UCA) and TriState Minority Supplier Development Council (TMSDC). The MWSBE Office maintains an accepted vendor list of certified MWSBE vendors in B2Gnow

FINDING 12: LOCAL BUSINESS PREFERENCE

The Local Preference Purchasing policy was passed by the Shelby County Board of Education with the purpose of providing local businesses with a preference in contracting with MSCS for the purchase of supplies, materials, equipment and services. The policy applies to contracts with dollar amounts greater than \$25,000. In the bidding of, or letting for procurement of supplies, materials, equipment and services, with a total price greater than \$25,000, if the lowest responsive bidder is a regional or nonlocal business, then all bids received from Local Businesses are decreased by five (5) percent. The original bid is not changed; the five (5) percent is calculated only for the purpose of determining the Local Preference.

Staff indicated that this 5% preference has made a difference in some instances.

FINDING 13: MSCS DEFINITION OF A LOCAL BUSINESS

MSCS defines a local business as "a vendor or contractor who holds a valid license to do business in Shelby County, Tennessee; has a street address within the limits of said locality for a continuous period of at least six (6) months prior to bid or proposal opening date; and has proof that Shelby County Personal Taxes are current (applies to local business who have been doing business in Shelby County, Tennessee for a year or more)." This means a business's owner must have an address in Shelby County, however the business itself does not. Accordingly, a "local business" for purposes of qualifying for the 5% local bidding preference does not actually have to be based in Shelby County. Staff have indicated that this policy seems inadequate to capture all local businesses in the county.

FINDING 14: MARKETING AND OUTREACH

Currently, the MSCS MWSBE Office conducts outreach on Facebook, conducts monthly pre-certification and MWBE 101 workshops, a quarterly post-certification workshop, and has a segment on MSCS's radio station.

FINDING 15: MSCS PARTNERSHIPS

MSCS is in the process of establishing an informal partnership with River City Capital to ensure that MWSBEs are aware of their financing options.

FINDING 16: MWSBE OFFICE OPERATING BUDGET

The MWSBE Office has a total operating budget of about \$300,000 per year. The department has four full-time employees. Staff have indicated the office size and budget are too small for a district the size of MSCS.

3. Anecdotal Findings

FINDING 17: REGISTRATION EFFORTS NEED IMPROVEMENT

According to the Survey of Business Owners, more than one quarter of the respondents – 28% – indicated that they were not registered with MSCS (See Survey of Business Owners: Table 13). Of the unregistered respondents, 34.8% were Non-MWBE owned companies, 26.3% were African American-owned businesses, and 22.6% were Woman-owned firms. Comparatively, only 20.1% of business owners polled said they were not registered to do business with other government agencies, including but not limited to the State of Tennessee, Shelby County Government, or the State’s Department of Transportation, among others (See Survey of Business Owners: Table 14).

FINDING 18: A MAJORITY OF SURVEY RESPONDENTS DO NOT KNOW HOW TO REGISTER

Of the 47 firms indicating they were not registered, 53.2% said they did not know how to register, according to the Survey of Business Owners (Appendix G Survey of Business Owners: Table 15), including 57.1% of Woman-owned businesses, polled and 61.5% of African American-owned companies.

FINDING 19: POTENTIAL BIDDERS UNAWARE OF REGISTRATION WITH MSCS

Of the 47 respondents who shared that they were not registered to do business with MSCS, nearly half of the – 46.8% – said they were unaware that a registry existed (Appendix G Survey of Business Owners: Table 16). That includes 46.2% of African American-owned firms and 57.1% of Woman-owned firms.

FINDING 20: FIELD OF WORK NOT AVAILABLE

More than 40% of the business owners that identified as unregistered – 45.8% – told GSPC that they did not see opportunities for work in their respective “commodity” or field of work registry (See Survey of Business Owners: Table 20). Among those respondents were 61.5% of African American-owned businesses and 50% of Non-MWBE owned firms. The Study found that vendors that are not seeing solicitations in their procurement categories or commodity codes may become disengaged.

FINDING 21: DOUBTFUL THAT REGISTERING WOULD LEAD TO CONTRACT

Nearly half of the unregistered survey respondents – 48.6% – said they did not register because they did not believe they would be awarded a contract with MSCS (See Survey of Business Owners: Table 21). That includes 52% of African American-owned businesses, 33.3% of Woman-owned firms, and 25% of Non-MWBE owned businesses. A similar percentage – 48% – said they did not see any benefit in registering, including 66.7% of Non-MBE-WBE owned businesses and 52.9% of African American-owned firms (See Survey of Business Owners: Table 17).

FINDING 22: FIELD OF WORK NOT AVAILABLE

More than 19% of the 47 business owners who stated they were not registered to do business with MSCS shared that they did not see opportunities for work in their respective “commodity” or field of work registry (See Appendix G Survey of Business Owners: Table 20). Among those respondents, 26.9% were African American-owned businesses.

FINDING 23: PERCEPTION OF INFORMAL NETWORKS

According to the GSPC Survey of Business Owners, 36.8% of 174 respondents – more than one-third – said “yes” when asked if they believed that some form of an informal network monopolized public contracting with the District (See Survey of Business Owners: Table 102). Of that percentage, 77.1% were African American-owned businesses, 48.4% were Woman-owned businesses, and 39.1% were non-MWBE-owned firms.

FINDING 24: CONCERNS WITH PROMPT PAY FROM MSCS

Only 14.2% of those business owners responding to the Survey of Business Owners reported receiving payment from MSCS in 30 days or less (See Survey of Business Owners: Table 48). This included 17.2% of African American owned businesses, 13.3% of Woman owned firms, and 12.5% of Non-minority owned companies. Twenty-one percent (21%) reported being paid between 31 and 60 days of submitting an invoice to the District, including 30.3% of Woman owned firms, 20.8% of Non-minority owned companies and 15.1% of African American owned businesses. Another 3.7% of respondents – encompassing 10% of Woman owned businesses – responded that they were paid between 60 and 120 days.

FINDING 25: ISSUES WITH PROMPT PAY FROM PRIME CONTRACTORS

Even fewer business owners reported being paid by prime contractors within a month of invoicing when working on MSCS projects. Only 9.4% indicated that primes paid them within 30 days, including 11.1% of African American owned companies, 10% of Woman owned businesses and 4.2% of Non-minority owned firms. (See Survey of Business Owners: Table 49) In the 31-60-day timeframe, 10.7% reported being paid, which includes 16.7% of Woman owned companies, 10% of African American owned firms, and 4.2% of Non-minority owned firms. 3.8% reported being paid between 61-90 days, including 8.3% of Non-minority owned businesses, 6.7% of Woman owned companies and 1.1% of African American owned firms.

FINDING 26: UNFAIR COMPETITION WITH LARGER FIRMS AS A BARRIER

Some survey respondents identified that trying to compete against larger companies made it difficult for them to successfully do business with the District. More than 73% of the participants – 73.7% – said that they saw unfair competition with large companies as a barrier to doing business (See Survey of Business Owners: Table 47). That number includes 72.5% of the African American-owned businesses that responded.

FINDING 27: MARKETPLACE DISCRIMINATION HIGHER THAN DISTRICT

About 13% of firms polled – 12.8% – identified experiences with racial, gender-based, or ethnic discrimination in dealing with Memphis-Shelby County Schools (See Survey of Business Owners: Table 101). That includes 7.6% of respondents choosing “Seldom,” 2.3% choosing “Often,” and 2.9% selecting “Very Often.” However, this amount is significantly less than the 38.5% of survey participants responding to questions about experiences with discrimination from the Memphis Metropolitan Area (See Survey of Business Owners: Table 100). In this case 19% indicated “Seldom,” 11.5% selected “Often,” and 8% reported “Very Often.”

FINDING 28: CONCERNS ABOUT BID SHOPPING

More than half of the businesses surveyed – 55% – agreed to some extent that sometimes a prime contractor will contact a minority or Woman-owned firm to ask for quotes without ever giving the proposal sufficient review to consider awarding that firm with a contract (See Survey of Business Owners: Table 104). Of those respondents, 24.1% strongly agreed and 31.6% agreed. For this question, 44.7% of African American owned firms and 9.4% of Woman owned businesses strongly agreed, while 28.1% of Woman owned companies and 23.3% of African American owned businesses agreed.

4. Regression Analysis and Private Sector Findings

FINDING 29: REVENUE SHARES

Relative to Caucasian American owned firms, the estimated revenue shares of each Minority-owned firm in the MSCS Area never exceeds 4.5% (Women). All MWBEs have estimated revenue shares far smaller than their firm representation shares.

FINDING 30: REVENUE SHARE AND FIRM REPRESENTATION SHARE COMPARISON

Relative to firms owned by Caucasian Americans in the MSCS Market Area, exclusive of Women-owned firms—some of whom are Caucasian Americans—the individual MWBE revenue shares are of a large order of magnitude below their implied 17% (approximately) firm representation shares. This is consistent with and suggestive of, but not necessarily causal evidence for MWBEs facing discriminatory barriers in the private sector of the MSCS Market Area.

FINDING 31: BARRIERS TO SELF-EMPLOYMENT

Relative to Caucasian Americans, Women, African Americans, and Pacific Islanders are less likely to be self-employed. This is suggestive of these type of firms facing barriers to self-employment in the MSCS Market Area. The lower self-employment likelihood of these type of MWBEs could reflect disparities in public contracting as there is evidence in the research literature that the self-employment rate of African

Americans is increasing with respect to the provisioning and establishment of MWBE public procurement programs.

FINDING 32: DISPARITIES IN LIKELIHOOD OF SELF-EMPLOYMENT

Relative to firms owned by Caucasian Americans, firms owned by Asian Americans, African Americans, Pacific Islanders, and Women are less likely to be self-employed in the MSCS Market Area construction sector. This is suggestive of these firms facing barriers to self-employment in the MSCS Market Area construction sector. The lower likelihood of these type of MWBEs being self-employed in the construction sector could reflect disparities in public contracting, as there is evidence in the research literature that self-employment rate of African Americans in construction is increasing with respect to the provisioning and establishment of MWBE public construction procurement programs.

FINDING 33: DISPARITIES IN BUILDING PERMIT DATA

To the extent that experience acquired by participating in the private sector translates into an enhanced capacity to compete in the market for public sector contracts and subcontracts, the almost complete dominance of Non-MWBEs in securing building permits suggest the presence of private sector barriers faced by MWBEs. In this context, if there are any public contracting/subcontracting disparities between MWBEs and non-MWBEs in the MSCS relevant Market Area, it could constitute passive discrimination against MWBEs, as the disparities could reflect barriers, possibly discriminatory, that MWBEs face in the private sector that serve to undermine their capacity to compete for contracts and subcontracts with MSCS.

FINDING 34: COMMERCIAL BANK LOAN DENIALS

There are no differences between MWDBEs and Non-MWDBEs in commercial bank loan denials. This suggests that in the MSCS Market Area, any public procurement disparities between MWDBEs and Non-MWDBEs in the MSCS Market area cannot be explained by differential access to private credit (e.g. race based credit market discrimination) that enables financing a capacity for success in public procurement.

FINDING 35: AGE OF FIRMS AND MARKET EXPERIENCE

Relative to Caucasian-owned firms, certified Minority-owned firms, and those owned by African Americans, Asian Americans, and Bi/multiracial Americans in the MSCS Market Area are more likely to be new firms. This suggests that for certified Minority-owned firms, relative inexperience in the market can possibly explain any disparities in public contracting between them and non-MWDBEs in the MSCS Market Area, as tenure in the market also implies similar knowledge/experience about bidding and securing public contracts.

FINDING 36: SUBMISSION OF PRIME BIDS

Firms owned by African Americans, Bi/multiracial Americans, and Native Americans, are less likely to submit prime bids relative to non-MWDBEs. This suggests that any disparities in public procurement outcomes between these type of MWDBEs and non-MWDBEs in the Memphis-Shelby County Schools market area can be explained, at least in part, by their relatively lower prime bid submission rates.

FINDING 37: DISPARITY IN PRIME CONTRACT AWARDS

Relative to non-MWDBEs, certified MWDBE firms, and those owned by Hispanic Americans and Native Americans were less likely to win a Prime contract award. This suggests that at least for these type of MWDBEs, any contracting disparities between them and non-MWDBEs can possibly be explained by past, and possibly discriminatory constraints on them successfully winning prior prime contracts which could translate into future capacity to secure prime contracts.

FINDING 38: SUBCONTRACT AWARDS

MWDBEs were neither more or less relatively likely to have been awarded subcontracts. This suggests that any contracting disparities between non-MWDBEs and MWDBEs can't be explained, at least in part, by relative deficits in experience gained on Memphis-Shelby County Schools subcontract awards.

FINDING 39: SUBCONTRACTING EXPERIENCE

There are no relative differences in the probability of never serving as a contractor or subcontractor with Memphis-Shelby County Schools between MWDBEs and non-MWDBEs. To the extent that success in public contracting is proportional to having prior prime contracts or subcontracts, this suggests that any contracting disparities between non-MWDBEs and firms owned by Bi/multiracial Americans, can possibly be explained by past and possibly discriminatory constraints on prior success in securing prime contracts or subcontracts from Memphis-Shelby County Schools.

FINDING 40: PRIME OR SUCONTRACT AWARDS BY BI/MULTIRACIAL AMERICANS

When disaggregated by race/ethnicity, firms owned by Bi/multiracial Americans are relatively more likely to have never received a Memphis-Shelby County Schools contract or subcontract. To the extent that success in public contracting is proportional to having prior prime contracts or subcontracts, this suggest that any contracting disparities between non-MWDBEs and firms owned by Bi/multiracial Americans, can possibly be explained by past and possibly discriminatory constraints on prior success in securing prime contracts or subcontracts from Memphis-Shelby County Schools.

FINDING 41: PRIVATE SECTOR DISCRIMINATION EXPERIENCES

Relative to non-MWDBEs, certified Minority-owned firms, and those owned by African Americans, Hispanic Americans, Native Americans, and Bi/multiracial Americans experience more private sector discrimination. To the extent that private sector discrimination can undermine the capacity of MWDBEs

to compete for public sector procurement, this suggests that, at least in the Memphis-Shelby County Schools Market Area, private sector discrimination may have some explanatory power in explaining public contracting disparities between MWDBEs and non-MWDBEs.

FINDING 42: PERCEIVED DISCRIMINATION EXPERIENCES

Relative to non-MWDBEs, certified Minority-owned, Woman-owned firms, and those owned by African Americans, Hispanic Americans, Asian Americans, Native Americans and Bi/multiracial American were more likely to have perceived discrimination experiences at Memphis-Shelby County Schools. This suggests that, at least for these type of MWDBEs, Memphis-Shelby County Schools contracting disparities between them and non-MWDBEs can at least in part explained by discrimination experiences at Memphis-Shelby County Schools that they perceive will undermine their chances at successfully winning prime contracts.

FINDING 43: INFORMAL NETWORKS

Relative to non-MWDBEs, firms certified as Minority-owned, and those owned by African Americans, Hispanic Americans, Native Americans, and Bi/multiracial Americans were more likely to perceive that informal networks enable contracting success with Memphis-Shelby County Schools. This suggests that, at least for these type of MWDBEs, contracting disparities between them and non-MWDBEs can be explained, at least in part, by their exclusion from the Memphis-Shelby County Schools public contracting networks that reduces their ability to secure prime contracts and subcontracts.

5. Statistical Findings

FINDING 44: RELEVANT GEOGRAPHIC AND PRODUCT MARKETS

The Study compares the availability and utilization of firms in a common area, the Relevant Geographic Market, where about 75% of MSCS spending with vendors takes place. GSPC determined that the Geographic Relevant Market is the Memphis Metropolitan Statistical Area (MSA).¹

- In Construction, 94.74
- A&E, 89.59%
- In Professional Services, 57.97%
- In Other Services, 68.06%
- In Goods, 56.61%

Given that 70.00% of all the MSCS spending was with firms located in this relevant market, GSPC determined that one consistent Relevant Geographic Market across all Industry Categories was appropriate.

¹ The MSA is composed of Shelby County, DeSoto County, Tate County, Crittenden County, Marshall County, Tipton County, Fayette County and Tunica County.

FINDING 45: AVAILABILITY

The measures of availability utilized in this Study incorporate all of the criteria of availability required by City of Richmond v. J.A. Croson Co., 488 U.S. 469 (1989).

- The firm does business within an industry group from which MSCS makes certain purchases.
- The firm's owner has taken steps to demonstrate interest in doing business with government.
- The firm is located within a relevant geographical area such that it can do business with MSCS.

The firms used to calculate Availability came from the Master Vendor File in the Relevant Market Area. GSPC found that firms were available to provide goods and services to MSCS as reflected in the following percentages by each race, ethnicity, and gender group (Table 1).

Table 1: Summary of Availability by Work Category

In the Relevant Market

MSCS Disparity Study

Business Ownership Classification	Construction	A&E	Professional Services	Other Services	Goods	Total
	(%)	(%)	(%)	(%)	(%)	(%)
African American	15.37%	7.97%	19.96%	15.84%	7.33%	13.96%
Asian American	0.28%	1.65%	0.37%	0.27%	0.38%	0.34%
Hispanic American	1.07%	0.00%	0.66%	0.54%	0.35%	0.56%
Native American	0.17%	0.00%	0.00%	0.00%	0.03%	0.03%
TOTAL MBE	16.88%	9.62%	20.98%	16.65%	8.09%	14.90%
WBE	3.93%	5.49%	3.96%	2.17%	2.71%	2.81%
TOTAL MWBE	20.81%	15.11%	24.94%	18.82%	10.80%	17.70%
Non-MWBE	79.19%	84.89%	75.06%	81.18%	89.20%	82.30%
TOTAL FIRMS	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

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FINDING 46: MWBE PRIME UTILIZATION

As Table 4 below shows, MSCS paid a total of \$279.52 million in prime Construction spending in the Relevant Market during the Study Period and \$102.40 million of this amount, or 36.64% was paid to MWBE firms as prime contractors. MWBEs were paid 10.94% of A&E, 17.74% of Professional Services, 8.43% of Other Services, and 45.32% of Goods. MWBEs won 28.61% of prime payments across all purchasing categories.

Table 2: Summary of Prime Utilization by Work Category

In the Relevant Market

(Based upon Payments FY2018-FY2022)

MSCS Disparity Study

Business Ownership Classification	Construction	A&E	Professional Services	Other Services	Goods	Total
	(\$)	(\$)	(\$)	(\$)	(\$)	(\$)
African American	\$ 55,165,447	\$ 774,501	\$ 1,697,701	\$ 12,842,306	\$ 48,376,710	\$118,856,666
Asian American	\$ 1,391,537	\$ -	\$ -	\$ 6,854,295	\$ 44,813,151	\$ 53,058,984
Hispanic American	\$ 326,048	\$ -	\$ -	\$ 53,355	\$ 128,140	\$ 507,543
Native American	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL MBE	\$ 56,883,032	\$ 774,501	\$ 1,697,701	\$ 19,749,957	\$ 93,318,001	\$172,423,192
WBE	\$ 45,524,931	\$ 783,349	\$10,365,600	\$ 2,725,652	\$ 18,777,215	\$ 78,176,746
TOTAL MWBE	\$102,407,963	\$ 1,557,850	\$12,063,302	\$ 22,475,608	\$112,095,216	\$250,599,938
Non-MWBE	\$177,113,751	\$12,676,630	\$55,939,879	\$244,238,586	\$135,224,788	\$625,193,634
TOTAL FIRMS	\$279,521,714	\$14,234,480	\$68,003,181	\$266,714,194	\$247,320,003	\$875,793,573
Business Ownership Classification	Construction	A&E	Professional Services	Other Services	Goods	Total
	(%)	(%)	(%)	(%)	(%)	(%)
African American	19.74%	5.44%	2.50%	4.82%	19.56%	13.57%
Asian American	0.50%	0.00%	0.00%	2.57%	18.12%	6.06%
Hispanic American	0.12%	0.00%	0.00%	0.02%	0.05%	0.06%
Native American	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
TOTAL MBE	20.35%	5.44%	2.50%	7.40%	37.73%	19.69%
WBE	16.29%	5.50%	15.24%	1.02%	7.59%	8.93%
TOTAL MWBE	36.64%	10.94%	17.74%	8.43%	45.32%	28.61%
Non-MWBE	63.36%	89.06%	82.26%	91.57%	54.68%	71.39%
TOTAL FIRMS	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

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FINDING 47: M/WBE TOTAL UTILIZATION

Altogether, MBEs earned over \$191.71 million in Total Utilization (prime + subcontract dollars), or 21.89%, while Non-minority Woman owned firms earned over \$86.34 million, or 9.86% (Table 3).

Table 3: Summary of Total Utilization

*In the Relevant Market
(Based upon Payments FY2018-FY2022)
MSCS Disparity Study*

Business Ownership Classification	Construction	A&E	Professional Services	Other Services	Goods	Total
	(\$)	(\$)	(\$)	(\$)	(\$)	(\$)
African American	\$ 55,447,264	\$ 774,501	\$ 2,650,695	\$ 30,904,029	\$ 48,376,710	\$138,153,199
Asian American	\$ 1,391,537	\$ -	\$ -	\$ 6,854,295	\$ 44,813,151	\$ 53,058,984
Hispanic American	\$ 326,048	\$ -	\$ -	\$ 53,355	\$ 128,140	\$ 507,543
Native American	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL MBE	\$ 57,164,849	\$ 774,501	\$ 2,650,695	\$ 37,811,679	\$ 93,318,001	\$191,719,726
WBE	\$ 46,119,117	\$ 783,349	\$10,365,600	\$ 10,298,381	\$ 18,777,215	\$ 86,343,662
TOTAL MBE/WBE	\$103,283,966	\$ 1,557,850	\$13,016,295	\$ 48,110,061	\$112,095,216	\$278,063,388
Non-MWBE	\$176,237,748	\$12,676,630	\$54,986,886	\$218,604,134	\$135,224,788	\$597,730,185
TOTAL FIRMS	\$279,521,714	\$14,234,480	\$68,003,181	\$266,714,194	\$247,320,003	\$875,793,573
Business Ownership Classification	Construction	A&E	Professional Services	Other Services	Goods	Total
	(%)	(%)	(%)	(%)	(%)	(%)
African American	19.84%	5.44%	3.90%	11.59%	19.56%	15.77%
Asian American	0.50%	0.00%	0.00%	2.57%	18.12%	6.06%
Hispanic American	0.12%	0.00%	0.00%	0.02%	0.05%	0.06%
Native American	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
TOTAL MBE	20.45%	5.44%	3.90%	14.18%	37.73%	21.89%
WBE	16.50%	5.50%	15.24%	3.86%	7.59%	9.86%
TOTAL MBE/WBE	36.95%	10.94%	19.14%	18.04%	45.32%	31.75%
Non-MWBE	63.05%	89.06%	80.86%	81.96%	54.68%	68.25%
TOTAL FIRMS	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

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FINDING 48: SUMMARY OF DISPARITY ANALYSIS FOR FY2018-FY2022

Tables 4 and 5 below indicate those MWBE groups where a statistically significant disparity (X) was found in Prime Utilization for Construction, A&E, Professional Services, Other Services, and Goods. As reflected in the Table 4, there was underutilization in prime contracts for all MWBE groups, except

- African American, Asian American and Non-Minority Woman owned firms in Construction
- Non-Minority Women owned firms in Professional Services
- Asian American owned firms in Other Services
- African Americans, Asian America and Non-Minority Woman owned firms in Goods

Non-Minority Women owned firms were roughly at parity in A&E.

Several MWBE groups were overutilized for prime payments less than \$500,000 and less than \$1 million:

Under \$500,000:

- African American, Hispanic American and Non-Minority Woman owned firms in Construction
- African American and Non-Minority Woman owned firms in A&E
- Non-Minority Women owned firms in Professional Services
- Asian American and Non-Minority Woman owned firms in Other Services
- Hispanic American and Non-Minority Woman owned firms in Goods

Under \$1,000,000:

- Hispanic American and Non-Minority Woman owned firms in Construction
- African American and Non-Minority Woman owned firms in A&E
- Asian American and Non-Minority Woman owned firms in Other Services
- Hispanic American and Non-Minority Woman owned firms in Goods

The outcome of statistical analysis for a few categories changed after adding subcontract amounts to the prime utilization amounts. As Table 5 shows, several MWBE groups were over utilized Total Utilization:

- African American, Asian American and Non-Minority Woman owned firms in Construction
- Non-Minority Women owned firms in Professional Services
- Asian American and Non-Minority Woman owned firms in Other Services
- African American, Asian America and Non-Minority Woman owned firms in Goods

Non-minority Women were basically at parity in A&E.

**Table 4: Summary of Statistically Significant Underutilization
of M/WBEs in Prime Contracting
MSCS Disparity Study**

Business Owner Classification	Construction	A&E	Professional Services	Other Services	Goods
African American		X	X	X	
Asian American		X	X		
Hispanic American	X	n/a	X	X	X
Native American	X	n/a	n/a	n/a	X
Non-Minority Woman				X	

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**Table 5: Summary of Statistically Significant Underutilization
of M/WBEs in Total Utilization
MSCS Disparity Study**

Business Owner Classification	Construction	A&E	Professional Services	Other Services	Goods
African American		X	X	X	
Asian American		X	X		
Hispanic American	X	n/a	X	X	X
Native American	X	n/a	n/a	n/a	X
Non-Minority Woman					

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B. COMMENDATIONS

COMMENDATION 1: DATA CATEGORIZATION

MSCS should be commended for having categorized firms in their data. This effort enabled clearer and more accurate evaluation of the MSCS data.

COMMENDATION 2: SHELTERED MARKET PROGRAM

MSCS should be commended for having established and utilized a Sheltered Market Program to support the growth of Small Business Enterprises in the MSCS marketplace.

COMMENDATION 3: LESS DISCRIMINATION WITH MSCS THAN IN THE MARKETPLACE

MSCS should be commended for developing an environment and procurement process that vendors perceive less discriminatory than the open marketplace. Respondents to the Survey of Business Owners documented less experiences of discrimination with MSCS than in the market.

COMMENDATION 4: MWBE SUBCONTRACTOR GOALS

Although there is still some statistically significant underutilization of MWBEs in various categories, the District should be commended for its current MWBE subcontractor goals program which encourages the use of MWBEs.

C. RECOMMENDATIONS

RECOMMENDATION 1: PROGRAMMING TO ENSURE NON-DISCRIMINATION

As there is a legal basis for MSCS to take actions to ensure non-discrimination, GSPC recommends that to ensure MSCS is not a passive participant in private sector discrimination, and to ensure that the District is not discriminating in its own procurement processes, programming can be developed as outlined in the other recommendations of this report.

RECOMMENDATION 2: COMMERCIAL NON-DISCRIMINATION POLICY

GSPC recommends the District establish a commercial non-discrimination policy to ensure that it is not a passive participant in discriminatory practices.

GSPC recommends that MSCS not enter into a contract or to be engaged in a business relationship with any business entity that has discriminated in the solicitation, selection, hiring or commercial treatment of vendors, suppliers, Subcontractors or commercial customers on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation or on the basis of disability or any otherwise unlawful use of characteristics regarding the vendor's, supplier's or commercial customer's employees or

owners; provided that nothing prohibits or limits otherwise lawful efforts to remedy the effects of discrimination.

This policy can be implemented by periodically conducting outreach and distributing educational materials to the District contracting and vendor community and related trade associations to advise such contractors, vendors and prospective respondents about the procedures to be followed in submitting complaints alleging violations of the nondiscrimination policy.

MSCS should ensure that a commercial non-discrimination clause is incorporated into all MSCS contracts.

In addition, the commercial non-discrimination policy would give MSCS the authority to conduct an investigation into possible violations where the subcontracting participation is substantially below expected participation based on availability in the marketplace.

RECOMMENDATION 3: CONTRACT-BY-CONTRACT SBE/MWBE GOALS

GSPC does not recommend that the same SBE/MWBE goals be applied to every contract in an Industry Category, but that instead they be adjusted on a contract-by-contract basis by assessing the Availability of SBE/MWBE firms (separately) for the scopes of work on that particular contract. Those contract-by-contract aspirational goals should be communicated to prime contractors in the solicitation, requesting that the prime assist the District in meeting those goals. Once the prime contractor has submitted its SBE/MWBE achievement in the bid submission, that achievement should become part of the prime contractors' contract commitment. This commitment should be tracked by the MSCS MWSBE Office to ensure the prime contractor adheres to this contractual commitment.

It is not the intention of this recommendation that a bid be rejected if any goal is not met, however, failure to abide by the District's Non-Discrimination Policies may result in an investigation and rejection of a bid in accordance with Recommendation 2 above.

Given the breakdown of underutilization across certain Industry categories and Study groups, the Study team recommends the District draft a plan to further encourage prime bidders to collaborate with local small businesses by incorporating a review of the following non-exhaustive list of elements in certain cases where prime contractors submit bids with less subcontractor participation than expected based on the availability of firms in the marketplace:

- The firms the prime contacted, when and how contact was made, and the potential subcontractor's contact information;
- The outreach strategy used to meet the Contract's small business subcontracting goals;
- The specific resources and resource contacts utilized to locate subcontractors for this Contract;
- The plan for building a connection with subcontractors and developing a project team;
- The plan to strengthen business relationships;
- The methods that will be used to improve lines of communication;
- The approach(es) that will be taken to resolve disputes;
- Detailed description of the supportive services and activities that will be established for business development and how the plan will be executed;
- The mentorship opportunities that will be made available and how those opportunities will be executed; and

- The efforts that will be made available for capacity building and how those efforts will be executed.

The Study team recognizes this may be cumbersome given current staffing and the elements can be implemented separately over time as Recommendation 9 “Staffing” is implemented.

RECOMMENDATION 4: REVIEW BONDING REQUIREMENTS

Although bonding is currently required for projects over \$25,000, MSCS should review on a contract-by-contract basis, particularly on low-risk projects, whether the bonding amount is necessary to protect MSCS’s risk exposure.

RECOMMENDATION 5: CLARIFY INSURANCE REQUIREMENTS

GSPC recommends that MSCS provide vendors with educational guidance and programming as a supportive service to help ensure that vendors understand the insurance requirements outlined in the solicitations. Further, MSCS should evaluate the solicitation language for opportunities to simplify potentially confusing insurance requirement language.

RECOMMENDATION 6: PROMPT PAYMENT

GSPC recommends that MSCS review its payment procedures to streamline them. This process would include maximizing the use of MSCS’s B2Gnow system to help prevent delayed payments to subcontractors. MSCS should ensure that once a prime contractor enters documentation into B2Gnow that a payment was made to a subcontractor, the subcontractor should receive a notification, and be prompted to log into B2Gnow and confirm that they received the payment in the amount and timing described.

GSPC recommends that MSCS establish an explicit prompt pay policy, including an internal policy that prime contractors should be paid within 30 days of receipt of an acceptable invoice, and that subcontractors should be paid within 10 days of prime contractors receiving payment from MSCS.

RECOMMENDATION 7: REPLACE RESIDENCY AND LENGTH OF TIME IN BUSINESS REQUIREMENTS

GSPC does not recommend that MSCS continue a residency requirement of the business owner for eligibility to participate in MSCS MWSBE Office program, but instead the requirement should depend on the location of the business within the MSCS Relevant Market, and without regard to how long the business has been in existence.

It is recommended that MSCS’s Program only include firms in the Relevant Market (regarding which firms count satisfy the MSCS participation goals). In order to establish that the firm is actually located in the Relevant Market, MSCS can require a long-term lease, certification documents that establish location, and/or other similar documents.

MSCS reserves the right to not accept virtual offices as sufficient evidence of a business having established a location to operate in Memphis. For the purposes of MSCS’s procurement activities, a virtual office can be defined as a co-working space, P.O. Box, and or other form of business location agreement in which the business does not actually have a dedicated desk and/or office space.

RECOMMENDATION 8: EVALUATE OPPORTUNITY FOR ADDITIONAL STAFFING AND RESOURCES

GSPC's recommendations represent a possible need for increased resources and staffing. Prior to undertaking these recommendations, the District should consider whether there is a need to allocate additional resources and potentially additional staffing. GSPC is aware that additional funding would be dependent on the budgeting process. MSCS can utilize the time period before additional resources are approved and applied to:

- Accept the Study and its Recommendations;
- Plan for Implementation (Steps, Phases and Tasks);
- Determine Budget and Staffing Needs for New Policy Elements; and
- Develop a Training Protocol and Train any additional staff

RECOMMENDATION 9: JOINT VENTURES

GSPC recommends that for large projects, for example construction or professional services projects valued over \$5,000,000, MSCS should determine if a joint venture can be utilized based on the availability of firms in the marketplace.

On such projects in which utilization efforts to form a joint venture relationship is required, no bid should be accepted unless submitted by a joint venture, unless sufficient utilization efforts to enter into a joint venture have been demonstrated based on a careful review of relevant facts, documents, and circumstances.

A written joint venture agreement should be completed by all parties to the joint venture and executed before a notary public, which clearly delineates that the rights and responsibilities of each member or partner, complies with any requirements established by MSCS, and provides that the joint venture shall continue for, at a minimum, a period no less than the duration of the project.

The joint venture agreements should at a minimum include the following information:

- The initial capital investment of each venture partner;
- The proportional allocation of profits and losses to each venture partner;
- The sharing of the right to control the ownership and management of the joint venture;
- Actual participation of the venture partners on the project;
- The method of and responsibility for accounting;
- The method by which disputes are resolved; and
- Any additional or further information required by MSCS.

The joint venture, and each member of the joint venture, should provide MSCS with access to review all records pertaining to joint venture agreements before and after the award of a contract in order to reasonably assess compliance with these guidelines.

GSPC recommends that a bid submitted by a joint venture that does not include a satisfactory written joint venture agreement in accordance with the requirements specified in the solicitation be deemed non-responsive and rejected.

GSPC also recommends that where MSCS utilizes CMAR methodology, such projects should require the CMAR to be a joint venture that reflects the availability of firms in the marketplace.

RECOMMENDATION 10: LIMIT THE USE OF ON-CALL CONTRACTS AND EVALUATE AND ADJUST USE OF ROTATING LISTS FOR PROFESSIONAL SERVICES

On-call contracts can be a deterrent to an open procurement process, particularly when they are closed to any new entrants for 3-5 years. MSCS should establish a policy to ensure that whenever possible, on-call contracts are separately bid, except in emergency situations.

Further, GSPC recommends that in order to give more professional services firms an opportunity to participate in the MSCS public procurement process, the practice of utilizing rotating lists for professional services procurements should be replaced with an open bidding process. The use of rotating lists should be reserved for contracts that are impractical to bid out, such as emergency maintenance and repair projects (e.g., water main breaks, power outages, etc.) Currently, the MWSBE office does not know which firms were utilized from the rotating list until the payment appears on the spend report. Instead, in the rare cases where rotating lists are used, there should be quarterly meetings with the department to help provide visibility, transparency, and a mechanism to hold the departments utilizing the rotating lists accountable. The Study revealed that the list may not rotate in practice. Further, the use of rotating lists as currently applied seems to create a dynamic in which the same professional services vendors are repeatedly awarded contracts, creating a barrier for new and diverse firms to compete for contracts.

RECOMMENDATION 11: PROCESS FOR CERTAIN PROFESSIONAL SERVICES PROCUREMENTS

GSPC recommends the use of RFPs that include contract-by-contract aspirational goals for solicitations in the following list of Professional Services categories, as well as any others in which MSCS determines that there is both opportunity for subcontracting in the scope of work and availability of firms in the MSCS marketplace:

- Architecture and Engineering
- Education Consulting Services
- Basic IT Services
- Tech Consulting

RECOMMENDATION 12: MENTOR-PROTÉGÉ PROGRAM

GSPC recommends that MSCS establish and implement a Mentor-Protégé Initiative to grow capacity and to foster sustainable business development for MWSBE firms. The initiative connects more-established and successful prime firms and managers with less-established MWSBE firms to provide management guidance and training.

Based upon the scope of work and market availability, the MWSBE Manager or designee shall determine on a project-by-project basis on eligible projects for MWSBEs whether a mentor-protégé relationship shall be encouraged for such contract. On such contracts no bid shall be accepted unless submitted by a mentor-protégé team.

RECOMMENDATION 13: BOLSTER IMPLEMENTATION OF SHELTERED MARKET PROGRAM

GSPC recommends enhancement of the MSCS Sheltered Market program to further expand competition for MSCS procurement by helping small businesses develop the capacity to participate as prime contractors. As documented empirically in the Anecdotal chapter's Survey of Business Owners table, many small firms, including M/WBEs, complained about unfair competition with large firms. One method to assist in increasing small business participation and capacity is to expand the Sheltered Market Program, and designate more contracts routinely in the program. MSCS may also want to consider adjusting the threshold for eligibility in order to provide additional eligible contract/projects in the program.

It is critical to the application and success of a Sheltered Market Program that MSCS conduct more outreach and increases the number of registered, certified firms in the vendor list to ensure that such firms have access to this program. The Sheltered Market Program should be utilized for awards where there are at least three registered small businesses in the MSCS Relevant Marketplace that can perform the work. This prevents awards from essentially being sole sourced or otherwise non-competitive.

RECOMMENDATION 14: CONTRACT COMPLIANCE TO ADDRESS POTENTIAL BID SHOPPING

GSPC recommends that MSCS enhance contract compliance efforts including the monitoring of prime contractor behaviors, including site visits, periodically checking with M/WBEs who are working on a project, and inquiring about how the project is going.

Examples of actions MSCS can take to bolster contract compliance efforts:

- Desk audit, to identify and track payments to M/WBE subcontractors.
- Sit in on the meetings in the trailer on the job site.
- Random interviews with individuals who work for the minority subcontractor, and ask questions such as "Who is your supervisor?" "Where does your check come from?"
 - Such questions MSCS to determine whether or not the minority subcontractor is actually operating with the expected level of control at the job-site level of projects on which they are working.

The aim of these efforts would be to expose and prevent bid shopping, and the District can utilize the same non-exhaustive, bulleted list of elements presented in the aspirational goals recommendation.

RECOMMENDATION 15: MWSBE OFFICE DIRECT REPORTING STRUCTURE

GSPC recommends that the MWSBE Office report to the most senior level school system official, such as the COO without layers of management between the MWSBE Office and the official to which they report.

RECOMMENDATION 16: FORECASTING

GSPC recommends that MSCS publicly forecast contract opportunities at least one year ahead of time. Once the budget is approved for next year, the District knows what they are approved to spend and thus can and should publish those opportunities to the public.

RECOMMENDATION 17: DATA HUB PORTAL

Staff and business interviews indicated that MSCS's processes could be more transparent. GSPC recommends that MSCS institute a "data hub" similar to that of the City of Memphis (which, for example, features Minority and Women-Owned Business Enterprise (MWBE) Spend by Fiscal Year) as a measure of transparency allowing the public open access and insight into the City's utilization of small, minority and women owned firms, including citywide spend by fiscal year and other meaningful report metrics.

RECOMMENDATION 18: TARGETED MARKETING AND OUTREACH

GSPC recommends that MSCS allocate a portion of its marketing budget to running paid social media ads (not simply boosted posts), including adding tracking pixel on the landing page to which online traffic is being driven, in order to better track data on who has engaged the online material that MSCS publishes. This effort should not replace MSCS's current outreach activities but instead should serve to augment current efforts and capture the attention and engagement of more potential contractors in the MSCS marketplace.

Further, GSPC recommends that MSCS conduct outreach to vendors, trade organizations, community-based organizations, professional organizations, and other organizations to foster engagement and ensure that the available firms in the marketplace are aware of the nature of opportunities, particularly upcoming MSCS contracting opportunities (as well as other services) before the solicitations for such opportunities are posted.

RECOMMENDATION 19: CONDUCT A NEEDS ASSESSMENT FOR SUPPORTIVE SERVICES

GSPC recommends that MSCS enhance its supportive services efforts by conducting a needs assessment to identify the particular areas in which vendors could use the most assistance. Examples of potential target areas include, but are not limited to:

- Bonding assistance
- Insurance assistance
- Back-office support
- Educational programming about how to register with MSCS and bid on MSCS contract opportunities
- Contract financing support
- Understanding of contract language (for solicitations, payment invoices, etc.)

RECOMMENDATION 20: DATA REFORM

- Track all subcontractor payments not just M/WBEs or those subject to a goal.
- Label vendors as individuals if the name does indeed reflect that of a person instead of a business.
- Align on the use of a coding system (e.g. commodity codes, NAICS, or NIGP codes) to simplify the process of identifying the type of service a vendor performed or the type of goods they provided.
 - This would include requiring vendors to identify a primary NAICS code by which they should be identified
- Bidders should be required to register as vendors. This requirement aims to ensure that such vendors are included in the District's pool of available vendors. It would further allow the District to notify such registered vendors of future contracting opportunities, events, or other updates.
- MSCS should require that firms provide physical a location / address, not just a P.O. box.

RECOMMENDATION 21: TIMELINE FOR PROCUREMENT STUDY

GSPC recommends that MSCS conduct both an availability and utilization analysis for both prime and subcontractors in two years. This exercise would be to evaluate the level of SBE/MWBE and non-SBE/MWBE prime and subcontractor availability and utilization.

III. LEGAL ANALYSIS – HISTORICAL OVERVIEW

The Memphis–Shelby County School District (hereafter “MSCSD”) has engaged Griffin & Strong, P.C. (“GSPC”) to conduct a Disparity Study assessing MSCSD’s procurement policies, procedures, and overall purchasing environment from FY2018 through FY2022. Briefly stated, the Study is intended to determine whether a statistically significant disparity existed between the availability of Minority Business Enterprises (“MBEs”) and Women Business Enterprises (“WBEs”) (collectively referred to as “MWBEs”) in MSCSD’s Relevant Market area that are ready, willing, and able to do business with the MSCSD, and the actual utilization of those firms by MSCSD.

The analysis provided throughout this Legal Chapter underscores the several purposes for which such a disparity study may be done, the importance of methodological soundness, and the usefulness of the data and other information contained therein. Disparity studies can provide context regarding prior government procurement practices, a contemporary snapshot of current procurement practices, and a predictive preview of future challenges/needs.

There is an important historical legal basis for the advent of disparity studies in the first instance. Key judicial decisions from the United States Supreme Court anticipating and inviting increased use of disparity studies are therefore discussed first in the following legal analysis, before looking further into the legal considerations and related evidentiary requirements for sustaining an MWBE program, even in the face of a challenge on constitutional grounds.

GSPC also has included in the historical analysis below a significant decision of the United States Court of Appeals for the Sixth Circuit, as this decision demonstrates the continuing significance and vitality of the prior Supreme Court precedent and highlights the legal foundation under which any challenge to the MSCSD’s policies or programs will be analyzed.

The outgrowth of disparity studies was in large measure a response to constitutionally based legal challenges made against federal, state, and local minority business enterprise programs enacted to remedy past or present discrimination (whether real or perceived). Such studies effectively were invited by the United States Supreme Court in its seminal decision in *City of Richmond v. J. A. Croson Co.*,² and subsequent judicial decisions have drawn a direct line between *Croson* and the utilization of disparity studies.³

Disparity studies have become an important tool for governmental entities in deciding whether to enact minority business programs or legislation, and in justifying existing programs or legislation in the face of

² 488 U.S. 469, 109 S. Ct. 706, 102 L. Ed. 2d 854 (1989).

³ See, for example, *Adarand Constructors, Inc. v. Slater (Adarand VII)*, 228 F.3d 1147, 1172-73 (10th Cir.2000) (“Following the Supreme Court’s decision in *Croson*, numerous state and local governments have undertaken statistical studies to assess the disparity, if any, between availability and utilization of minority-owned businesses in government contracting.”).

constitutional challenge. To better understand the proper parameters of such programs, one must understand their judicial origin.

A. The Supreme Court’s Decision in *City of Richmond v. J.A. Croson Co.*

To fully appreciate the usefulness of disparity studies for development and defense of minority business programs, an overview of the *Croson* decision is essential.

State and local laws that, on their face, favor one class of citizens over another, may run afoul of the Equal Protection Clause of the Fourteen Amendment to the United States Constitution. MWBE programs and legislation are among the laws that invoke such concerns. The nature of the differentiation (e.g., race, ethnicity, gender) upon which the program is based determines the level of judicial scrutiny applied by courts evaluating the constitutionality of such programs. As explained at greater length below, race-based programs are evaluated under a “strict scrutiny” standard, and gender-based programs may be subject either to strict scrutiny or to a less-rigorous “intermediate scrutiny” standard, depending on the federal circuit within which the public entity is located.

In its *Croson* decision, the Supreme Court, applying a strict scrutiny standard, ruled that the City of Richmond failed to demonstrate a compelling state interest for its Minority Business Enterprise program, which required prime contractors to subcontract 30% of the city’s construction contracts to minority-owned firms.⁴ “Strict scrutiny” review involves two co-equal considerations: the need to demonstrate a compelling governmental interest in taking remedial action; and implementation of a program or method narrowly tailored to achieve/remedy the compelling interest.⁵ In *Croson*, the Supreme Court concluded that the City of Richmond failed to show identifiable discrimination in its construction industry, and thus, could not show that its minority set-aside program was necessary to remedy the effects of any purported discrimination.⁶ The Court reasoned that a statistical disparity between the overall minority population in Richmond (50% African-American) and awards of prime contracts to minority-owned firms (0.67% to African-American firms) was an irrelevant statistical comparison and insufficient to raise an inference of discrimination.⁷

Addressing the disparity evidence that Richmond proffered to justify its MBE program, the Court emphasized the need to distinguish between “societal discrimination,” which it found to be an inappropriate and inadequate basis for social classification, and the type of identified discrimination that can support and define the scope of race-based relief. Specifically, the Court opined that a generalized assertion of past discrimination in an entire industry provided no guidance in determining the present scope of the injury a race-conscious program seeks to remedy. It emphasized “there was no direct

⁴ *Croson*, 488 U.S. at 505.

⁵ *Id.* at 485-86. The strict scrutiny standard is discussed in greater length in the Expanded Legal Analysis hereafter.

⁶ *Id.* at 505-06.

⁷ *Id.* at 479-80, 501-02.

evidence of race discrimination on the part of the City in letting contracts or any evidence that the City's prime contractors had discriminated against minority-owned subcontractors."⁸

The Court concluded there was no *prima facie* case of a constitutional or statutory violation by anyone in the construction industry that might justify the City of Richmond's MBE program.⁹ Justice O'Connor nonetheless provided some guidance on the type of evidence that might indicate a proper statistical comparison:

[W]here 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.¹⁰

Stated otherwise, the statistical comparison should be between the percentage of MBEs in the marketplace qualified to do contracting work (including prime contractors and subcontractors) and the percentage of total government contract awards (and/or contractual dollars paid) to minority firms. The relevant question among lower federal courts has been which tools or methods are best for such analysis, a matter addressed in the detailed discussion of statistical comparison provided below.

Of note, the *Croson* court stated that identified anecdotal accounts of past discrimination also could be used as part of the effort to meet the required compelling interest for local governments to enact race-conscious remedies.¹¹ However, conclusory claims of discrimination asserted by City officials would not suffice, nor would an amorphous claim of societal discrimination, simple legislative assurances of good intention, or congressional findings of discrimination in the national economy.¹²

Regarding the second prong of the strict scrutiny test, the *Croson* Court opined that Richmond's MBE program was not narrowly tailored to redress the effects of discrimination. For example, the Court reasoned that Richmond's MBE program was not remedial in nature because it provided preferential treatment to minorities such as Eskimos and Aleuts, groups for which there was no evidence of discrimination in Richmond.¹³ Thus, the scope of the City's program was too broad.

Also, the Court reasoned that the 30% goal for MBE participation in the Richmond program was a rigid quota not related to identified discrimination, specifically criticizing the City for its lack of inquiry into whether a particular minority business, seeking racial preferences, had suffered from the effects of past

⁸ *Id.* at 480.

⁹ *Id.* at 500, 505-06.

¹⁰ *Id.* at 509.

¹¹ *Id.*

¹² *Id.* at 500.

¹³ *Id.* at 506.

discrimination.¹⁴ The Court further noted the City failed to consider race-neutral alternatives to remedy the under-representation of minorities in contract awards.¹⁵

Subsequent to the decision in *Croson*, the Supreme Court and the federal Circuit Courts of Appeal have provided additional guidance regarding the considerations, measurements, information, and features surrounding an MWBE program that will assist in protecting the program from constitutional challenge under a strict scrutiny analysis. These recommendations have, in many respects, provided a roadmap for disparity studies, which is discussed in greater detail in the Expanded Legal Analysis.

B. The Supreme Court's Decision in *Adarand Constructors, Inc. v. Pena* and Subsequent Circuit Court Proceedings

Six years after its decision in *Croson*, the Supreme Court was again confronted with an equal protection challenge to a disadvantaged business program in *Adarand Constructors, Inc. v. Pena*.¹⁶ This time, however, the program under challenge was enacted by the federal government, thus implicating the Fifth Amendment to the United States Constitution rather than the Fourteenth Amendment that was at issue with respect to the local program in *Croson*.

Vacating the decision of the United States Court of Appeals for the Tenth Circuit (the “Tenth Circuit”) and remanding for further proceedings, the Supreme Court ruled that federal programs are not reviewed for constitutionality under a more lenient standard than that which is applied to state and local programs (as had been indicated in some prior Supreme Court opinions), but rather, that strict scrutiny is to be applied to an analysis of the constitutionality of federal race-based programs as well.¹⁷ Because the United States District Court for the District of Colorado (the “Colorado District Court”) and the Tenth Circuit had applied a lesser standard of review, the Supreme Court remanded the case for review of the federal program under the strict scrutiny standard, consistent with *Croson*.¹⁸

On remand, the Colorado District Court essentially ruled that no program can meet the strict scrutiny standard --- *i.e.*, it is “fatal in fact.”¹⁹ The Tenth Circuit disagreed, and it upheld the federal program even under a strict scrutiny standard, finding both a compelling state interest and the required narrow tailoring to achieve such compelling interest.²⁰ Consistent with *Croson* and subsequent opinions, the Tenth Circuit described its task regarding the compelling state interest as follows:

[O]ur inquiry necessarily consists of four parts: First, we must determine whether the government's articulated goal in enacting the race-based measures at issue in this case is

¹⁴ *Id.* at 507.

¹⁵ *Id.* at 498, 507.

¹⁶ 515 U.S. 200, 115 S. Ct. 2097, 132 L.Ed.2d 158 (1995) (*Adarand III*).

¹⁷ *Id.* at 227.

¹⁸ *Id.* at 237-38.

¹⁹ *Adarand Constructors, Inc. v. Pena*, 965 F. Supp. 1556, 1580 (D. Colo. 1997) (*Adarand IV*).

²⁰ *Adarand VII*, 228 F.3d 1147.

appropriately considered a "compelling interest" under the governing case law; if so, we must then set forth the standards under which to evaluate the government's evidence of compelling interest; third, we must decide whether the evidence presented by the government is sufficiently strong to meet its initial burden of demonstrating the compelling interest it has articulated; and finally, we must examine whether the challenging party has met its ultimate burden of rebutting the government's evidence such that the granting of summary judgment to either party is proper. We begin, as we must, with an inquiry into the meaning of "compelling interest."²¹

The court first found that the government's proffered interest – "remedying the effects of racial discrimination and opening up federal contracting opportunities to members of previously excluded minority groups" – is an appropriately compelling interest.²² It then provided that both direct evidence and circumstantial evidence of discrimination could be considered in support of that interest.²³

Considering the specific evidence presented by the government to support its argument that remedial action was necessary, the *Adarand VII* court found the government demonstrated a "strong basis in evidence" for such action. Evidence of classic "old boy" networks of contractors that historically excluded minority firms, denial of access to capital based on race, and denial of or difficulty in obtaining union membership by minority firms established minority contractors faced significant discriminatory barriers to business formation.²⁴ The court also determined from the evidence that existing minority contractors faced barriers to competition for federal construction contracts due to "discrimination by prime contractors, private sector customers, business networks, suppliers, and bonding companies[.]"²⁵

In support of its position, the government produced statistical and anecdotal evidence taken from local disparity studies which demonstrated under-utilization of minority subcontractors (described in more detail below), and the effect on utilization rates when affirmative action programs or efforts were discontinued for one reason or another.²⁶

The court went on to discuss at length its reasoning that the government also adequately demonstrated its program was narrowly tailored to achieve the compelling interest discussed previously.²⁷ In sum, the court found that the government satisfactorily met the following important factors: "the necessity for the relief and the efficacy of alternative remedies; the flexibility and duration of the relief, including the availability of waiver provisions; the relationship of the numerical goals to the relevant labor market; and

²¹ *Id.* at 1164.

²² *Id.* at 1164-65 ("[W]e readily conclude that the federal government has a compelling interest in not perpetuating the effects of racial discrimination in its own distribution of federal funds and in remedying the effects of past discrimination in the government contracting markets created by its disbursements.").

²³ *Id.* at 1166-1167.

²⁴ *Id.* at 1168-70.

²⁵ *Id.* at 1170-72.

²⁶ *Id.* at 1172-1175.

²⁷ *Id.* at 1176-1187.

the impact of the relief on the rights of third parties.”²⁸ The case was therefore returned to the district court for further proceedings “consistent with this opinion.”²⁹

C. The Sixth Circuit’s Decision in *Associated Gen. Contrs. of Ohio, Inc. v. Drabik*

Having the benefit of the Supreme Court’s guidance in *Croson* and *Adarand III*, the United States Court of Appeals for the Sixth Circuit (the “Sixth Circuit”) addressed the constitutionality of the State of Ohio’s Minority Business Enterprise Act (“MBEA”) in *Associated Gen. Contrs. of Ohio, Inc. v. Drabik*,³⁰ an opinion which remains among the most significant MWBE appellate decisions in the federal circuit in which MSCSD is located.

The Ohio MBEA at issue in *Drabik*, passed in 1980, set aside five percent (by value) of all state construction projects for bid only by certified MBEs.³¹ Affirming the ruling of the district court, the Sixth Circuit determined that the state had not satisfied the strict scrutiny requirements, as it failed to demonstrate a compelling state interest for a race-conscious remedial program and did not demonstrate that the MBEA was narrowly tailored, as required.³²

With respect to the compelling state interest requirement, the *Drabik* court first reasoned that a review of the legislative history for the MBEA revealed no express finding of past discrimination to justify or support the new program.³³ Turning then to the statistical evidence offered by the state, the court found the data relied on by the state to be outdated, limited in scope, and not particularly relevant to the specific set aside provision of the MBEA.³⁴ More specifically, the court reasoned that the statistical analysis offered by the state improperly focused on the number of minority businesses operating in the state in total, while the MBEA set aside applied only to construction projects:

The problem with Ohio's statistical comparison is that the percentage of minority-owned businesses in Ohio (7% as of 1978) did not take into account how many of those businesses were construction companies of any sort, let alone how many were qualified, willing, and able to perform state construction contracts. . . . [T]he data does not distinguish minority construction contractors from minority businesses generally, and *a fortiori* makes no attempt to identify minority construction contracting firms that are ready, willing, and able to perform state construction contracts of any particular size.³⁵

²⁸ *Id.* at 1177 (quoting *United States v. Paradise*, 480 U.S. 149, 171, 107 S.Ct. 1053, 94 L.Ed.2d 203 (1987)).

²⁹ *Id.* at 1188.

³⁰ 214 F.3d 730, 735 (6th Cir. 2000).

³¹ *Id.* at 733. There were additional provisions addressing MBE subcontracting. *Id.*

³² *Id.* at 735-738.

³³ *Id.* at 735 (“In all the documentary evidence relating to the progress of [the MBEA] through the legislature, including drafts of bills, Legislative Service Commission summaries, and transcripts of floor debate, there is not one clear, unambiguous statement of a finding of discrimination to be found.”).

³⁴ *See generally, id.*, at 735-36.

³⁵ *Id.* at 736.

In addition to these criticisms, the court also noted the lack of regression analysis, *e.g.*, failure by the state in doing its statistical comparisons to consider “the relative size of the firms, either in terms of their ability to do particular work or in terms of the number of tasks they have the resources to complete.”³⁶

With respect to the narrow tailoring requirement, the court found the statute lacked narrow tailoring because (1) the MBEA suffered from both under inclusiveness and over inclusiveness, (lumping together and not well-defining racial and ethnic groups included in the program without identified discrimination for each specific group); (2) the MBEA lacked a sunset date; and (3) the state failed to provide specific evidence that Ohio had considered race-neutral alternatives before adopting the plan to increase minority participation.³⁷

Though included in the narrow tailoring analysis, the *Drabik* court noted an additional concern with the state’s statistical proffer (regarding availability/utilization), which it dubbed a “fatal flaw”:

In addition to the foregoing problems, Ohio's own "underutilization" statistics suffer from a fatal conceptual flaw, as the district court noted: they do not report the actual use of minority firms; they only report the use of minority firms who have gone to the trouble of being certified and listed among the state's 1,180 MBEs. While it might be true that most or all of the relevant firms would have sought to take advantage of the special minority program, there is simply no examination of whether contracts are being awarded to minority firms who have never sought such preference, whether from principle, oversight, calculation of the worth of the program, or for some other reason, and who have been awarded contracts in open bidding.³⁸

Drabik thus underscores that MWBE programs must be designed so that the benefits of the programs are targeted specifically toward those firms that faced discrimination in the Relevant Marketplace. To withstand a challenge, relief also must extend only to those minority groups for which there is evidence of discrimination.³⁹

³⁶ *Id.* at 736-37.

³⁷ *Id.* at 739.

³⁸ *Id.* at 737.

³⁹ *Id.* at 737.

IV. PURCHASING POLICIES, PRACTICES, AND PROCEDURES REVIEW

A. Introduction

This chapter is designed to review the written policies and practices of Memphis-Shelby County Schools (hereafter “MSCS”) with respect to purchasing and contracting, including related programs or efforts to enhance inclusion of Minority Business Enterprises, Women Business Enterprises, and Local Small Businesses (MBEs, WBEs, and LSBs respectively).

MSCS currently has a program that employs contract-by-contract goal setting for MBE, WBE, and SBE participation for bids or RFPs that have an estimated cost of \$100,000 or more⁴⁰. MSCS’s Minority, Women, and Small Business Enterprise (“MWSBE”) Program was initially developed in 2013 and was revised in 2018 and 2019 following a disparity study completed in 2017.

Underlying this policy review is an understanding that written policies and practices may not always be consistently administered, as there is often room for interpretation or discretionary implementation. Accordingly, policy interviews were conducted to identify any deviations or differing interpretations of policies in order to determine whether such deviations or interpretation differences have any effect on participation by small businesses and businesses owned by minorities and women.

This Study will conclude with specific findings about MSCS’s policies, practices, and procedures. Formal recommendations for improvement of the overall procurement process and greater achievement of its goals will also be provided based upon the findings.

B. Document Review and Personnel Interviews

In preparation for the policy interviews, GSPC reviewed, among other materials:

- Memphis-Shelby County Schools Procurement Services Reference Manual;
- Shelby County Board of Education, Minority, Women, and Small Business Enterprise Participation 2011, February 26, 2019;
- Shelby County Board of Education, Purchasing Authority 2006, August 31, 2021;
- Shelby County Schools Business Market Availability and Disparity Study, November 2017;
- The MSCS website; and
- Other publicly available resources relating to MSCS procurement.

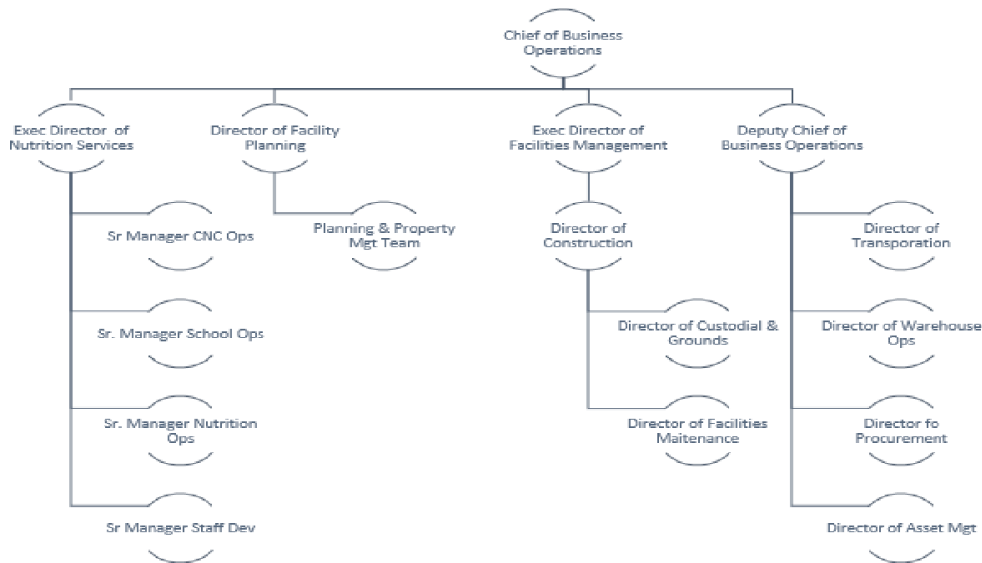
GSPC conducted policy interviews in November 2022 with decisionmakers and officials regularly engaging in purchasing and contracting for MSCS.

⁴⁰ Procurement Services Reference Manual, Memphis-Shelby County Schools, September 1, 2021, p. 29.

C. Overview of Memphis-Shelby County Schools Purchasing and Contracting

Procurement within MSCS is centralized. The organizational chart below shows the overall MSCS structure during the Study Period.

Figure 1: MSCS Organizational Chart



The procurement of goods and services is handled by the Procurement Services department of MSCS. The Shelby County Board of Education (“Board”), which governs the business operations of MSCS, has developed policies “to encourage and promote participation of minority- and woman-owned business enterprises in procurement opportunities with MSCS. The MWSBE program is managed separately by the Department of Minority, Women-Owned and Small Business Enterprise (“MWSBE Office”).

1. Informal Procurement

With respect to purchasing thresholds, MSCS requires varying solicitation requirements for purchases under \$500, between \$500 - \$24,999, between \$25,000 - \$100,000, and above \$100,000.

Purchases under \$500 do not require a purchase order prior to purchase. Invoices for purchases up to \$500 (in aggregate) are submitted directly to the MSCS Accounts Payable Office. For purchases over \$500 but below \$25,000 a purchase order is required. Additionally, these purchases may be made in the open market *without* newspaper notice but must (when possible) be based upon at least three quotes.⁴²

⁴¹ According to the General Counsel this threshold has increased to \$49,999, however it is not yet reflected in the District’s written policy. Therefore, for the purposes of this Study, GSPC will use the language of the current MSCS policy.

⁴² Minority, Women, and Small Business Enterprise Participation, Shelby County Board of Education 2010, revised February 26, 2019.

Informal bids and purchases do not go to the MWSBE Office for minority, women, or small business goal setting.

2. Formal Procurement

Purchases equal to or greater than \$25,000 must be submitted for a competitive bid. Purchases equal to or greater than \$100,000 have the additional requirement of being submitted to the MWSBE Office for MWBE goal setting. Additionally, Board approval is required for purchases of goods and services with a cost of equal to or greater than \$100,000.

3. Exceptions to Formal Procurement

Several exceptions to the formal procurement threshold exist: (1) sole source purchase; (2) emergency procurement; (3) liability insurance; (4) joint purchases with another Local Education Agency or municipality, county, utility district, or other local governmental unit of the state.

If the Director of Procurement Services determines there is only one source for the required supply, service, or construction item, MSCS may proceed with utilizing that vendor. MSCS has a detailed rubric outlining when and how a sole source may be used for a particular procurement objective. The MSCS procurement policy makes clear that sole source procurement is meant to be utilized in particular circumstances where there is no other supply or service that will satisfy the agency requirement and the circumstance meets the uniqueness, immediacy, emergency, legitimacy, inadequacy, and exigency requirements outlined in the procurement policy. Despite the multi-layered and rigid written policy, GSPC noted that staff have some concerns regarding the transparency of the identity of the sole-source vendors and the types of projects for which they are hired.

The second exception is for emergency purchases “made because of the existence of an emergency situation.” Emergency purchases can be approved by the Director of Procurement Services. However, if the value of the purchase falls within the range for which Board approval is required, the purchase must be presented to the Board at its next meeting.

The third and fourth exceptions do not warrant extended discussion, but nevertheless constitute exceptions to the competitive bid process.

4. Construction Services

MSCS primarily bids construction projects as Design-Build. It requires that the procurement of construction services follows the basic threshold rules outlined above based on the total value of the contract. Additionally, construction vendors bidding for projects in excess of \$25,000 must complete a separate form that collects information required by the State of Tennessee. The successful bidder on a project in excess of \$25,000 must provide a performance bond for the full amount of the bid price. Construction vendors must also hold proof of insurance in pre-determined limits that list MSCS as the Certificate Holder. Certain projects may require that the bidder include a Bid Bond for 5% of the total bid price with their bid.

As noted above, projects above \$100,000 must be submitted to the MWSBE Office so that the office can review for MWSBE participation. Staff members stated they submit as many projects to the MWSBE Office as possible in order to “goal” the project. Of course, not all projects can be assigned goals due to the budget or availability of MWSBEs in the actual utilization area. In the last five years or so, MSCS has had numerous projects funded by the federal government through the Elementary and Secondary School Emergency Relief (ESSER) program. The projects funded by ESSER have been bifurcated into two phases. MSCS staff stated they cannot set goals on projects funded by ESSER. Staff members estimated this policy has exempted vast portions of school construction projects from minority, women, and small business goal-setting. These projects included new HVAC systems in some schools and six building additions. Phase one is complete and the second phase is currently underway.

5. Qualification-Based Procurement

MSCS defines a professional service as “those services provided by an individual or group of individuals that involve unique creativity, talents, and abilities or special training or skills.”⁴³

The MSCS policy states that typically MSCS solicits procurement for professional services. However, MSCS policy does not require that professional services be submitted to the open market, rather only requiring that contracts for professional “services...be obtained through a process that is equitable and fair”.⁴⁴ MSCS uses a rotating list of professionals for services. Other departments stated that the rotating list is a closed list of professional vendors that is rarely opened for additional vendors to join the rotation.

We note that there is some inconsistency amongst departments regarding the efficacy of this procurement process. Some staff have indicated that the process is not entirely transparent. Specifically, MSCS staff members note that small businesses may be overlooked in the procurement process, because there is an assumption that the small businesses do not have the qualifications necessary for certain professional services contracts. However, the specific qualifications needed to secure the contract(s) are not made public. Moreover, staff indicated spending forecasts for professional services are not regularly published. Without these forecasts, it is difficult for small businesses to prepare for MSCS’ upcoming projects.

6. Cooperative and Joint Purchasing

Members of the facilities staff stated that MSCS engages in some joint purchasing with government entities within the construction user area. The MWSBE Office also mentioned that some joint purchasing projects do exist, but these projects are not funneled through the MWSBE Office. Staff there do not learn of these purchases until Board meetings when the projects are discussed. The Procurement Department explained that MSCS engages in “piggyback” contracts with the state on occasion for various user areas including vehicles and office supplies.

⁴³ Procurement Services Reference Manual, Memphis-Shelby County Schools, September 1, 2021, p. 21.

⁴⁴ Procurement Services Reference Manual, Memphis-Shelby County Schools, September 1, 2021, p. 21.

7. Strategic Sourcing Suppliers

MSCS's procurement manual states that it has already approved "Strategic Sourcing suppliers" for offices supplies, educational supplies, printing services and equipment. There is a contract with fixed pricing already in place (a master-service agreement, "MSA"). MSCS policy states that it is highly recommended that departments purchase from these suppliers. Departments can access a list of the suppliers and the discounts at www.scsk12.org. Requests for purchases through strategic suppliers must be made in APECS.

8. Bundling and Unbundling

The MSCS policy has policies against unbundling projects to avoid threshold-based solicitation requirements.⁴⁵ However, GSPC noted that on occasion, the MWSBE Office requests that larger projects be unbundled so that MWSBEs can be included in a larger project.

Additionally, some construction projects were bundled to improve efficiency, but the component parts of the project were awarded separately. This practice appears to be limited to the ESSER projects (which are ineligible for MWSBE goal setting because they are federally funded).

9. Vendor Registration and Prequalification

MSCS registers vendors by "commodity" otherwise commonly referred to as user areas. Vendors register with MSCS's and are notified of upcoming projects in their commodity area. This system is utilized for all commodity areas and is particularly utilized in the professional services category.

D. Bonding, Insurance, and Prompt Payment Issues

1. Bonding and Insurance

Bonding is required for all construction projects equal to or greater than \$25,000. The successful bidder must provide a performance bond executed by a surety or bonding company in the *full amount* of the bid price of the project.⁴⁶

Proof of insurance is required in certain amounts for successful construction bidders. The policy does not discuss insurance requirements for other user areas, but MSCS staff members have indicated that there is some confusion amongst potential bidders (for example, in transportation), regarding insurance requirements. We note that prime and sub-contractor survey results, located in the anecdotal chapter of this disparity study, are relevant to this topic.

⁴⁵ Procurement Services Reference Manual, Memphis-Shelby County Schools, September 1, 2021, p. 8.

⁴⁶ Procurement Services Reference Manual, Memphis-Shelby County Schools, September 1, 2021, p. 25.

2. Prompt Payment

MSCS staff stated there have been some prompt payment complaints in the construction user area, but not in any others. The primary issue with prompt pay in the construction area stems from a long pay application process that includes a verification process with subcontractors. Specifically, MSCS must confirm that the subcontractor's contract with the prime contractor meets the wage and labor requirements. We note that prime and subcontractor survey results, located in the anecdotal chapter of this disparity study, are relevant to this topic.

E. Small Business Enterprise and Local Small Business

1. Overview of Key Programmatic Elements

The MWSBE program at MSCS was founded in 2017 following the prior disparity study. As indicated above, MSCS does not require bids below \$100,000 to be submitted to the MWSBE Office for minority, woman, or small business goal setting.

Local vendors are given a 5% preference in solicitations to the second lowest bidder if that bidder is a local vendor. Staff indicated that this 5% preference has made a difference in some instances.

2. Sheltered Market Program

There is a Sheltered Market for small businesses. This Sheltered Market started in July 2021. MSCS's policy states that it is "race and gender neutral" and requires "all purchases and contracts under \$100,000 to automatically be procured from the Sheltered Market", but only if there are at least three certified SBE firms available. The objective of MSCS's Sheltered Market program is to increase small, minority, and women-owned business enterprises participation in contracts with MSCS and eliminate barriers that those firms face in scaling their companies.⁴⁷

Notably, the MWSBE Manager and the Procurement Director may agree to exclude any procurement in this category from the Sheltered Market at their *joint* discretion.⁴⁸ The MWSBE Manager and Procurement Director may also agree to designate a contract over \$100,000 for SBEs, except for construction contracts or those that would contravene state or federal law.⁴⁹ The MWSBE Manager and the Procurement Director may designate a portion of a contract for Sheltered Market procurement (except for construction). Finally, in order to qualify for a Sheltered Market procurement, an SBE must perform a prescribed percentage of the contract. For manufacturing contracts, at least 50% of the cost of manufacturing, including the cost of materials, must be performed by an SBE prime contractor. For services contracts, at least 50% of the contract cost for personnel must be performed by the SBE prime contractor's own employees.⁵⁰

⁴⁷ Small Business Enterprise Program, Memphis-Shelby County Schools.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

3. MWBE Goals

According to MSCS MWBE Program Administrative Procedures Manual and Sheltered Market policy, the Superintendent or his/her designee recommends district-wide MWBE and SBE aspirational goals to the School Board for its approval. The goals are based on the availability of the number of certified firms and scope of work. This written process is inconsistent with the policy as it is practiced within MSCS as explained by MSCS employees. Staff explained that the MWSBE Office sets the MWSBE participation goals. The MWSBE Office meets with the stakeholder department and the procurement department to review the goals, field suggestions, and finalize the goal(s). The MWSBE Office will accept good faith effort exceptions where the MWSBE participation goals cannot be achieved. The MWSBE Office noted that when firms fail to submit substantiating good faith effort documentation, their good faith effort forms are not accepted. Bidders who fail to satisfy good faith efforts have been rejected from the bidding process.

4. Certification

Firms must be certified as an MWBE, SBE, or LSB for their participation to count toward the participation goal numbers. MSCS accepts the certification from the City of Memphis, Shelby County Government, Memphis and Shelby County Airport Authority, and the Mid-South Minority Business Council Continuum/Uniform Certification Agency (MMBC-UCA) and TriState Minority Supplier Development Council (TMSDC).

5. Outreach

Currently, the MSCS MWSBE Office conducts outreach on Facebook, a monthly pre-certification and MWBE 101 Workshops, a quarterly post-certification workshop and has a segment on MSCS's radio station. The MWSBE Office maintains an accepted vendor list of certified MWSBE vendors on B2Gnow.

MSCS is in the process of establishing a partnership with River City Capital to secure financing for MWSBEs.

6. Reporting of MWBE Utilization

MSCS started using B2Gnow in 2020 following the prior disparity study from 2017.⁵¹ The MWSBE Office reports MSCS's MWSBE procurement data to the board on a quarterly basis.

⁵¹Business, Market Availability, and Disparity Study: Memphis-Shelby County Schools, MGT Consulting Group, November 2017.

Table 6: MSCS MWBE Spend

Classification	June 19, 2019 – July 30, 2020		July 1, 2020 – June 30, 2021		July 1, 2021-June 30, 2022	
	Dollars	Percent	Dollars	Percent	Dollars	Percent
Minority Business Enterprise	\$28,743,311	13%	\$53,202,123	19.8%	\$56,061,047.12	18.12%
Women Business Enterprise	\$11,082,110	5%	\$13,296,762	4.9%	\$23,206,790.29	7.50%
Total Diversity Spend	\$39,825,421	18%	\$66,498,886	24.7%	\$79,267,837	25.62%

Source: MSCS, Source: MWBE Expenditure Report, Period Covering: June 19, 2019, through June 30, 2022.

F. Budget and Staffing

The MWSBE Office at MSCS has a total operating budget of about \$300,000 per year.⁵² The department has four full-time employees. Staff have indicated the office size and budget are too small for a district the size of MSCS.

G. Conclusion

MSCS procurement is governed by its own procurement policy. At present, MSCS has implemented policies and programs to try to meet its express objective of greater inclusion and has also established goals for MWSBEs in certain contracts for construction, engineering/architecture, professional services, other services, and supplies. At the close of the present Study, GSPC will provide specific findings regarding the procurement policies and practices at MSCS and will also make recommendations for achieving greater MWSBE participation, should the quantitative and qualitative evidence gathered and analyzed indicate disparities in these areas. These findings and recommendations will be included in an Executive Summary accompanying the final Report.

⁵² Interview with MWSBE Manager, November 18, 2022.

V. QUANTITATIVE ANALYSIS

A. Introduction

The quantitative analysis of a disparity study measures and compares the availability of firms in each race/ethnicity/gender group within the Memphis-Shelby County Schools (hereinafter, “MSCS”) Relevant Market area to the utilization of each race/ethnicity/gender group, measured by the payments to these groups by MSCS during FY 2018-FY2022 (“Study Period”).

Research Question: Statistical Analysis

Is there a disparity that is statistically significant between the percentage of available, qualified, and willing M/WBE firms, in the Relevant Market, and the percentage of dollars spent with M/WBE firms in that same Relevant Market during the Study Period?

The outcome of the comparison shows whether there is a disparity between Availability and Utilization or Utilization is in Parity with Availability (i.e., the amount to be expected). Where there is disparity, a determination is made whether it is an Overutilization or an Underutilization. Further, the disparity is tested to see if it is statistically significant. Finally, the regression analysis contained in the Chapter VI Private Sector Analysis tests for other explanations for the disparity to determine if it is likely that the disparity is caused by race, ethnicity, and gender status, or other factors. Where there is statistically significant Underutilization of MWBEs that is likely caused by race, ethnicity, and/or gender, there is a factual predicate evidence for consideration by the MSCS for the use of narrowly tailored race- and gender-conscious remedies.

B. Data Assessment and Requests

The data assessment process was initiated with a series of meetings with representatives from the MSCS’s various departments that are involved in purchasing. The purpose of each of these meetings was to determine what data the MSCS maintains, in what format, and how GSPC can obtain the data. Further, the objective was for GSPC to get a better understanding of the MSCS’s purchasing process in order to best execute the methodology that has been approved by the MSCS. It was also important for GSPC’s team to get to know procurement personnel and understand how to operate the Study in a manner least intrusive to MSCS personnel.

GSPC’s Data Assessment Report is attached hereto as Appendix C.

C. Data Assignment, Cleanup and Verification

Following approval of the Data Assessment Report, GSPC developed and executed a Data Collection Plan and submitted data requests to the MSCS. The Data Collection Plan sets out the process for collecting manual and electronic data for statistical analyses. In addition, it included a plan for collecting data needed for the anecdotal portions of the study which included surveys, public hearings, focus groups, and interviews.

Electronic data (MS Excel or other computer spreadsheets) supplied by MSCS, and other data collected by GSPC were cataloged and stored in GSPC's computer systems subsequent to the data collection effort. The data entered were used to develop databases containing contracting history for each business type, for both prime contracting and subcontracting on behalf of the MSCS. GSPC related all of the databases collected in order to cross-reference information among the files, including matching addresses, Industry Categories, and MWBE identification.

After the completion of data collection, the data was electronically and manually "cleaned" to find duplicates and fill in unpopulated fields. The cleanup phase also included the following six (6) tasks:

- Finding firms and purchases to be excluded from the analysis (*e.g.*, governmental agencies, not-for-profits, utilities, colleges & universities, et. al)
- Assigning and verifying race, ethnicity, and gender of each firm;
- Assigning each firm to one or more of the five (5) industry categories based upon the kind of work that the firm performs;
- Utilizing zip codes to determine each firm's location;
- Matching files electronically to pick up addresses, ethnicity/race/gender, and/or industry category; and
- Filling in any additional missing data on firms.

File cleanup was first done electronically by linking information provided by the MSCS to certain indicators, like work descriptions or cross-referencing information with other files to fill in missing fields.

1. Assignment of Ethnicity and Gender

To identify MWBE groups, GSPC utilized the assignments given to firms in the governmental lists from the:

- MSCS Certified Vendors
- City of Memphis Certified Vendors
- Shelby County Certified Vendors
- State of Tennessee Certified (TNUCP) Vendors
- SAM.gov Certified Vendors
- MSCAA Certified List

In assignment of race/gender/ethnicity, priority is given to race/ethnicity, so that all minority owned firms were categorized according to their race/ethnicity and not by gender. Non-minority women are categorized by race and gender and firms with no race/ethnicity/gender indicated, Caucasian male owned firms, and publicly owned corporations are categorized as Non-MWBE firms.

From all the governmental certification sources, GSPC assembled a Master MWBE list. Where there were any inconsistencies in the race/ethnicity/gender, GSPC researched the firm and manually resolved any inconsistencies.

2. Assignment of Industry Categories

To place firms in the proper industry categories, GSPC used the item purchased or work descriptions to assign the firms to one of the five Industry Categories of Construction, A&E, Professional Services, Other Services, and Goods. Further, where other indicators were missing GSPC used certain word descriptions in firm names (e.g. ABC Construction or XYZ Mowing Services) and researched firms to determine the type of work they did.

3. Master Vendor File

The purpose of the Master Vendor File is to collect, in one database, a listing of all firms that are ready, willing, and able to do business with the MSCS. It includes internal lists from MSCS as well as outside governmental lists. The Master Vendor file is a compilation of all lists of vendors used to determine availability estimates. It was also used to match and verify data in other data files, particularly to make sure that information assigned to firms for utilization calculations matched the information assigned to firms for availability calculations. This is important to make sure that GSPC is comparing like-data to like-data. The Master Vendor File contains the lists of firms from the following data sources:

- MSCS Payees
- MSCS Subcontractors
- MSCS Awardees
- MSCS Registered Vendors
- MSCS Certified Directory
- City of Memphis Vendors
- City of Memphis Certified Firms
- Shelby County Vendors
- Shelby County EOC Certified Firms
- State of Tennessee Certified (TNUCP) Firms
- State of Tennessee DOT Prequalified list Firms

Availability is determined by using all the unique firms in the Master Vendor File within the Relevant Geographic Market.

D. Relevant Market Analysis

The commonly held idea that the Relevant Geographic Market Area should encompass about 75% to 85% of the "qualified" vendors that serve a particular sector has its origins in antitrust lawsuits.⁵³ In line with antitrust precepts, United States Supreme Court, Justice Sandra Day

Relevant Market Area is the geographic location where the MSCS spends around 75% of its dollars. The Utilization and Availability analyses are conducted only using firms located within the Relevant Market Area

O'Connor in Croson, specifically criticized the City of Richmond, Virginia, for making MBEs all over the country eligible to participate in its set-aside programs.⁵⁴ The Court reasoned that a mere statistical disparity between the overall Minority population in Richmond, Virginia, which was 50% African American, and the award of prime contracts to Minority-owned firms, 0.67% of which were African American-owned firms, was an insufficient statistical comparison to raise an inference of discrimination. Justice O'Connor also wrote that the relevant statistical comparison is one between the percentage of MBEs in the marketplace (or Relevant Market Area) who were qualified to perform contracting work (including prime and Subcontractors) and the percentage of total MSCS contracting dollars awarded to Minority firms.

MSCS's Relevant Geographic Market Area has been determined for each of the Industry Categories:

- Construction;
- A&E;
- Professional Services;
- Other Services; and
- Goods.

For each purchasing category, GSPC measured the "Relevant Geographic Market Area" as the area where around 75% of the MSCS dollars were paid during the Study Period. In doing that, GSPC converted vendors' Postal Zip Codes into County/State and then drew the Relevant Geographic Market Area. GSPC determined that the Geographic Relevant Market is the Memphis Metropolitan Statistical Area (MSA).⁵⁵

The results of Relevant Geographic Market Area for each Industry Category are presented in the Utilization of Prime Analysis in Relevant Geographic Market Area Prime Data, Professional Services table below. It shows that close to 94.74% of all Construction related procurements, during the Study Period, were paid to vendors within the MSCS Relevant Geographic Market Area. The MSCS Relevant Geographic Market Area covered 89.59% of A&E, 57.97% of Professional Services, 68.06% of Other Services, and 56.1% of Commodities. Given that 70.0% of all the MSCS spending was with firms located in this Relevant Geographic Market (and 75% of MSCS spending outside of Goods), GSPC determined that one consistent

⁵³ D. Burman. "Predicate Studies: The Seattle Model," Tab E of 11-12 Minority and Women Business Programs Revisited (ABA Section of Public Contract Law, Oct. 1990).

⁵⁴ Croson, 488 U.S. 509, 709 S. Ct. 706 (1989).

⁵⁵ The MSA is composed of Shelby County, DeSoto County, Tate County, Crittenden County, Marshall County, Tipton County, Fayette County and Tunica County.

Relevant Geographic Market across all Industry Categories was appropriate. A more detailed breakdown of the Relevant Geographic Market by MSCS is included in Appendix D.

Table 7: Relevant Market⁵⁶ Procurement by Market Area Counties and State

(Using Payment Dollars, FY 2018-2022)

MSCS Disparity Study

Work Category	Area	Amount	Percent	Cumulative %
Construction	Shelby County in Memphis	\$ 248,704,582.68	84.30%	84.30%
	Relevant Market Area	\$ 30,817,131.49	10.45%	94.74%
	Rest of CSA	\$ 183,638.51	0.06%	94.80%
	Rest of State	\$ 5,972,902.05	2.02%	96.83%
	Rest of USA	\$ 9,360,337.85	3.17%	100.00%
	Total	\$ 295,038,592.58	100.00%	
A&E	Shelby County in Memphis	\$ 11,974,771.81	75.37%	75.37%
	Relevant Market Area	\$ 2,259,708.25	14.22%	89.59%
	Rest of State	\$ 11,146.95	0.07%	89.66%
	Rest of USA	\$ 1,578,067.89	9.93%	99.59%
	Rest of International	\$ 65,283.62	0.41%	100.00%
	Total	\$ 15,888,978.52	100.00%	
Professional Services	Shelby County in Memphis	\$ 55,674,542.92	30.46%	30.46%
	Relevant Market Area	\$ 50,292,233.04	27.51%	57.97%
	Rest of State	\$ 14,016,028.01	7.67%	65.64%
	Rest of USA	\$ 62,774,462.45	34.34%	99.99%
	Rest of International	\$ 26,932.18	0.01%	100.00%
	Total	\$ 182,784,198.60	100.00%	
Other Services	Shelby County in Memphis	\$ 255,570,783.62	64.33%	64.33%
	Relevant Market Area	\$ 14,817,375.27	3.73%	68.06%
	Rest of State	\$ 29,970,301.74	7.54%	75.60%
	Rest of USA	\$ 96,943,223.20	24.40%	100.00%
	Rest of International	\$ 1,723.60	0.00%	100.00%
	Total	\$ 397,303,407.43	100.00%	
Goods	Shelby County in Memphis	\$ 198,095,054.97	48.86%	54.52%
	Relevant Market Area	\$ 7,587,388.69	12.15%	56.61%
	Rest of CSA	\$ 4,720,290.52	1.17%	57.91%
	Rest of State	\$ 31,949,603.39	7.90%	66.70%
	Rest of USA	\$ 121,005,969.54	29.92%	100.00%
	Total	\$ 363,358,307.11	100.00%	

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Note: GSPC uses full decimal numbers, so automatic rounding may cause differences within the tables.

⁵⁶ 0.01 differences within the tables in the Statistical Chapter are due to automatic rounding.

E. Availability Analysis

1. Methodology

The methodology utilized to determine the Availability of businesses for public contracting is crucial to understanding whether a disparity exists within the Relevant Geographic Market Area. Availability is a benchmark to examine whether there are any disparities between the Utilization of MWBEs and their Availability in the marketplace.

Availability Estimate is the determination of the percentage of MWBEs that are “ready, willing, and able” to provide Goods or services to MSCS.

Croson and subsequent decisions give only general guidance as to how to measure Availability. One common theme from the court decisions is that being qualified to perform work for a local jurisdiction is one of the key indices of an available firm. In addition, the firm must have demonstrated that it is both willing and able to perform the work.

The measures of Availability utilized in this Study incorporate all the criteria of Availability required by Croson:

- The firm does business within an industry group from which the MSCS makes certain purchases;
- The firm's owner has taken steps (such as registering, bidding, certification, prequalification, etc.) to demonstrate interest in doing business with government; and
- The firm is located within a relevant geographical market area such that it can do business with the MSCS.

An MWBE Availability Estimate is expressed as a percentage of total Availability, computed by dividing the number of firms in each MWBE group in each Industry Category by the total number of businesses in the pool of firms for that Industry Category. Once these Availability estimates were calculated, GSPC compared them to the percentage of firms utilized in the respective business categories to generate the disparity indices, which will be discussed later in this analysis.

2. Measurement Basis for Availability

There are several approaches to measuring available, qualified firms. GSPC has established a methodology of measuring Availability based upon demonstrated interest in doing business with governments in the Relevant Geographic Market area and in the relevant Industry Category. A firm is considered to be demonstrating interest if the owner has taken steps, such as registering, bidding, certification, prequalification, etc. In determining those firms to be included in the Availability pool, GSPC included the entire “Master Vendor File.”

3. Capacity

The ability or capacity to perform the work is tested in the Regression Analysis conducted in Chapter VI: Private Sector Analysis herein. The Regression Analysis shows whether race, ethnicity, and gender factors are impediments overall to the success of MWBEs in obtaining awards in the marketplace and whether,

but for those factors, firms would have the capacity to provide goods and services on a level higher than what is presently being utilized.

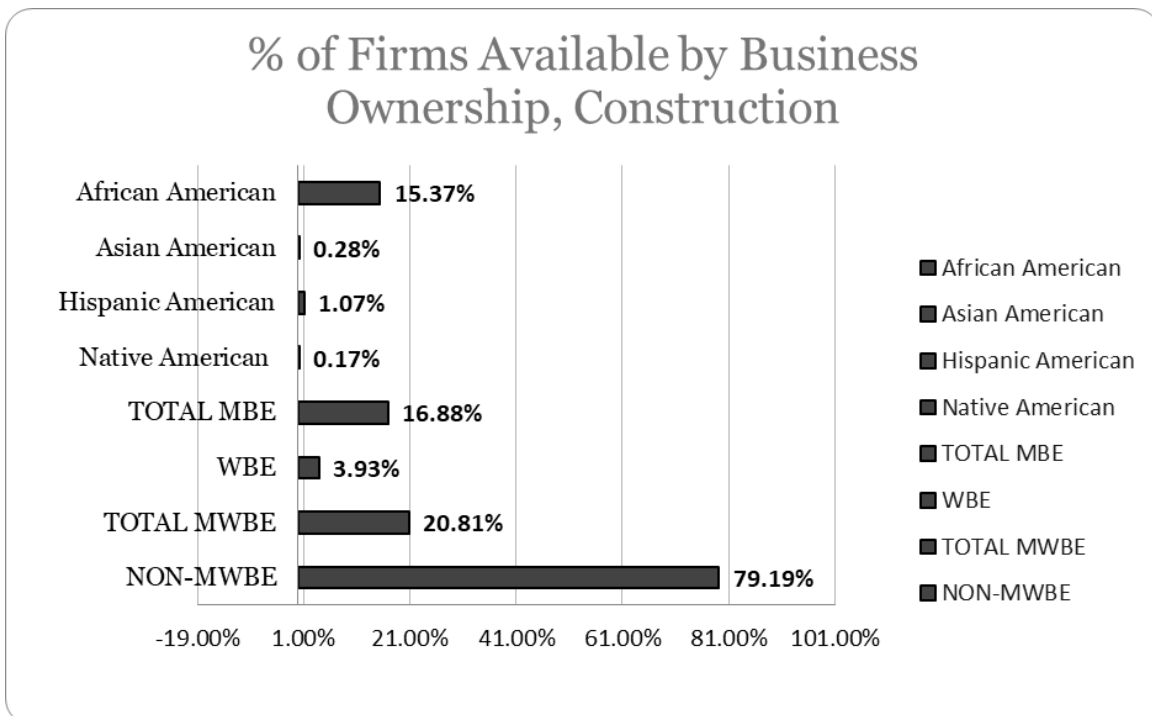
4. Availability Estimates

The Availability estimates for the Study are separated into five (5) Industry Categories. Figures 2 through 6 below show the number of available firms by race/gender/ethnicity as compared with the total number of available firms. See Tables H-1 through H-5 in Appendix H for detailed Availability information including the breakdown by Industry Category and the race, ethnicity, or gender of the firm owners. Note: GSPC uses full decimal numbers, so automatic rounding may cause differences within the tables.

The Availability analyzed from the Master Vendor File includes all unique vendors in each Industry Category. The MSCS Relevant Geographic Market Area availability for Construction is shown in Figure 1. As depicted in the Figure, Non-MWBE owned firms were 79.19% of all Construction firms followed by 15.37% of the firms owned by African American owned firms. Non-Minority Women owned firms represented 3.93%, Hispanic American owned firms were 1.07%, while Asian American and Native American owned firms both reflected 0.28% and 0.17% of total Construction availability, respectively. A total of 1,783 vendors were available in the Construction area.

Figure 2: Availability Estimates – Construction in the Relevant Market Memphis, MSA

MSCS Disparity Study

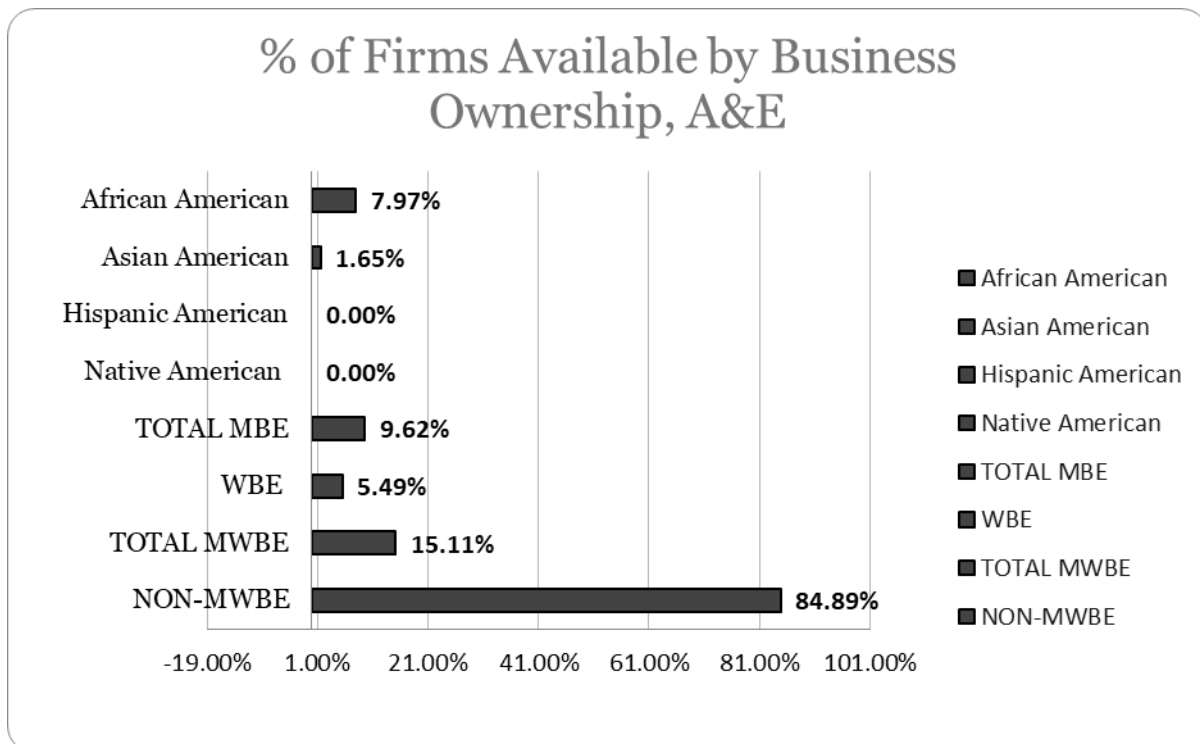


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The Availability of A&E firms by ownership in the Relevant Geographic Area is presented in Figure 2. GSPC recorded 364 vendors in that area. As the Figure reflects, 84.89% of the vendors were Non-MWBEs while 7.97% of business were owned by African Americans. Likewise, as depicted in Figure 2, Non-Minority Women owned firms represented 5.49% of total firms in that category while firms owned by Asian American showed 1.65%. There were no Hispanic American or Native American owned firms in this category.

**Figure 3: Availability Estimates – A&E
in the Relevant Market
Memphis, MSA**

MSCS Disparity Study

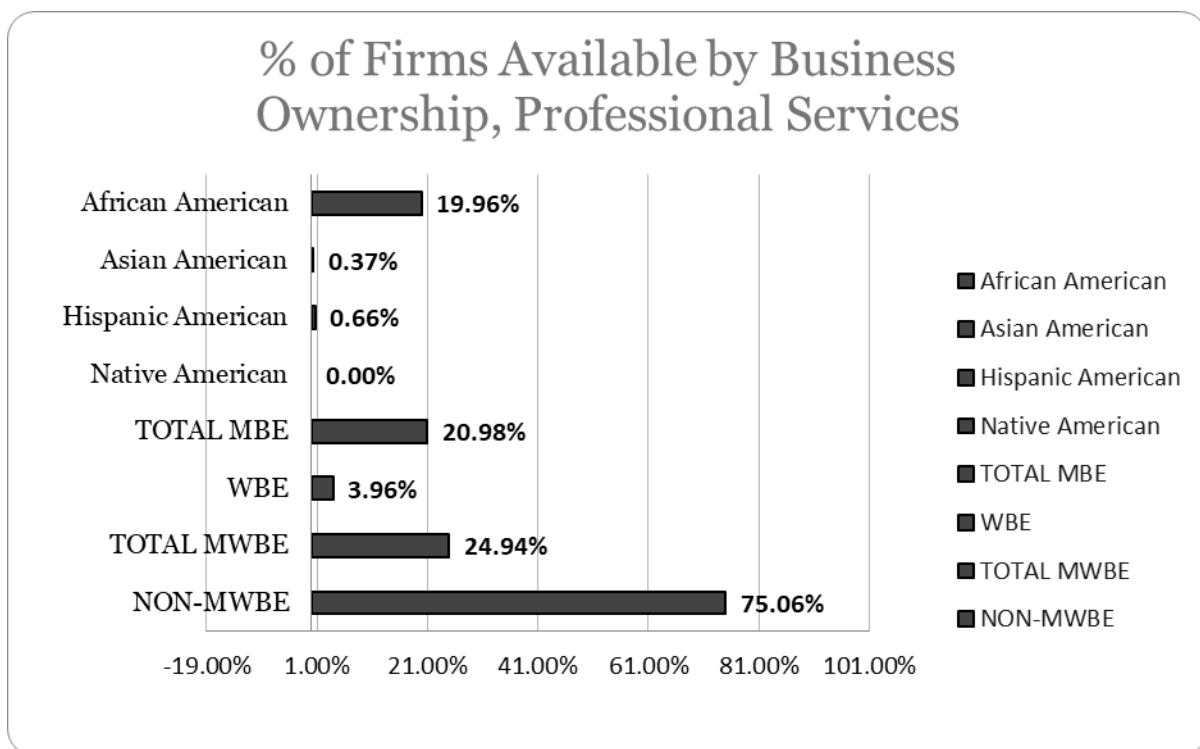


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The Availability of Professional Services firms by ownership in the Relevant Geographic Area is presented in Figure 3. GSPC recorded 1,363 vendors in that area. As the Figure below reflects, 75.06% of the vendors were Non-MWBEs while 19.96% of business were owned by African Americans. Likewise, as depicted in Figure 3, Non-Minority Women owned firms represented 3.96% of total firms in that category while firms owned by Hispanic Americans and Asian Americans showed 0.66% and 0.37%, respectively. There were no Native American owned firms in this category.

**Figure 4: Availability Estimates – Professional Services in the Relevant Geographic Market
Memphis, MSA**

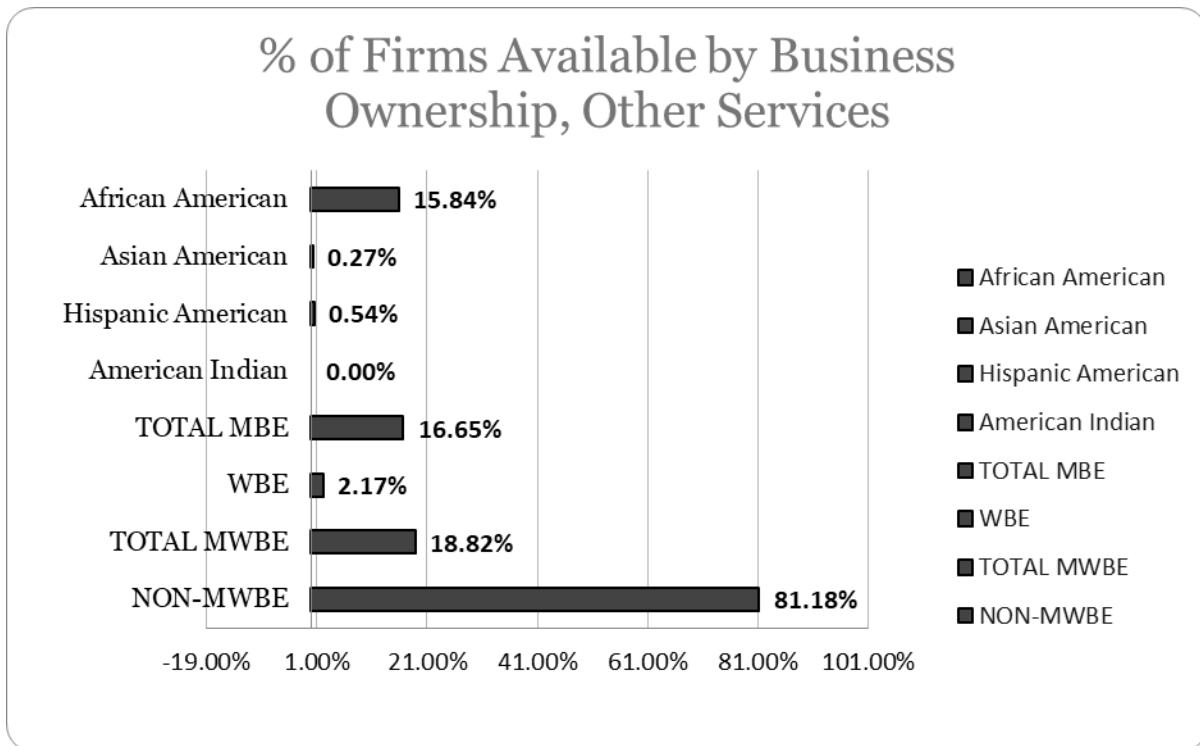
MSCS Disparity Study



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The Availability of Other Services firms in the Relevant Market Area is presented in Figure 4. As depicted in Figure 4, 81.18% of the firms were owned by Non-MWBEs and 15.84% were owned by African Americans. The Non-Minority Women owned firms consisted of 2.17%, while firms owned by Hispanic Americans, and Asian Americans owned firms were 0.54% and 0.27%, respectively. There were no Native American owned firms in this category. A total of 6,678 vendors were available in the Other Services area.

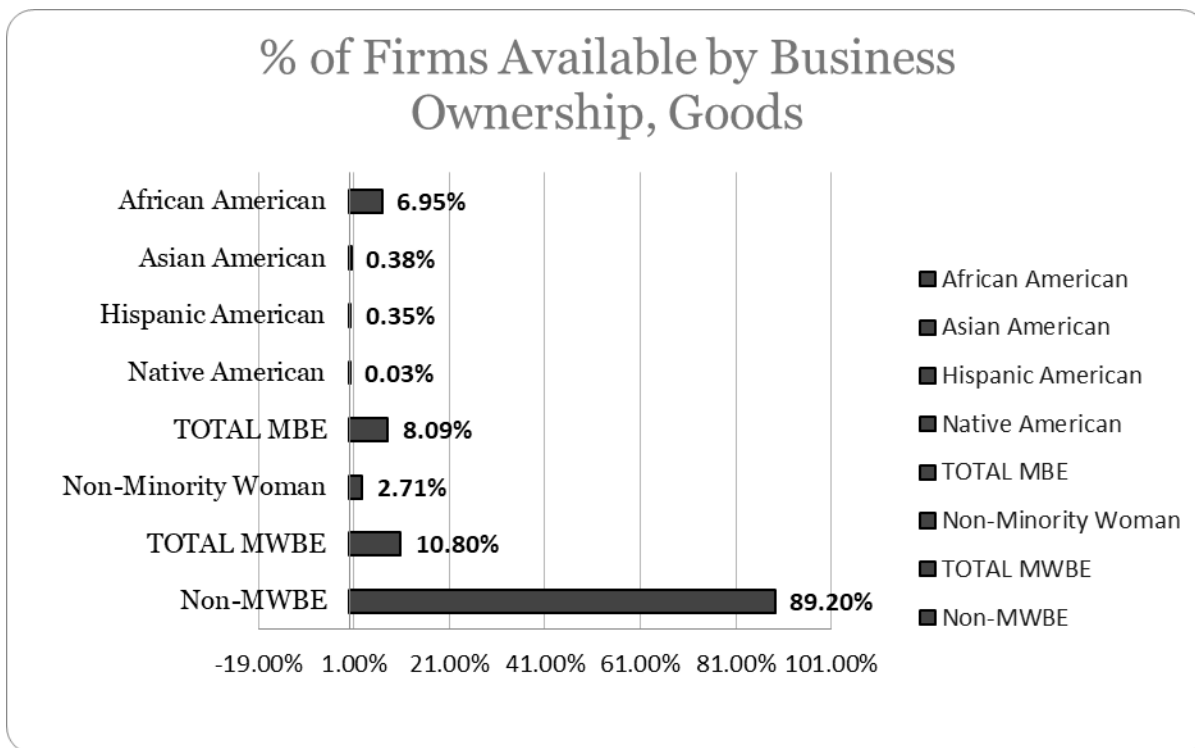
**Figure 5: Availability Estimates –Other Services in the Relevant Geographic Market
Memphis, MSA
MSCS Disparity Study**



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The Availability of Goods firms in the Relevant Market Area is presented in Figure 5. As depicted in Figure 5, 89.20% of the firms were owned by Non-MWBEs and 6.95% were owned by African Americans. The Non-Minority Women owned firms consisted of 2.71%, while firms owned by Asian Americans, Hispanic Americans and Native Americans owned were 0.38%, 0.35% and 0.03%, respectively. A total of 3,177 vendors were available in the Goods area.

**Figure 6: Availability Estimates –Goods in the Relevant Geographic Market
Memphis, MSA
MSCS Disparity Study**



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F. Utilization Analysis

1. Prime Contractor Utilization

The relevant prime payment history for the MSCS has been recorded based upon the amounts paid captured in the MSCS’s financial system and provided by the MSCS. In the Prime Contractor Utilization tables below, the dollars and percentage of dollars paid in each of the five (5) Industry Categories have been broken out by race, ethnicity, and gender for each year of the Study Period. The total of each race,

PRIME UTILIZATION is the percentage of actual payments during the Study Period made directly by MSCS to MWBEs in comparison to all vendors.

ethnicity, and gender group represented in the MWBE category, when added to the Non-MWBE category, equals the Total Column.

Note: The totals for each year represent the unique number of firms in that year. The Total Unique Number of Businesses represents the unique pool for firms used over the entire Study Period.

As shown in the Utilization of Prime Analysis in Relevant Geographic Market Area Prime Data, Construction table, 36.64% of prime procurement in Construction was spent with MWBEs. The Number of Businesses by Business Ownership and Fiscal Year Prime Data, Construction table below, in particular, shows the number of MWBE vendors that were utilized in the Construction category as compared to Non-MWBEs, 58 and 331, respectively. The average spend with MBEs in Construction was \$1,905,495, as compared to \$1,647,111 for Non-Minority Woman-owned firms and \$532,440 for Non-MWBE vendors over the Study Period. Although fewer MWBEs were utilized, MWBEs earned significantly more per firm than Non-MWBEs in Construction over the Study Period.

**Table 8: Number of Businesses by Business Ownership and Fiscal Year
Prime Data, Construction**
(Using Vendor Payments, FY 2018-2022)
MSCS Disparity Study

Business Ownership Classification	2018 (N)	2019 (N)	2020 (N)	2021 (N)	2022 (N)	2018-2022 (N)
African American	8	10	13	12	15	28
Asian American	0	0	0	0	1	1
Hispanic	0	0	1	0	0	1
Native American	0	0	0	0	0	0
TOTAL MINORITY	8	10	14	12	16	30
Non-Minority Woman	20	18	20	19	20	28
TOTAL MWBE	28	28	34	31	36	58
Non-MWBE	177	178	174	148	164	331
TOTAL FIRMS	205	206	208	179	200	389
Business Ownership Classification	2018 (%)	2019 (%)	2020 (%)	2021 (%)	2022 (%)	2018-2022 (%)
African American	3.90%	4.85%	6.25%	6.70%	7.50%	7.20%
Asian American	0.00%	0.00%	0.00%	0.00%	0.50%	0.26%
Hispanic	0.00%	0.00%	0.48%	0.00%	0.00%	0.26%
Native American	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
TOTAL MINORITY	3.90%	4.85%	6.73%	6.70%	8.00%	7.71%
Non-Minority Woman	9.76%	8.74%	9.62%	10.61%	10.00%	7.20%
TOTAL MWBE	13.66%	13.59%	16.35%	17.32%	18.00%	14.91%
Non-MWBE	86.34%	86.41%	83.65%	82.68%	82.00%	85.09%
TOTAL FIRMS	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

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**Table 9: Utilization of Prime Analysis in Relevant Geographic Market Area
Prime Data, Construction**

(Using Payment Dollars, FY 2018-2022)

MSCS Disparity Study

Business Ownership Classification	2018	2019	2020	2021	2022	2018-2022
	(\$)	(\$)	(\$)	(\$)	(\$)	(\$)
African American	\$10,539,997	\$ 8,865,449	\$ 2,813,499	\$25,191,229	\$ 7,755,274	\$ 55,165,447
Asian American	\$ -	\$ -	\$ -	\$ -	\$ 1,391,537	\$ 1,391,537
Hispanic American	\$ -	\$ -	\$ 326,048	\$ -	\$ -	\$ 326,048
Native American	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL MBE	\$10,539,997	\$ 8,865,449	\$ 3,139,547	\$25,191,229	\$ 9,146,811	\$ 56,883,032
WBE	\$ 8,165,118	\$ 8,524,037	\$ 8,802,673	\$ 7,519,522	\$12,513,581	\$ 45,524,931
TOTAL MWBE	\$18,705,114	\$17,389,486	\$11,942,220	\$32,710,751	\$21,660,392	\$102,407,963
Non-MWBE	\$14,411,760	\$41,601,824	\$69,912,906	\$17,766,757	\$33,420,505	\$177,113,751
TOTAL FIRMS	\$33,116,874	\$58,991,310	\$81,855,126	\$50,477,507	\$55,080,897	\$279,521,714
Business Ownership Classification	2018	2019	2020	2021	2022	2018-2022
	(%)	(%)	(%)	(%)	(%)	(%)
African American	31.83%	15.03%	3.44%	49.91%	14.08%	19.74%
Asian American	0.00%	0.00%	0.00%	0.00%	2.53%	0.50%
Hispanic American	0.00%	0.00%	0.40%	0.00%	0.00%	0.12%
Native American	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
TOTAL MBE	31.83%	15.03%	3.84%	49.91%	16.61%	20.35%
WBE	24.66%	14.45%	10.75%	14.90%	22.72%	16.29%
TOTAL MWBE	56.48%	29.48%	14.59%	64.80%	39.32%	36.64%
Non-MWBE	43.52%	70.52%	85.41%	35.20%	60.68%	63.36%
TOTAL FIRMS	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

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The number of firms utilized, and the associated amounts spent in A&E are presented in the two tables below. The number of unique MWBEs utilized in that Industry Category (10) was 14.93% of total number of 67 unique businesses utilized for A&E (the table below). With respect to the MSCS prime expenditures, and as reflected in the Utilization of Prime Analysis in Relevant Geographic Market Area Prime Data, A&E table below, 5.44% of the total procurement was conducted with MBEs and 5.50% with Non-Minority Women owned businesses during the Study Period. The average spend with MBEs in the A&E category was \$154,900, as compared to \$156,670 for Non-Minority Woman owned firms and \$222,397 for Non-MWBE vendors over the Study Period.

**Table 10: Number of Businesses by Business Ownership and Fiscal Year
Prime Data, A&E**

(Using Vendor Payments, FY 2018-2022)

MSCS Disparity Study

Business Ownership Classification	2018	2019	2020	2021	2022	2018-2022
	(N)	(N)	(N)	(N)	(N)	(N)
African American	2	2	3	2	1	5
Asian American	0	0	0	0	0	0
Hispanic	0	0	0	0	0	0
Native American	0	0	0	0	0	0
TOTAL MINORITY	2	2	3	2	1	5
Non-Minority Woman	3	3	2	2	0	5
TOTAL MWBE	5	5	5	4	1	10
Non-MWBE	35	34	32	29	32	57
TOTAL FIRMS	40	39	37	33	33	67
Business Ownership Classification	2018	2019	2020	2021	2022	2018-2022
	(%)	(%)	(%)	(%)	(%)	(%)
African American	5.00%	5.13%	8.11%	6.06%	3.03%	7.46%
Asian American	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Hispanic	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Native American	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
TOTAL MINORITY	5.00%	5.13%	8.11%	6.06%	3.03%	7.46%
Non-Minority Woman	7.50%	7.69%	5.41%	6.06%	0.00%	7.46%
TOTAL MWBE	12.50%	12.82%	13.51%	12.12%	3.03%	14.93%
Non-MWBE	87.50%	87.18%	86.49%	87.88%	96.97%	85.07%
TOTAL FIRMS	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

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**Table 11: Utilization of Prime Analysis in Relevant Geographic Market Area
Prime Data, A&E**

(Using Payment Dollars, FY 2018-2022)

Business Ownership Classification	2018	2019	2020	2021	2022	2018-2022
	(\$)	(\$)	(\$)	(\$)	(\$)	(\$)
African American	\$ 53,599	\$ 452,634	\$ 223,196	\$ 44,397	\$ 675	\$ 774,501
Asian American	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Hispanic American	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Native American	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL MBE	\$ 53,599	\$ 452,634	\$ 223,196	\$ 44,397	\$ 675	\$ 774,501
Non-Minority Woman	\$ 295,467	\$ 350,489	\$ 109,690	\$ 27,703	\$ -	\$ 783,349
TOTAL MWBE	\$ 349,066	\$ 803,123	\$ 332,886	\$ 72,100	\$ 675	\$ 1,557,850
Non-MWBE	\$3,155,468	\$4,069,004	\$2,729,996	\$1,421,641	\$1,300,522	\$12,676,630
TOTAL FIRMS	\$3,504,534	\$4,872,127	\$3,062,882	\$1,493,741	\$1,301,197	\$14,234,480
Business Ownership Classification	2018	2019	2020	2021	2022	2018-2022
	(%)	(%)	(%)	(%)	(%)	(%)
African American	1.53%	9.29%	7.29%	2.97%	0.05%	5.44%
Asian American	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Hispanic American	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Native American	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
TOTAL MBE	1.53%	9.29%	7.29%	2.97%	0.05%	5.44%
Non-Minority Woman	8.43%	7.19%	3.58%	1.85%	0.00%	5.50%
TOTAL MWBE	9.96%	16.48%	10.87%	4.83%	0.05%	10.94%
Non-MWBE	90.04%	83.52%	89.13%	95.17%	99.95%	89.06%
TOTAL FIRMS	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

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As shown in the Utilization of Prime Analysis in Relevant Geographic Market Area Prime Data, Professional Services table below, 17.74% of procurement dollars in Professional Services was spent with MWBEs. The Number of Businesses by Business Ownership and Fiscal Year Prime Data, Professional Services table, in particular, shows 13 MWBE vendors (11.61%) were utilized in the Professional Services area as compared to 99 Non-MWBE vendors. The average spend with Non-MWBE in the Professional Services category was \$378,671 as compared to \$1,727,600 for Non-Minority Women owned firms and \$555,423 for MBE vendors over the Study Period. Thus, although fewer Non-Minority Women owned firms were utilized, Non-Minority Women owned firms earned significantly more per firm than Non-MWBEs in Professional Services over the Study Period.

Table 12: Number of Businesses by Business Ownership and Fiscal Year Prime Data, Professional Services
(Using Vendor Payments, FY 2018-2022)

MSCS Disparity Study

Business Ownership Classification	2018	2019	2020	2021	2022	2018-2022
	(N)	(N)	(N)	(N)	(N)	(N)
African American	3	4	3	4	5	7
Asian American	0	0	0	0	0	0
Hispanic	0	0	0	0	0	0
Native American	0	0	0	0	0	0
TOTAL MINORITY	3	4	3	4	5	7
Non-Minority Woman	3	5	4	4	3	6
TOTAL MWBE	6	9	7	8	8	13
Non-MWBE	53	49	49	42	48	99
TOTAL FIRMS	59	58	56	50	56	112
Business Ownership Classification	2018	2019	2020	2021	2022	2018-2022
	(%)	(%)	(%)	(%)	(%)	(%)
African American	5.08%	6.90%	5.36%	8.00%	8.93%	6.25%
Asian American	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Hispanic	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Native American	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
TOTAL MINORITY	5.08%	6.90%	5.36%	8.00%	8.93%	6.25%
Non-Minority Woman	5.08%	8.62%	7.14%	8.00%	5.36%	5.36%
TOTAL MWBE	10.17%	15.52%	12.50%	16.00%	14.29%	11.61%
Non-MWBE	89.83%	84.48%	87.50%	84.00%	85.71%	88.39%
TOTAL FIRMS	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

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**Table 13: Utilization of Prime Analysis in Relevant Geographic Market Area
Prime Data, Professional Services**

(Using Payment Dollars, FY 2018-2022)

MSCS Disparity Study

Business Ownership Classification	2018	2019	2020	2021	2022	2018-2022
	(\$)	(\$)	(\$)	(\$)	(\$)	(\$)
African American	\$ 72,427	\$ 382,426	\$ 283,200	\$ 291,112	\$ 668,537	\$ 1,697,701
Asian American	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Hispanic American	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Native American	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL MBE	\$ 72,427	\$ 382,426	\$ 283,200	\$ 291,112	\$ 668,537	\$ 1,697,701
Non-Minority Woman	\$ 2,500,694	\$ 2,316,065	\$ 2,132,258	\$1,933,901	\$ 1,482,682	\$10,365,600
TOTAL MWBE	\$ 2,573,121	\$ 2,698,490	\$ 2,415,458	\$2,225,013	\$ 2,151,219	\$12,063,302
Non-MWBE	\$ 9,438,939	\$10,481,900	\$10,751,588	\$5,418,922	\$19,848,530	\$55,939,879
TOTAL FIRMS	\$12,012,060	\$13,180,391	\$13,167,046	\$7,643,935	\$21,999,749	\$68,003,181
Business Ownership Classification	2018	2019	2020	2021	2022	2018-2022
	(%)	(%)	(%)	(%)	(%)	(%)
African American	0.60%	2.90%	2.15%	3.81%	3.04%	2.50%
Asian American	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Hispanic American	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Native American	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
TOTAL MBE	0.60%	2.90%	2.15%	3.81%	3.04%	2.50%
Non-Minority Woman	20.82%	17.57%	16.19%	25.30%	6.74%	15.24%
TOTAL MWBE	21.42%	20.47%	18.34%	29.11%	9.78%	17.74%
NON-MWBE	78.58%	79.53%	81.66%	70.89%	90.22%	82.26%
TOTAL FIRMS	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

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The number of firms utilized, and the associated amounts spent on Other Services are presented in the two tables below. The number of unique MWBEs utilized in that Industry Category (72) was 10.73% of total number of 671 unique businesses utilized for Other Services (Number of Businesses by Business Ownership and Fiscal Year Prime Data, Other Services table). With respect to the MSCS prime expenditures, and as reflected in the Utilization of Prime Analysis in Relevant Geographic Market Area Prime Data, Other Services table below, 7.40% of the total procurement was conducted MBEs and 1.02% with Non-Minority Woman owned businesses during the Study Period. The average spend with MBEs in the Other Services category was \$713,428, as compared to \$542,020 for Non-Minority Women owned firms and \$364,948 for Non-MWBE vendors over the Study Period. Although fewer MWBEs were utilized, MWBEs earned significantly more per firm than Non-MWBEs in Other Services over the Study Period.

Table 14: Number of Businesses by Business Ownership and Fiscal Year Prime Data, Other Services (Using Vendor Payments, FY 2018-2022)

MSCS Disparity Study

Business Ownership Classification	2018	2019	2020	2021	2022	2018-2022
	(N)	(N)	(N)	(N)	(N)	(N)
African American	24	28	24	23	25	48
Asian American	1	2	2	3	3	3
Hispanic	1	1	1	0	1	2
Native American	0	0	0	0	0	0
TOTAL MINORITY	26	31	27	26	29	53
Non-Minority Woman	10	14	13	11	10	19
TOTAL MWBE	36	45	40	37	39	72
Non-MWBE	366	347	286	239	275	599
TOTAL FIRMS	402	392	326	276	314	671
Business Ownership Classification	2018	2019	2020	2021	2022	2018-2022
	(%)	(%)	(%)	(%)	(%)	(%)
African American	5.97%	7.14%	7.36%	8.33%	7.96%	7.15%
Asian American	0.25%	0.51%	0.61%	1.09%	0.96%	0.45%
Hispanic	0.25%	0.26%	0.31%	0.00%	0.32%	0.30%
Native American	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
TOTAL MINORITY	6.47%	7.91%	8.28%	9.42%	9.24%	7.90%
Non-Minority Woman	2.49%	3.57%	3.99%	3.99%	3.18%	2.83%
TOTAL MWBE	8.96%	11.48%	12.27%	13.41%	12.42%	10.73%
Non-MWBE	91.04%	88.52%	87.73%	86.59%	87.58%	89.27%
TOTAL FIRMS	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

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**Table 15: Utilization of Prime Analysis in Relevant Geographic Market Area
Prime Data, Other Services
(Using Payment Dollars, FY 2018-2022)**

MSCS Disparity Study

Business Ownership Classification	2018	2019	2020	2021	2022	2018-2022
	(\$)	(\$)	(\$)	(\$)	(\$)	(\$)
African American	\$ 724,881	\$ 2,192,059	\$ 970,817	\$ 1,011,153	\$ 7,943,397	\$ 12,842,306
Asian American	\$ 32,803	\$ 1,188,338	\$ 2,346,426	\$ 771,621	\$ 2,515,108	\$ 6,854,295
Hispanic American	\$ 420	\$ 3,760	\$ 1,000	\$ -	\$ 48,175	\$ 53,355
Native American	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL MBE	\$ 758,104	\$ 3,384,157	\$ 3,318,242	\$ 1,782,773	\$10,506,680	\$ 19,749,957
Non-Minority Woman	\$ 751,107	\$ 751,083	\$ 137,013	\$ 440,111	\$ 646,338	\$ 2,725,652
TOTAL MWBE	\$ 1,509,211	\$ 4,135,240	\$ 3,455,255	\$ 2,222,884	\$11,153,019	\$ 22,475,608
Non-MWBE	\$53,436,286	\$57,450,882	\$56,314,698	\$47,507,805	\$29,528,915	\$244,238,586
TOTAL FIRMS	\$54,945,497	\$61,586,122	\$59,769,953	\$49,730,689	\$40,681,933	\$266,714,194
Business Ownership Classification	2018	2019	2020	2021	2022	2018-2022
	(%)	(%)	(%)	(%)	(%)	(%)
African American	1.32%	3.56%	1.62%	2.03%	19.53%	4.82%
Asian American	0.06%	1.93%	3.93%	1.55%	6.18%	2.57%
Hispanic American	0.00%	0.01%	0.00%	0.00%	0.12%	0.02%
Native American	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
TOTAL MBE	1.38%	5.49%	5.55%	3.58%	25.83%	7.40%
Non-Minority Woman	1.37%	1.22%	0.23%	0.88%	1.59%	1.02%
TOTAL MWBE	2.75%	6.71%	5.78%	4.47%	27.42%	8.43%
NON-MWBE	97.25%	93.29%	94.22%	95.53%	72.58%	91.57%
TOTAL FIRMS	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

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The number of firms utilized and the associated amounts spent on Goods are presented in the two tables below. The number of unique MWBEs utilized in that Industry Category (39) was 9.77% of the total number of 399 unique businesses utilized for Other Services (Number of Businesses by Business Ownership and Fiscal Year Prime Data, Goods table below). With respect to the MSCS prime expenditures, and as reflected in Utilization of Prime Analysis in Relevant Geographic Market Area Prime Data, Goods table below), 37.73% of the total procurement was conducted MBEs and 7.59% with Non-Minority Woman-owned businesses during the Study Period. The average spend with MBEs in the Goods category was \$4,241,727 as compared to \$1,104,542 for Non-Minority Woman-owned firms and \$375,624 for Non-MWBE vendors over the Study Period. Again, MWBEs received higher average payments than Non-MWBEs. In the Goods category, the average spend with MBEs was the highest for any group across the five business categories.

**Table 16: Number of Businesses by Business Ownership and Fiscal Year Prime Data, Goods
(Using Vendor Payments, FY 2018-2022)**

MSCS Disparity Study

Business Ownership Classification	2018	2019	2020	2021	2022	2018-2022
	(N)	(N)	(N)	(N)	(N)	(N)
African American	10	12	8	11	12	19
Asian American	2	2	2	2	2	2
Hispanic	1	1	1	1	1	1
Native American	0	0	0	0	0	0
TOTAL MINORITY	13	15	11	14	15	22
Non-Minority Woman	17	17	16	15	14	17
TOTAL MWBE	30	32	27	29	29	39
Non-MWBE	238	234	220	192	196	360
TOTAL FIRMS	268	266	247	221	225	399
Business Ownership Classification	2018	2019	2020	2021	2022	2018-2022
	(%)	(%)	(%)	(%)	(%)	(%)
African American	3.73%	4.51%	3.24%	4.98%	5.33%	4.76%
Asian American	0.75%	0.75%	0.81%	0.90%	0.89%	0.50%
Hispanic	0.37%	0.38%	0.40%	0.45%	0.44%	0.25%
Native American	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
TOTAL MINORITY	4.85%	5.64%	4.45%	6.33%	6.67%	5.51%
Non-Minority Woman	6.34%	6.39%	6.48%	6.79%	6.22%	4.26%
TOTAL MWBE	11.19%	12.03%	10.93%	13.12%	12.89%	9.77%
Non-MWBE	88.81%	87.97%	89.07%	86.88%	87.11%	90.23%
TOTAL FIRMS	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

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**Table 17: Utilization of Prime Analysis in Relevant Geographic Market Area
Prime Data, Goods
(Using Payment Dollars, FY 2018-2022)**

MSCS Disparity Study

Business Ownership Classification	2018	2019	2020	2021	2022	2018-2022
	(\$)	(\$)	(\$)	(\$)	(\$)	(\$)
African American	\$ 9,685,087	\$10,512,469	\$ 7,293,595	\$ 6,092,883	\$14,792,675	\$ 48,376,710
Asian American	\$16,892,696	\$ 4,316,632	\$ 7,038,423	\$10,421,740	\$ 6,143,659	\$ 44,813,151
Hispanic American	\$ 49,340	\$ 25,000	\$ 37,300	\$ 8,500	\$ 8,000	\$ 128,140
Native American	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL MBE	\$26,627,123	\$14,854,101	\$14,369,319	\$16,523,123	\$20,944,335	\$ 93,318,001
Non-Minority Woman	\$ 1,201,668	\$ 3,000,612	\$ 4,121,712	\$ 1,561,027	\$ 8,892,196	\$ 18,777,215
TOTAL MWBE	\$27,828,791	\$17,854,713	\$18,491,030	\$18,084,151	\$29,836,530	\$112,095,216
Non-MWBE	\$26,738,980	\$30,110,227	\$24,159,527	\$20,067,044	\$34,149,009	\$135,224,788
TOTAL FIRMS	\$54,567,771	\$47,964,940	\$42,650,558	\$38,151,195	\$63,985,539	\$247,320,003
Business Ownership Classification	2018	2019	2020	2021	2022	2018-2022
	(%)	(%)	(%)	(%)	(%)	(%)
African American	17.75%	21.92%	16.50%	15.97%	23.12%	19.56%
Asian American	30.96%	9.00%	#REF!	27.32%	9.60%	18.12%
Hispanic American	0.09%	0.05%	0.09%	0.02%	0.01%	0.05%
Native American	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
TOTAL MBE	48.80%	30.97%	33.69%	43.31%	32.73%	37.73%
Non-Minority Woman	2.20%	6.26%	9.66%	4.09%	13.90%	7.59%
TOTAL MWBE	51.00%	37.22%	43.35%	47.40%	46.63%	45.32%
Non-MWBE	49.00%	62.78%	56.65%	52.60%	53.37%	54.68%
TOTAL FIRMS	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

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2. Total Utilization

MSCS tracks subcontracting dollars allocated to MWBEs but does not completely track Non-MWBE Subcontractors. GSPC conducted a Total Utilization analysis by combining prime contract dollars with subcontract dollars, after subtracting subcontract dollars from prime contract dollars on a contract-by-contract basis.⁵⁷

The Total Utilization (Prime + Subcontractor) table below shows the amount of Prime Contractor and MWBE Subcontractor dollars combined for Construction.

TOTAL UTILIZATION is the percentage of dollars awarded to combined Prime Contractors (in the Relevant Market) and Subcontractors, by ethnic/gender category, after removing subcontract dollars from prime dollars on a contract-by-contract basis.

- MBEs earned over \$57.1 million in Total Utilization, or 20.45%, while Non-Minority Woman owned firms earned over \$46.1, or 16.50% in Construction.
- MBEs earned \$774,501 in Total Utilization, or 5.44%, while Non-Minority Woman owned firms earned over \$783,349, or 5.50% in A&E.
- MBEs earned \$2,50,695 in Total Utilization, or 3.90%, while Non-Minority Woman owned firms earned \$10,365,600, or 15.54% in Professional Services.
- MBEs earned over \$37.8 million in Total Utilization, or 14.18%, while Non-Minority Woman owned firms earned over \$10.2 million, or 3.86% in Other Services.
- MBEs earned over \$93.3 million in Total Utilization, or 37.73%, while Non-Minority Woman owned firms earned over \$18.7 million, or 7.59% in Goods.

MBEs were 21.89% and Non-Minority Woman owned firms were 9.86% of Total dollars spent in the five procurement categories during the Study Period.

⁵⁷ So, for example, if there was one Asian American-owned prime contract at \$1,000, Prime Contractor Utilization counts the whole \$1,000 toward Asian American-owned firms. In Total Utilization, if the Prime Contractor subcontracts with one African American-owned subcontractor for \$300 and a Woman-owned subcontractor has \$200 in subcontracts, then in Total Utilization: $(\$1,000 - \$500) = \$500$ attributed to Asian American Prime Contractor and \$300 attributed to African American subcontractor and \$200 attributable to the Non-Minority Woman category.

Table 18: Total Utilization (Prime + Subcontractor) Analysis in Relevant Geographic Market Area

(Using Payment Dollars, FY 2018-2022)

MSCS Disparity Study

Business Ownership Classification	Construction	A&E	Professional Services	Other Services	Goods	Total
	(\$)	(\$)	(\$)	(\$)	(\$)	(\$)
African American	\$ 55,447,264	\$ 774,501	\$ 2,650,695	\$ 30,904,029	\$ 48,376,710	\$ 138,153,199
Asian American	\$ 1,391,537	\$ -	\$ -	\$ 6,854,295	\$ 44,813,151	\$ 53,058,984
Hispanic American	\$ 326,048	\$ -	\$ -	\$ 53,355	\$ 128,140	\$ 507,543
Native American	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL MBE	\$ 57,164,849	\$ 774,501	\$ 2,650,695	\$ 37,811,679	\$ 93,318,001	\$ 191,719,726
Non-Minority Woman	\$ 46,119,117	\$ 783,349	\$ 10,365,600	\$ 10,298,381	\$ 18,777,215	\$ 86,343,662
TOTAL MWBE	\$ 103,283,966	\$ 1,557,850	\$ 13,016,295	\$ 48,110,061	\$ 112,095,216	\$ 278,063,388
Non-MWBE	\$ 176,237,748	\$ 12,676,630	\$ 54,986,886	\$ 218,604,134	\$ 135,224,788	\$ 597,730,185
TOTAL FIRMS	\$ 279,521,714	\$ 14,234,480	\$ 68,003,181	\$ 266,714,194	\$ 247,320,003	\$ 875,793,573
Business Ownership Classification	Construction	A&E	Professional Services	Other Services	Goods	Total
	(%)	(%)	(%)	(%)	(%)	(%)
African American	19.84%	5.44%	3.90%	11.59%	19.56%	15.77%
Asian American	0.50%	0.00%	0.00%	2.57%	18.12%	6.06%
Hispanic American	0.12%	0.00%	0.00%	0.02%	0.05%	0.06%
Native American	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
TOTAL MBE	20.45%	5.44%	3.90%	14.18%	37.73%	21.89%
Non-Minority Woman	16.50%	5.50%	15.24%	3.86%	7.59%	9.86%
TOTAL MWBE	36.95%	10.94%	19.14%	18.04%	45.32%	31.75%
Non-MWBE	63.05%	89.06%	80.86%	81.96%	54.68%	68.25%
TOTAL FIRMS	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

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G. Determination of Disparity

This section of the report addresses the crucial question of whether, and to what extent, there is disparity between the utilization of MWBEs as measured against their Availability in the Relevant Market.

DISPARITY INDICES calculate the difference between the percentage of MSCS’s Utilization of MWBEs during the Study Period and the Availability percentage of MWBEs.

1. Methodology

The statistical approach to answer this question is to assess the existence and extent of disparity by comparing the MWBE utilization percentages (by dollars) to the percentage of the total pool of MWBE firms in the relevant geographic and product areas. The actual disparity derived as a result of employing this approach is measured by use of a Disparity Index (DI).

The Disparity Index is defined as the ratio of the percentage of MWBE firms utilized (U) divided by the percentage of such firms available in the marketplace, (A):

Let: U =Utilization percentage for the MWBE group
A =Availability percentage for the MWBE group
DI =Disparity Index for the MWBE group
DI =U/A

The results obtained by a disparity analysis will result in one of three conclusions: Overutilization, Underutilization, or Parity. Underutilization is when the Disparity Index is below one hundred. Overutilization is when the Disparity Index is over one hundred. Parity or the absence of disparity is when the Disparity Index is one hundred (100) which indicates that the utilization percentage equals the Availability percentage. In situations where there is Availability, but no utilization, the corresponding disparity index will be zero. Finally, in cases where there is neither utilization nor Availability, the corresponding disparity index is undefined and designated by a dash (-) or (Small Number) symbol. Disparity analyses are presented separately for each purchasing category and for each race/gender/ethnicity group.

2. Determining the Significance of Disparity Indices

The determination that a particular ethnic or gender group has been overutilized or underutilized is not, standing alone, proof of discrimination. Typically, the determination of whether a disparity is “statistically significant” can be based on the depth of the disparity in that any disparity index that is less than 80 is considered to be a statistically significant Underutilization, and any disparity index over 100 is considered to be an Overutilization. The disparity indices impact as designated in the tables below as “Overutilization,” “Underutilization,” or “Parity” have been bolded to indicate such statistically significant impact.

GSPC uses a statistical test that considers whether or not the typical disparity index across all vendor categories is equal to unity. This constitutes a null hypothesis of “Parity”, and the test estimates the probability that the typical disparity index departs from unity, and the magnitude of the calculated test statistic indicates whether there is typically Underutilization or overrepresentation. Statistical significance tests were performed for each disparity index derived for each MWBE group, and in each purchasing category. This approach to statistical significance is consistent with the case law.

The existence of a statistically significant disparity between the Availability and utilization of Minority or Non-Minority Woman-owned businesses which are determined to likely be the result of the owners’ race, gender, or ethnicity will establish an inference that ongoing effects of discrimination are adversely affecting market outcomes for underutilized groups. Accordingly, such findings will impact the recommendations provided in this Study. GSPC will, in such a case, make recommendations for consideration of appropriate and narrowly tailored race, ethnicity, and gender-neutral remedies for this discrimination to give all firms equal access to public contracting with the MSCS. GSPC will also, if appropriate, recommend narrowly tailored race- ethnicity-, and gender-conscious remedies to ameliorate identified barriers and forms of discrimination likely affected by such discrimination. If no statistically significant disparity is found to exist, or if such a disparity is not determined to be a likely result of firm

owners' race, ethnicity, or gender upon their success in the marketplace, GSPC may still make recommendations to support the continuation of engagement, outreach, small business development, and non-discrimination policies in the purchasing processes of the MSCS.

3. Prime Disparity Indices

The results of the Study team's statistical analysis of utilization data for the five Industry Categories are presented in the table below. The outcomes of the statistical tests are colorized for easy understanding. As reflected in the table below, there was underutilization in prime contracts for all MWBE groups, except

- African American, Asian American and Non-Minority Woman owned firms in Construction
- Non-Minority Women owned firms in Professional Services
- Asian American owned firms in Other Services
- African Americans, Asian America and Non-Minority Woman owned firms in Goods

Non-Minority Women owned firms were roughly at parity in A&E.

Several MWBE groups were overutilized for prime payments less than \$500,000 and less than \$1 million:

Under \$500,000

- African American, Hispanic American and Non-Minority Woman owned firms in Construction
- African American and Non-Minority Woman owned firms in A&E
- Non-Minority Women owned firms in Professional Services
- Asian American and Non-Minority Woman owned firms in Other Services
- Hispanic American and Non-Minority Woman owned firms in Goods

Under \$1,000,000

- Hispanic American and Non-Minority Woman owned firms in Construction
- African American and Non-Minority Woman owned firms in A&E
- Asian American and Non-Minority Woman owned firms in Other Services
- Hispanic American and Non-Minority Woman owned firms in Goods

Please see tables showing detailed analysis of this section in Appendix F, Tables F-1 through F-15.

**Table 19: Prime Contractor Disparity Analysis Summary
MSCS Disparity Study**

Firm Ownership	Construction	A&E	Professional Services	Other Services	Goods
African American	128.43	68.29	12.51	30.39	281.44
Asian American	177.53	0.00	0.00	953.43	4797.14
Hispanic American	10.95	-	0.00	3.71	14.96
Native American	0.00	-	-	-	0.00
TOTAL MBE	120.55	56.59	11.90	44.47	466.43
Non-Minority Woman	414.85	100.16	384.74	47.07	280.47
TOTAL MWBE	176.07	72.43	71.11	44.77	419.81
Non-MWBE	80.01	104.91	109.60	112.81	61.29

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Legend:

* Statistically significant disparity (Confidence interval of 95% and probability of error of less than 5%).

**Very small number to produce statistical significance

Significant Disparity (Disparity percentage below 80%).
Disparity (Disparity percentage 80% to 99.9%).
Overutilized (Disparity percentage over 100%).

No color = Parity.

4. Disparity Indices – Total Utilization

The outcome of statistical analysis for a few categories changed after adding subcontract amounts to the prime utilization amounts. As the table below shows, several MWBE groups were over utilized Total Utilization:

- African American, Asian American and Non-Minority Woman owned firms in Construction
- Non-Minority Women owned firms in Professional Services
- Asian American and Non-Minority Woman owned firms in Other Services
- African American, Asian America, and Non-Minority Woman owned firms in Goods

Non-Minority Women owned firms were roughly at parity in A&E.

Please see tables showing detailed analysis of this section in Appendix F, Tables F-15 through F-20.

**Table 20: Total Utilization Disparity Analysis Summary
MSCS Disparity Study**

Firm Ownership	Construction	A&E	Professional Services	Other Services	Goods
African American	129.08	68.29	19.53	73.14	281.44
Asian American	177.53	0.00	0.00	953.43	4797.14
Hispanic American	10.95	-	0.00	3.71	14.96
Native American	0.00	-	-	-	0.00
TOTAL MBE	121.14	56.59	18.58	85.14	466.43
Non-Minority Woman	420.26	100.16	384.74	177.83	280.47
TOTAL MWBE	177.58	72.43	76.73	95.83	419.81
Non-MWBE	79.62	104.91	107.73	100.97	61.29

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Legend:

* Statistically significant disparity (Confidence interval of 95% and probability of error of less than 5%).

**Very small number to produce statistical significance

Significant Disparity (Disparity percentage below 80%).
Disparity (Disparity percentage 80% to 99.9%).
Overutilized (Disparity percentage over 100%).

No color is Parity.

H. Conclusion

There was a mixed pattern of underutilization in prime contracts, overutilization of a number of MWBE groups in Construction and Goods. It is also worth observing that MWBEs in a couple of instances had higher average earnings per firm.

In addition, after controlling contracts over \$500,000 and over, \$1 million, and Total Utilization, a similar pattern of disparity remained in most categories.

VI. ANALYSIS OF MARKETPLACE CONTRACTING DISPARITIES IN THE MSCS MARKET AREA

A. Introduction

In this section GSPC considers the market entry, private sector, public contracting, and subcontracting outcomes, and other Relevant Market experiences of Minority and Women-owned firms relative to Non-MWBE firms in the Memphis-Shelby County Schools (MSCS) Market Area⁵⁸. Our analysis utilizes data from businesses that are willing and able to contract with MSCS, and/or those that have contracted/subcontracted in the Memphis-Shelby County Schools Market Area, with the aim of determining if the likelihood of successful contracting/subcontracting opportunities—actual and perceived—in the Memphis-Shelby County Schools Market Area is conditioned, in a statistically significant manner, on the race, ethnicity, or gender status of firm owners. Such an analysis is a useful and important complement to estimating simple disparity indices, which assume all things important for success and failure are equal among businesses competing for public contracts. This analysis is based on unconditional moments, that is, statistics that do not necessarily inform causality or the source of differences across such statistics. As simple disparity indices do not take into account possible confounders⁵⁹ or obstacles to new firm entry, and success and failure in public sector contracting/subcontracting by businesses, they are only suggestive of disparate treatment. Therefore, their implied likelihood of success/failure could be biased. Further details on this statistical analysis are provided in Appendix G.

Our analysis puts forth possible confounders of success and failure to the entry of new firms in the market and public sector contracting/subcontracting that are sources of heterogeneity, or diverse characteristics among businesses that lead to differences in success and failure. Failure to condition on the sources of heterogeneity in success/failure in new firm formation and public sector contracting/subcontracting outcomes can leave simple disparity indices devoid of substantive policy implications as they ignore the extent to which firm owner race/ethnicity characteristics are causal factors. Disparate outcomes could possibly reflect, in whole or in part, outcomes driven by disparate business firm characteristics that matter fundamentally for success/failure in the formation of new firms and public sector contracting/subcontracting outcomes. If the race, ethnicity, or gender status of a firm owner affects lower likelihoods of success/failure, this would be suggestive of these salient and mostly immutable characteristics causing the observed disparities.

A broad context for considering disparities by firm ownership status can be informed by considering private sector outcomes in the relevant Memphis-Shelby County Schools Market Area. In general, the success and failure of MWBEs in public contracting could be conditioned by their outcomes in the private sector regarding their revenue generating capacity. The value of a descriptive private sector analysis is that it situates disparity analyses in the “but-for” justification. Ayres and Vars (1998), in their consideration of the constitutionality of public affirmative programs posit a scenario in which private

⁵⁸ In particular, the Relevant Market is the Memphis, TN-MS-AR Statistical Area (“MSA”) from the US Census Bureau.

⁵⁹ A confounder can be defined as a variable that, when added to the regression model, changes the estimate of the association between the main independent variable of interest (exposure) and the dependent variable (outcome) by 10% or more.

suppliers of financing systematically exclude or charge higher prices to minority businesses, which potentially increases the cost of which Minority-owned businesses can provide services required under public contracts relative to non-minority owned businesses.⁶⁰ This private discrimination means that MWBEs may only have access to higher cost financing due to facing discrimination in private sector capital markets, which compromises the competitiveness of their bids. Such a perspective on discrimination suggests that barriers faced by MWBEs in the private sector can justify the rationale that supports targeted contracting programs by political jurisdictions, considering the understanding that in the absence of such private sector discrimination, such firms would be able to compete on an even playing field with other firms in bidding for public contracts.

B. Firm Revenue

The table below reports on firm ownership type and “proxied” sales revenue for the Memphis Metropolitan Statistical area (Relevant Market area) from the US Census Bureau’s Annual Business Survey (ABS).⁶¹ GSPC’s descriptive private sector analysis considers the percentage of representation in the population of firms and revenue across the available and relevant firm ownership type classifications.⁶² Measuring at the firm level, business ownership is defined as having more than 50% of the stock or equity in the business and is categorized by race, ethnicity, and gender, and publicly held and other firms not classifiable by race, ethnicity and gender status.

For the Memphis-Shelby County Schools Market Area, the Firm Ownership Type and Revenue Characteristics table reveals that relative to Caucasian American-owned firms, the estimated revenue shares of each minority-owned firm never exceed 4.5% (Women) of that of non-MWBEs.⁶³ All MWBEs have estimated revenue shares far smaller than their firm representation shares. Relative to firms owned by Caucasian Americans in the Memphis-Shelby County Schools Market Area, exclusive of Women owned firms—some of whom are Caucasian Americans—the individual MWBE revenue shares are considerably

⁶⁰ See: Ayres, Ian, and Fredrick E. Vars. 1998, "When does private discrimination justify public affirmative action?" *Columbia Law Review*, 98: 1577-1641.

⁶¹ ABS data are publicly available at <https://www.census.gov/programs-surveys/abs/data.html>. The ABS provides information on selected economic and demographic characteristics for businesses and business owners by race, ethnicity, and gender. Further, the survey measures research and development (for microbusinesses), new business topics such as innovation and technology, as well as other business characteristics. The ABS is conducted jointly by the U.S. Census Bureau and the National Center for Science and Engineering Statistics within the National Science Foundation. It replaces the five-year Survey of Business Owners for employer businesses, the Annual Survey of Entrepreneurs, the Business R&D and Innovation for Microbusinesses survey, and the innovation section of the Business R&D and Innovation Survey. The most recent data for the Memphis MSA for which firm revenue data are available is for the year 2017. As sales revenue data are not sufficiently and uniformly reported, we proxy sales with a firm’s payroll, which is proportional to payroll.

⁶² The data are only reportable for firms with data that can be captured without any sacrifice of confidentiality. In some instances, there are firms in revenue/sales categories for which this condition is not met, and their operating data is not reported in the publicly available version of the ABS. In this context, while this may impart a bias to Table 1, data for firms that cannot satisfy the confidentiality requirements are likely very small, and account for a small percentage of overall market revenue.

⁶³ The percentages do not “add-up” to one, as the Women ownership category is not “mutually exclusive” of the other race/ethnicity/gender categories.

below their implied 17% (approximately) of firm representation shares.⁶⁴ This is consistent with and suggestive of, but not necessarily causal evidence for MWBEs facing discriminatory barriers in the private sector of the Memphis-Shelby County Schools Market Area.⁶⁵

Table 21: Firm Ownership Type and Revenue Characteristics

**Memphis-Shelby County Schools Market Area:
Census Bureau Annual Business Survey**

Ownership Structure	Number of Firms	Percentage of all Firms (approximate)	Market Area Total Revenue (proxied by payroll) (\$1,000)	Percentage of Market Area Total Revenue (approximate)	Ratio of Firm Share to Proxied Revenue Share
All	15,332	100	\$8,835,486	100	1.0
Women	2,696	.176	\$1,145,072	.129	1.36
Caucasian American	12,581	.821	\$8,309,767	.940	0.873
African American	788	.051	\$240,978	.027	1.89
American Indian & Alaskan Native	Suppressed ^a	Suppressed ^a	Suppressed ^a	Suppressed ^a	Suppressed ^a
Asian American	1,194	.078	\$328,967	.037	2.11
Native Hawaiian & Other Pacific Islanders	3	.00019	\$223	.00002	9.50
Hispanic	2	.00013	\$15	.000002	65.0
Unclassifiable by sector, race, gender, ethnicity	2,219	.145	\$19,200,890	.685	.212

Source: US Census Bureau 2019 Annual Business Survey. ^aValue suppressed to preserve confidentiality as a result of very few firms or there are one or two large firms that dominate the statistic. In general, across the payroll and counts for each type of firm in the ABS, there were, in many instances, data suppressions due to confidentiality, unreliable estimates, or lack of availability. As such, the descriptive statistics reported in the Firm Ownership Type and Revenue Characteristics table reflect what was estimable in the ABS.

Given that publicly held firms are not usually classifiable by race/ethnicity/gender status, and account for a disproportionate share of revenues, a simple comparison of an MWBE firm and revenue share may not inform the existence of any private sector disparities with precision. In this context, the ratio of an MWBE

⁶⁴ This implied MWBE share is simply 1 minus the firm share of firms owned by Caucasian Americans.

⁶⁵ This can be ascertained by simply computing the ratio of each MWBEs firm share to total revenue share. For example, in the case of firms owned by Asian Americans, this ratio is approximately 3.78, in contrast to approximately 2.29 for firms owned by Caucasian Americans. In this context, relative to firms owned by Caucasian Americans, firms owned by Asian Americans are more "revenue underrepresented" with respect to their firm share.

firm share to revenue share may be more informative of disparities.⁶⁶ For example, in the case of firms owned by Hispanic Americans, this ratio is $(.000013)/(.000002)$ or approximately 65.0. This suggests that the revenue share of firms owned by Hispanic Americans would have to increase by a factor of approximately 65 to achieve firm share parity in the Memphis-Shelby County Schools Market Area. For firms owned by Caucasian Americans this ratio is approximately .873. Thus, relative to Caucasian American-owned firms, those owned by Hispanic Americans are revenue underrepresented in the Memphis-Shelby County Schools Market Area by a factor of approximately $65/.873 = 74.45$ or approximately 7400%. In general, the estimates suggest that the majority of firms owned non-Caucasian in the Memphis-Shelby County Schools Market Area are revenue underrepresented relative to Caucasian American-owned firms.

Overall, the descriptive summary in Table 21 suggests that in the Memphis-Shelby County Schools Market Area private sector, MWBEs face barriers that translate into lower firm revenues. In general, if being an MWBE in the Memphis-Shelby County Schools Market Area private sector is associated with lower firm revenue, absolutely and relative to their firm share in the market, this lends some support to the “but-for” justification for affirmative action in public procurement. Lower revenues for MWBEs in the Memphis-Shelby County Schools Market Area are suggestive, but does not necessarily prove, the existence of private discrimination that undermines their capacity to compete with Non-MWBEs for public contracting opportunities. This could motivate a private discrimination justification for Affirmative Action in City procurement policies, otherwise this is potentially a passive participant in private discrimination against MWBEs with respect to its procurement practices.

C. Self-Employment

The Concrete Works decision upholding an MWBE program was based in part on evidence that “Black Americans, Hispanic Americans, and Native Americans working in Construction have lower rates of self-employment than similarly situated Caucasian Americans.”⁶⁷

To explicitly examine potential disparities in the rates of business ownership in the Memphis-Shelby County Schools Market Area, GSPC estimated the parameters of a Logit regression model using 2020 American Community Survey (ACS) data from the Integrated Public Use Microdata Series (IPUMS) housed at the University of Minnesota.⁶⁸ The ACS is a project of the U.S. Census Bureau that has replaced the decennial census as the key source of information about American population and housing characteristics. The 2020 ACS is an approximately 1-in-100 weighted public use sample consisting of U.S. households with the smallest identifiable unit being the Public Use Microdata Unit (PUMA), which is a geography containing at least 100,000 individuals. The specification of each model controls for those variables customary in the literature that is utilized to explain self-employment in order to estimate the

⁶⁶ This ratio can be viewed as an index of underrepresentation, as it measures the distance between a firm’s representation in the market relative to its share of market revenue. A value greater than unity indicates underrepresentation, a value equal to unity indicates parity, and a value less than unity indicates overrepresentation.

⁷² *Concrete Works v. City and County of Denver*, 321 F.3 950 (10th Cir 2003).

⁶⁸ ACS data are publicly available at <https://usa.ipums.org/usa/>. See: Steven Ruggles, Sarah Flood, Ronald Goeken, Josiah Grover, Erin Meyer, Jose Pacas and Matthew Sobek. IPUMS USA: Version 10.0 [dataset]. Minneapolis, MN: IPUMS, 2020. <https://doi.org/10.18128/DOI10.V10.0>

effects of MWBE status on self-employment while minimizing and/or eliminating confounding factors.⁶⁹ GSPC determines statistical significance on the basis of the estimated coefficient's probability value—or P-value. The P-value is the probability of obtaining an estimate of the coefficient by chance alone, assuming that the null hypothesis of the variable having a zero effect is true. As a convention, GSPC rejects the null hypothesis of no effect, and concludes the estimated coefficient is statistically significant as long as P-value \leq **.05**, which we highlight in bold in the tables for all parameter estimates.

Our ACS data defines the Memphis-Shelby County Schools Market Area as Memphis, Tennessee-Mississippi-Arkansas Metropolitan Statistical Area (MSA). In particular, we selected the ACS sample on the basis of the MET2013 variable, which identifies MSAs using the 2013 definitions for MSA from the U.S. Office of Management and Budget (OMB). An MSA is a region consisting of a large urban core together with surrounding communities that have a high degree of economic and social integration with the urban core.

In the GSPC Logit regression model of self-employment, the estimated parameters are odds ratios, and when greater (or less) than one, indicate that a firm owner having particular characteristics increases (or decreases) the likelihood of being self-employed. In the case of the MWBE status indicators (e.g. being African American or a Woman), the excluded category is Caucasian Males, and a positive (or negative) odds ratio indicates that relative to Caucasian males, having that MWBE characteristic increases (or decreases) the likelihood of being self-employed in the Memphis-Shelby County Schools Market Area. The MWBE status indicators are of primary interest, as they inform the extent to which MWBE status is a driver of disparities in outcomes. The other covariates serve as controls for firm capacity. The capacity to do business is conceptually defined as how much, and how effectively/efficiently, a firm can produce and sell within a market, independent of MWBE status. In particular, GSPC measures a firm's capacity for public contracting as a function of owner's education, firm revenue, its financing capacity, and its bonding capacity. These controls, as covariates, capture the fundamental capabilities associated with a firm's capacity to produce and sell a good/service effectively and efficiently.

Table 22 below reports Logit odds ratio parameter estimates across all business sectors in the Memphis-Shelby County Schools Market Area. Relative to Caucasian Americans, African Americans, Pacific Islanders and Women are less likely to be self-employed, as the estimated odds ratio is less than one and statistically significant in these instances. This suggests that these types of firms may face barriers to self-employment in the Memphis-Shelby County Schools Market Area. The lower self-employment likelihood of these types of MWBEs could reflect disparities in public contracting as Chatterji, Chay, and Fairlie (2014) find that the self-employment rate of African Americans is increasing with respect to the provisioning and establishment of MWBE public procurement programs.⁷⁰

⁶⁹ See: Grilo, Isabel, and Roy Thurik. 2008. "Determinants of Entrepreneurial Engagement Levels in Europe and the US." *Industrial and Corporate Change* 17: pp. 1113-1145, and Van der Sluis, Justin, Mirjam Van Praag, and Wim Vijverberg. 2008. "Education and Entrepreneurship Selection and Performance: A Review of the Empirical Literature." *Journal of economic surveys* 22: pp. 795-841.

⁷⁰ Chatterji, Aaron K., Kenneth Y. Chay, and Robert W. Fairlie. 2014. "The Impact of City Contracting Set-asides on Black Self-employment and Employment." *Journal of Labor Economics* 32: pp. 507-561.

The table of Construction Sector Self-Employment/Business Ownership in Memphis-Shelby County Schools Market Area data reports Logit odd ratio parameter estimates for Construction in the Memphis-Shelby County Schools Market Area—an important sector in the market for public procurement. The estimated odds ratios less than one with statistical significance suggest that, relative to firms owned by Caucasian Americans, firms owned by Asian Americans, African Americans, Pacific Islanders, and Women are less likely to be self-employed in the Memphis-Shelby County Schools Market Area construction sector. This suggests that such firms may face barriers to self-employment in the Memphis-Shelby County Schools Market Area construction sector. The lower likelihood of these type of MWBEs being self-employed in the construction sector could reflect disparities in public contracting, as Marion (2009) finds that the self-employment rate of African Americans in construction is increasing with respect to the provisioning and establishment of MWBE public construction procurement programs.⁷¹

Table 22: Self-Employment/Business Ownership in Memphis-Shelby County Schools Market Area:

Logit Parameter Odds Ratio Estimates from the 2020 American Community Survey

	Coefficient	P-value
<i>Regress and:</i> Self-Employed: Binary		
Age	1.0522	0.0767
Age Squared	0.9998	0.3560
Respondent is Married: Binary	1.2592	0.0342
Respondent is Female: Binary	0.4928	0.0009
Respondent is Non-Hispanic Black: Binary	0.5577	0.0000
Respondent is Non-Caucasian Hispanic: Binary	1.0135	0.9555
Respondent is Native American: Binary	1.0195	0.9447
Respondent is a Pacific Islander: Binary	0.0001	0.0412
Respondent is Asian: Binary	0.9284	0.8857
Respondent is Other Race: Binary	1.3120	0.3734
Respondent is veteran: Binary	0.5312	0.0002
Respondent has a 4-year degree: Binary	0.8916	0.2357
Respondent speaks only English: Binary	0.9816	0.9531
Respondent is Disabled: Binary	2.2907	0.0698
Value of Home	1.0000	0.0244
Interest, Dividend, and Rental Income	1.0000	0.0060
Mortgage Payment	1.0000	0.8256
Number of Observations	3,130	
Pseudo R ²	0.0597	

Source of Data: American Community Survey 2020, IPUMs USA

⁷¹ Marion, Justin. 2009. "Firm Racial Segregation and Affirmative Action in the Highway Construction Industry." *Small Business Economics* 33: Article 441.

Table 23: Construction Sector Self-Employment/Business Ownership in Memphis-Shelby County Schools Market Area:

Logit Parameter Odds Ratio Estimates from the 2020 American Community Survey

	Coefficient	P-value
<i>Regress and:</i> Self-Employed In Construction Industry: Binary		
Age	1.2267	0.0000
Age Squared	0.9979	0.0000
Respondent is Married: Binary	1.3448	0.3336
Respondent is Female: Binary	0.1660	0.0000
Respondent is Non-Hispanic Black: Binary	0.2096	0.0037
Respondent is Non-Caucasian Hispanic: Binary	0.8166	0.4260
Respondent is Native American: Binary	0.3845	0.4256
Respondent is a Pacific Islander: Binary	0.0001	0.0000
Respondent is Asian: Binary	0.0001	0.0000
Respondent is Other Race: Binary	2.3861	0.0282
Respondent is veteran: Binary	0.2787	0.0186
Respondent has a 4-year degree: Binary	0.2535	0.0027
Respondent speaks only English: Binary	0.6095	0.1973
Respondent is Disabled: Binary	2.1618	0.4903
Value of Home	1.0000	0.3250
Interest, Dividend, and Rental Income	1.0000	0.3833
Mortgage Payment	0.9996	0.0361
Number of Observations	3,120	
Pseudo R ²	0.1693	

Source of Data: American Community Survey 2020, IPUMs USA

D. Building Permit Analysis

To enable a closer look at the extent of MWBEs participation in the Memphis-Shelby County Schools Relevant Market area, the table below reports on the distribution of building permits by identifiable firm type in City of Memphis for the 7/1/17 – 6/30/22 time period. While building permits are directly related to the construction industry, construction activities are a vital component of an economy and engender spending on other economic activities. As such, an analysis of the distribution of building permits by firm type, including owner ethnicity and gender, can inform the extent to which MWBEs are participating in the market economy of a given political jurisdiction such as the City of Memphis.

Our analysis of commercial building permits in the Memphis-Shelby County Schools Relevant Market area linked rosters of identified MWBE firms to building permits issued during the 7/1/17 - 6/30/22 study period. GSPC utilized a Fuzzy Matching (FM) procedure to link the text strings of firm names in the certified vendor matching list, along with any race, ethnicity, and gender identifiers to the firm names in the building permit applications. FM enables linking two data sets together that do not have a unique identifier common to both data sets to produce one that is common across a particular alphabetic string

such as the name of a business/firm. A Python-enabled FM was utilized to identify MWBE and Non-MWBE business enterprises (MWBE) firms from the City of Memphis building permit data for the 7/1/17 -6/30/22 time period, which ultimately consisted of 255,166 entries with text strings indicating the names of businesses/firms that submitted and were approved for, commercial building permit applications. As our interest is in the share of distinct permittees—to capture the participation of distinct and unique firm types in the overall Memphis-Shelby County Schools Relevant Market area—we only count a firm once if it was awarded more than one building permit. This resulted in 2,212 distinct permittees.

Given GSPC's FM-enabled identification of MWBE firms, the Distribution of Building Permits table below reports the distribution of building permits by firm type for the 7/1/17 - 6/30/22 time period in the City of Memphis. Our matching algorithm enabled the consistent identification of firms broadly classified as MBE, WBE—for non-minority women, and Non-MBE.⁷² The distribution of commercial building permits reported in the table below reveals that for the 7/1/17-6/30/22 period, the total number of building permits going to any of the firm types that could be classified as MBE was 33 , which constituted approximately .016 or 1.6 % of all commercial building permits issued. For non-minority women-owned business enterprises (WBEs), the number of building permits issued was 36, which constituted approximately 2% of all commercial building permits issued. Collectively MWBEs were issued 109 building permits or approximately .049 or 5% of permits issued.

The estimated low commercial building permit shares for MWBEs in the Memphis-Shelby County Schools Relevant Market area is suggestive of private sector barriers that constrain the ability of these type of firms to participate in the area's economy. Our estimates suggest that firms not classified as MBEs or WBEs—otherwise referred to as Non-MWBEs—accounted for approximately 95 % of building permits in the City of Memphis during the 7/1/17 - 6/30/22 period. To the extent that experience acquired by participating in the private sector translates into an enhanced capacity to compete in the market for public sector contracts and subcontracts, the almost complete dominance of Non-MWBEs in securing building permits suggest the presence of private sector barriers for MWBEs. In this context, if there are any public contracting/subcontracting disparities between MWBEs and non-MWBEs in the Memphis-Shelby County Schools relevant Market Area, it could constitute passive discrimination against MWBEs, as the disparities could reflect barriers, possibly discriminatory, that MWBEs face in the private sector that serve to undermine their capacity to compete for contracts and subcontracts with Memphis-Shelby County Schools.

⁷² There were many instances in which our FM procedure could not identify the particular race/ethnicity/gender of applicants---other than them being identified as an MBE or WBE.

Table 24: Distribution of Building Permits

In City of Memphis Market Area

Calendar Years 2017 - 2022

Business/Firm Type	Number of Building Permits ^a	Percent of Building Permits ^b
African American	60	0.027
Asian American	4	0.002
Hispanic American	7	0.003
Native American	2	0.001
Total MBE	33	0.015
Non-Minority Women	36	0.016
Total MWBE	109	0.049
Total Non-MWBE	2103	0.951
Total	2212	1.00

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Notes: ^a Rounded to nearest integer; ^b Rounded to nearest 10 thousandth

E. Bank Loan Denials

To the extent that Minority and Women-owned Business Enterprises (“MWBEs”) are credit-constrained as a result of facing discrimination in private lending markets, their capacity to compete for and execute public projects could be compromised. In this context, a political jurisdiction that awards public contracts is potentially a passive participant in discrimination as MWBEs may only have access to higher cost financing, due to discriminatory barriers in private credit markets. Such financing impediments compromise a firm’s competitiveness in the bidding process. This perspective on discrimination suggests that barriers faced by MWBEs in the private sector credit markets can serve as the impetus for targeted public contracting programs by political jurisdictions, and the capacity and growth of MWBEs could be enhanced with access to public contracting opportunities (Bates, 2009).⁷³

⁷³ See: Bates, Timothy. 2009 "Utilizing Affirmative Action in Public Sector Procurement as a Local Economic Development Strategy." *Economic Development Quarterly*, 23: pp. 180 - 192., Bates, Timothy, and Alicia Robb. 2013. "Greater Access to Capital is Needed to Unleash the Local Economic Development Potential of Minority owned Businesses." *Economic Development Quarterly*, 27: pp.250 - 259., and Shelton, Lois M., and Maria Minniti. 2018. "Enhancing product market access: Minority Entrepreneurship, Status Leveraging, and Preferential Procurement Programs." *Small Business Economics*, 50: pp. 481-498.

To determine if MWBEs face barriers in the private credit market in the Memphis-Shelby County Schools Market Area, the following two tables report, for each of the distinct MWBEs and owner self-reported race/ethnicity/gender ownership characteristics in the GSPC sample, the estimated parameters of an Ordinary Least Squares regression, where the dependent variable is the standardized linear prediction of being denied for a commercial bank loan, which is estimated from an ordinal logit regression model.⁷⁴

The estimated linear prediction captures how the outcome being studied is determined by presumably “race-neutral” factors determining a firm’s capacity to do business both in the private marketplace and with Memphis-Shelby County Schools. The regressors in the logit specification capturing firm capacity include: (1) Firm owner has more than 20 years of experience, (2) Firm has more than 10 employees, (3) Firm owner has a bachelor’s degree, (4) Firm gross revenue is more than \$1.5 million dollars, (5) Firm bonding limit is more than \$1.5 million dollars, (6) Whether or not financing is a barrier to securing public contracts, (7) Whether or not the firm is in the construction sector, (8) Whether or not the firm is registered to do business with the Memphis-Shelby County Schools, (9) Whether or not the firm is a willing/able prime contractor for the Memphis-Shelby County Schools, and (10), Whether or not the firm is a willing/able subcontractor for the Memphis-Shelby County Schools.

The estimated coefficients in the Ordinary Least Parameter Estimates-Bank Loan Denials (by MWBE status) table reveal that for the four, distinct, broadly classified MWBEs in the GSPC sample, relative to non-MWBEs—the excluded group in the CRM specification— there are no differences between MWBEs and non-MBW/WBEs in commercial bank loan denials. When disaggregated by the race/ethnicity/gender of owners, the results in the Ordinary Least Parameter Estimates-Bank Loan Denials (by race/ethnicity/gender) table suggest that no MWBEs faced higher likelihoods of being denied a commercial bank loan relative to Non-MWBE firms. This suggests that in the Memphis-Shelby County Schools Market Area, any public procurement disparities between MWBEs and Non-MWBEs in the Memphis-Shelby County Schools Market area cannot be explained by differential access to private credit (e.g. race-based credit market discrimination) that enables financing a capacity for success in public procurement.

Table 25: Ordinary Least Parameter Estimates-Bank Loan Denials:

MWBE Status and Commercial Bank Loan Denial Probabilities

In Memphis-Shelby County Schools Market Area

	Coefficient	P-value
<i>Regress and:</i> Linear Prediction of Commercial Bank Loan Denial		
Firm is a certified minority business enterprise: (Binary)	0.0670	0.6932
Firm is a certified woman enterprise: (Binary)	0.1367	0.3110
Firm is a certified disadvantaged business enterprise: (Binary)	-0.0496	0.6193
Constant	-0.0682	0.7532
Number of Observations	174	
R ²	0.0049	

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⁷⁴ See the Appendix for a detailed discussion of this regression methodology. The P-values are based upon heteroskedasticity-robust standard errors.

Table 26: Ordinary Least Parameter Estimates-Bank Loan Denials:

Race/Ethnicity/Gender Status and Commercial Bank Loan Denial Probabilities

In Memphis-Shelby County Schools Market Area

	Coefficient	P-value
<i>Regress and:</i> Standardized Linear Prediction of Commercial Bank Loan Denial		
Firm is African American-owned: (Binary)	0.1369	0.4518
Firm is Hispanic American-owned: (Binary)	-0.3257	0.0116
Firm is Asian American-owned: (Binary)	0.2703	0.3342
Firm is Native American-owned: (Binary)	-0.2477	0.0539
Firm is bi/multiracial-owned: (Binary)	-0.2234	0.3924
Firm is woman-owned: (Binary)	0.1985	0.2568
Constant	-0.2005	0.4425
Number of Observations	174	
R ²	0.0176	

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F. Conclusion

A descriptive and inferential private sector analysis of the Memphis-Shelby County Schools Market Area revealed that in general, being an MWBE in the Memphis-Shelby County Schools Market Area is associated with lower firm revenue relative to non-MWBE firms. For African Americans, Pacific Islanders, and Women, self-employment likelihoods are lower, which lends some support to the “but-for” justification for affirmative action in public procurement—a policy intervention which can increase the self-employment outcomes of MWBEs. Lower revenues for MWBEs in the Memphis-Shelby County Schools Market Area are suggestive of private sector discrimination that undermines their capacity to enter the market and compete with non-MWBEs firms for public contracting and subcontracting opportunities.

In other relevant outcomes, the regression results reported in Appendix E provide specific detail on which particular MWBEs in the broad Memphis-Shelby County Schools Market Area are potentially constrained by barriers that could translate into lower likelihoods of winning prime contracts. Firms certified as Minority-owned are particularly harmed by perceived discrimination against them by MSCS. Firms owned by Hispanic Americans and Native Americans were more likely to have never secured a Memphis-Shelby County Schools prime contract than non-MWBE firms. We also find that relative to non-MWBEs, MWBEs were relatively more likely to have their capacity to compete in the market for public procurement constrained as a result of being excluded from informal contracting networks that enhance a firm’s potential for success in winning public contracts with the Memphis-Shelby County Schools.

VII. ANECDOTAL EVIDENCE

A. Introduction

This chapter of the Study is designed to present analysis of the experiences, perceptions and beliefs of business owners and stakeholders potentially doing business with Memphis-Shelby County Schools. Comments, quotes, themes, and conversations presented are not intended to be representative of every single community member or even the majority of the community but are an attempt to represent the variety of individual perspectives about the District's contracting, procurement, and utilization of minority and women owned business as authentically as possible. Those experiences can be, and often are, perceived differently from one person to the next. However, perceived experiences undergird and inform beliefs and such beliefs support and inform behavior. Since the behavior of all parties involved in contracting and procurement is relevant to the Study, the beliefs, experiences, and perceptions are integral to those beliefs as well.

The GSPC Study team in no way sought to verify, disprove, or correct insights shared by participants in the anecdotal data gathering process to honor the integrity of the information collected. As a result, there may be conclusions included which are not reflective of written policy and procedures, but those conclusions are included to provide readers with as much information as possible about the community's experience doing business or attempting to do business with the District. They may also serve to highlight areas where communication between the District and the public regarding policy and procedure can be enhanced or otherwise improved.

The Study team used a variety of methods to gather evidence from a diverse collection of participants. The Study team convened three virtual **public hearings**, which were widely publicized through social media, press releases to area news outlets, a news media video segment, email blasts, and an announcement on the Study website.

The Study team also assembled a pair of virtual **focus groups** of randomly selected business owners to facilitate discussions about working with the District and conducted thirty **anecdotal interviews** by phone or via video conference(s). Recruitment for both focus groups and anecdotal interviews was done via telephone and email, and the meetings were conducted virtually to adhere to safe social distancing practices recommended by state and federal governments during the ongoing COVID-19 crisis. GSPC circulated an **Online Survey of Business Owners** widely throughout the area asking for detailed information about demographics and previous or current experience working with the District. GSPC also engaged ten Memphis Area Business Organizations to gather insights drawn from their work to provide resources and support to Memphis Area, Minority-owned and Women-owned businesses. Of those organizations three provided **Organizational Interviews** for the Disparity Study.

Finally, GSPC also invited firms to **submit email and other online commentary** through the duration of the Study if such firm preferred not to make their comments public.

By synthesizing and highlighting specific themes expressed in these focus groups, interviews, public meetings, surveys, and email and online commentary, this analysis seeks to empower the District with comprehensive findings to inform effective recommendations.

The period of anecdotal evidence collection for this Disparity Study lasted from December 7, 2022, through April 30, 2023. The anecdotal interviews took place between December 7, 2022, and January 10, 2023, there were a total of thirty (30) anecdotal interviews completed. There were two (2) public hearings conducted on January 31, 2023, and February 1, 2023. Each of the public hearings was conducted via Zoom, and there were a total of twenty-five (25) participants. Also, GSPC conducted two (2) virtual focus groups that took place on March 28 and 29, 2023. The focus groups lasted one hour each, and there were twenty-five (25) participants. Finally, GSPC conducted their Survey of Business Owners, which was an online survey directed at all business owners who could potentially do business with Memphis-Shelby County Schools. The survey was distributed through email blasts, flyers, press releases and advertisement by Memphis-Shelby County Schools, and 174 surveys were completed by business owners within Memphis-Shelby County Schools' relevant market (within which MSCS spends at least ~75% of its contract dollars).

The data that was collected through interviews, focus groups, public hearings and the survey were later analyzed and coded to create common themes. There were several themes that arose from the anecdotal data collection and analysis. The main themes that we will discuss in this chapter are major barriers that **MBEs and WBEs** face doing business with Memphis-Shelby County Schools (MSCS or the District). The themes include Registration Concerns, Informal Networks Monopolizing Contracting, and Prompt Pay As a Barrier.

Key Themes from Anecdotal Data Analysis	
1	Registration Concerns
2	Informal Networks
3	Prompt Pay

B. Need for Improved Registration with Memphis-Shelby County Schools

Memphis-Shelby County Schools registers vendors, particularly those categorized as professional services, by “commodity” or user areas (see Policy Chapter). Businesses are notified of pending projects based on commodity areas. Still, there is a need to improve the number of Memphis area businesses registered to do business with the District.

According to the Survey of Business Owners, more than one quarter of the 174 respondents – 28% – indicated that they were not registered with MSCS (See the table below and Appendix G Survey of Business Owners: Table 13). Of the unregistered respondents, 34.8% were Non-MBE/WBE owned companies, 26.3% were African American-owned businesses, and 22.6% were Woman-owned firms. Comparatively, only 20.1% of business owners polled said they were not registered to do business with other government agencies,

including but not limited to the State of Tennessee, Shelby County Government, or the State’s Department of Transportation, among others (See the table below and Appendix G Survey of Business Owners: Table 14).

Table 1. Is your company registered to do business with: [Memphis-Shelby County Schools (MSCS)]

	Owners' Minority Status										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Yes	15	24	73	1	0	0	3	3	1	1	121
	65.2 %	77.4 %	73.7 %	100 %	0 %	0 %	60 %	60 %	100 %	100 %	72 %
No	8	7	26	0	1	1	2	2	0	0	47
	34.8 %	22.6 %	26.3 %	0 %	100 %	100 %	40 %	40 %	0 %	0 %	28 %
Total	23	31	99	1	1	1	5	5	1	1	168

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Table 2. Is your company registered with any other government entity (including but not limited to): State of Tennessee, Shelby County Government, Tennessee DOT, etc.?

	Owners' Minority Status										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Yes	22	28	78	1	1	1	4	2	1	1	139
	91.7 %	87.5 %	75.7 %	100 %	100 %	100 %	80 %	40 %	100 %	100 %	79.9 %
No	2	4	25	0	0	0	1	3	0	0	35
	8.3 %	12.5 %	24.3 %	0 %	0 %	0 %	20 %	60 %	0 %	0 %	20.1 %
Total	24	32	103	1	1	1	5	5	1	1	174

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Of the 47 firms indicating they were not registered, 53.2% said they did not know how to register, according to the Survey of Business Owners (See the table below and Appendix G Survey of Business Owners: Table 15), including 57.1% of Woman-owned businesses, polled and 61.5% of African American-owned companies.

Table 3. Why is your company not registered with: (Indicate all that apply.) [Do not know how to register?] [Memphis-Shelby County Schools (MSCS)]

Responses	Owners' Minority Status										Total
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
Not Selected	5	3	10	0	0	1	2	1	0	0	22
	62.5 %	42.9 %	38.5 %	0 %	0 %	100 %	100 %	50 %	0 %	0 %	46.8 %
Selected	3	4	16	0	1	0	0	1	0	0	25
	37.5 %	57.1 %	61.5 %	0 %	100 %	0 %	0 %	50 %	0 %	0 %	53.2 %
Total	8	7	26	0	1	1	2	2	0	0	47

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Nearly half – 46.8% – of the 47 survey respondents who indicated that they were not registered with MSCS shared that they were unaware of the registry (See the table below and Appendix G Survey of Business Owners: Table 16). That includes 46.2% of African American-owned firms and 57.1% of Woman-owned firms.

Table 4. [Did not know there was a registry?] [Memphis-Shelby County Schools (MSCS)]

Responses	Owners' Minority Status										Total
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
Not Selected	5	3	14	0	1	1	1	0	0	0	25
	62.5 %	42.9 %	53.8 %	0 %	100 %	100 %	50 %	0 %	0 %	0 %	53.2 %
Selected	3	4	12	0	0	0	1	2	0	0	22
	37.5 %	57.1 %	46.2 %	0 %	0 %	0 %	50 %	100 %	0 %	0 %	46.8 %
Total	8	7	26	0	1	1	2	2	0	0	47

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More than 19% of the 47 business owners identifying as unregistered told GSPC that they did not see opportunities for work in their respective “commodity” or field of work registry (See the table below and Appendix G Survey of Business Owners: Table 20). Among those respondents, 26.9% were African American-owned businesses.

Table 5. [Do not see opportunities in my field of work?] [Memphis-Shelby County Schools (MSCS)]

	Owners' Minority Status										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Not Selected	7	6	19	0	1	1	2	2	0	0	38
	87.5 %	85.7 %	73.1 %	0 %	100 %	100 %	100 %	100 %	0 %	0 %	80.9 %
Selected	1	1	7	0	0	0	0	0	0	0	9
	12.5 %	14.3 %	26.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	19.1 %
Total	8	7	26	0	1	1	2	2	0	0	47

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Nearly one third survey respondents who shared that they were not registered to do business with MSCS – 31.9% – said they did not register because they did not believe they would be awarded a contract with MSCS (See the first table below and Appendix G Survey of Business Owners: Table 21). This group of respondents is comprised of 46.2% of African American-owned firms, and 12.5% of Non-MBE/WBE owned businesses. Nearly a quarter of unregistered respondents – 23.4% – said they did not see any benefit in registering, including 25% of Non-MBE-WBE owned businesses and 30.1% of African American-owned firms (See the second table below and Appendix G Survey of Business Owners: Table 17).

Table 6. [Do not believe firm would be awarded contract?] [Memphis-Shelby County Schools (MSCS)]

	Owners' Minority Status										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Not Selected	7	7	14	0	1	1	1	1	0	0	32
	87.5 %	100 %	53.8 %	0 %	100 %	100 %	50 %	50 %	0 %	0 %	68.1 %
Selected	1	0	12	0	0	0	1	1	0	0	15
	12.5 %	0 %	46.2 %	0 %	0 %	0 %	50 %	50 %	0 %	0 %	31.9 %
Total	8	7	26	0	1	1	2	2	0	0	47

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Table 7. [Do not see any benefit in registering?] [Memphis-Shelby County Schools (MSCS)]

	Owners' Minority Status										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Not Selected	6	7	18	0	1	1	2	1	0	0	36
	75 %	100 %	69.2 %	0 %	100 %	100 %	100 %	50 %	0 %	0 %	76.6 %
Selected	2	0	8	0	0	0	0	1	0	0	11
	25 %	0 %	30.8 %	0 %	0 %	0 %	0 %	50 %	0 %	0 %	23.4 %
Total	8	7	26	0	1	1	2	2	0	0	47

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Businesses expressed an interest in learning more about working with MSCS. “I think my biggest issue is just knowing how to even get started,” African American logistics firm FG-19 said. Of the 30 business owners interviewed for the Study, 11 said they had never done business with the District. “We don’t know where to look for it,” African American-owned landscaping firm AI-5 said. “I would like to know how to do business with Memphis-Shelby County Schools.” OI-3, a business organization leader, said that the District, along with other public agencies such as the City of Memphis and Memphis Light, Gas, and Water, must do a better job of outreach to Woman-owned and Minority-owned businesses. “There should be more clarity in the public messaging about how to do business with the three entities,” she said.

Some business owners admitted their doubts that MSCS would award them a contract. African American-owned real estate firm AI-30, stated that she has not tried to do business with the City of Memphis since a City staffer denied her attempt to get an MBE certification, she went to comment that she did not think MSCS would use her firm. Woman-owned advertising firm AI-10 said she did not think she was qualified to work with the District because her business was located outside of Memphis and outside of the District. “I’m thinking that because our company is located Bartlett, we may be ineligible to bid on Memphis-Shelby County Schools projects,” she said. “There may be something that we need to do, and if so, I’d like to know what that is.”

C. Informal Networks Monopolize Business with Memphis-Shelby County Schools

Relationship building is a part of doing business, although informal networks go a step beyond. At best, informal networks tend to favor the same firms with which an agency is familiar because of perhaps a previous working arrangement. At worst, informal networks serve as back channels providing information and preference to the same firms. In either case, they exclude the entrance of new firms into doing business with a public agency. While private sector firms can legitimately and exclusively use the same firms repeatedly, that practice is not permissible with publicly funded work, because it feeds a continuing practice of exclusion of underutilized tax paying populations.

According to the GSPC Survey of Business Owners, 36.8% of 174 respondents – more than one-third – said “yes” when asked if they believed that some form of an informal network monopolized public contracting with the District (See the table below and Appendix G Survey of Business Owners: Table 102). Of that percentage, 77.1% were African American-owned businesses, 48.4% were Woman-owned businesses, and 39.1% were non-Minority owned firms.

Table 8: Do you believe there is an informal network of prime and subcontractors doing business with [Memphis-Shelby County Schools (MSCS)] that monopolizes the public contracting process? “Informal network” refers to firms that have an advantage due to their relationships with each other or their relationships with individuals employed by Memphis-Shelby County Schools (MSCS).

Responses	Owners' Minority Status										Total
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
Yes	10	15	75	1	1	1	2	3	1	1	110
	41.7 %	46.9 %	72.8 %	100 %	100 %	100 %	40 %	60 %	100 %	100 %	63.2 %
No	14	17	28	0	0	0	3	2	0	0	64
	58.3 %	53.1 %	27.2 %	0 %	0 %	0 %	60 %	40 %	0 %	0 %	36.8 %
Total	24	32	103	1	1	1	5	5	1	1	174

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AI-25, an Asian American IT sales and service company, accused MSCS of preferential hiring practices, saying there is a system established to continuously work with the same businesses. “They tend to have favorites where they give bids and award bids – even if you are the lower bid – to other bidders without giving an explanation,” he said. He shared that he had filed a formal complaint after being the lowest bidder and was discouraged from going public with his concerns. “We bid \$1.2 million less than the winning bid and we were not even notified; we weren’t even told. The only reason I got from the Board when I went in front of the Board and said this is what happened was, ‘Oh, you shouldn’t have done that in front of the public, because you know we should’ve known about this before.’ Bottom line is this, if the Board and the procurement department or whoever it might be wants to choose a specific vendor; no matter what it is or no matter what the price in comparative, it will get done; which means, they will find a way to make it happen.”

Other potential vendors also described their experiences with the District and described what they believed to be an informal network. “They just use that one company, and that company uses the transportation company that they have a relationship with,” African American-owned trucking firm AI-5 said. “So, we never get the opportunity to participate. If you’re in their system, then that’s who they do business with – if they know you. Because (it is) the same buyers that have been there forever, so they’re just going to do business with the people that they’ve been doing business (with).” African American-owned IT provider AI-2 said she has never won a contract with MSCS, and said she was told by an MSCS official that the district “grandfathered in” a preferred vendor. “It should not be that the buying system or purchasing system is set aside for or be beholden to certain companies,” she said, noting that it is “the same people winning all the bids.” Area business stakeholder and organization head OI-1 lamented that there was a tendency for large, well-known primes to seek work from familiar subcontractors. “National companies that have preferred local vendors create bias in (the) process of small and diverse firms getting work,” he said.

However, some firms described enjoying being on the District’s preferred list. “It’s really the relationships,” African American-owned janitorial company AI-28 said. “Everyone that I know that works with the City or MSCS – colleagues that I went to school with – it’s the relationship. So, when they mention that they need someone to clean the buildings, they call us. Which is what we want. When you have the reputation of taking care of business and your word and your work, they call you back. Woman-owned civil engineering firm AI-14 said she does not need to bid on work with the District. “We don’t usually get into the contract bidding,” she said. “They [MSCS] come to us when they have an issue that they need to be fixed.”

D. Low Numbers Reporting Prompt Pay from MSCS and District Primes

For-profit businesses are driven by and rely on pay from customers or clients. When pay is interrupted, the impact on those companies is both varied and costly, particularly for small businesses. Business owners participating in this Study have indicated a need for the District to improve the speed with which they are paid for doing public work.

Only 14.2% of those business owners responding to the Survey of Business Owners reported receiving payment from MSCS in 30 days or less (See the table below and Appendix G Survey of Business Owners: Table 53). Twenty-one percent (21%) reported being paid between 31 and 60 days of submitting an invoice to the District. Another 3.7% of respondents responded that they were paid between 60 and 120 days.

Table 9. What is the amount of time that it typically takes to receive payment, from the date you submit your invoice to [Memphis-Shelby County Schools (MSCS)]

Responses	<i>Owners' Minority Status</i>										<i>Total</i>
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
30 days or less	3	4	16	0	0	0	0	0	0	0	23
	12.5 %	13.3 %	17.2 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	14.2 %
31-60 days	5	10	14	0	0	0	2	2	0	1	34
	20.8 %	33.3 %	15.1 %	0 %	0 %	0 %	40 %	40 %	0 %	100 %	21 %
61-90 days	0	2	0	0	1	0	0	0	0	0	3
	0 %	6.7 %	0 %	0 %	100 %	0 %	0 %	0 %	0 %	0 %	1.9 %
91-120 days	0	1	0	0	0	0	0	0	1	0	2
	0 %	3.3 %	0 %	0 %	0 %	0 %	0 %	0 %	100 %	0 %	1.2 %
Over 120 days	1	0	0	0	0	0	0	0	0	0	1
	4.2 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0.6 %
Do Not Know/NA	15	13	63	1	0	1	3	3	0	0	99
	62.5 %	43.3 %	67.7 %	100 %	0 %	100 %	60 %	60 %	0 %	0 %	61.1 %
Total	24	30	93	1	1	1	5	5	1	1	162

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Even fewer business owners reported being paid by prime contractors within a month of invoicing when working on MSCS projects. Only 9.4% indicated that primes paid them within 30 days. (See the table below and Appendix G Survey of Business Owners: Table 54) In the 31-60-day timeframe, 10.7% reported being paid and 3.8% reported being paid between 61-90 days.

Table 10. What is the amount of time that it typically takes to receive payment, from the date you submit your invoice to the prime contractor for your services on [Memphis-Shelby County Schools (MSCS)]

Responses	Owners' Minority Status										Total
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
30 days or less	1	3	10	0	0	0	0	1	0	0	15
	4.2 %	10 %	11.1 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	9.4 %
31-60 days	1	5	9	0	0	0	1	1	0	0	17
	4.2 %	16.7 %	10 %	0 %	0 %	0 %	20 %	20 %	0 %	0 %	10.7 %
61-90 days	2	2	1	1	0	0	0	0	0	0	6
	8.3 %	6.7 %	1.1 %	100 %	0 %	0 %	0 %	0 %	0 %	0 %	3.8 %
91-120 days	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Do Not Know/NA	20	20	70	0	1	1	4	3	1	1	121
	83.3 %	66.7 %	77.8 %	0 %	100 %	100 %	80 %	60 %	100 %	100 %	76.1 %
Total	24	30	90	1	1	1	5	5	1	1	159

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Business owners interviewed by GSPC offered varying opinions about their experiences with being paid by MSCS. African American-owned construction company AI-6 said that many administrative obstacles contributed to delays in getting a payment from the District. “The timeframe is caused by the bureaucracy behind getting paid.” FG-11, a Woman-owned construction supply and installation company, described a smooth process. She said she has not had any problems with payments or invoicing through MSCS. “Usually, when we completed a job, we found out that day who was the direct contact for invoicing,” she said. “Knock on wood, we haven’t had any issue yet.”

E. Other Notable Findings

Beyond the major topics discussed in this chapter were other findings that, while not significantly reflected in the interviews, focus groups or public hearings, did elicit a notable response from the Survey of Business Owners.

1. Instances of Discrimination

About 13% of firms polled – 12.8% – identified experiences with racial, gender-based, or ethnic discrimination in dealing with Memphis-Shelby County Schools (See the first table below and Appendix G Survey of Business Owners: Table 101). That includes 7.6% of respondents choosing “Seldom,” 2.3% choosing “Often,” and 2.9% selecting “Very Often.” However, this amount is significantly less than the 38.5% of survey participants responding to questions about experiences with discrimination from the Memphis Metropolitan Area (See the second table below and Appendix G Survey of Business Owners: Table 100). In this case 19% indicated “Seldom,” 11.5% selected “Often,” and 8% reported “Very Often.”

Table 11. From 2017 - Present, how often has your company experienced any racial, gender, or ethnicity discriminatory behavior from: [Memphis-Shelby County Schools (MSCS)]

Responses	Owners' Minority Status										Total
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
Never	15	20	50	0	1	0	3	2	0	1	92
	65.2 %	64.5 %	49 %	0 %	100 %	0 %	60 %	40 %	0 %	100 %	53.8 %
Seldom	0	2	8	1	0	0	1	0	1	0	13
	0 %	6.5 %	7.8 %	100 %	0 %	0 %	20 %	0 %	100 %	0 %	7.6 %
Often	0	0	3	0	0	0	0	1	0	0	4
	0 %	0 %	2.9 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	2.3 %
Very Often	1	1	3	0	0	0	0	0	0	0	5
	4.3 %	3.2 %	2.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	2.9 %
Do Not Know	7	8	38	0	0	1	1	2	0	0	57
	30.4 %	25.8 %	37.3 %	0 %	0 %	100 %	20 %	40 %	0 %	0 %	33.3 %
Total	23	31	102	1	1	1	5	5	1	1	171

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Table 12. From 2017 - Present, how often has your company experienced any racial, gender, or ethnicity discriminatory behavior from the Memphis Metropolitan Area (i.e., non-governmental entities)?

Responses	Owners' Minority Status										Total
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
Never	17	13	35	0	0	0	3	1	0	0	69
	70.8 %	40.6 %	34 %	0 %	0 %	0 %	60 %	20 %	0 %	0 %	39.7 %
Seldom	3	10	15	1	1	0	1	1	1	0	33
	12.5 %	31.2 %	14.6 %	100 %	100 %	0 %	20 %	20 %	100 %	0 %	19 %
Often	0	3	14	0	0	1	1	1	0	0	20
	0 %	9.4 %	13.6 %	0 %	0 %	100 %	20 %	20 %	0 %	0 %	11.5 %
Very Often	1	0	12	0	0	0	0	1	0	0	14
	4.2 %	0 %	11.7 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	8 %
Do Not Know	3	6	27	0	0	0	0	1	0	1	38
	12.5 %	18.8 %	26.2 %	0 %	0 %	0 %	0 %	20 %	0 %	100 %	21.8 %
Total	24	32	103	1	1	1	5	5	1	1	174

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2. Double Standards in Qualifications

Fifty-four percent (54%) of business owners told GSPC they agreed to some extent that double standards in qualifications and work performance made it more difficult for minority, woman-owned, disadvantaged, and small businesses to win bids or contracts (See the table below and in Appendix G Survey of Business Owners: Table 103). That includes 31% that agree and 23% that strongly agree.

Table 13. Please tell us if you strongly agree, agree, neither agree nor disagree, disagree, or strongly disagree with each of the following statements: [Double standards in qualifications and work performance make it more difficult for Minority and/or Woman-owned business to win bids or contracts.]

Responses	<i>Owners' Minority Status</i>										<i>Total</i>
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
Strongly agree	1	2	49	1	0	0	0	1	0	0	54
	4.2 %	6.2 %	47.6 %	100 %	0 %	0 %	0 %	20 %	0 %	0 %	31 %
Agree	2	8	23	0	0	0	3	2	1	1	40
	8.3 %	25 %	22.3 %	0 %	0 %	0 %	60 %	40 %	100 %	100 %	23 %
Neither agree nor disagree	9	14	25	0	1	1	2	2	0	0	54
	37.5 %	43.8 %	24.3 %	0 %	100 %	100 %	40 %	40 %	0 %	0 %	31 %
Disagree	2	5	3	0	0	0	0	0	0	0	10
	8.3 %	15.6 %	2.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	5.7 %
Strongly disagree	10	3	3	0	0	0	0	0	0	0	16
	41.7 %	9.4 %	2.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	9.2 %
Total	24	32	103	1	1	1	5	5	1	1	174

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3. “Bid Shopping”

More than half of the businesses surveyed – 55% – agreed to some extent that sometimes a prime contractor will contact a minority or Woman-owned firm to ask for quotes without ever giving the proposal sufficient review to consider awarding that firm with a contract (See the table below and Appendix G Survey of Business Owners: Table 104). Of those respondents, 24.1% strongly agreed and 31.6% agreed.

Table 14. Sometimes, a prime contractor will contact a Minority and/or Woman-owned firm to ask for quotes but never give the proposal sufficient review to consider giving that firm the award.

Responses	Owners' Minority Status										Total
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
Strongly agree	2	3	46	0	0	0	1	1	1	1	55
	8.3 %	9.4 %	44.7 %	0 %	0 %	0 %	20 %	20 %	100 %	100 %	31.6 %
Agree	3	9	24	1	1	0	2	2	0	0	42
	12.5 %	28.1 %	23.3 %	100 %	100 %	0 %	40 %	40 %	0 %	0 %	24.1 %
Neither agree nor disagree	10	15	30	0	0	1	1	2	0	0	59
	41.7 %	46.9 %	29.1 %	0 %	0 %	100 %	20 %	40 %	0 %	0 %	33.9 %
Disagree	1	3	1	0	0	0	0	0	0	0	5
	4.2 %	9.4 %	1 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	2.9 %
Strongly disagree	8	2	2	0	0	0	1	0	0	0	13
	33.3 %	6.2 %	1.9 %	0 %	0 %	0 %	20 %	0 %	0 %	0 %	7.5 %
Total	24	32	103	1	1	1	5	5	1	1	174

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4. Unfair Competition with Large Firms as a Barrier

Some survey respondents identified that trying to compete against larger companies made it difficult for them to successfully do business with the District. More than 73% of the participants – 73.7% – said that they saw unfair competition with large companies as a barrier to doing business (See the table below and Appendix G Survey of Business Owners: Table 52). That number includes 72.5% of the African American-owned businesses that responded.

Table 15. Things that may prevent companies from bidding or obtaining work on a project. In your experience, have any of the following been a barrier to your firm obtaining work on projects for: [Unfair competition with large firms] [Memphis-Shelby County Schools (MSCS)]

Responses	Owners' Minority Status										Total
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
Not Selected	1	1	11	0	1	0	0	1	0	0	15
	33.3 %	20 %	27.5 %	0 %	100 %	0 %	0 %	33.3 %	0 %	0 %	26.3 %
Selected	2	4	29	1	0	0	3	2	1	0	42
	66.7 %	80 %	72.5 %	100 %	0 %	0 %	100 %	66.7 %	100 %	0 %	73.7 %
Total	3	5	40	1	1	0	3	3	1	0	57

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F. Conclusion

The purpose of this anecdotal chapter of the Study has been to compile and analyze the anecdotal evidence collected throughout the Study Period. The major findings were identified as: a shortfall of business owners registering to do business with Memphis-Shelby County Schools, informal networks monopolizing contracting, and concerns about slow pay from MSCS and its prime vendors.

More than a quarter of business owners participating in the Survey shared that they were not registered to do business with MSCS, citing a lack of knowledge on how to register, a lack of awareness about the registry's existence, few or no opportunities matching their respective skill sets, or belief that they would not be awarded. Although this represents an opportunity for the District to register more vendors, the percentage of GSPC survey respondents registered with the District was similar to the respective percentages of respondents registered to do business with other local agencies.

Numerous firms indicated that the presence of a well-entrenched network of businesses consistently selected to contract with MSCS and its prime contractors kept new, small, woman-owned, and minority owned businesses from participating in the public contracting process, Study participants said.

Participants identified bureaucracy as a potential cause for chronically slow pay from both MSCS and from prime vendors.



APPENDIX A

DISPARITY STUDY DEFINITIONS

MEMPHIS-SHELBY COUNTY SCHOOLS
DISPARITY STUDY

APPENDIX A – STUDY DEFINITIONS

Anecdotal: – A reported personal experience or encounter, retold through interview, testimony, email, or survey. Not necessarily verified or based on research.

Architectural & Engineering Services (“A&E”) for the purposes of the Disparity Study refers specifically to Construction-related professional services [i.e., architectural, engineering, land surveying services, and certain inspection and testing services (mechanical, structural, geotechnical, construction materials)]. Architectural & Engineering Services is one of the District’s Industry Categories.

Availability Estimates: A term of art in disparity studies that refers to the percentage of ready, willing, and able firms in the entity’s Relevant Geographic and Product Markets in each Industry Category that is disaggregated by race/ethnicity/gender.

City of Richmond v. J.A. Croson Company 488 U.S. 469 (1989) (“Croson”) – Laws that, on their face, favor one class of citizens over another, may run afoul of the Equal Protection Clause of the 14 Amendment of the U.S. Constitution even if those laws are meant to remedy discrimination. Such laws, including those that create race conscious programs, must withstand judicial “strict scrutiny” or they will be dismantled. In its Croson decision, the Supreme Court ruled that the City of Richmond’s Minority Business Enterprise (hereinafter “MBE”) program failed to satisfy the requirements of “strict scrutiny” review under the 14th Amendment “Strict scrutiny” review involves two co-equal considerations to determine whether a race conscious program can withstand the Strict Scrutiny: First, the need to demonstrate a compelling governmental interest (which may be established through periodic disparity studies); Second, implementation of a program or method narrowly-tailored to achieve/remedy the compelling interest. In Croson, the Supreme Court concluded that the City of Richmond failed to show that its minority set-aside program was “necessary” to remedy the effects of discrimination in the marketplace.

Construction for the purposes of the District’s Disparity Study means the construction, erection, repair, renovation, or demolition of a public structure, building, street, road, and other public improvements. Construction is one of District’s Industry Categories.

Disadvantaged Business Enterprise (DBE) means a for-profit independent operating small business concern:

a) That is at least fifty-one percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and

b) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Disparity Index – A statistical measure demonstrated by the failure to meet parity between availability and Utilization. Disparity is calculated by comparing the utilization percentage to the availability percentage of each race/gender/ethnic group. Will result in either overutilization, underutilization or parity.

Disparity Study (“Study”) – A tool, identified by the Supreme Court as necessary for satisfying the strict scrutiny threshold for race conscious programs and demonstrating the compelling governmental interest by “factual predicate” that identifies discrimination and a narrowly tailored remedy to redress any finding of discrimination. Must adhere to the legal requirements of U.S Supreme Court decisions like City of Richmond v. J.A. Croson Company, 488 U.S. 469 (1989) and its progeny. Disparity studies are not designed to be an analysis of any current remedial programs but an analysis of race, ethnicity, and gender status and how it affects participation in the procurement process and in the marketplace.

Fiscal Year (“FY”) – The business year for MSCS for purchasing and accounting purposes. Measured by MSCS from July 1, 2017 through June 30, 2022. The study period for this Study is five (5) years (FY 2018-2022).

Good Faith Efforts (“GFE”) – The documentation and verification process to ensure that prime contractors are soliciting and negotiating with M/WBEs in “good faith” for potential subcontracting opportunities.

Goods for the purposes of the District’s Disparity Study means commodities, materials, supplies, and equipment. Examples of Goods include office supplies, safety supplies, and janitorial services. Goods is one of the District’s Industry Categories.

Industry Categories means, collectively, the industry categories included in the District’s Disparity Study, which are: Construction, Architectural & Engineering (A&E), Professional Services, Other Services, and Goods, as those Industry Categories may be further defined in the Study Report.

Minority Business Enterprise (MBE) - A business which has been certified as an MBE under any recognized MBE program.

Minority Person means a citizen or legal resident alien of the United States who is: African American, Hispanic American, Asian American, or Native American.

Other Services for the purposes of the District’s Disparity Study means services performed by a person or persons having special skill that is primarily physical or manual in nature. Examples of Other Services include janitorial services, IT, printing and reproduction, pest control, rubbish container emptying, mowing, and supply services. Other Services is one of the District’s Industry Categories.

Overutilization – The measure by which the utilization percentage is higher than the availability percentage and the Disparity Index is above 100. In order to be statistically significantly overutilized, the Disparity Index must be 110 or more.

Parity – The absence of disparity, demonstrated by the utilization percentage being equal to availability percentage and the Disparity Index equaling one.

Prime Contractor – A business who has entered into direct contractual relationship with the District, or other public or private entity to provide a good, service, or perform a scope of services.

Professional Services for the purposes of the District’s Disparity Study means services which are performed competently only by a person or persons having a special skill, expertise, education, or knowledge which is primarily mental or intellectual in nature rather than physical or manual. The Industry Category of Professional Services does not include A&E firms. Professional Services includes, but is not limited to, accounting, landscape architecture, medicine, optometry, real estate appraising, professional nursing, attorney services, technical services, research planning services, consulting services, auditing services, financial advisory services. Professional Services is one of the District’s Industry Categories.

Qualitative Analysis – Also known as anecdotal analysis. Referring to a measurement of quality (ex. how good over how much). Typified through collection and analysis of constituents’ anecdotal impressions, such as interviews, public hearings, focus groups, and other forms of commentary.

Quantitative Analysis – Commonly referred to as statistical analysis. Referring to a measurement of quantity over quality (ex. how much over how good). Typified by analysis of mathematical or statistical modeling.

Regression Analysis – Statistical measure used to determine whether the race, ethnicity or gender status of a business owner are an impediment in contracting in the District’s marketplace and whether but for these, they would have the capacity to provide services on a higher level than is currently utilized.

Relevant Geographic Market Area: A term of art in disparity studies that refers to the geographical area in which the entity spends at least 75% of its dollars based upon firm location.

MWSBE, for the purpose of this Study, means, (collectively unless the context indicates otherwise), the following groups, each group as further defined herein: Minority Business Enterprise (MBE), Small Business Enterprise (SBE), Women Owned Enterprise (WBE), and Disadvantaged Business Enterprise (DBE). A business in any of these groups will have a certification designation as a small, minority, woman, and/or disadvantaged business enterprise from an authorized certification agency.

MWDBE, for the purpose of this Study, means, (collectively unless the context indicates otherwise), the following groups, each group as further defined herein: Minority Business Enterprise (MBE), Women Owned Enterprise (WBE), and Disadvantaged Business Enterprise (DBE). A business in any of these groups will have a certification designation as a small, minority, woman, and/or disadvantaged business enterprise from an authorized certification agency.

Strict Scrutiny – The highest level of judicial scrutiny used in determining the constitutionality of laws.

Study Period – The period between which all MSCS contract awards are subject to study analysis. For this study it has been defined as July 1, 2017-June 30, 2022 (FY2018-FY2022)

Subcontractor – A business who has entered into a direct contractual relationship with a Prime Contractor to either provide a good or service or perform a full scope, or portion of a scope of services.

Underutilization – The measure by which the utilization percentage is less than the availability percentage and the Disparity Index is below 100. In order to be statistically significantly underutilized, the Disparity Index must be 80 or less.

Utilization: – A term of art in disparity studies that refers to the percentage dollars paid to firms during the Study Period in the Relevant Geographic and Product Markets disaggregated by race/ethnicity/gender.

Woman Business Enterprise (WBE) A business which has been certified as a WBE under any recognized WBE program.



APPENDIX B

EXPANDED LEGAL ANALYSIS

**MEMPHIS-SHELBY COUNTY SCHOOLS
DISPARITY STUDY**

Appendix B: Expanded Legal Analysis

Having provided an historical overview of the significant cases that led to the development of disparity studies, the following discussion underscores the importance of such studies for establishing and maintaining a legally defensible M/WBE program or initiative. Included in this expanded section is a review of the key aspects of the methodology utilized by GSPC to conduct the MSCS Study, including the process by which GSPC will gather and analyze both the statistical and the anecdotal evidence, which together provide the “factual predicate” for recommended remedial programs and policies.

A. Overview of Legal Challenges to M/WBE Programs and Legislation

There are several important legal standards and considerations that arise when a constitutional challenge to an M/WBE program is initiated. Matters such as standing, burden(s) of proof, the applicable judicial scrutiny, and the types and sufficiency of evidence necessary for the court’s evaluation all must be addressed.

1. The Standing Requirement

Legal “standing” to bring suit is an absolute requirement for one seeking relief in any federal court of the United States or any state court called upon to decide a matter upon federal law.¹ “Though some of its elements express merely prudential considerations that are part of judicial self-government, the core component of standing is an essential and unchanging part of the case-or-controversy requirement of Article III.”²

[S]tanding contains three elements. First, the plaintiff must have suffered an injury in fact -- an invasion of a legally protected interest which is . . . concrete and particularized . . . and . . . actual or imminent, not conjectural or hypothetical . . . [; s]econd, there must be a causal connection between the injury and the conduct complained of . . . [; and t]hird, it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision [of the Court wherewith the matter is brought].³

The Sixth Circuit analyzed the “injury in fact” element for standing in *Associated Gen. Contrs. of Am. v. City of Columbus*.⁴ In that case, a contractors’ association brought an action challenging the constitutionality of the City of Columbus’ minority business set-aside ordinance. After a decision by the district court striking down the ordinance, the City sought relief from the judgment, citing a revised, recently-enacted set-aside ordinance. On appeal, the Sixth Circuit held that the contractors’ association could not demonstrate the “injury in fact” required to establish standing to challenge the constitutionality of the second minority business set-aside ordinance, as the ordinance had not yet been put into effect:

Once the [first] set-aside program was gone, the constitutional violation was gone, and no condition requiring repair remained. The remedy was complete. The agreed order, however, . . . enjoined the City from enacting any new set-aside legislation without first

¹ U.S. Constitution, Article III, Section 2, cl 1; *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 112 S. Ct. 2130, 119 L.Ed.2d 351 (1992).

² *Lujan*, 504 U.S. at 560.

³ *Id.* at 560-61 (internal punctuation and citations omitted).

⁴ 172 F.3d 411 (6th Cir. 1999).

obtaining district court approval--thus, the decree aimed at eliminating a condition that did not yet exist, a condition that, at most, might violate the Constitution, if that condition should in fact materialize.⁵

The goal, of course, is to design and implement an M/WBE program for which no legitimate claims of “reverse discrimination” can be made by majority contractors, substantially lessening the likelihood of constitutional challenge. However, if an action challenging the constitutionality of the program is brought, standing issues will need to be addressed at the outset of any litigation.

2. Burdens of Production/Proof

As noted above, the *Croson* court struck down the City of Richmond's minority set-aside program because the City failed to provide an adequate evidentiary showing of past and present discrimination as was its initial burden.⁶ Since the Fourteenth Amendment only allows affirmative action policies that narrowly seek to remedy particularized discrimination, the Court reasoned that state and local governments “must identify that discrimination . . . with some specificity before they may use race conscious [sic] relief.”⁷ The court’s rationale for judging the sufficiency of the City’s factual predicate for affirmative action legislation was whether there existed a “strong basis in evidence for its [government’s] conclusion that remedial action was necessary.”⁸

The initial burden of production lies with the state or local governmental entity to demonstrate that its race- and gender-conscious contract program is aimed at remedying identified past or present discrimination.⁹ Merely articulating a “benign” or “remedial” purpose does not constitute a “strong basis in evidence” that the remedial plan is necessary, nor does it establish a prima facie case of discrimination.¹⁰ Thus, the local government must not only identify the discrimination it seeks to redress, but also produce particularized findings of discrimination.¹¹

A governmental entity may, for example, establish an inference of discrimination by using empirical evidence of a significant statistical disparity between the number of qualified, willing, and able M/WBEs in the relevant market area and the number of M/WBE contractors awarded a contract by the governmental entity or brought in as subcontractors by prime contractors to which a public contract is awarded.¹²

⁵ *Id.* at 418.

⁶ *Croson*, 488 U.S. at 498-506.

⁷ *Id.* at 504.

⁸ *Id.* at 500 (quoting *Wygant v. Jackson Bd. of Educ.*, 476 U.S. 267, 277, 106 S.Ct. 1842, 1849 (1986)).

⁹ See *West Tennessee Chapter of Associated Builders v. City of Memphis*, 302 F.Supp.2d 860, 863 (W.D. Tenn. 2004) (citing *Croson*; *Adarand III*).

¹⁰ *Croson*, 488 U.S. at 500.

¹¹ *Id.* at 500-501.

¹² *Id.* at 509.

The courts maintain that the quantum of evidence required for the governmental entity is to be determined on a case-by-case basis, and in the context and breadth of the M/WBE program it purports to advance.¹³ Once the governmental entity has shown acceptable proof of a compelling interest in remedying past discrimination and illustrated that its plan is narrowly tailored to achieve this goal, the party challenging the affirmative action plan bears the ultimate burden of proving that the plan is unconstitutional.¹⁴

B. The Equal Protection Clause and Relevant Levels of Judicial Scrutiny

The Fourteenth Amendment provides that “No state shall . . . deny to any person within its jurisdiction the equal protection of the laws”. Fourteenth Amendment to the U.S. Constitution, Section 1. Courts determine the appropriate standard of equal protection review by “[f]irst. . . [determining] whether a state or local government has developed the program, or whether Congress has authorized the program’s creation”, then examining the protected classes embodied in the statute.¹⁵

3. Strict Scrutiny for Race-Based Classifications

The Supreme Court has made clear that “all racial classifications imposed by government must be analyzed by a reviewing court under strict scrutiny.”¹⁶ The Fourth Circuit previously put into sharp relief its view of the rationale for this level of judicial review:

Racial and ethnic distinctions of any sort are inherently suspect and thus call for the most exacting judicial examination. The rationale for this stringent standard of review is plain. Of all the criteria by which men and women can be judged, the most pernicious is that of race. The injustice of judging human beings by the color of their skin is so apparent that racial classifications cannot be rationalized by the casual invocation of benign remedial aims. While the inequities and indignities visited by past discrimination are undeniable, the use of race as a reparational device risks perpetuating the very race-consciousness such a remedy purports to overcome. . . . It thus remains our constitutional premise that race is an impermissible arbiter of human fortunes.¹⁷

Again, “[u]nder strict scrutiny, a racial classification must (1) serve a compelling governmental interest and (2) be narrowly tailored to achieve that interest.”¹⁸

¹³ See *Concrete Works of Colorado, Inc. v. City & Cty. of Denver*, 36 F.3d 1513 (10th Cir. 1994).

¹⁴ See *Sherbrooke Turf, Inc. v. Minn.DOT*, 345 F.3d 964, 971 (8th Cir. 2003). (“Sherbrooke and Gross Seed have the ultimate burden of establishing that the DBE program is not narrowly tailored.”); *Geyer Signal, Inc. v. Minn. DOT*, 2014 WL 1309092, *26 (D. Minn. 2014) (“The party challenging the constitutionality of the DBE program bears the burden of demonstrating that the government’s evidence did not support an inference of prior discrimination.”), citing *Adarand VII*, 228 F.3d at 1166.).

¹⁵ *S. J. Groves & Sons Company v. Fulton Cty. et. al.*, 920 F.2d 752, 767 (11th Cir. 1991).

¹⁶ *Grutter v. Bollinger*, 539 U.S. 306, 326, 123 S. Ct. 2325, 156 L.Ed.2d 304 (2003). See also *Adarand III*, 515 U.S. at 227.

¹⁷ *Podberesky v. Kirwin*, 38 F.3d 147, 152 (4th Cir. 1994), quoting *Maryland Troopers Assn. v. Evans*, 993 F.2d 1072, 1076 (4th Cir. 1993) (internal citations omitted).

¹⁸ See *Tuttle by Tuttle v. Arlington County Sch. Bd.*, 195 F.3d 698, 704 (4th Cir. 1999) (citing *Adarand III*). See also *Michigan Road Builders Assn. v. Milliken*, 834 F.2d 583, 589-90 (6th Cir. 1987); *Drabik*, 214 F.3d at 734; *Cleveland Firefighters for Fair Housing v. City of Cleveland*, 917 F.Supp.2d 668, 679-80 (N.D. Ohio

4. Strict Scrutiny for Gender-Based Classifications in the Sixth Circuit

Though unsettled in other federal circuits, the Sixth Circuit has definitively ruled that programs with gender-based classifications are evaluated for constitutionality under the same strict scrutiny standard applied to race-based classifications, and not the more relaxed level of intermediate scrutiny applied by some circuits.¹⁹ To the extent MSCSD introduces a gender-conscious policy or program element it would therefore be analyzed under the same legal standard as any race-conscious policy or program, discussed above.

C. “Compelling Public Interest” Considerations

In order for a local government’s M/WBE contracting program to be constitutionally valid, it first must be rooted in a compelling governmental interest.

Although imposing a substantial burden, strict scrutiny is not automatically “fatal in fact.” *Adarand [III]*, 515 U.S. at 237. After all, “[t]he unhappy persistence of both the practice and the lingering effects of racial discrimination against minority groups in this country is an unfortunate reality, and government is not disqualified from acting in response to it.” *Id.*; *Alexander*, 95 F.3d at 315. In so acting, a governmental entity must demonstrate it had a compelling interest in “remedying the effects of past or present racial discrimination.” *Shaw v. Hunt*, 517 U.S. 899, 909, 116 S.Ct. 1894, 135 L.Ed.2d 207 (1996).

Thus, to justify a race-conscious measure, a state must “identify that discrimination, public or private, with some specificity,” *Croson*, 488 U.S. at 504, and must have a “strong basis in evidence for its conclusion that remedial action [is] necessary,” *id.* at 500 (quoting *Wygant v. Jackson Bd. of Educ.*, 476 U.S. 267, 277, 106 S. Ct. 1842, 90 L. Ed.2d 260 (1986) (plurality opinion)); see also *Podberesky v. Kirwan*, 38 F.3d 147, 153 (4th Cir. 1994). As courts have noted, “there is no ‘precise mathematical formula to assess the quantum of evidence that rises to the *Croson* ‘strong basis in evidence’ benchmark.” *Rothe Dev. Corp. v. Dep’t. of Def.*, 545 F.3d 1023, 1049 (Fed. Cir. 2008) (*Rothe II*) (quoting *W.H. Scott Constr. Co. V. City of Jackson*, 199 F.3d 206, 218 n.11 (5th Cir. 1999)).²⁰

This compelling interest must be proven by particularized findings of discrimination. The strict scrutiny test ensures that the means used to address the compelling goal of remedying discrimination “fit” the goal so closely that there is little likelihood the motive for the racial classification is illegitimate racial prejudice or stereotype.²¹

2013). The strict scrutiny test further requires a “searching judicial inquiry into the justification” for the race-conscious remedy to determine whether the classifications are remedial or “in fact, motivated by the illegitimate notions of social inferiority or simple social politics.” *Doe v. Sundquist*, 943 F. Supp. 886 (M.D. Tenn. 1996).

¹⁹ See *Brunet v. City of Columbus*, 1 F.3d 390, 403-04 (6th Cir. 1993); *Conlin v. Blanchard*, 890 F.2d 811, 816 (6th Cir. 1989).

²⁰ *H.B. Rowe Co., Inc. v. Tippett*, 615 F.3d 233, 241 (4th Cir. 2010).

²¹ *Eng. Contrs. Assn. v. Metro. Dade Cty.*, 122 F.3d 895, 906 (11th Cir.1997). See also, *Adarand III*, 515 U.S. at 235.

The relevant case law establishes that the compelling state interests of remedying past discrimination and of avoiding discrimination in the context of governmental procurement programs are well-accepted, and not controversial at this point.²²

5. The Extent of Participation in Discrimination by the Public Entity

The courts have uniformly held that general societal discrimination is insufficient to justify the use of race-based measures to satisfy a compelling governmental interest.²³ Rather, there must be some showing of prior discrimination by the governmental actor involved, either as an “active” or “passive” participant.²⁴ The upshot of this dual-faceted evaluation of the enacting governmental entity is that, even if the entity did not directly discriminate, it can take corrective action.

Subsequent lower court rulings have provided more guidance on passive participation by local governments. In *Concrete Works*, the Tenth Circuit held that it was sufficient for the local government to demonstrate that it engaged in passive participation in discrimination rather than showing that it actively participated in the discrimination:

Neither *Croson* nor its progeny clearly state whether private discrimination that is in no way funded with public tax dollars can, by itself, provide the requisite strong basis in evidence necessary to justify a municipality's affirmative action program. Although we do not read *Croson* as requiring the municipality to identify an exact linkage between its award of public contracts and private discrimination, such evidence would at least enhance the municipality's factual predicate for a race/gender-conscious program.²⁵

Thus, the desire for a government entity to prevent the infusion of public funds into a discriminatory industry is enough to satisfy the requirement. The next question, however, is whether a public entity has the requisite factual support for its M/WBE program in order to satisfy the particularized showing of discrimination required by *Croson*. This factual support can be developed from anecdotal and statistical evidence, as discussed hereafter.

²² See *W.H. Scott Const. Co. v. City of Jackson*, 199 F.3d 206, 217 (5th Cir. 1999) (“[C]ombating racial discrimination is a compelling government interest.”); *Croson*, 488 U.S. at 492 (“It is beyond dispute that any public entity, state or federal, has a compelling interest in assuring that public dollars, drawn from the tax contributions of all citizens, do not serve to finance the evils of private prejudice.”); *Adarand III*, 515 U.S. at 237 (“The unhappy persistence of both the practice and the lingering effects of racial discrimination against minority groups in this country is an unfortunate reality, and government is not disqualified from acting in response to it.”).

²³ *Adarand III*, 515 U.S. at 227; *Croson*, 488 U.S. at 496-97.

²⁴ *Croson*, 488 U.S. at 492. See also *Ashton v. City of Memphis*, 49 F. Supp.2d 1051, 1057 (W. D. Tenn. 1999) (citing *Croson*). As the Sixth Circuit clarified, “[g]overnmental entities are not restricted to eradicating the effects only of their own discriminatory acts.” *Tennessee Asphalt Co. v. Farris*, 942 F.2d 969, 974 (6th Cir. 1991). Thus, even if the governmental unit did not directly discriminate, it can take corrective action. *Eng. Contractors*, 122 F.3d at 907 (“[I]f the [County] could show that it had essentially become a ‘passive participant’ in a system of racial exclusion practiced by elements of the local construction industry,” the Supreme Court has made it “clear that the [County] could take affirmative steps to dismantle such a system.”) quoting *Croson*, 488 U.S. at 492.

²⁵ *Concrete Works*, 36 F.3d at 1529.

6. Types of Evidence

The types of evidence routinely presented to show the existence of a compelling interest include statistical and anecdotal evidence.²⁶ Where gross statistical disparities exist, they alone may constitute *prima facie* proof of a pattern or practice of discrimination. Anecdotal evidence, such as testimony from minority contractors, is most useful as a supplement to strong statistical evidence, as it cannot carry the burden for the entity by itself.

The majority decision in *Croson* implicitly endorsed the inclusion of personal accounts of discrimination, but *Croson* and subsequent decisions also make clear that selective anecdotal evidence about MBE/WBE experiences alone would not provide an ample basis in evidence to demonstrate public or private discrimination in a municipality's construction industry.²⁷ Stated otherwise, personal accounts of actual discrimination or the effects of discriminatory practices are admissible and effective, and anecdotal evidence of a governmental entity's institutional practices that provoke discriminatory market conditions is particularly probative. To carry the day, however, such evidence must be supplemented with strong statistical proof:

A state need not conclusively prove the existence of past or present racial discrimination to establish a strong basis in evidence for concluding that remedial action is necessary. Instead, a state may meet its burden by relying on 'a significant statistical disparity' between the availability of qualified, willing, and able minority subcontractors and the utilization of such subcontractors by the governmental entity or its prime contractors. We further require that such evidence be 'corroborated by significant anecdotal evidence of racial discrimination.'²⁸

Accordingly, a combination of statistical disparities in the utilization of M/WBEs and particularized anecdotal accounts of discrimination by the M/WBEs (or others) are required to satisfy the factual predicate.²⁹

Of note, several courts have rejected assertions by plaintiffs attacking programs that anecdotal evidence must be verified to be considered as part of a governmental entity's evidentiary proffer.³⁰

²⁶ *Croson*, 488 U.S. at 501.

²⁷ *Croson*, 488 U.S. at 480 (noting as a weakness in the City's case that the Richmond City Council heard "no direct evidence of race-conscious discrimination on the part of the city in letting contracts or any evidence that the City's prime contractors had discriminated against minority-owned subcontractors"); *See also Eng. Contractors Assn.*, 122 F.3d at 925 ("We have found that kind of evidence [anecdotal] to be helpful in the past, but only when it was combined with and reinforced by sufficiently probative statistical evidence.").

²⁸ *H.B. Rowe*, 615 F.3d at 241 (citations omitted).

²⁹ *See Middleton v. City of Flint*, 92 F.3d 396, 405 (6th Cir. 1996) ("Anecdotal evidence is most useful as a supplement to strong statistical evidence[.]") quoting *O'Donnell Constr. Co. v. District of Columbia*, 963 F.2d 420, 427 (D.C. Cir. 1992).

³⁰ *Associated Gen. Contrs. of Am. v. California DOT*, 713 F.3d 1187, 1197 (9th Cir.2013) ("AGC contends that the anecdotal evidence has little or no probative value in identifying discrimination because it is not verified. AGC cites to no controlling authority for a verification requirement. Both the Fourth and Tenth Circuits have rejected the need to verify anecdotal evidence."), citing *H.B. Rowe*, 615 F.3d at 249; *Concrete*

a) Statistical Data Generally

The Court in *Croson* explained that an inference of discrimination may be made with empirical evidence that demonstrates “a significant statistical disparity between the number of qualified minority contractors . . . and the number of such contractors actually engaged by the locality or the locality’s prime contractors.”³¹ A predicate to governmental action is a demonstration that gross statistical disparities exist between the proportion of MBEs awarded government contracts and the proportion of MBEs in the local industry “willing and able to do the work,” in order to justify its use of race-conscious contract measures.³²

In order to adequately assess statistical evidence, there must be information identifying the basic qualifications of minority contractors “willing and able to do the job” and the Court must determine, based upon these qualifications, the relevant statistical pool with which to make the appropriate statistical comparisons.³³ Although subsequent lower court decisions have provided considerable guidelines for statistical analyses sufficient for satisfying the *Croson* factual predicate, there are multiple methods that the courts have accepted for conducting statistical analyses. The most prevalent of these are outlined hereafter.

b) Availability

The attempted methods of calculating M/WBE availability have varied from case to case. In *Contrs. Assn. of E. Pennsylvania v. City of Philadelphia*,³⁴ the Third Circuit stated that available and qualified minority-owned businesses comprise the “relevant statistical pool” for purposes of determining availability.³⁵ The court permitted availability to be based on the metropolitan statistical area (MSA) and local list of the Office of Minority Opportunity for non-MBE/WBEs, which itself was based on census data.

In *Associated Gen. Contrs. of Am. v. City of Columbus*,³⁶ the City’s consultants collected data on the number of M/WBE firms in the Columbus MSA in order to calculate the percentage of available M/WBE firms. Three sources were considered to determine the number of M/WBEs “ready, willing and able” to perform construction work for the city (the City Auditor Vendor Payment History file, Subcontractor Participation

Works, 321 F.3d at 989. See also *Kossmann Contracting Co. v. City of Houston*, Case No. H-14-1203, at 58 (S.D. Texas 2016) (“Plaintiff criticizes the anecdotal evidence with which NERA supplemented its statistical analysis as not having been verified and investigated. Anecdotes are not the sole or even primary evidence of discrimination in this case. . . . One reason anecdotal evidence is valuable supplemental evidence is that it reaches what statistics cannot: a witness’ narrative of an incident told from the witness’ perspective and including the witness’ perceptions.”) (quotations and citations omitted).

³¹ 488 U.S. at 509.

³²

³³ *Eng. Contrs*, 122 F. 3d. at 925. As noted in *Drabik*, 214 F.3d 730, the statistical evidence should be industry or work category-specific in order to be meaningful and relevant on the issue of possible underutilization. *Id.* at 736 (“The problem with Ohio’s statistical comparison is that the percentage of minority-owned businesses in Ohio (7% as of 1978) did not take into account how many of those businesses were construction companies of any sort, let alone how many were qualified, willing, and able to perform state construction contracts.”).

³⁴ 6 F.3d 990 (3rd Cir. 1993).

³⁵ *Id.* at 1003.

³⁶ 936 F. Supp. 1363 (S.D. Ohio 1996), *vacated on other grounds*, 172 F.3d 411 (6th Cir. 1999).

Reports, or Contract Document Database of the City).³⁷ However, the Court found that none of these measures of availability purported to measure the number of M/WBEs who were qualified and willing to bid as a prime contractor on City construction projects because none of the three data sources relied upon were attentive to which firms were able to be responsible or provide either a bid bond or performance bond.³⁸ The Court thus wrote “[t]here is no basis in the evidence for an inference that qualified M/WBE firms exist in the same proportions as they do in relation to all construction firms in the market.”³⁹

In *H.B. Rowe*, availability was calculated using a vendor list that included: “(1) subcontractors approved by the Department to perform subcontract work on state-funded projects, (2) subcontractors that performed such work during the study period, and (3) contractors qualified to perform prime construction work on state-funded contracts.”⁴⁰

The issue of availability also was examined by the Eleventh Circuit in *Eng. Contrs. Assn. v. Metro. Dade County*.⁴¹ There, the court opined that when reliance is made upon statistical disparity, and special qualifications are necessary to undertake a particular task, the relevant statistical pool must include only those minority-owned firms qualified to provide the requested services.⁴² Moreover, these minority firms must be qualified, willing and able to provide the requested services.⁴³ If the statistical analysis includes the proper pool of eligible minorities, any resulting disparity, in a proper case, may constitute *prima facie* proof of a pattern or practice of discrimination.⁴⁴ A common question in collecting and applying availability data is whether prime contractor and subcontractor data needs to be evaluated separately. Though the Sixth Circuit has not spoken on this particular question, the trend is to accept combined data.

NCI’s argument is that IDOT essentially abused its discretion under this regulation by failing to separate prime contractor availability from subcontractor availability. However, NCI has not identified any aspect of the regulations that requires such separation. Indeed, as the district court observed, the regulations require the local goal to be focused on overall DBE participation in the recipient’s DOT-assisted contracts. *See* 49 C.F.R. § 26.45(a)(1). It would make little sense to separate prime contractor and subcontractor availability as suggested by NCI when DBEs will also compete for prime contracts and any success will be reflected in the recipient’s calculation of success in meeting the overall goal.⁴⁵

³⁷ *Id.* at 1372, 1388.

³⁸ *Id.* at 1389.

³⁹ *Id.*

⁴⁰ 615 F.3d at 244.

⁴¹ 122 F.3d 895.

⁴² *Id.* at 920-21, citing *Croson*, 488 U.S. at 502.

⁴³ *Id.* at 907.

⁴⁴ As discussed above, the Sixth Circuit in *Drabik* ruled that the State of Ohio failed to satisfy the strict scrutiny standard to justify the state’s minority business enterprise act because it relied on statistical evidence that did not account for which firms were qualified, willing, and able to perform on construction contracts. *Drabik*, 214 F.3d at 736.

⁴⁵ *Northern Contracting, Inc. v. Illinois D.O.T.*, 473 F.3d 715, 723 (7th Cir. 2007). *See also Associated Gen. Contrs. of Am. v. California D.O.T.*, 713 F.3d at 1199 (citing *Northern Contracting*); *Kossman*, at 58 (“Separately considering prime contractors and subcontractors is not only unnecessary but may be misleading. The anecdotal evidence indicates that construction firms had served, on different contracts, as both.”); *H.B. Rowe*, 615 F.3d at 245 (court accepted combined data based on experts’ explanation that prime contractors are also qualified to do subcontracting work, and often do).

Also, several courts have accepted the use of a “custom census” methodology for calculating availability. For example, in *Northern Contracting*, after identifying the relevant geographic market and product market (transportation construction) the analyst “surveyed Dun & Bradstreet’s *Marketplace*, which is a comprehensive database of American businesses that identifies which businesses are minority or women-owned. Wainwright supplemented this survey with IDOT’s list of DBEs in Illinois.”⁴⁶ In *Kossman*, the consulting analyst “relied on data acquired from Dun & Bradstreet’s Hoovers subsidiary on the total number of businesses in the defined market area. . . . Because the Dun & Bradstreet data did not adequately identify all M/WBEs, NERA collected information on M/WBEs in Texas and surrounding states through lists from public and private entities, as well as prior NERA studies, and culled records for M/WBEs within the [City’s] defined market area.”⁴⁷

The Sixth Circuit’s opinion in *Drabik* also established the need to account for participation by non-certified M/WBEs when measuring availability and utilization (discussed below). This represents a best practice in this circuit, and generally can be measured using a modified list approach or a focused custom census approach, depending on the data collected by the public entity (*e.g.*, award data which contains M/WBE status even if not certified). If this data is not available from the entity, survey data may be collected to measure participation/utilization by non-certified M/WBEs.

c) Utilization

Utilization is a natural corollary of availability, in terms of statistical calculation. Different courts have applied utilization rates to different base measures, including percentage-based analyses regarding contract awards and dollars paid.

In *Eng. Contrs.*,⁴⁸ the City’s consultants calculated the percentage of City contracting dollars that were paid to M/WBE construction firms.⁴⁹ In *Associated Gen. Contrs. of Am. v. California DOT*, the State’s disparity study consultants calculated the percentage of contracting dollars that were paid to DBE firms.⁵⁰ This is referred to as the rate of utilization. From this point, one can determine if a disparity exists and, if so, to what extent. A similar methodology was utilized in *Associated Gen. Contrs. of Am. v. City of Columbus*.⁵¹

In *Cone Corp. v. Hillsborough County*,⁵² the following utilization statistics were developed and presented to justify an MBE program:

⁴⁶ 473 F.3d at 718.

⁴⁷ *Id.* at 5. See also *Midwest Fence*, 840 F.3d at 950 (discussing and approving custom census method).

⁴⁸ 122 F.3d at 914.

⁴⁹ 615 F.3d at 241 (“[A] state may meet its burden by relying on ‘a significant statistical disparity’ between the availability of qualified, willing, and able minority subcontractors and the utilization of such subcontractors by the governmental entity or its prime contractors.”), citing *Croscon*, 488 U.S. at 509.

⁵⁰ 713 F.3d at 1192-1193. In *Kossman v. City of Houston*, NERA used both “award amounts” and “paid amounts” to determine utilization. *Id.* at 3, n. 10. The court, in approving the statistical proffer, looked only at the award amounts to “simplify matters.” *Id.*

⁵¹ 936 F. Supp. 1363 (City calculated the percentage of City contracting dollars that were paid to M/WBE construction firms)

⁵² 908 F.2d 908, 915-16 (11th Cir. 1990).

The County documented the disparity between the percentage of MBE contractors in the area and the percentage of contracts awarded to those MBE contractors. Hillsborough County determined the percentage of County construction dollars going to MBE contractors compared to the total percentage of County construction dollars spent. . . . The data extracted from the studies indicates that while ten percent of the businesses and twelve percent of the contractors in the County were minorities, only 7.89% of the County purchase orders, 1.22% of the County purchase dollars, 6.3% of the awarded bids, and 6.5% of the awarded dollars went to minorities. The statistical disparities between the total percentage of minorities involved in construction and the work going to minorities, therefore, varied from approximately four to ten percent, with a glaring 10.78% disparity between the percentage of minority contractors in the County and the percentage of County construction dollars awarded to minorities. Such a disparity clearly constitutes a prima facie case of discrimination indicating that the racial classification in the County plan were necessary.

The Sixth Circuit signaled in *Drabik*, however, that statistical proof of under-utilization would be insufficient in and of itself to supply the justification for the utilization of a non-race-neutral measure in public contracting practices, interpreting the *Croson* decision as requiring that “governments . . . ‘identify discrimination with some specificity before they may use race-conscious relief’; explicit ‘findings of a constitutional or statutory violation must be made.’”⁵³

d) Disparity Indices

To demonstrate the under-utilization of M/WBEs in a particular area, parties can employ a statistical device known as the “disparity index.” The use of such an index was explained, and cited approvingly, in *H.B. Rowe*.⁵⁴

In *H.B. Rowe*, after noting the increasing use of disparity indices, the court explained that the State (through a consulting firm) calculated a disparity index for each relevant racial or gender group covered by the M/WBE program, and further, conducted a standard deviation analysis on each of those indices using t-tests.⁵⁵ The resulting calculations “demonstrated marked underutilization of [] African American and Native American subcontractors,” according to the court.⁵⁶

⁵³ 214 F.3d at 735, quoting *Croson* at 497.

⁵⁴ 615 F.3d at 243-44.

⁵⁵ *Id.* at 244. The disparity index is calculated by dividing the percentage of available MBE/WBE participation (amount of contract dollars) by the percentage of MBE/WBEs in the relevant population of local firms. A disparity index of one (1) demonstrates full MBE/WBE participation, whereas the closer the index is to zero, the greater the MBE/WBE under-utilization. Some courts multiply the disparity index by 100, thereby creating a scale between 0 and 100, with 100 representing full MBE/WBE utilization. *Eng. Contractors*, 122 F.3d at 914.

⁵⁶*Id.*

The utility of disparity indices or similar measures to examine the utilization of minorities or women in a particular industry has been recognized by a number of federal circuit courts.⁵⁷ Specifically, courts have used these M/WBE disparity indices to apply the “strong basis in evidence” standard in *Croson*. As noted, the disparity index in *H.B. Rowe* was 0.46 for African Americans and was 0.48 for Native Americans.⁵⁸ Based on a disparity index of 0.22, the Ninth Circuit upheld the denial of a preliminary injunction to a challenger of the City of San Francisco's MBE plan based upon an equal protection claim.⁵⁹ Similarly, the Third Circuit held that a disparity of 0.04 was “probative of discrimination in City contracting in the Philadelphia construction industry.”⁶⁰

e) Use of Standard Deviation

The number calculated via the disparity index (established above) is then tested for its validity through the application of a standard deviation analysis. Standard deviation analysis measures the probability that a result is a random deviation from the predicted result (the more standard deviations, the lower the probability the result is a random one). Social scientists consider a finding of two standard deviations significant, meaning that there is about one chance in 20 that the explanation for the deviation could be random, so the deviation must be accounted for by some factor.

As noted above, standard deviations were applied by the State of North Carolina in the statistical analysis utilized to defend its MBE/WBE program in *H.B. Rowe*.⁶¹ The Fourth Circuit described the significance of the findings as follows:

For African Americans the t-value of 3.99 fell outside of two standard deviations from the mean and, therefore, was statistically significant at a 95 percent confidence level. In other words, there was at least a 95 percent probability that prime contractors’ underutilization of African American subcontractors was not the result of mere chance. For Native American subcontractors, the t-value of 1.41 was significant at a confidence level of approximately 85 percent.⁶²

Similarly, the Eleventh Circuit has directed that “‘where the difference between the expected value and the observed number is greater than two or three standard deviations’, then the hypothesis that [employees] were hired without regard to race would be suspect.”⁶³

⁵⁷ See *Concrete Works*, 36 F.3d at 1523 n. 10 (10th Cir.1994) (employing disparity index); *Contrs. Assn.*, 6 F.3d at 1005 (3d Cir.1993) (employing disparity index); *Associated Gen. Contrs. v. Coalition for Economic Equity*, 950 F.2d 1401, 1414 (9th Cir.1991) (employing similar statistical data).

⁵⁸ *Id.* at 245.

⁵⁹ *AGC v. Coalition for Economic Equity*, 950 F.2d 1401, 1414 (9th Cir. 1991).

⁶⁰ *Contrs. Assn.*, 6 F.3d at 1005.

⁶¹ 615 F.3d at 244-45.

⁶² *Id.* at 245.

⁶³ *Peightal v. Metropolitan Dade County*, 26 F.3d 1545, 1556 (11th Cir. 1994) (quoting *Hazelwood School Dist. v. United States*, 433 U.S. 299, 97 S.Ct. 2736, 53 L.Ed.2d 768 (1977))

f) Regression Analysis

In conducting its statistical analysis of MSCSD's purchasing, GSPC will also be employing a regression analysis, which essentially seeks to control for numerous factors other than discrimination, e.g., firm size, experience level, which may be causing or contributing to any disparity identified. This aspect of the GSPC methodology likewise has the support of several courts as a current "best practice" for disparity studies.

For example, after the Fourth Circuit in *H.B. Rowe* noted the statistical significance of certain quantitative analyses showing two standard deviations or a disparity ratio higher than .80, it addressed the value of a regression analysis as a further evaluative tool.⁶⁴ Specifically, in discussing the disparity evidence offered by the State, the court favorably noted:

To corroborate the disparity data, MGT conducted a regression analysis studying the influence of certain company and business characteristics - with a particular focus on owner race and gender - on a firm's gross revenues. MGT obtained the data from a telephone survey of firms that conducted or attempted to conduct business with the Department. The survey pool consisted of a random sample of 647 such firms; of this group, 627 participated in the survey.

MGT used the firms' gross revenues as the dependent variable in the regression analysis to test the effect of other variables, including company age and number of full-time employees, and the owners' years of experience, level of education, race, ethnicity, and gender. The analysis revealed that minority and women ownership universally had a negative effect on revenue. African American ownership of a firm had the largest negative effect on that firm's gross revenue of all the independent variables included in the regression model. These findings led MGT to conclude that "for African Americans, in particular, the disparity in firm revenue was not due to capacity-related or managerial characteristics alone."⁶⁵

Of note, a lack of a regression-type analysis was among the criticisms the *Drabik* court cited in rejecting the evidentiary proffer of the State of Ohio regarding its challenged MBEA legislation.⁶⁶

g) Geographic Scope

The *Croson* Court also observed that because discrimination varies across market areas, state and local governments cannot rely on national statistics of discrimination in the disputed industry to draw conclusions about prevailing market conditions in their respective regions.⁶⁷ However, to confine the permissible data to a governmental entity's strict geographical borders would ignore the economic reality that contracts are awarded to firms located in adjacent areas. Thus, courts closely scrutinize pertinent data related to the jurisdictional area of the state or municipality.

⁶⁴ 615 F.3d at 244-46.

⁶⁵ *Id.* at 245-46; 250.

⁶⁶ *Drabik*, 214 F.3d at 736-37 (noting the failure by the state, in doing its statistical comparisons, to consider "the relative size of the firms, either in terms of their ability to do particular work or in terms of the number of tasks they have the resources to complete.").

⁶⁷ *Croson*, 488 U.S. at 504.

Generally, the scope of the statistical analyses pertains to the geographic market area from which the governmental entity offerors come. In addition, disparities concerning utilization, firm size, and formation are also relevant in determining discrimination in a marketplace. It has been deemed appropriate to examine the existence of discrimination against M/WBEs even when these areas go beyond the geographical boundaries of the local jurisdictions.⁶⁸

When utilizing evidence of discrimination from nearby public entities and from within the relevant private marketplace, however, extra-jurisdictional evidence must still pertain to the operation of an industry within geographic boundaries of the jurisdiction. As the court wrote in *Tennessee Asphalt v. Farris*, “[s]tates and lesser units of local government are limited to remedying sufficiently identified past and present discrimination within their own spheres of authority.”⁶⁹

D. Requirement for Narrowly Tailored Remedies

Under the *Croson* framework, any race-conscious plan must be narrowly tailored to ameliorate the effects of past discrimination.⁷⁰ “Generally, while ‘goals’ are permissible, unyielding preferential ‘quotas’ will normally doom an affirmative action plan.”⁷¹

The Fourth Circuit addressed the parameters of this narrow tailoring requirement in *Tuttle v. Arlington County*:

When reviewing whether a state racial classification is narrowly tailored, we consider factors such as: (1) the efficacy of alternative race-neutral policies, (2) the planned duration of the policy, (3) the relationship between the numerical goal and the percentage of minority group members in the relevant population or work force, (4) the flexibility of the policy, including the provision of waivers if the goal cannot be met, and (5) the burden of the policy on innocent third parties.⁷²

In *Croson*, the Court considered similar factors, including 1) whether the city has first considered race-neutral measures, but found them to be ineffective;⁷³ 2) the basis offered for the goals selected; 3) whether the program provides for waivers; and 4) whether the program applies only to MBEs who operate in the geographic jurisdiction covered by the program.⁷⁴

⁶⁸ See *Contrs. Assn., E. Pa.*

v. City of Philadelphia, 91 F.3d 586, 604 (3rd Cir. 1996).

⁶⁹ 942 F.2d 969, 974 (6th Cir. 1991).

⁷⁰ See *Michigan Rd. Builders Assn. v. Milliken*, 834 F.2d 583, 589-90 (6th Cir. 1987).

⁷¹ *Virdi v. DeKalb County School District*, 135 Fed. Appx. 262 (11th Cir. 2005). See also *Sherbrooke Turf*, 345 F.3d at 972 (citing *Croson*, 488 U.S. at 496).

⁷² 195 F.3d 698, at 706.

⁷³ 488 U.S. at 507-08. See also *Sherbrooke Turf*, 345 F.3d at 971-72 (“Narrow tailoring does not require exhaustion of every conceivable race-neutral alternative, but it does require serious, good faith consideration of workable race-neutral alternatives.”).

⁷⁴ *Sherbrooke Turf*, 345 F.3d at 971 (“In determining whether a race-conscious remedy is narrowly tailored, we look to factors such as the efficacy of alternative remedies, the flexibility and duration of the race-

More refined guideposts are provided in several post-*Croson* cases wrestling with efforts to meet the “narrowly tailored” prong – which we simply list for ease of reference:

- Relief is limited to minority groups for which there is identified discrimination;
- Remedies are limited to redressing the discrimination within the boundaries of the enacting jurisdiction;
- The goals of the programs should be flexible and provide waiver provisions;
- Race and/or gender neutral measures should be considered; and
- The program should include provisions or mechanisms for periodic review and sunset.

Recall that, as discussed earlier in this analysis, the Sixth Circuit in *Associated Gen. Contrs. v. Drabik* affirmed that Ohio’s MBEA statute was not narrowly tailored to remedy past discrimination because: (1) the MBEA suffered from under inclusiveness and over inclusiveness, (lumping together racial and ethnic groups without identified discrimination); (2) the MBEA lacked a sunset date; and (3) the state failed to provide specific evidence that Ohio had considered race-neutral alternatives before adopting the plan to increase minority participation.⁷⁵

Again, *Drabik* underscores that M/WBE Programs must be designed so that the benefits of the programs are targeted specifically toward those firms that faced discrimination in the local marketplace; to withstand a challenge, relief must extend only to those minority groups for which there is evidence of discrimination.⁷⁶

Inherent in the above discussion is the notion that M/WBE Programs and remedies must maintain flexibility with regard to local conditions in the public and private sectors. Courts have suggested project-by-project goal setting and waiver provisions as means of ensuring fairness to all vendors. Finally, “review” or “sunset” provisions are strongly suggested components for an M/WBE program to guarantee that remedies do not out-live their intended remedial purpose. As an example, the Sixth Circuit in *Drabik* specifically cited the lack of a “sunset” provision in criticizing the MBEA instituted by the State of Ohio.⁷⁷

E. Conclusion

The *Croson* decision, handed down thirty years ago, continues to cast a long shadow over M/WBE and DBE programs and legislation. Significant refinement by the Supreme Court and the federal Circuit Courts of Appeal transpired in its wake, though, addressing the acceptable and proper methodologies for achieving the legal standards established by *Croson*.

conscious remedy, the relationship of the numerical goals to the relevant labor market, and the impact of the remedy on third parties.”).

⁷⁵ 214 F.3d 739.

⁷⁶ 214 F.3d at 735 (discussing the need for a “fit” between past/present harm and the proffered remedy).

⁷⁷ *Drabik*, 214 F.3d at 739.

In fact, the court in *Kossmann* included in its opinion a lengthy legal overview of what it dubbed “*Croson’s Continuing Significance*.” In this section of its decision, the court opined about why a statistical analysis like that presented by the City of Houston was necessary and proper under the Equal Protection scheme established by *Croson* and refined by its (continuing) progeny.⁷⁸ In many respects, this opinion provides a roadmap for success in implementing and defending an M/WBE program under the current state of the law, with appropriate attribution and reference to *Croson*. It is in this legal environment that any M/WBE program or policy implemented by MSCSD will be evaluated, including in the face of any legal/constitutional challenge.

⁷⁸ *Id.* at pp. 34-49, and 53-62.

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- Adarand Constructors, Inc. v. Pena*, 965 F. Supp. 1556 (D. Co. 1997) (*Adarand IV*)
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- Ashton v. City of Memphis*, 49 F. Supp.2d 1051 (W. D. Tenn. 1999)
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- Hazelwood School Dist. v. United States*, 433 U.S. 299, 97 S.Ct. 2736, 53 L.Ed.2d 768 (1977)
- H.B. Rowe v. Tippett*, 615 F.3d 233 (4th Cir. 2010)
- Kossmann Contracting Co. v. City of Houston*, Case No. H-14-1203 (S.D. Texas 2016)
- Lujan v. Defenders of Wildlife*, 504 U.S. 555, 112 S.Ct. 2130, 119 L.Ed.2d 351 (1992)
- Michigan Road Builders Assn. v. Milliken*, 834 F.2d 583 (6th Cir. 1987)
- Middleton et. al. v. City of Flint*, 92 F.3d 396 (6th Cir. 1996)
- Midwest Fence Corp. v. U.S. DOT*, 840 F.3d 932 (7th Cir. 2016)
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Podberesky v. Kirwin, 38 F.3d 147 (4th Cir. 1994)
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Viridi v. DeKalb Cty. School Dist., 135 Fed. Appx. 262 (2005)
United States v. Paradise, 480 U.S. 149, 107 S.Ct. 1053, 94 L.Ed.2d 203 (1987).
W. Tennessee Chapter of Associated Builders & Contrs., Inc. v. City of Memphis, 302 F.Supp.2d 860 (W.D. Tenn. 2004)
W.H. Scott Constr. Co. v. City of Jackson, 199 F.3d 206 (5th Cir. 1999)
Wygant v. Jackson Bd. of Edn., 476 U.S. 267, 106 S.Ct. 1842, 90 L.Ed.2d 260 (1986)

U.S. Const. Article III, Section 2, cl. 1

The Fourteenth Amendment, Section 1



APPENDIX C

**DATA ASSESSEMENT
REPORT**

**MEMPHIS-SHELBY COUNTY SCHOOLS
DISPARITY STUDY**

**Memphis Shelby County School District
2023 DISPARITY STUDY
DATA ASSESSMENT REPORT**

Griffin & Strong, P.C. (“GSPC”) conducted a virtual data assessment meeting on August 4, 2022 for the Memphis Shelby County Schools 2023 Disparity Study (“Study”). This report summarizes that meeting and sets forth action items and preliminary questions to be answered. It is necessary to issue a data assessment report prior to completing the data collection plan in order to confirm that GSPC has the correct understanding of how and where data is kept by the MSCS. All data collection and transmission efforts will be handled by Joyce Douglas DOUGLASJA@scsk12.org is the lead for overall project management and coordination efforts. Send all data requests to Joyce Douglas.

I. SCOPE STATEMENT

The purpose of this study is to determine whether and, if so, the extent to which statistically significant disparities exist between minority and women owned businesses in the MSCS market area that are ready, willing, and able to perform work on MSCS contracts and the actual utilization of those firms during the Study period as prime contractors and subcontractors.

The study will disaggregate its analysis into five (5) major Industry Categories:

- Construction
- Architecture & Engineering (A&E)
- Professional Services
- Other Services
- Goods

The study period for the Disparity study will be the five (5) year period from July 1, 2017, through June 30, 2022 (FY2018-FY2022)

II. DATA ASSESSMENT MEETING

The Data Assessment Meeting was attended by the following MSCS staff:

Alexandria Baker Williams – MWSBE Specialist
 Kanisha Massey -MWBE Specialist
 Denise Brownlee – Contract Administrator
 Donald Kuhuski – IT Programmer Advisor
 Tito Langston– Director, Finance Budget and Operations
 LaJuanna Jones-Sulton - Senior Buyer
 Mary Bright – Office of General Counsel
 Joyce Douglas -MWSBE Manager
 Patrice Thomas – Chief of Staff

III. DEPARTMENTS INCLUDED IN THE STUDY

Departments to be included in the Study will be provided by MSCS from the budget book. Only departments that use general funds will be included. There are no libraries or museums.

IV. PRELIMINARY PURCHASING PRACTICES

- A. Purchasing Thresholds
 - Under \$25,000 must have three (3) competitive quotes
 - Over \$25,000 must have a competitive bid
- B. Purchasing Protocols
 - \$500 or more must be made with a valid purchase order.
 - \$500 or more must have a contract.
 - Over \$100k must go to the board for approval.

V. IT WAS DETERMINED IN THIS MEETING THAT GSPC WILL NEED FROM THE MSCS:

- Solicitations (Study Period)
 - Vendor List (Current)
 - Purchase Order (Study Period)
 - Requisitions (Study Period)
 - Bids (Study Period)
 - Payments (Study Period)
 - Awards (Study Period)
 - Contracts (Study Period)
 - P-cards (excluded – MSCS does not use)
 - Subcontractor data (Study Period)
 - Certified Lists/Third Party (Current)
- A. Solicitations
 - Solicitations are uploaded to the website but only goes back 2-3 years.
 - B. Vendor
 - MSCS has an outward facing vendor system where vendors can register and select NIGP codes.
 - The finance supplier list is not separate from the Vendor List. The registered vendors are uploaded to the Apex system, which is tied to the finance system.
 - Vendors do not have to be registered to bid, but once there is an award, the awardee is required to register as a vendor if they are not already registered.

C. Purchase Orders (POs)

- POs will include the full amount of the award.
- POs have contract numbers and solicitation numbers and can be provided on an Excel spreadsheet.
- Requisitions have NIGP codes/numbers which can be requested with the POs.
- Purchase orders do not have NIGP codes.

D. Requisitions

- MSCS can provide a master requisition list, but it may not be needed, because that information can be pulled into GSPC's request for PO data.

E. Bids (ITB, RFP, RFQ)

- MSCS has electronic bid folders. Some are in Excel and some are in PDFs. It is a physical folder. In the bid folder is: Notice, advertisements, license look up, SAM.gov report, the actual proposals or actual bid, award letter, bid tabulation.
- MSCS also keeps bids on a USB drive.
- If the bid is for construction, it will include a list of the subcontractors. Subcontractors are included in the "Bid Identification Form." It states who the General Contractor (GC) is and breaks out everything else as subcontractors (in percentages). The utilization plan does have an area for dollar values, but all have percentages to meet goals.

F. Payments

- Finance can identify the payments made to vendors.
- Finance can match purchase orders to payments.
- Payments have an object code within the GL code to tell us what the payment was for.

G. Awards

- MSCS reviews projects over \$100k for goals regardless of the funding source.
- MSCS does not set its own goals on federal dollars but does conduct outreach efforts.
- There is a master list of all projects reviewed for goals.
- There is no prequalified list.
- There are no CMARs or JVs.

H. Contracts

Contract Advantage system houses the contracts.

There were 1053 contracts during the last calendar year 7% were construction contracts.

I. P-Cards

- MSCS does not use P-cards.

J. Subcontractors

- If there is an MWBE goal, the spend is tracked in B2G as of January 2021. Prior to that, the spend was kept in reports. MSCS would send the prime a form, and the subcontractor would verify it by email.
- There is no subcontractor data before January 2020. So, there is only about 2 years of data.
- MSCS was not clear on whether they have release of lien waivers.

K. Certified Lists-

- MSCS has MBE, WBE SBE certified firm list and can send an active list.
- MSCS accepts the following certifications:
 - City of Memphis
 - Shelby County
 - Mid-South Minority (fee-based) but MSCS does not have access to their list
 - Tri-State Minority Development Council (fee-based)
 - Memphis Airport
- MSCS can give us historic vendor lists and a list of firms that were certified during the Study Period.



APPENDIX D

**DETAILED RELEVANT MARKET
BY COUNTY**

**MEMPHIS-SHELBY COUNTY SCHOOLS
DISPARITY STUDY**

APPENDIX D: RELEVANT MARKET BY COUNTY

The tables in Appendix D (Tables D-1 through D-5) present the dollar value of awards by counties for all MSCS prime spending, broken down by the five procurement categories. The top thirty counties are arranged from the highest dollar value to the lowest dollar value, first within the relevant market and then within the state of Tennessee and then outside of the state of Tennessee. The first percentage column is the percentage of MSCS prime spending with firms in that county. The last column is the cumulative percentage of MSCS spending with firms for that county and the counties above it. The counties highlighted in gray are the Relevant Market for the Study.

Table D-1: Prime Construction by Counties

(Using Payment Dollars, FY 2018-2022)

MSCS Disparity Study

Location	County	State	Payment	Percentage	CumulativePCT
City	Shelby County	TN	\$ 248,704,582.68	84.30%	84.30%
Local County	Shelby County	TN	\$ 28,656,039.98	9.71%	94.01%
MSA	Crittenden County	AR	\$ 843,727.84	0.29%	94.29%
MSA	DeSoto County	MS	\$ 740,745.21	0.25%	94.55%
MSA	Fayette County	TN	\$ 477,486.68	0.16%	94.71%
MSA	Marshall County	MS	\$ 20,795.00	0.01%	94.71%
MSA	Tate County	MS	\$ 4,400.00	0.00%	94.72%
MSA	Tipton County	TN	\$ 73,936.78	0.03%	94.74%
CSA	St. Francis County	AR	\$ 183,638.51	0.06%	94.80%
State	Crockett County	TN	\$ 561,634.00	0.19%	94.99%
State	Davidson County	TN	\$ 3,680,227.76	1.25%	96.24%
State	Dyer County	TN	\$ 9,660.70	0.00%	96.24%
State	Gibson County	TN	\$ 6,000.00	0.00%	96.25%
State	Hardeman County	TN	\$ 269.18	0.00%	96.25%
State	Henderson County	TN	\$ 56,225.00	0.02%	96.27%
State	Knox County	TN	\$ 865,566.50	0.29%	96.56%
State	Madison County	TN	\$ 95,000.00	0.03%	96.59%
State	Maury County	TN	\$ 364,847.98	0.12%	96.71%
State	Obion County	TN	\$ 8,311.00	0.00%	96.72%
State	Rutherford County	TN	\$ 2,620.00	0.00%	96.72%
State	Warren County	TN	\$ 294,974.31	0.10%	96.82%
State	Williamson County	TN	\$ 3,565.62	0.00%	96.82%
State	Wilson County	TN	\$ 24,000.00	0.01%	96.83%
USA	Alamance County	NC	\$ 72,604.38	0.02%	96.85%
USA	Alameda County	CA	\$ 1,500.00	0.00%	96.85%
USA	Alcorn County	MS	\$ 3,485.82	0.00%	96.85%
USA	Allen County	IN	\$ 434,421.00	0.15%	97.00%
USA	Anderson County	SC	\$ 1,121.00	0.00%	97.00%
USA	Bexar County	TX	\$ 3,343.92	0.00%	97.00%
USA	Bond County	IL	\$ 3,156.10	0.00%	97.00%
USA	Boone County	MO	\$ 960.00	0.00%	97.00%
USA	Boulder County	CO	\$ 10,917.45	0.00%	97.01%
USA	Brookings County	SD	\$ 40.00	0.00%	97.01%
USA	Broward County	FL	\$ 236,758.88	0.08%	97.09%

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Table D-2: Prime A&E Services by Counties

(Using Payment Dollars, FY 2018-2022)

MSCS Disparity Study

Location	County	State	Payment	Percentage	CumulativePCT
City	Shelby County	TN	\$ 11,974,771.81	75.37%	75.37%
Local County	Shelby County	TN	\$ 2,205,142.25	13.88%	89.24%
MSA	DeSoto County	MS	\$ 48,311.00	0.30%	89.55%
MSA	Fayette County	TN	\$ 6,255.00	0.04%	89.59%
State	Davidson County	TN	\$ 1,990.00	0.01%	89.60%
State	Hamilton County	TN	\$ 7,095.00	0.04%	89.64%
State	Sumner County	TN	\$ 552.00	0.00%	89.65%
State	Washington County	TN	\$ 1,509.95	0.01%	89.66%
USA	Black Hawk County	IA	\$ 128.65	0.00%	89.66%
USA	Clark County	NV	\$ 25,674.76	0.16%	89.82%
USA	Collier County	FL	\$ 3,819.00	0.02%	89.84%
USA	Cook County	IL	\$ 17,852.44	0.11%	89.96%
USA	Dallas County	TX	\$ 971.00	0.01%	89.96%
USA	Dubois County	IN	\$ 32,695.00	0.21%	90.17%
USA	Dutchess County	NY	\$ 19,877.00	0.13%	90.29%
USA	El Paso County	CO	\$ 384.01	0.00%	90.30%
USA	Fairfax County	VA	\$ 255,817.42	1.61%	91.91%
USA	Forsyth County	GA	\$ 2,018.65	0.01%	91.92%
USA	Fulton County	GA	\$ 360.54	0.00%	91.92%
USA	Hamilton County	OH	\$ 153,725.00	0.97%	92.89%
USA	Hillsborough County	FL	\$ 12,777.04	0.08%	92.97%
USA	Hinds County	MS	\$ 4,800.00	0.03%	93.00%
USA	Houston County	AL	\$ 27,694.00	0.17%	93.17%
USA	Jefferson County	AL	\$ 56,738.00	0.36%	93.53%
USA	Jefferson County	KY	\$ 341,783.16	2.15%	95.68%
USA	Kent County	MI	\$ 2,577.42	0.02%	95.70%
USA	Lake County	IN	\$ 51,837.11	0.33%	96.02%
USA	Lee County	MS	\$ 151,001.50	0.95%	96.97%
USA	Lonoke County	AR	\$ 12,434.50	0.08%	97.05%
USA	Los Angeles County	CA	\$ 43,504.20	0.27%	97.33%
USA	Lucas County	OH	\$ 6,400.00	0.04%	97.37%
USA	Maricopa County	AZ	\$ 148,220.00	0.93%	98.30%
USA	Marion County	IN	\$ 42,873.75	0.27%	98.57%
USA	Marshall County	AL	\$ 135.20	0.00%	98.57%

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Table D-3: Prime Professional Services by Counties

(Using Payment Dollars, FY 2018-2022)

MSCS Disparity Study

Location	County	State	Payment	Percentage	CumulativePCT
City	Shelby County	TN	\$ 55,674,542.92	30.46%	30.46%
Local County	Shelby County	TN	\$ 50,024,247.43	27.37%	57.83%
MSA	Crittenden County	AR	\$ 102,684.75	0.06%	57.88%
MSA	DeSoto County	MS	\$ 123,865.86	0.07%	57.95%
MSA	Fayette County	TN	\$ 41,435.00	0.02%	57.97%
State	Cannon County	TN	\$ 1,806.00	0.00%	57.97%
State	Davidson County	TN	\$ 340,161.43	0.19%	58.16%
State	Hamilton County	TN	\$ 12,942,395.68	7.08%	65.24%
State	Knox County	TN	\$ 708,693.90	0.39%	65.63%
State	Washington County	TN	\$ 22,971.00	0.01%	65.64%
USA	Alameda County	CA	\$ 4,000.00	0.00%	65.64%
USA	Allegheny County	PA	\$ 72,362.62	0.04%	65.68%
USA	Arlington County	VA	\$ 784,939.00	0.43%	66.11%
USA	Auglaize County	OH	\$ 208,200.00	0.11%	66.23%
USA	Baltimore City	MD	\$ 1,507.29	0.00%	66.23%
USA	Beaver County	PA	\$ 346,354.54	0.19%	66.42%
USA	Berkeley County	SC	\$ 20,800.00	0.01%	66.43%
USA	Bexar County	TX	\$ 9,950.00	0.01%	66.43%
USA	Bronx County	NY	\$ 4,822.84	0.00%	66.44%
USA	Brunswick County	NC	\$ 255,291.13	0.14%	66.58%
USA	Calhoun County	MI	\$ 1,610.02	0.00%	66.58%
USA	Carson City	NV	\$ 4,500.00	0.00%	66.58%
USA	Cherokee County	OK	\$ 163.00	0.00%	66.58%
USA	Chester County	PA	\$ 4,334,564.85	2.37%	68.95%
USA	Chisago County	MN	\$ 744.25	0.00%	68.95%
USA	Cobb County	GA	\$ 96,383.16	0.05%	69.00%
USA	Colbert County	AL	\$ 5,228.79	0.00%	69.01%
USA	Cook County	IL	\$ 9,482,345.58	5.19%	74.19%
USA	Craighead County	AR	\$ 2,530.00	0.00%	74.20%
USA	Dallas County	TX	\$ 7,675.27	0.00%	74.20%
USA	Delaware County	PA	\$ 250.00	0.00%	74.20%
USA	District of Columbia	DC	\$ 5,202.03	0.00%	74.20%
USA	Duval County	FL	\$ 37,506.74	0.02%	74.22%
USA	El Dorado County	CA	\$ 432,668.00	0.24%	74.46%

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Table D-4: Prime Other Services by Counties

(Using Payment Dollars, FY 2018-2022)

MSCS Disparity Study

Location	County	State	Payment	Percentage	CumulativePCT
City	Shelby County	TN	\$ 255,570,783.62	64.33%	64.33%
Local County	Shelby County	TN	\$ 6,766,072.21	1.70%	66.03%
MSA	Crittenden County	AR	\$ 85,280.16	0.02%	66.05%
MSA	DeSoto County	MS	\$ 3,312,123.45	0.83%	66.88%
MSA	Fayette County	TN	\$ 37,856.74	0.01%	66.89%
MSA	Marshall County	MS	\$ 17,742.19	0.00%	66.90%
MSA	Tate County	MS	\$ 4,014,412.39	1.01%	67.91%
MSA	Tipton County	TN	\$ 578,900.13	0.15%	68.05%
MSA	Tunica County	MS	\$ 4,988.00	0.00%	68.06%
State	Blount County	TN	\$ 16,944.00	0.00%	68.06%
State	Crockett County	TN	\$ 23,662.45	0.01%	68.07%
State	Davidson County	TN	\$ 23,894,963.57	6.01%	74.08%
State	Gibson County	TN	\$ 1,380.00	0.00%	74.08%
State	Hamilton County	TN	\$ 60,968.79	0.02%	74.10%
State	Hawkins County	TN	\$ 261,942.57	0.07%	74.16%
State	Johnson County	TN	\$ 74,443.00	0.02%	74.18%
State	Knox County	TN	\$ 1,104,601.33	0.28%	74.46%
State	Madison County	TN	\$ 601,393.10	0.15%	74.61%
State	Maury County	TN	\$ 514,738.11	0.13%	74.74%
State	Montgomery County	TN	\$ 1,318.59	0.00%	74.74%
State	Rutherford County	TN	\$ 49,340.78	0.01%	74.75%
State	Sevier County	TN	\$ 21,165.59	0.01%	74.76%
State	Sumner County	TN	\$ 21,782.50	0.01%	74.76%
State	Washington County	TN	\$ 2,832.71	0.00%	74.76%
State	Williamson County	TN	\$ 3,316,475.53	0.83%	75.60%
State	Wilson County	TN	\$ 2,349.12	0.00%	75.60%
USA	Ada County	ID	\$ 2,624.44	0.00%	75.60%
USA	Alachua County	FL	\$ 1,981.00	0.00%	75.60%
USA	Alameda County	CA	\$ 241,022.34	0.06%	75.66%
USA	Alexandria city	VA	\$ 67,692.00	0.02%	75.68%
USA	Allegheny County	PA	\$ 14,899.74	0.00%	75.68%
USA	Allen County	IN	\$ 40,054.22	0.01%	75.69%
USA	Androscoggin County	ME	\$ 297,863.99	0.07%	75.77%
USA	Anne Arundel County	MD	\$ 8,328.00	0.00%	75.77%

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Table D-5: Prime Goods by Counties

(Using Payment Dollars, FY 2018-2022)

MSCS Disparity Study

Location	County	State	Payment	Percentage	CumulativePCT
City	Shelby County	TN	\$ 198,095,054.97	54.52%	54.52%
Local County	Shelby County	TN	\$ 4,439,589.36	1.22%	55.74%
MSA	Crittenden County	AR	\$ 399.00	0.00%	55.74%
MSA	DeSoto County	MS	\$ 2,254,174.63	0.62%	56.36%
MSA	Fayette County	TN	\$ 1,700.00	0.00%	56.36%
MSA	Marshall County	MS	\$ 890,635.74	0.25%	56.61%
MSA	Tipton County	TN	\$ 889.96	0.00%	56.61%
CSA	Benton County	AR	\$ 4,720,290.52	1.30%	57.91%
State	Blount County	TN	\$ 9,979,741.48	2.75%	60.65%
State	Bradley County	TN	\$ 2,353,889.92	0.65%	61.30%
State	Chester County	TN	\$ 49,585.50	0.01%	61.31%
State	Davidson County	TN	\$ 10,488,962.74	2.89%	64.20%
State	Dyer County	TN	\$ 1,098,717.91	0.30%	64.50%
State	Hamilton County	TN	\$ 139,697.00	0.04%	64.54%
State	Hardeman County	TN	\$ 2,163.00	0.00%	64.54%
State	Hardin County	TN	\$ 307,752.58	0.08%	64.63%
State	Haywood County	TN	\$ 1,010.00	0.00%	64.63%
State	Henry County	TN	\$ 1,917,122.77	0.53%	65.15%
State	Jefferson County	TN	\$ 556,662.52	0.15%	65.31%
State	Knox County	TN	\$ 538,163.07	0.15%	65.46%
State	Lauderdale County	TN	\$ 513.00	0.00%	65.46%
State	Madison County	TN	\$ 104,520.81	0.03%	65.48%
State	Putnam County	TN	\$ 15,638.05	0.00%	65.49%
State	Rutherford County	TN	\$ 227,914.69	0.06%	65.55%
State	Sumner County	TN	\$ 27,653.22	0.01%	65.56%
State	Williamson County	TN	\$ 6,010.00	0.00%	65.56%
State	Wilson County	TN	\$ 4,133,885.13	1.14%	66.70%
USA	Ada County	ID	\$ 1,592,818.64	0.44%	67.14%
USA	Adams County	CO	\$ 5,633.00	0.00%	67.14%
USA	Alamance County	NC	\$ 227,674.97	0.06%	67.20%
USA	Alameda County	CA	\$ 920,027.20	0.25%	67.45%
USA	Albany County	NY	\$ 13,714.83	0.00%	67.46%
USA	Albany County	WY	\$ 5,000.00	0.00%	67.46%
USA	Alexandria city	VA	\$ 548.00	0.00%	67.46%

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APPENDIX E

**DETAILED REGRESSION
ANALYSIS**

**MEMPHIS-SHELBY COUNTY SCHOOLS
DISPARITY STUDY**

APPENDIX E: EXPANDED REGRESSION ANALYSIS

The tables in Appendix E (Tables 1 through 17) report additional regression results. The regression specifications and parameter estimates attempt to identify, for the entire population of firms in the relevant market area, based on a sample, the possibly causal factors that explain public contracting disparities, after controlling for a variety of race-neutral capacity factors in the Memphis-Shelby County Schools Market area.

The results of the GSPC disparity analysis provide a framework to rationalize observed disparities in public contracting outcomes/success between MWDBEs and non-MWDBEs in the Memphis-Shelby County Schools Market Area. Our regression analysis suggests that any observed disparities in public contracting outcomes between MWDBEs and non-MWDBEs are not explained by differential capacities for public contracting success with Memphis-Shelby County Schools. Our regression specifications control for firm public contracting capacity by including measures such as the education level of the firm owner, the age and market tenure of the firm, the size of the firm with respect to the number of employees and revenues, firm bonding capacity, willingness and ability to do business with Memphis-Shelby County Schools, registration status, and firm financial standing. This inclusion of these control covariates in our regression specifications permit an assessment of public contracting success/failure conditional on MWDBE and non-MWDBE public contracting capacity. The existence of public contracting success disparities between MWDBEs and non-MWDBEs— particularly when disaggregating by the racial/ethnic/gender status of owners— even after controlling for capacity suggests that relative to non-MWDBEs, MWDBEs face barriers independent of their capacity—or their ability—in securing public contracts and subcontracts with Memphis-Shelby County Schools.

Perhaps most indicative of racial/ethnic disparities in public contracting outcomes in the Memphis-Shelby County Schools Market Area, our results reveal that the likelihood of MWDBEs that are owned by Bi/multiracial Americans are more likely to have “never” been a prime contractor or subcontractor relative to non-MWDBEs over the time period under consideration in our analysis. This suggests that these type of MWDBEs face barriers in securing prime contracts and subcontracts from the Memphis-Shelby County Schools. We also find that in the Memphis-Shelby County Schools Market area, firms owned by African Americans, Bi/multiracial Americans, and Native Americans submit fewer prime bids relative to Non-MWDBEs. This suggests that any public contracting disparities between these type of MWDBEs and non-MWDBEs can be explained, at least in part, by lower bid submission of these type of MWDBEs relative to non-MWDBEs. Coupled with our findings of perceived private sector and Memphis-Shelby County Schools discrimination, and informal contracting network exclusion likelihoods being higher for some MWDBEs, our results are also consistent with observed disparities in securing prime contracts and subcontracts with Memphis-Shelby County Schools being driven, at least in part, by discrimination and public contracting network exclusion against MWDBEs that undermines their ability to secure prime contracts and subcontracts with Memphis-Shelby County Schools.

A. Statistical and Econometric Framework

Methodologically, the GSPC statistical and econometric analysis of possible MWDBE public contracting disparities with Memphis-Shelby County Schools utilizes both a standard Regression Model framework and

a Categorical Regression Model (CRM) framework.¹ As the covariates measuring public contracting activity/outcomes and other respondent characteristics in the table below are categorical responses to question- (BRM).²

We first use a relevant CRM/BRM to estimate the linear predictions of particular ordinal-ranked outcomes as a function of the presumably “race-neutral” capacity of the firm. The motivation here is to initially determine how particular market and public sector contracting outcomes are determined by factors other than the race/ethnicity/gender and MWDBE classification status of the firm. The estimated *linear predictions* are then *standardized* and utilized in regression specification where the regressors are the binary race/ethnicity/gender and MWDBE indicators for individuals. The estimated coefficients inform the extent to which race/ethnicity/gender and MWDBE status impact the likelihood of an outcome, on average, relative to Caucasian American-owned firms and non-MWDBEs.³

In those instances in which we report CRM/BRM parameter estimates, we report them as “odds ratios”, which measure the ratio of the probability of success and the probability of failure relative to the omitted group in all our specifications—nonminority owned firms.⁴ When the odds ratio is greater (less) than unity for a parameter, the measured characteristic of interest to the outcome of interest has the effect of increasing (decreasing) the likelihood of the outcome under consideration relative to non-nminority owned firms. We determine statistical significance on the basis of the estimated coefficient’s probability value—or P-value. The P-value is the probability of obtaining an estimate of the coefficient by chance alone, assuming that the null hypothesis of the variable having a zero effect is true. As a convention, GSPC rejects the null hypothesis of no effect, and concludes the estimated coefficient is statistically significant as long as P-value $\leq .05$, which we highlight in bold for all parameter estimates. In all instances, the estimated standard errors

¹ For overview of the CRM, See: Richard D. McKelvey and William Zavoina. 1975. “A Statistical Model for the Analysis of Ordinal Level Dependent Variables,” *Journal of Mathematical Sociology*, 4: pp. 103 - 120.

² More formally, if the latent realization of an outcome is Y_i^* , ranging from $-\infty$ to ∞ , a structural and conditional specification for Y_i^* is $Y_i^* = \mathbf{X}_i \beta + \varepsilon_i$, where \mathbf{X} is a vector of exogenous covariates, β is a vector of coefficients measuring the effects of particular covariates on the realization of Y_i^* , and ε_i is a random error. For categorical and ordinal outcomes $m = 1 \dots J$, $Y_i = m$ if $\tau_{m-1} \leq Y_i^* < \tau_m$, where the τ_i are thresholds for the particular realizations of $Y_i^* = m$. Conditional on \mathbf{X} the likelihood/probability that Y_i takes on a particular realization is $Pr(Y_i = m | \mathbf{X}) = \Phi(\tau_m - \mathbf{X}\beta) - \Phi(\tau_{m-1} - \mathbf{X}\beta)$, where Φ is the cumulative density function of ε . The GSPC methodology utilizes covariates that control and/or proxy for the education level of the firm owner, the age of the firm, the size of the firm with respect to the number of employees and revenues, firm bonding capacity, and firm financial standing.

³ In particular, let y^p_i be the predicted linear probability for a particular ordinal outcome estimate from a CRM or BRM, the Regress and in the regression model is $p^i = [y^p_i - \mu_y]/\sigma_y$, where μ_y is the mean of y^p_i , and σ_y is the standard deviation of y^p_i .

⁴ An “odds-ratio” is also a measure of “effect size” in that in addition to the statistical significance of a parameter, the “odds-ratio” provides a measure of a parameter estimate’s “practical magnitude.” For an “odds-ratio” the practical magnitude is the absolute value of 1 minus the “odds-ratio”, measuring the percentage change in the likelihood of observing the dependent outcome.

are "robust" with respect to heteroskedasticity.

Our regression strategy also reports on two different specifications of the outcome of interest. The first one includes a broad classification of non-minority firms as measured by whether or not they are certified and/or deemed as MWDBEs. Each category in this regression approach will have overlap of firms owned by particular racial/ethnic groups and Women. As this overlap might mask differences in outcomes for particular non-minority minorities and Women, the second specification disaggregates the broad categories by consideration categorization by specific racial/ethnic group and gender (e.g. Asian Americans, African Americans, Hispanic Americans, Women). The exposition and discussion of the results are, in general, couched in terms of whether the outcome of interest suggests that broad MWDBE and race/ethnicity/gender characteristics of a firm is a possible driver or not of public contracting and other relevant disparities in the Memphis-Shelby County Schools Market Area. In particular, we do not necessarily exposit upon the statistical insignificance of MWDBE status in a regression if it is not uniform across all the various categories, as the absence of such a uniformity suggests that for particular MWDBEs, or on average, the outcome of interest is a driver of public contracting disparities in the Memphis-Shelby County Schools market area, and can be at least partially explained by MWDBE status. The exposition also emphasizes those statistically significant parameter estimates that can rationalize any observed disparities in outcomes between MWDBEs and Non-MWDBEs.

B. GSPC Survey of Business Owners Data

Our Memphis-Shelby County Schools disparity analysis is based on survey data compiled by GSPC, and constitutes a sample of firms from the bidder and vendor lists provided by the Memphis-Shelby County Schools. The GSC survey was a questionnaire that captured data on firm and individual owner characteristics in the Memphis-Shelby County Schools market area. The questionnaire was sent to certified firms, prequalified firms, awardees, and subcontractors. All data are relevant for the 7/1/17 – 1/30/22 time period. The table below reports, for the 174 survey responses captured, a statistical summary of the variables that are relevant to the GSPC regression-based analysis of outcomes relevant to, and informative of, public procurement disparities in the Memphis-Shelby County Schools market area. The variables marked with an asterisk are those utilized as factors determining a firm's "race-neutral capacity to compete in both the private and public sector of the Memphis-Shelby County Schools Relevant Market Area.

Table 1

Statistical Summary of Variables

Covariate	Description	Mean	Standard Deviation	Number of Observations
Firm entered market within the past five years	<i>Binary Variable:</i> 1 = yes	.201	.401	174
Number of times denied a commercial bank loan	<i>Ordinal Variable:</i> 1 = 0 2 = 1 – 10 3 = 11 – 25 4 = 26 – 50 5 = 51 – 100 6 = Over 100	.943	.743	174
Number of prime bids submitted on the Memphis-Shelby County Schools projects	<i>Ordinal Variable:</i> 1 = 0 2 = 1 – 10 3 = 11 – 25 4 = 26 – 50 5 = 51 – 100 6 = Over 100	1.57	1.10	174
Number of Memphis-Shelby County Schools prime contracts awarded since 2017	<i>Ordinal Variable:</i> 1 = 0 2 = 1 – 10 3 = 11 – 25 4 = 26 – 50 5 = 51 – 100 6 = Over 100	1.34	.829	174
Number of Memphis-Shelby County Schools subcontracts awarded since 2017	<i>Ordinal Variable:</i> 1 = 0 2 = 1 – 10 3 = 11 – 25 4 = 26 – 50 5 = 51 – 100 6 = Over 100	1.17	.698	174
Did not serve as a contractor or subcontractor on the Memphis-Shelby County Schools projects since 2017	<i>Binary Variable:</i> 1 = Yes	.011	.107	174
Firm has experienced private sector discrimination	<i>Binary Variable:</i> 1 = Yes	.195	.398	174
Firm has experienced discrimination at Memphis-Shelby County Schools	<i>Binary Variable</i> 1 = Yes	.057	.233	174
Firm owner believes informal networks enables business with Memphis-Shelby County Schools	<i>Binary Variable</i> 1 = Yes	.644	.480	174
Owner has more than 20 years of experience	<i>Binary Variable</i> 1 = Yes	.713	.454	174
Firm has more than 10 employees*	<i>Binary Variable</i> 1 = Yes	.299	.459	174
Firm owner has a baccalaureate/post-graduate degree*	<i>Binary Variable:</i> 1 = Yes	.345	.477	174

Firm gross revenue greater than \$1,500,000*	Binary Variable: 1 = Yes	.253	.436	174
Firm bonding limit greater than \$1,500,000*	Binary Variable: 1 = Yes	.741	.439	174
Financing is a Barrier to Submitting*	Binary Variable:	.023	.150	174
Bids and Securing Contracts From Memphis-Shelby County Schools	1 = Yes			
Firm is in the construction sector*	Binary Variable: 1 = Yes	.184	.389	174
Firm is registered to do business with Memphis-Shelby County Schools	Binary Variable: 1 = Yes	.839	.369	174
Firm is willing to do business with Memphis-Shelby County Schools	Binary Variable: 1 = Yes	.029	.168	174
Firm is a certified Minority Business Enterprise	Binary Variable: 1 = Yes	.575	.496	174
Firm is a certified Woman business enterprise	Binary Variable: 1 = Yes	.345	.477	174
Firm is a certified Disadvantaged Business Enterprise	Binary Variable: 1 = Yes	.351	.487	174
Majority Firm Owner is African American	Binary Variable: 1 = Yes	.586	.494	174
Majority Firm Owner is Hispanic American	Binary Variable: 1 = Yes	.006	.076	174
Majority Firm Owner is Asian American	Binary Variable: 1 = Yes	.023	.150	174
Majority Firm Owner is Native American	Binary Variable: 1 = Yes	.006	.076	174
Majority Firm Owner is Biracial/multiracial	Binary Variable: 1 = Yes	.006	.76	174
Majority Firm Owner is a Woman	Binary Variable: 1 = Yes	.598	.476	174

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C. MWDBE Status and Firm Entry in the Memphis-Shelby County Schools Market Area

To determine if MWDBE status is a barrier to the formation of new businesses in the Memphis-Shelby County Schools Market Area, – the two tables below report, for each of the distinct MWDBEs and owner self-reported race/ethnicity in the GSPC sample, the estimated parameters of an Ordinary Least Square Regression with the standardized linear probability of being a new firm within the past 5 years as the dependent variable. As a measure of how well the data fits the regression model, R² is reported.

The parameter estimates in the table below characterized by MWDBE status, suggest that relative to Non-minority-owned firms, certified Minority-owned firm in the Memphis-Shelby County Schools Market Area

are more likely to be new firms. As the excluded group is non-MWDBEs, to the extent that market experience is an important determinant of and correlated with success in bidding and securing public contracts, this suggests that for certified Minority-owned firms, relative inexperience in the market can possibly explain any disparities in public contracting between them and non-MWDBEs in the Memphis-Shelby County Schools Market Area, as tenure in the market also implies similar knowledge/experience about bidding and securing public contracts.

When disaggregated by race, the estimated coefficient suggest that firms owned by African Americans, Asian Americans, and Bi/multiracial American in the Memphis-Shelby County Schools Market Area are more likely to be new firms. This suggests that any public contracting disparities between non-MWDBEs and firms owned by these types of MWDBEs, can, at least in part, be explained by their lower rates of market experience.

Table 2
Ordinary Least Parameter Estimates-Firm Entry:
MWDBE Status and New Firm Entry Probabilities
in the Memphis-Shelby County Schools Market Area

	Coefficient	P-value
<i>Regress and:</i> standardized linear prediction that firm is a new entrant to market		
Firm is a certified Minority Business Enterprise: (Binary)	0.5541	0.0012
Firm is a certified Woman Business Enterprise: (Binary)	0.1357	0.3821
Firm is a certified Disadvantaged Business enterprise: (Binary)	-0.4336	0.0083
Constant	-0.2132	0.1180
Number of Observations	174	
R ²	0.0852	

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Table 3
Ordinary Least Parameter Estimates-Firm Entry:
Race/Ethnicity/Gender Status and New Firm Entry Probabilities
in the Memphis-Shelby County Schools Market Area

	Coefficient	P-value
<i>Regress and:</i> Standardized linear prediction that firm is a new entrant to market		
Firm is African American-owned: (Binary)	0.6841	0.0000
Firm is Hispanic American-owned: (Binary)	-0.6959	0.0000
Firm is Asian American-owned: (Binary)	0.8182	0.0041
Firm is Native American-owned: (Binary)	-0.7087	0.0000
Firm is bi/multiracial-owned: (Binary)	0.5283	0.0000
Firm is Woman-owned: (Binary)	0.3402	0.0213
Constant	-0.6177	0.0000
Number of Observations	174	
R ²	0.1585	

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D. MWDBE Status and Number of Prime Bid Submissions In the Memphis-Shelby County Schools Market Area

One reason disparities in public contracting outcomes between MWDBEs and non-MWDBEs could exist is that relative to non-MWDBEs, MWDBEs may be less interested in, and/or less likely to submit bids for public contracts. To determine if this is the case in the Memphis-Shelby County Schools Market Area, – the two tables below report Ordinal Logit parameter estimates of a CRM with the number of prime contracting bids submitted by a firm to the Memphis-Shelby County Schools since 2017 as the dependent variable, for each of the distinct MWDBEs in the GSPC sample.

The estimated regression coefficients in the table below, characterized by MWDBE status, reveal that relative to non-MWDBEs, certified Woman-owned firms have higher prime bid submission rates. This suggests that any disparities between non-MWDBEs and certified Women -owned firms cannot be explained, at least in part by their lower prime bid submission rates. When disaggregating by race/ethnicity/gender, the results in the table below reveal that, firms owned by African Americans, Bi/multiracial Americans, and Native Americans , are less likely to submit prime bids relative to non-MWDBEs. This suggests that any disparities in public procurement outcomes between these type of MWDBEs and non-MWDBEs in the Memphis-Shelby County Schools market area can be explained, at least in part, by their relatively lower prime bid submission rates.

Table 4
Ordinary Least Parameter Estimates-Prime Submissions:
MWDBE Status and Number of Prime Bid Submissions
In the Memphis-Shelby County Schools Market Area

	Coefficient	P-value
<i>Regress and:</i> Standardized linear prediction of number of prime bid submissions		
Firm is a certified Minority Business Enterprise: (Binary)	-0.0637	0.6952
Firm is a certified Woman Business Enterprise: (Binary)	0.3312	0.0391
Firm is a certified Disadvantaged Business Enterprise: (Binary)	0.1279	0.4190
Constant	-0.1225	0.3951
Number of Observations	174	
R ²	0.0304	

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Table 5
 Ordinary Least Parameter Estimates-Prime Submissions:
 Race/Ethnicity/Gender Status and Number of Prime Bid Submissions
 In the Memphis-Shelby County Schools Market Area

	Coefficient	P-value
<i>Regress and:</i> Standardized linear prediction of number of prime bid submissions		
Firm is African American-owned: (Binary)	-0.4281	0.0078
Firm is Hispanic American-owned: (Binary)	0.0793	0.6063
Firm is Asian American-owned: (Binary)	-0.8106	0.2395
Firm is Native American-owned: (Binary)	0.3298	0.0332
Firm is bi/multiracial-owned: (Binary)	-0.5365	0.0001
Firm is Woman-owned: (Binary)	-0.1790	0.2323
Constant	0.3773	0.0056
Number of Observations	174	
<i>R</i> ²	0.0617	

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E. MWDBE Status and Number of Prime Contracts Awarded In the Memphis-Shelby County Schools Market Area

To the extent that frequency of public contract bids reflects past experience as a prime contractor, MWDBEs can potentially become frequent prime contract bidders by actually gaining experience as successful prime contractors. As such, the frequency of prime bids by MWDBEs firms need not be a concern if they are actually gaining valuable experience as prime contractors that will translate into frequent contract bids and success later. To explore if this is the case in the Memphis-Shelby County Schools Market Area, the two tables below report Ordinal Logit BRM parameter estimates where the dependent variable is the number of Memphis-Shelby County Schools prime contracts awarded to the firm since July 2017.

The estimated regression coefficients with statistical significance in the table below, characterized by MWDBE status, suggest that relative to Non-MWDBEs, no certified MWDBE firms were less likely to win a Prime contract award. When disaggregating by the race/ethnicity/gender of firm owners in the table below, the estimated regression coefficients with statistical significance suggest that relative to non-MWDBE, firms owned by Hispanic Americans and Native Americans were less likely to receive a prime contract award from the Memphis-Shelby County Schools. This suggests that at least for firms owned by Hispanic Americans and Native Americans, any contracting disparities between them and non-MWDBEs can possibly be explained by past, and possibly discriminatory constraints on them successfully winning prior prime contracts which could translate into future capacity to secure prime contracts.

Table 6
 Ordinary Least Parameter Estimates-Prime Awards:
 MWDBE Status and Number of Prime Contracts Awarded
 In the Memphis-Shelby County Schools Market Area

	Coefficient	P-value
<i>Regress and:</i> Standardized linear prediction of number of prime contracts awarded		
Firm is a certified Minority Business Enterprise: (Binary)	0.0277	0.8684
Firm is a certified Woman Business Enterprise: (Binary)	0.3619	0.0163
Firm is a certified Disadvantaged Business Enterprise: (Binary)	0.2120	0.0941
Constant	-0.2149	0.2573
Number of Observations	174	
R ²	0.0424	

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Table 7
 Ordinary Least Parameter Estimates-Prime Awards:
 Race/Ethnicity/Gender Status and Number of Prime Contracts Awarded
 In the Memphis-Shelby County Schools Market Area

	Coefficient	P-value
<i>Regress and:</i> Standardized linear prediction of number of prime contracts awarded		
Firm is African American-owned: (Binary)	-0.0733	0.6851
Firm is Hispanic American-owned: (Binary)	-1.2140	0.0000
Firm is Asian American-owned: (Binary)	0.0043	0.9893
Firm is Native American-owned: (Binary)	-0.7501	0.0000
Firm is bi/multiracial-owned: (Binary)	0.0195	0.9321
Firm is Woman-owned: (Binary)	0.0562	0.7360
Constant	0.0204	0.9290
Number of Observations	174	
R ²	0.0122	

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F. MWDBE Status and Number of Subcontracts Awarded In the Memphis-Shelby County Schools Market Area

To the extent that submitting and winning public contract bids requires experience, which can also be gained through subcontracting with lead prime firms with Memphis-Shelby County Schools contracts, MWDBEs can potentially become more frequent and successful prime contract bidders by acquiring experience as subcontractors. As such, the low-frequency of prime bid submission and lower likelihood of being a prime contractor by MWDBEs need not be a concern if they are gaining valuable subcontracting experience that will translate into high frequency contract bids and success later. To explore if this is the case in the Memphis-Shelby County Schools Market Area, – the two tables below report Ordinal Logit BRM parameter estimates where the dependent variable is the number of Memphis-Shelby County Schools subcontracts awarded to the firm.

The estimated regression coefficients with statistical significance in the table below suggest that relative to non-MWDBEs, MWDBEs were neither more or less likely to have been awarded subcontracts. When disaggregating by the race/ethnicity/gender of firm owners in the Ordinary Least Parameter Estimates-SubAward (Owner Race/Ethnicity/Gender Status) table, coefficients also suggest that that relative to non-MWDBEs, MWDBEs were neither more or less likely to have been awarded subcontracts. To the extent that success in public contracting is proportional to having prior subcontracts, the parameter estimates this suggest that any contracting disparities between non-MWDBEs and firms owned by African Americans, Asian Americans, and Bi/multiracial Americans cannot be explained, at least in part, by relative deficits in experience gained on Memphis-Shelby County Schools subcontract awards.

Table 8
 Ordinary Least Parameter Estimates-Sub-Awards:
 MWDBE Status and Number of Subcontracts Awarded
 In the Memphis-Shelby County Schools Market Area

	Coefficient	P-value
<i>Regress and:</i> Standardized linear prediction of number of subcontracts awarded		
Firm is a certified Minority Business Enterprise: (Binary)	-0.0221	0.8973
Firm is a certified Woman Enterprise: (Binary)	0.2328	0.1130
Firm is a certified Disadvantaged Business Enterprise: (Binary)	0.1583	0.2382
Constant	-0.1231	0.5114
Number of Observations	174	
R ²	0.0187	

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Table 9
 Ordinary Least Parameter Estimates-Sub-Awards:
 Owner Race/Ethnicity/Gender Status and Number of Subcontracts Awarded
 In the Memphis-Shelby County Schools Market Area

	Coefficient	P-value
<i>Regress and:</i> Standardized linear prediction of number of subcontracts awarded		
Firm is African American-owned: (Binary)	-0.1566	0.3961

Firm is Hispanic American-owned: (Binary)	0.0322	0.8371
Firm is Asian American-owned: (Binary)	-0.2409	0.3640
Firm is Native American-owned: (Binary)	-0.2536	0.0713
Firm is bi/multiracial-owned: (Binary)	-0.3399	0.1482
Firm is Woman-owned: (Binary)	0.0223	0.8960
Constant	0.0874	0.7091
Number of Observations	174	
R ²	0.0068	

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G. MWDBE Status and Never Serving as Contractor/Subcontractor In the Memphis-Shelby County Schools Market Area

As the results in the two tables below reflect, only the effect of MWDBE status on the number of Memphis-Shelby County Schools contracts and subcontracts, it may obscure the effects of, and the distribution of, zero outcomes—never having secured a Memphis-Shelby County Schools contract of subcontract. The two tables below report OLS parameter estimates where the dependent variable is the standardized probability of whether the firm “never” served as a prime contractor or subcontractor for the Memphis-Shelby County Schools.

The estimated regression coefficients in the table below, classified by No-Prime Subawards (MWDBE status), suggest that there is no difference in the probability of never serving as a contractor or subcontractor with Memphis-Shelby County Schools between MWDBEs and non-MWDBEs. When disaggregating by race/ethnicity/gender, the results in the table below—No-Prime Subawards (race/ethnicity/gender status) suggest that firms owned by Bi/multiracial Americans are relatively more likely to have never received a Memphis-Shelby County Schools contract or subcontract. To the extent that success in public contracting is proportional to having prior prime contracts or subcontracts, this suggest that any contracting disparities between non-MWDBEs and firms owned by Bi/multiracial Americans, can possibly be explained by past and possibly discriminatory constraints on prior success in securing prime contracts or subcontracts from the Memphis-Shelby County Schools.

Table 10
 Ordinary Least Parameter Estimates-No Prime/Sub-Awards:
 MWDBE Status and Never Serving as Contractor/Subcontractor
 In the Memphis-Shelby County Schools Market Area

	Coefficient	P-value
<i>Regress and:</i> Standardized linear prediction of number of never serving as contractor/subcontractor		
Firm is a certified Minority Business Enterprise: (Binary)	0.0439	0.9510
Firm is a certified Woman Business enterprise: (Binary)	-0.6188	0.3670

Firm is a certified Disadvantaged Business Enterprise: (Binary)	0.1887	0.7901
Constant	-8.1910	0.0000
Number of Observations	174	
R ²	0.0048	

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Table 11
 Ordinary Least Parameter Estimates-No Prime/Sub-Awards:
 Race/Ethnicity/Gender Status and Never Serving as Contractor/Subcontractor
 In the Memphis-Shelby County Schools Market Area

	Coefficient	P-value
<i>Regress and:</i> Standardized linear prediction of number of never serving as contractor/subcontractor		
Firm is African American-owned: (Binary)	0.6687	0.3571
Firm is Hispanic American-owned: (Binary)	-2.3065	0.0000
Firm is Asian American-owned: (Binary)	2.9314	0.0761
Firm is Native American-owned: (Binary)	-6.7365	0.0000
Firm is bi/multiracial-owned: (Binary)	6.6479	0.0000
Firm is Woman-owned: (Binary)	-0.7791	0.2761
Constant	-8.2928	0.0000
Number of Observations	174	
R ²	0.0499	

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H. MWDBE Status and Perceived Discrimination in the Memphis-Shelby County Schools Private Sector

Disparate contracting and subcontracting outcomes between MWDBEs and non-MWDBEs could reflect, at least in part, the effects of discrimination against them by private sector firms, which discourages their entry into the market, and/or undermines their capacity to compete for public sector projects. In the two tables below, we report OLS parameter estimates of the effects of MWDBE status on the standardized probability having experienced discrimination—in particular the perception of having experienced discrimination in the private sector of the Memphis-Shelby County Schools Market Area.

If perceptions of discrimination correlate positively with actual discrimination in the private sector, the estimated coefficients in table below, characterized by MWDBE status, suggest that relative to non-MWDBEs, certified Minority-owned firms experience more private sector discrimination. When disaggregated by the race/ethnicity/gender of firm owners, the statistically coefficients in the table below characterized by race/ethnicity/gender, suggest that relative to non-MWDBEs, firms owned by African Americans, Hispanic Americans, Native Americans, and Bi/multiracial Americans experience more discrimination in the private sector of the Memphis-Shelby County Schools market Area. To the extent that private sector discrimination can undermine the capacity of MWDBEs to compete for public sector procurement, this suggests that, at least in the Memphis-Shelby County Schools Market Area, private sector

discrimination may have some explanatory power in explaining public contracting disparities between MWDBEs and non-MWDBEs.

Table 12
Ordinary Least Parameter Estimates-Private Sector Discrimination
MWDBE Status and Perceived Discrimination in the Private Sector

	Coefficient	P-value
<i>Regress and:</i> Standardized linear prediction of experiencing perceived discrimination in the private sector		
Firm is a certified Minority Business Enterprise: (Binary)	0.4541	0.0076
Firm is a certified Woman Enterprise: (Binary)	0.2145	0.1501
Firm is a certified Disadvantaged Business Enterprise: (Binary)	0.0182	0.9006
Constant	-0.3413	0.0643
Number of Observations	174	
R^2	0.0585	

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Table 13
Ordinary Least Parameter Estimates-Private Sector Discrimination
Race/Ethnicity/Gender Status and Perceived Discrimination in the Private Sector

	Coefficient	P-value
<i>Regress and:</i> Standardized linear prediction of experiencing perceived discrimination in the private sector		
Firm is African American-owned: (Binary)	0.4115	0.0192
Firm is Hispanic American-owned: (Binary)	1.1442	0.0000
Firm is Asian American-owned: (Binary)	0.3636	0.1481
Firm is Native American-owned: (Binary)	1.0083	0.0000
Firm is bi/multiracial-owned: (Binary)	0.7948	0.0000
Firm is Woman-owned: (Binary)	0.1846	0.2582
Constant	-0.3769	0.0921
Number of Observations	174	
R^2	0.0599	

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I. MWDBE Status and Perceived Discrimination at the Memphis-Shelby County Schools

Disparate contracting and subcontracting outcomes between MWDBEs and non-MWDBEs could reflect, at least in part, the effects of discrimination against them by the Memphis-Shelby County Schools, which conditions their entry into the market, and opportunities for success at the Memphis-Shelby County

Schools.⁵ In the two tables below, we report OLS parameter estimates of the the effects of MWDBE status on the standardized probability of having experienced discrimination—in particular the perception of having experienced discrimination at the Memphis-Shelby County Schools.

To the extent that perceptions of discrimination correlate positively with actual discrimination at the Memphis-Shelby County Schools, the coefficient estimates in the table below, characterized by MWDBE status, suggest with statistical significance that relative to non-MWDBEs, certified Minority-owned and Women-owned firms were more likely to have experienced discrimination at Memphis-Shelby County Schools. When disaggregated by the race/ethnicity/gender of firm owners, the coefficient estimates with statistical significance in the table below suggest that relative to non-MWDBEs, firms owned by African Americans, Hispanic Americans, Asian Americans, Native Americans, and Bi/multiracial Americans experienced discrimination at the Memphis-Shelby County Schools. This suggests that, at least for these type of MWDBEs, Memphis-Shelby County Schools contracting disparities between them and non-MWDBEs can at least in part explained by discrimination at the Memphis-Shelby County Schools that undermines their chances at successfully winning prime contracts.

Table 14
Ordinary Least Parameter Estimates-Memphis-Shelby County Schools Discrimination
MWDBE Status and Perceived Discrimination at the Memphis-Shelby County Schools

	Coefficient	P-value
<i>Regress and:</i> Standardized linear prediction of experiencing perceived discrimination at the Memphis-Shelby County Schools		
Firm is a certified Minority Business Enterprise: (Binary)	0.5291	0.0012
Firm is a certified Woman Business Enterprise: (Binary)	0.3123	0.0321
Firm is a certified Disadvantaged Business Enterprise: (Binary)	-0.0064	0.9650
Constant	-0.4095	0.0214
Number of Observations	174	
R ²	0.0838	

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Table 15
Ordinary Least Parameter Estimates-Memphis-Shelby County Schools Discrimination
Race/Ethnicity/Gender Status and Perceived Discrimination at the Memphis-Shelby County Schools

	Coefficient	P-value
<i>Regress and:</i> Standardized linear prediction of experiencing perceived discrimination at the Memphis-Shelby County Schools		
Firm is African American-owned: (Binary)	0.3478	0.0381
Firm is Hispanic American-owned: (Binary)	0.9551	0.0000
Firm is Asian American-owned: (Binary)	0.5053	0.0060
Firm is Native American-owned: (Binary)	0.8098	0.0000
Firm is bi/multiracial-owned: (Binary)	0.8167	0.0000
Firm is Woman-owned: (Binary)	0.1613	0.3040
Constant	-0.3268	0.0651

⁵ For the effects that discrimination can have upon the entry and performance of minority-owned firms. See: Borjas, George J., and Stephen G. Bronars. 1989. "Consumer Discrimination and Self-employment." *Journal of Political Economy*, 97: pp. 581-605.

Number of Observations	174	
R ²	0.0454	

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J. MWDBE Status and Informal Contracting Networks In the Memphis-Shelby County Schools Market Area

Similar to discrimination at the Memphis-Shelby County Schools, the existence of informal public contracting networks that confer advantages to insiders in securing public contracts and subcontracts, and exclude MWDBEs, could possibly have an adverse effect on MWDBEs ability to secure public contracts and subcontracts with Memphis-Shelby County Schools.⁶ To explore the role of such informal networks, the two tables below report OLS parameter estimates where the dependent variable is the standardized linear probability that the firm owner agrees that informal networks enable success in public contracting with Memphis-Shelby County Schools.

The estimated coefficients in the table below characterized by MWDBE status, suggest with statistical significance that relative to non-MWDBEs, firms certified as Minority-owned were more likely to perceive that informal networks enable contracting success with Memphis-Shelby County Schools. When disaggregated by the race/ethnicity/gender of firm owners, the estimated coefficients estimates in the tables below suggest with statistical significance that relative to non-MWDBEs, firms owned by African Americans, Hispanic Americans, Native Americans, and Bi/multiracial Americans were more likely to perceive that informal networks enable contracting success with Memphis-Shelby County Schools. This suggests that, at least for these type of MWDBEs, contracting disparities between them and non-MWDBEs can explained, at least in part, by their exclusion from the Memphis-Shelby County Schools public contracting networks that reduces their ability to secure prime contracts and subcontracts.

Table 16
Ordinary Least Parameter Estimates-City Informal Contracting Networks
MWDBE Status and Informal Contracting Networks
In the Memphis-Shelby County Schools Market Area

	Coefficient	P-value
<i>Regress and:</i> Standardized linear prediction of agreeing that informal networks are important for securing contracts		
Firm is a certified Minority Business Enterprise: (Binary)	0.6751	0.0000
Firm is a certified Woman Business Enterprise:	0.3014	0.0534

⁶ For evidence that access to informal networks can increase the likelihood of success in securing public contracting See: Sedita, Silvia Rita, and Roberta Apa. 2015. "The Impact of Inter-organizational Relationships on Contractors' Success in Winning Public Procurement Projects: The Case of the Construction Industry in the Veneto Region." *International Journal of Project Management*, 33: pp. 1548-1562.

(Binary)		
Firm is a certified Disadvantaged Business enterprise: (Binary)	-0.2721	0.1020
Constant	-0.3988	0.0031
Number of Observations	173	
R^2	0.1140	

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Table 17
 Ordinary Least Parameter Estimates-City Informal Contracting Networks
 Race/Ethnicity/Gender Status and Informal Contracting Networks
 In the Memphis-Shelby County Schools Market Area

	Coefficient	P-value
<i>Regress and:</i> Standardized linear prediction of agreeing that informal networks are important for securing contracts		
Firm is African American-owned: (Binary)	0.6902	0.0000
Firm is Hispanic American-owned: (Binary)	0.3647	0.0241
Firm is Asian American-owned: (Binary)	0.0999	0.8740
Firm is Native American-owned: (Binary)	0.7324	0.0000
Firm is bi/multiracial-owned: (Binary)	0.7808	0.0000
Firm is Woman-owned: (Binary)	0.2566	0.0891
Constant	-0.5697	0.0000
Number of Observations	173	
R^2	0.1356	

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APPENDIX F

**DISPARITY ANALYSIS
(ALL DOLLARS, UNDER \$1M &
UNDER \$500,000)**

**MEMPHIS-SHELBY COUNTY SCHOOLS
DISPARITY STUDY**

Appendix F: Disparity Ratios

The tables in Appendix F (Tables F-1 through F-5) presents prime disparity ratios on MSCS projects by year over the Study Period, prime disparity ratios for projects less than \$500,000 (Tables F-6 through F-10), prime disparity ratios for projects less than \$1,000,000 (Tables F-11 through F-15) and disparity ratios for Total Utilization (F-16).

There was underutilization in prime contracts for all MWBE groups, except

- African American, Asian American and Non-Minority Woman owned firms in Construction
- Non-Minority Women owned firms in Professional Services
- Asian American owned firms in Other Services
- African Americans, Asian America and Non-Minority Woman owned firms in Goods

Non-Minority Women owned firms were roughly at parity in A&E.

Several MWBE groups were overutilized for prime payments less than \$500,000 and less than \$1 million:

Under \$500,000

- African American, Hispanic American and Non-Minority Woman owned firms in Construction
- African American and Non-Minority Woman owned firms in A&E
- Non-Minority Women owned firms in Professional Services
- Asian American and Non-Minority Woman owned firms in Other Services
- Hispanic American and Non-Minority Woman owned firms in Goods

Under \$1,000,000

- Hispanic American and Non-Minority Woman owned firms in Construction
- African American and Non-Minority Woman owned firms in A&E
- Asian American and Non-Minority Woman owned firms in Other Services
- Hispanic American and Non-Minority Woman owned firms in Goods

Several MWBE groups were over utilized Total Utilization:

- African American, Asian American and Non-Minority Woman owned firms in Construction
- Non-Minority Women owned firms in Professional Services
- Asian American and Non-Minority Woman owned firms in Other Services
- African American, Asian America and Non-Minority Woman owned firms in Goods

Again, Non-Minority Women owned firms were roughly at parity in A&E.

Table F-1: Disparity Results, Relevant Market Area, Master Vendor List

Business Ownership Classification by Fiscal Year, Construction

Using Payment Dollars, FY 2018-2022

MSCS Disparity Study

Fiscal Year	Business Ownership	Percent of Dollars	Percent of Available Firms	Disparity Index	Disparate Impact of Utilization	Less than 80%	Statistical Significance
2018	African American	31.83%	15.37%	207.11	Overutilization		
	Asian American	0.00%	0.28%	0.00	Underutilization	*	
	Hispanic American	0.00%	1.07%	0.00	Underutilization	*	
	Native American	0.00%	0.17%	0.00	Underutilization	*	
	TOTAL MBE	31.83%	16.88%	188.53	Overutilization		
	WBE	24.66%	3.93%	628.01	Overutilization		
	TOTAL MWBE	56.48%	20.81%	271.45	Overutilization		
2019	Non-MWBE	43.52%	79.19%	54.95	Underutilization	*	
	African American	15.03%	15.37%	97.79	Underutilization		
	Asian American	0.00%	0.28%	0.00	Underutilization	*	
	Hispanic American	0.00%	1.07%	0.00	Underutilization	*	
	Native American	0.00%	0.17%	0.00	Underutilization	*	
	TOTAL MBE	15.03%	16.88%	89.02	Underutilization		
	WBE	14.45%	3.93%	368.05	Overutilization		
TOTAL MWBE	29.48%	20.81%	141.67	Overutilization			
2020	Non-MWBE	70.52%	79.19%	89.05	Underutilization		
	African American	3.44%	15.37%	22.37	Underutilization	*	
	Asian American	0.00%	0.28%	0.00	Underutilization	*	
	Hispanic American	0.40%	1.07%	37.38	Underutilization	*	
	Native American	0.00%	0.17%	0.00	Underutilization	*	
	TOTAL MBE	3.84%	16.88%	22.72	Underutilization	*	
	WBE	10.75%	3.93%	273.92	Overutilization		
TOTAL MWBE	14.59%	20.81%	70.12	Underutilization	*		
2021	Non-MWBE	85.41%	79.19%	107.85	Overutilization		
	African American	49.91%	15.37%	324.75	Overutilization		
	Asian American	0.00%	0.28%	0.00	Underutilization	*	
	Hispanic American	0.00%	1.07%	0.00	Underutilization	*	
	Native American	0.00%	0.17%	0.00	Underutilization	*	
	TOTAL MBE	49.91%	16.88%	295.62	Overutilization		
	WBE	14.90%	3.93%	379.44	Overutilization		
TOTAL MWBE	64.80%	20.81%	311.44	Overutilization			
2022	Non-MWBE	35.20%	79.19%	44.45	Underutilization	*	
	African American	14.08%	15.37%	91.62	Underutilization		
	Asian American	2.53%	0.28%	900.90	Overutilization		
	Hispanic American	0.00%	1.07%	0.00	Underutilization	*	
	Native American	0.00%	0.17%	0.00	Underutilization	*	
	TOTAL MBE	16.61%	16.88%	98.37	Underutilization		
	WBE	22.72%	3.93%	578.67	Overutilization		
TOTAL MWBE	39.32%	20.81%	188.99	Overutilization			
Total	Non-MWBE	60.68%	79.19%	76.62	Underutilization	*	
	African American	19.74%	15.37%	128.43	Overutilization		
	Asian American	0.50%	0.28%	177.53	Overutilization		
	Hispanic American	0.12%	1.07%	10.95	Underutilization	*	p <.05
	Native American	0.00%	0.17%	0.00	Underutilization	*	
	TOTAL MBE	20.35%	16.88%	120.55	Overutilization		
	WBE	16.29%	3.93%	414.85	Overutilization		0
TOTAL MWBE	36.64%	20.81%	176.07	Overutilization		0	
	Non-MWBE	63.36%	79.19%	80.01	Underutilization		

Table F-2: Disparity Results, Relevant Market Area, Master Vendor List

Business Ownership Classification by Fiscal Year, A&E

Using Payment Dollars, FY 2018-2022

MSCS Disparity Study

Fiscal Year	Business Ownership	Percent of Dollars	Percent of Available Firms	Disparity Index	Disparate Impact of Utilization	Less than 80%	Statistical Significance
2018	African American	1.53%	7.97%	19.20	Underutilization	*	
	Asian American	0.00%	1.65%	0.00	Underutilization	*	
	Hispanic American	0.00%	0.00%	-	n/a		
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	1.53%	9.62%	15.91	Underutilization	*	
	WBE	8.43%	5.49%	153.44	Overutilization		
	TOTAL MWBE	9.96%	15.11%	65.92	Underutilization	*	
	Non-MWBE	90.04%	84.89%	106.07	Overutilization		
2019	African American	9.29%	7.97%	116.61	Overutilization		
	Asian American	0.00%	1.65%	0.00	Underutilization	*	
	Hispanic American	0.00%	0.00%	-	n/a		
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	9.29%	9.62%	96.62	Underutilization		
	WBE	7.19%	5.49%	130.93	Overutilization		
	TOTAL MWBE	16.48%	15.11%	109.09	Overutilization		
	Non-MWBE	83.52%	84.89%	98.38	Underutilization		
2020	African American	7.29%	7.97%	91.47	Underutilization		
	Asian American	0.00%	1.65%	0.00	Underutilization	*	
	Hispanic American	0.00%	0.00%	-	n/a		
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	7.29%	9.62%	75.79	Underutilization	*	
	WBE	3.58%	5.49%	65.18	Underutilization	*	
	TOTAL MWBE	10.87%	15.11%	71.93	Underutilization	*	
	Non-MWBE	89.13%	84.89%	105.00	Overutilization		
2021	African American	2.97%	7.97%	37.31	Underutilization	*	
	Asian American	0.00%	1.65%	0.00	Underutilization	*	
	Hispanic American	0.00%	0.00%	-	n/a		
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	2.97%	9.62%	30.91	Underutilization	*	
	WBE	1.85%	5.49%	33.75	Underutilization	*	
	TOTAL MWBE	4.83%	15.11%	31.94	Underutilization	*	
	Non-MWBE	95.17%	84.89%	112.11	Overutilization		
2022	African American	0.05%	7.97%	0.65	Underutilization	*	
	Asian American	0.00%	1.65%	0.00	Underutilization	*	
	Hispanic American	0.00%	0.00%	-	n/a		
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	0.05%	9.62%	0.54	Underutilization	*	
	WBE	0.00%	5.49%	0.00	Underutilization	*	
	TOTAL MWBE	0.05%	15.11%	0.34	Underutilization	*	
	Non-MWBE	99.95%	84.89%	117.74	Overutilization		
Total	African American	5.44%	7.97%	68.29	Underutilization	*	p < .05
	Asian American	0.00%	1.65%	0.00	Underutilization	*	p < .05
	Hispanic American	0.00%	0.00%	-	n/a		n/a
	Native American	0.00%	0.00%	-	n/a		n/a
	TOTAL MBE	5.44%	9.62%	56.59	Underutilization	*	p < .05
	WBE	5.50%	5.49%	100.16	Overutilization		FALSE
	TOTAL MWBE	10.94%	15.11%	72.43	Underutilization	*	p < .05
	Non-MWBE	89.06%	84.89%	104.91	Overutilization		

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Table F-3: Disparity Results, Relevant Market Area, Master Vendor List

Business Ownership Classification by Fiscal Year, Prime Professional Services

Using Payment Dollars, FY 2018-2022

MSCS Disparity Study

Fiscal Year	Business Ownership	Percent of Dollars	Percent of Available Firms	Disparity Index	Disparate Impact of Utilization	Less than 80%	Statistical Significance
2018	African American	0.60%	19.96%	3.02	Underutilization	*	
	Asian American	0.00%	0.37%	0.00	Underutilization	*	
	Hispanic American	0.00%	0.66%	0.00	Underutilization	*	
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	0.60%	20.98%	2.87	Underutilization	*	
	WBE	20.82%	3.96%	525.47	Overutilization		
	TOTAL MWBE	21.42%	24.94%	85.87	Underutilization		
2019	African American	2.90%	19.96%	14.54	Underutilization	*	
	Asian American	0.00%	0.37%	0.00	Underutilization	*	
	Hispanic American	0.00%	0.66%	0.00	Underutilization	*	
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	2.90%	20.98%	13.83	Underutilization	*	
	WBE	17.57%	3.96%	443.53	Overutilization		
	TOTAL MWBE	20.47%	24.94%	82.07	Underutilization		
2020	African American	2.15%	19.96%	10.78	Underutilization	*	
	Asian American	0.00%	0.37%	0.00	Underutilization	*	
	Hispanic American	0.00%	0.66%	0.00	Underutilization	*	
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	2.15%	20.98%	10.25	Underutilization	*	
	WBE	16.19%	3.96%	408.75	Overutilization		
	TOTAL MWBE	18.34%	24.94%	73.54	Underutilization	*	
2021	African American	3.81%	19.96%	19.08	Underutilization	*	
	Asian American	0.00%	0.37%	0.00	Underutilization	*	
	Hispanic American	0.00%	0.66%	0.00	Underutilization	*	
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	3.81%	20.98%	18.15	Underutilization	*	
	WBE	25.30%	3.96%	638.59	Overutilization		
	TOTAL MWBE	29.11%	24.94%	116.69	Overutilization		
2022	African American	3.04%	19.96%	15.23	Underutilization	*	
	Asian American	0.00%	0.37%	0.00	Underutilization	*	
	Hispanic American	0.00%	0.66%	0.00	Underutilization	*	
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	3.04%	20.98%	14.48	Underutilization	*	
	WBE	6.74%	3.96%	170.11	Overutilization		
	TOTAL MWBE	9.78%	24.94%	39.20	Underutilization	*	
Total	African American	2.50%	19.96%	12.51	Underutilization	*	p < .05
	Asian American	0.00%	0.37%	0.00	Underutilization	*	p < .05
	Hispanic American	0.00%	0.66%	0.00	Underutilization	*	p < .05
	Native American	0.00%	0.00%	-	n/a		n/a
	TOTAL MBE	2.50%	20.98%	11.90	Underutilization	*	p < .05
	WBE	15.24%	3.96%	384.74	Overutilization		
	TOTAL MWBE	17.74%	24.94%	71.11	Underutilization	*	p < .05
	Non-MWBE	82.26%	75.06%	109.60	Overutilization		

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Table F-4: Disparity Results, Relevant Market Area, Master Vendor List

Business Ownership Classification by Fiscal Year, Prime Other Services

Using Payment Dollars, FY 2018-2022

MSCS Disparity Study

Fiscal Year	Business Ownership	Percent of Dollars	Percent of Available Firms	Disparity Index	Disparate Impact of Utilization	Less than 80%	Statistical Significance
2018	African American	1.32%	15.84%	8.33	Underutilization	*	
	Asian American	0.06%	0.27%	22.15	Underutilization	*	
	Hispanic American	0.00%	0.54%	0.14	Underutilization	*	
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	1.38%	16.65%	8.29	Underutilization	*	
	WBE	1.37%	2.17%	62.96	Underutilization	*	
	TOTAL MWBE	2.75%	18.82%	14.59	Underutilization	*	
2019	Non-MWBE	97.25%	81.18%	119.80	Overutilization		
	African American	3.56%	15.84%	22.47	Underutilization	*	
	Asian American	1.93%	0.27%	715.86	Overutilization		
	Hispanic American	0.01%	0.54%	1.13	Underutilization	*	
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	5.49%	16.65%	33.00	Underutilization	*	
	WBE	1.22%	2.17%	56.17	Underutilization	*	
2020	TOTAL MWBE	6.71%	18.82%	35.67	Underutilization	*	
	Non-MWBE	93.29%	81.18%	114.92	Overutilization		
	African American	1.62%	15.84%	10.25	Underutilization	*	
	Asian American	3.93%	0.27%	1456.46	Overutilization		
	Hispanic American	0.00%	0.54%	0.31	Underutilization	*	
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	5.55%	16.65%	33.34	Underutilization	*	
2021	WBE	0.23%	2.17%	10.56	Underutilization	*	
	TOTAL MWBE	5.78%	18.82%	30.71	Underutilization	*	
	Non-MWBE	94.22%	81.18%	116.07	Overutilization		
	African American	2.03%	15.84%	12.83	Underutilization	*	
	Asian American	1.55%	0.27%	575.64	Overutilization		
	Hispanic American	0.00%	0.54%	0.00	Underutilization	*	
	Native American	0.00%	0.00%	-	n/a		
2022	TOTAL MBE	3.58%	16.65%	21.53	Underutilization	*	
	WBE	0.88%	2.17%	40.76	Underutilization	*	
	TOTAL MWBE	4.47%	18.82%	23.75	Underutilization	*	
	Non-MWBE	95.53%	81.18%	117.68	Overutilization		
	African American	19.53%	15.84%	123.24	Overutilization		
	Asian American	6.18%	0.27%	2293.66	Overutilization		
	Hispanic American	0.12%	0.54%	21.97	Underutilization	*	
Total	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	25.83%	16.65%	155.10	Overutilization		
	WBE	1.59%	2.17%	73.17	Underutilization	*	
	TOTAL MWBE	27.42%	18.82%	145.65	Overutilization		
	Non-MWBE	72.58%	81.18%	89.42	Underutilization		
	African American	4.82%	15.84%	30.39	Underutilization	*	p < .05
	Asian American	2.57%	0.27%	953.43	Overutilization		
Total	Hispanic American	0.02%	0.54%	3.71	Underutilization	*	p < .05
	Native American	0.00%	0.00%	-	n/a		n/a
	TOTAL MBE	7.40%	16.65%	44.47	Underutilization	*	p < .05
	WBE	1.02%	2.17%	47.07	Underutilization	*	p < .05
	TOTAL MWBE	8.43%	18.82%	44.77	Underutilization	*	p < .05
	Non-MWBE	91.57%	81.18%	112.81	Overutilization		FALSE

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Table F-5: Disparity Results, Relevant Market Area, Master Vendor List

Business Ownership Classification by Fiscal Year, Prime Goods

Using Payment Dollars, FY 2018-2022

MSCS Disparity Study

Fiscal Year	Business Ownership	Percent of Dollars	Percent of Available Firms	Disparity Index	Disparate Impact of Utilization	Less than 80%	Statistical Significance
2018	African American	17.75%	6.95%	255.38	Overutilization		
	Asian American	30.96%	0.38%	8195.94	Overutilization		
	Hispanic American	0.09%	0.35%	26.11	Underutilization	*	
	Native American	0.00%	0.03%	0.00	Underutilization	*	
	TOTAL MBE	48.80%	8.09%	603.21	Overutilization		
	WBE	2.20%	2.71%	81.35	Underutilization		
	TOTAL MWBE	51.00%	10.80%	472.37	Overutilization		
2019	African American	21.92%	6.95%	315.35	Overutilization		
	Asian American	9.00%	0.38%	2382.63	Overutilization		
	Hispanic American	0.05%	0.35%	15.05	Underutilization	*	
	Native American	0.00%	0.03%	0.00	Underutilization	*	
	TOTAL MBE	30.97%	8.09%	382.83	Overutilization		
	WBE	6.26%	2.71%	231.10	Overutilization		
	TOTAL MWBE	37.22%	10.80%	344.79	Overutilization		
2020	African American	16.50%	6.95%	237.45	Overutilization		
	Asian American	#REF!	0.38%	-	n/a		
	Hispanic American	0.09%	0.35%	25.26	Underutilization	*	
	Native American	0.00%	0.03%	0.00	Underutilization	*	
	TOTAL MBE	33.69%	8.09%	416.48	Overutilization		
	WBE	9.66%	2.71%	357.00	Overutilization		
	TOTAL MWBE	43.35%	10.80%	401.57	Overutilization		
2021	African American	15.97%	6.95%	229.79	Overutilization		
	Asian American	27.32%	0.38%	7232.16	Overutilization		
	Hispanic American	0.02%	0.35%	6.43	Underutilization	*	
	Native American	0.00%	0.03%	0.00	Underutilization	*	
	TOTAL MBE	43.31%	8.09%	535.39	Overutilization		
	WBE	4.09%	2.71%	151.15	Overutilization		
	TOTAL MWBE	47.40%	10.80%	439.05	Overutilization		
2022	African American	23.12%	6.95%	332.64	Overutilization		
	Asian American	9.60%	0.38%	2542.03	Overutilization		
	Hispanic American	0.01%	0.35%	3.61	Underutilization	*	
	Native American	0.00%	0.03%	0.00	Underutilization	*	
	TOTAL MBE	32.73%	8.09%	404.64	Overutilization		
	WBE	13.90%	2.71%	513.39	Overutilization		
	TOTAL MWBE	46.63%	10.80%	431.91	Overutilization		
Total	African American	19.56%	6.95%	281.44	Overutilization		
	Asian American	18.12%	0.38%	4797.14	Overutilization		
	Hispanic American	0.05%	0.35%	14.96	Underutilization	*	p < .05
	Native American	0.00%	0.03%	0.00	Underutilization	*	FALSE
	TOTAL MBE	37.73%	8.09%	466.43	Overutilization		
	WBE	7.59%	2.71%	280.47	Overutilization		
	TOTAL MWBE	45.32%	10.80%	419.81	Overutilization		
	Non-MWBE	54.68%	89.20%	61.29	Underutilization	*	p < .05

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Table F-6: Disparity Results, Relevant Market Area, Master Vendor List

Business Ownership Classification by Fiscal Year, Construction

Using Awards Dollars, FY 2018-2022, Less than \$500,000

MSCS Disparity Study

Fiscal Year	Business Ownership	Percent of Dollars	Percent of Available Firms	Disparity Index	Disparate Impact of Utilization	Less than 80%	Statistical Significance
2018	African American	9.03%	15.37%	58.77	Underutilization	*	
	Asian American	0.00%	0.28%	0.00	Underutilization	*	
	Hispanic American	0.00%	1.07%	0.00	Underutilization	*	
	Native American	0.00%	0.17%	0.00	Underutilization	*	
	TOTAL MBE	9.03%	16.88%	53.50	Underutilization	*	
	WBE	11.41%	3.93%	290.56	Overutilization		
	TOTAL MBE/WBE	20.44%	20.81%	98.23	Underutilization		
2019	African American	12.98%	15.37%	84.46	Underutilization		
	Asian American	0.00%	0.28%	0.00	Underutilization	*	
	Hispanic American	0.00%	1.07%	0.00	Underutilization	*	
	Native American	0.00%	0.17%	0.00	Underutilization	*	
	TOTAL MBE	12.98%	16.88%	76.89	Underutilization	*	
	WBE	12.39%	3.93%	315.50	Overutilization		
	TOTAL MBE/WBE	25.37%	20.81%	121.91	Overutilization		
2020	African American	13.14%	15.37%	85.52	Underutilization		
	Asian American	0.00%	0.28%	0.00	Underutilization	*	
	Hispanic American	7.93%	1.07%	744.10	Overutilization		
	Native American	0.00%	0.17%	0.00	Underutilization	*	
	TOTAL MBE	21.07%	16.88%	124.82	Overutilization		
	WBE	14.03%	3.93%	357.28	Overutilization		
	TOTAL MBE/WBE	35.10%	20.81%	168.68	Overutilization		
2021	African American	12.01%	15.37%	78.12	Underutilization	*	
	Asian American	0.00%	0.28%	0.00	Underutilization	*	
	Hispanic American	0.00%	1.07%	0.00	Underutilization	*	
	Native American	0.00%	0.17%	0.00	Underutilization	*	
	TOTAL MBE	12.01%	16.88%	71.11	Underutilization	*	
	WBE	6.66%	3.93%	169.70	Overutilization		
	TOTAL MBE/WBE	18.67%	20.81%	89.72	Underutilization		
2022	African American	31.38%	15.37%	204.18	Overutilization		
	Asian American	0.00%	0.28%	0.00	Underutilization	*	
	Hispanic American	0.00%	1.07%	0.00	Underutilization	*	
	Native American	0.00%	0.17%	0.00	Underutilization	*	
	TOTAL MBE	31.38%	16.88%	185.87	Overutilization		
	WBE	4.19%	3.93%	106.79	Overutilization		
	TOTAL MBE/WBE	35.57%	20.81%	170.95	Overutilization		
Total	African American	16.75%	15.37%	109.02	Overutilization		
	Asian American	0.00%	0.28%	0.00	Underutilization	*	p <.05
	Hispanic American	1.73%	1.07%	162.71	Overutilization		0
	Native American	0.00%	0.17%	0.00	Underutilization	*	
	TOTAL MBE	18.49%	16.88%	109.51	Overutilization		
	WBE	9.75%	3.93%	248.30	Overutilization		0
	TOTAL MBE/WBE	28.24%	20.81%	135.70	Overutilization		0
	Non-MBE/WBE	71.76%	79.19%	90.62	Underutilization		

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Table F-7: Disparity Results, Relevant Market Area, Master Vendor List

Business Ownership Classification by Fiscal Year, A&E
 Using Awards Dollars, FY 2018-2022, Less than \$500,000
 MSCS Disparity Study

Fiscal Year	Business Ownership	Percent of Dollars	Percent of Available Firms	Disparity Index	Disparate Impact of Utilization	Less than 80%	Statistical Significance	
2018	African American	4.86%	7.97%	60.98	Underutilization	*		
	Asian American	0.00%	1.65%	0.00	Underutilization	*		
	Hispanic American	0.00%	0.00%	-	n/a			
	Native American	0.00%	0.00%	-	n/a			
	TOTAL MBE	4.86%	9.62%	50.52	Underutilization	*		
	WBE	26.78%	5.49%	487.39	Overutilization			
	TOTAL MBE/WBE	31.64%	15.11%	209.39	Overutilization			
2019	Non-MBE/WBE	68.36%	84.89%	80.53	Underutilization			
	African American	32.37%	7.97%	406.26	Overutilization			
	Asian American	0.00%	1.65%	0.00	Underutilization	*		
	Hispanic American	0.00%	0.00%	-	n/a			
	Native American	0.00%	0.00%	-	n/a			
	TOTAL MBE	32.37%	9.62%	336.62	Overutilization			
	WBE	25.06%	5.49%	456.14	Overutilization			
2020	TOTAL MBE/WBE	57.43%	15.11%	380.08	Overutilization			
	Non-MBE/WBE	42.57%	84.89%	50.15	Underutilization	*		
	African American	41.85%	7.97%	525.35	Overutilization			
	Asian American	0.00%	1.65%	0.00	Underutilization	*		
	Hispanic American	0.00%	0.00%	-	n/a			
	Native American	0.00%	0.00%	-	n/a			
	TOTAL MBE	41.85%	9.62%	435.29	Overutilization			
2021	WBE	20.57%	5.49%	374.37	Overutilization			
	TOTAL MBE/WBE	62.42%	15.11%	413.14	Overutilization			
	Non-MBE/WBE	37.58%	84.89%	44.26	Underutilization	*		
	African American	13.09%	7.97%	164.25	Overutilization			
	Asian American	0.00%	1.65%	0.00	Underutilization	*		
	Hispanic American	0.00%	0.00%	-	n/a			
	Native American	0.00%	0.00%	-	n/a			
2022	TOTAL MBE	13.09%	9.62%	136.09	Overutilization			
	WBE	8.17%	5.49%	148.61	Overutilization			
	TOTAL MBE/WBE	21.25%	15.11%	140.64	Overutilization			
	Non-MBE/WBE	78.75%	84.89%	92.77	Underutilization			
	African American	0.25%	7.97%	3.09	Underutilization	*		
	Asian American	0.00%	1.65%	0.00	Underutilization	*		
	Hispanic American	0.00%	0.00%	-	n/a			
2022	Native American	0.00%	0.00%	-	n/a			
	TOTAL MBE	0.25%	9.62%	2.56	Underutilization	*		
	WBE	0.00%	5.49%	0.00	Underutilization	*		
	TOTAL MBE/WBE	0.25%	15.11%	1.63	Underutilization	*		
	Non-MBE/WBE	99.75%	84.89%	117.51	Overutilization			
	Total	African American	21.23%	7.97%	266.42	Overutilization		
		Asian American	0.00%	1.65%	0.00	Underutilization	*	p < .05
Hispanic American		0.00%	0.00%	-	n/a		n/a	
Native American		0.00%	0.00%	-	n/a		n/a	
TOTAL MBE		21.23%	9.62%	220.75	Overutilization			
WBE		21.47%	5.49%	390.72	Overutilization			
TOTAL MBE/WBE		42.69%	15.11%	282.56	Overutilization			
Non-MBE/WBE	57.31%	84.89%	67.51	Underutilization	*	p < .05		

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Table F-8: Disparity Results, Relevant Market Area, Master Vendor List

Business Ownership Classification by Fiscal Year, Professional Services

Using Awards Dollars, FY 2018-2022, Less than \$500,000

MSCS Disparity Study

Fiscal Year	Business Ownership	Percent of Dollars	Percent of Available Firms	Disparity Index	Disparate Impact of Utilization	Less than 80%	Statistical Significance
2018	African American	1.00%	19.96%	5.03	Underutilization	*	
	Asian American	0.00%	0.37%	0.00	Underutilization	*	
	Hispanic American	0.00%	0.66%	0.00	Underutilization	*	
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	1.00%	20.98%	4.78	Underutilization	*	
	WBE	0.32%	3.96%	8.04	Underutilization	*	
	TOTAL MBE/WBE	1.32%	24.94%	5.30	Underutilization	*	
2019	Non-MBE/WBE	98.68%	75.06%	131.47	Overutilization		
	African American	16.08%	19.96%	80.57	Underutilization		
	Asian American	0.00%	0.37%	0.00	Underutilization	*	
	Hispanic American	0.00%	0.66%	0.00	Underutilization	*	
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	16.08%	20.98%	76.63	Underutilization	*	
	WBE	3.50%	3.96%	88.23	Underutilization		
2020	TOTAL MBE/WBE	19.57%	24.94%	78.47	Underutilization	*	
	Non-MBE/WBE	80.43%	75.06%	107.16	Overutilization		
	African American	10.65%	19.96%	53.35	Underutilization	*	
	Asian American	0.00%	0.37%	0.00	Underutilization	*	
	Hispanic American	0.00%	0.66%	0.00	Underutilization	*	
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	10.65%	20.98%	50.74	Underutilization	*	
2021	WBE	8.68%	3.96%	219.02	Overutilization		
	TOTAL MBE/WBE	19.32%	24.94%	77.46	Underutilization	*	
	Non-MBE/WBE	80.68%	75.06%	107.49	Overutilization		
	African American	13.64%	19.96%	68.35	Underutilization	*	
	Asian American	0.00%	0.37%	0.00	Underutilization	*	
	Hispanic American	0.00%	0.66%	0.00	Underutilization	*	
	Native American	0.00%	0.00%	-	n/a		
2022	TOTAL MBE	13.64%	20.98%	65.00	Underutilization	*	
	WBE	15.02%	3.96%	379.12	Overutilization		
	TOTAL MBE/WBE	28.66%	24.94%	114.89	Overutilization		
	Non-MBE/WBE	71.34%	75.06%	95.05	Underutilization		
	African American	22.62%	19.96%	113.33	Overutilization		
	Asian American	0.00%	0.37%	0.00	Underutilization	*	
	Hispanic American	0.00%	0.66%	0.00	Underutilization	*	
Total	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	22.62%	20.98%	107.78	Overutilization		
	WBE	1.83%	3.96%	46.31	Underutilization	*	
	TOTAL MBE/WBE	24.45%	24.94%	98.02	Underutilization		
	Non-MBE/WBE	75.55%	75.06%	100.66	Overutilization		
	African American	14.17%	19.96%	70.98	Underutilization	*	p < .05
	Asian American	0.00%	0.37%	0.00	Underutilization	*	p < .05
Total	Hispanic American	0.00%	0.66%	0.00	Underutilization	*	p < .05
	Native American	0.00%	0.00%	-	n/a		n/a
	TOTAL MBE	14.17%	20.98%	67.51	Underutilization	*	p < .05
	WBE	5.27%	3.96%	133.08	Overutilization		
Total	TOTAL MBE/WBE	19.44%	24.94%	77.92	Underutilization	*	p < .05
	Non-MBE/WBE	80.56%	75.06%	107.34	Overutilization		

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Table F-9: Disparity Results, Relevant Market Area, Master Vendor List

Business Ownership Classification by Fiscal Year, Other Services

Using Awards Dollars, FY 2018-2022, Less than \$500,000

MSCS Disparity Study

Fiscal Year	Business Ownership	Percent of Dollars	Percent of Available Firms	Disparity Index	Disparate Impact of Utilization	Less than 80%	Statistical Significance
2018	African American	8.77%	15.84%	55.33	Underutilization	*	
	Asian American	0.64%	0.27%	235.75	Overutilization		
	Hispanic American	0.01%	0.54%	1.51	Underutilization	*	
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	9.41%	16.65%	56.50	Underutilization	*	
	WBE	1.92%	2.17%	88.35	Underutilization		
	TOTAL MBE/WBE	11.33%	18.82%	60.18	Underutilization	*	
2019	Non-MBE/WBE	88.67%	81.18%	109.23	Overutilization		
	African American	14.40%	15.84%	90.92	Underutilization		
	Asian American	1.12%	0.27%	415.18	Overutilization		
	Hispanic American	0.06%	0.54%	12.04	Underutilization	*	
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	15.59%	16.65%	93.62	Underutilization		
	WBE	5.77%	2.17%	265.77	Overutilization		
2020	TOTAL MBE/WBE	21.36%	18.82%	113.48	Overutilization		
	Non-MBE/WBE	78.64%	81.18%	96.88	Underutilization		
	African American	11.07%	15.84%	69.85	Underutilization	*	
	Asian American	1.68%	0.27%	622.90	Overutilization		
	Hispanic American	0.03%	0.54%	5.10	Underutilization	*	
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	12.77%	16.65%	76.71	Underutilization	*	
2021	WBE	2.24%	2.17%	103.03	Overutilization		
	TOTAL MBE/WBE	15.01%	18.82%	79.74	Underutilization	*	
	Non-MBE/WBE	84.99%	81.18%	104.70	Overutilization		
	African American	10.53%	15.84%	66.46	Underutilization	*	
	Asian American	6.64%	0.27%	2462.23	Overutilization		
	Hispanic American	0.00%	0.54%	0.00	Underutilization	*	
	Native American	0.00%	0.00%	-	n/a		
2022	TOTAL MBE	17.17%	16.65%	103.09	Overutilization		
	WBE	3.41%	2.17%	157.26	Overutilization		
	TOTAL MBE/WBE	20.58%	18.82%	109.34	Overutilization		
	Non-MBE/WBE	79.42%	81.18%	97.83	Underutilization		
	African American	9.19%	15.84%	58.04	Underutilization	*	
	Asian American	3.31%	0.27%	1226.86	Overutilization		
	Hispanic American	1.00%	0.54%	185.04	Overutilization		
Total	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	13.50%	16.65%	81.07	Underutilization		
	WBE	11.85%	2.17%	545.81	Overutilization		
	TOTAL MBE/WBE	25.35%	18.82%	134.68	Overutilization		
	Non-MBE/WBE	74.65%	81.18%	91.96	Underutilization		
	African American	10.92%	15.84%	68.95	Underutilization	*	p < .05
	Asian American	2.32%	0.27%	861.49	Overutilization		
Total	Hispanic American	0.24%	0.54%	43.99	Underutilization	*	FALSE
	Native American	0.00%	0.00%	-	n/a		n/a
	TOTAL MBE	13.48%	16.65%	80.97	Underutilization		p < .05
	WBE	5.30%	2.17%	244.02	Overutilization		
Total	TOTAL MBE/WBE	18.78%	18.82%	99.78	Underutilization		FALSE
	Non-MBE/WBE	81.22%	81.18%	100.05	Overutilization		FALSE

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Table F-10: Disparity Results, Relevant Market Area, Master Vendor List

Business Ownership Classification by Fiscal Year, Goods
Using Awards Dollars, FY 2018-2022, Less than \$500,000

MSCS Disparity Study

Fiscal Year	Business Ownership	Percent of Dollars	Percent of Available Firms	Disparity Index	Disparate Impact of Utilization	Less than 80%	Statistical Significance
2018	African American	0.14%	6.95%	1.99	Underutilization	*	
	Asian American	0.00%	0.38%	0.00	Underutilization	*	
	Hispanic American	1.87%	0.35%	539.38	Overutilization		
	Native American	0.00%	0.03%	0.00	Underutilization	*	
	TOTAL MBE	2.01%	8.09%	24.80	Underutilization	*	
	WBE	11.31%	2.71%	417.66	Overutilization		
	TOTAL MBE/WBE	13.31%	10.80%	123.30	Overutilization		
2019	African American	0.90%	6.95%	12.99	Underutilization	*	
	Asian American	0.00%	0.38%	0.00	Underutilization	*	
	Hispanic American	0.79%	0.35%	228.51	Overutilization		
	Native American	0.00%	0.03%	0.00	Underutilization	*	
	TOTAL MBE	1.69%	8.09%	20.94	Underutilization	*	
	WBE	13.28%	2.71%	490.50	Overutilization		
	TOTAL MBE/WBE	14.97%	10.80%	138.67	Overutilization		
2020	African American	0.00%	6.95%	0.00	Underutilization	*	
	Asian American	0.00%	0.38%	0.00	Underutilization	*	
	Hispanic American	1.32%	0.35%	380.41	Overutilization		
	Native American	0.00%	0.03%	0.00	Underutilization	*	
	TOTAL MBE	6.66%	8.09%	82.34	Underutilization		
	WBE	12.91%	2.71%	476.90	Overutilization		
	TOTAL MBE/WBE	19.57%	10.80%	181.27	Overutilization		
2021	African American	4.52%	6.95%	65.07	Underutilization	*	
	Asian American	0.00%	0.38%	0.00	Underutilization	*	
	Hispanic American	0.39%	0.35%	112.88	Overutilization		
	Native American	0.00%	0.03%	0.00	Underutilization	*	
	TOTAL MBE	4.91%	8.09%	60.73	Underutilization	*	
	WBE	9.98%	2.71%	368.68	Overutilization		
	TOTAL MBE/WBE	14.89%	10.80%	137.94	Overutilization		
2022	African American	8.24%	6.95%	118.50	Overutilization		
	Asian American	0.00%	0.38%	0.00	Underutilization	*	
	Hispanic American	0.36%	0.35%	103.20	Overutilization		
	Native American	0.00%	0.03%	0.00	Underutilization	*	
	TOTAL MBE	8.59%	8.09%	106.23	Overutilization		
	WBE	8.87%	2.71%	327.55	Overutilization		
	TOTAL MBE/WBE	17.46%	10.80%	161.72	Overutilization		
Total	African American	3.57%	6.95%	51.42	Underutilization	*	p < .05
	Asian American	0.00%	0.38%	0.00	Underutilization	*	p < .05
	Hispanic American	0.98%	0.35%	283.65	Overutilization		
	Native American	0.00%	0.03%	0.00	Underutilization	*	FALSE
	TOTAL MBE	4.56%	8.09%	56.32	Underutilization	*	p < .05
	WBE	11.49%	2.71%	424.53	Overutilization		
	TOTAL MBE/WBE	16.05%	10.80%	148.64	Overutilization		
	Non-MBE/WBE	83.95%	89.20%	94.11	Underutilization		p < .05

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Table F-11: Disparity Results, Relevant Market Area, Master Vendor List

Business Ownership Classification by Fiscal Year, Construction

Using Awards Dollars, FY 2018-2022, Less than \$1,000,000

MSCS Disparity Study

Fiscal Year	Business Ownership	Percent of Dollars	Percent of Available Firms	Disparity Index	Disparate Impact of Utilization	Less than 80%	Statistical Significance
2018	African American	5.54%	15.37%	36.07	Underutilization	*	
	Asian American	0.00%	0.28%	0.00	Underutilization	*	
	Hispanic American	0.00%	1.07%	0.00	Underutilization	*	
	Native American	0.00%	0.17%	0.00	Underutilization	*	
	TOTAL MBE	5.54%	16.88%	32.83	Underutilization	*	
	WBE	7.00%	3.93%	178.33	Overutilization		
	TOTAL MBE/WBE	12.54%	20.81%	60.29	Underutilization	*	
2019	African American	9.85%	15.37%	64.08	Underutilization	*	
	Asian American	0.00%	0.28%	0.00	Underutilization	*	
	Hispanic American	0.00%	1.07%	0.00	Underutilization	*	
	Native American	0.00%	0.17%	0.00	Underutilization	*	
	TOTAL MBE	9.85%	16.88%	58.33	Underutilization	*	
	WBE	9.40%	3.93%	239.37	Overutilization		
	TOTAL MBE/WBE	19.25%	20.81%	92.49	Underutilization		
2020	African American	7.80%	15.37%	50.78	Underutilization	*	
	Asian American	0.00%	0.28%	0.00	Underutilization	*	
	Hispanic American	4.71%	1.07%	441.77	Overutilization		
	Native American	0.00%	0.17%	0.00	Underutilization	*	
	TOTAL MBE	12.51%	16.88%	74.11	Underutilization	*	
	WBE	9.74%	3.93%	248.14	Overutilization		
	TOTAL MBE/WBE	22.25%	20.81%	106.94	Overutilization		
2021	African American	24.03%	15.37%	156.35	Overutilization		
	Asian American	0.00%	0.28%	0.00	Underutilization	*	
	Hispanic American	0.00%	1.07%	0.00	Underutilization	*	
	Native American	0.00%	0.17%	0.00	Underutilization	*	
	TOTAL MBE	24.03%	16.88%	142.33	Overutilization		
	WBE	9.62%	3.93%	244.92	Overutilization		
	TOTAL MBE/WBE	33.64%	20.81%	161.69	Overutilization		
2022	African American	21.95%	15.37%	142.81	Overutilization		
	Asian American	0.00%	0.28%	0.00	Underutilization	*	
	Hispanic American	0.00%	1.07%	0.00	Underutilization	*	
	Native American	0.00%	0.17%	0.00	Underutilization	*	
	TOTAL MBE	21.95%	16.88%	130.00	Overutilization		
	WBE	7.97%	3.93%	203.01	Overutilization		
	TOTAL MBE/WBE	29.92%	20.81%	143.78	Overutilization		
Total	African American	13.83%	15.37%	89.98	Underutilization		
	Asian American	0.00%	0.28%	0.00	Underutilization	*	p <.05
	Hispanic American	1.12%	1.07%	104.91	Overutilization		
	Native American	0.00%	0.17%	0.00	Underutilization	*	
	TOTAL MBE	14.95%	16.88%	88.53	Underutilization		p <.05
	WBE	8.79%	3.93%	224.02	Overutilization		0
	TOTAL MBE/WBE	23.74%	20.81%	114.09	Overutilization		0
	Non-MBE/WBE	76.26%	79.19%	96.30	Underutilization		

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Table F-12: Disparity Results, Relevant Market Area, Master Vendor List

Business Ownership Classification by Fiscal Year, A&E

Using Awards Dollars, FY 2018-2022, Less than \$1,000,000

MSCS Disparity Study

Fiscal Year	Business Ownership	Percent of Dollars	Percent of Available Firms	Disparity Index	Disparate Impact of Utilization	Less than 80%	Statistical Significance
2018	African American	2.89%	7.97%	36.22	Underutilization	*	
	Asian American	0.00%	1.65%	0.00	Underutilization	*	
	Hispanic American	0.00%	0.00%	-	n/a		
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	2.89%	9.62%	30.01	Underutilization	*	
	WBE	15.91%	5.49%	289.54	Overutilization		
	TOTAL MBE/WBE	18.79%	15.11%	124.39	Overutilization		
2019	Non-MBE/WBE	81.21%	84.89%	95.66	Underutilization		
	African American	19.21%	7.97%	241.16	Overutilization		
	Asian American	0.00%	1.65%	0.00	Underutilization	*	
	Hispanic American	0.00%	0.00%	-	n/a		
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	19.21%	9.62%	199.82	Overutilization		
	WBE	14.88%	5.49%	270.77	Overutilization		
2020	TOTAL MBE/WBE	34.09%	15.11%	225.62	Overutilization		
	Non-MBE/WBE	65.91%	84.89%	77.64	Underutilization	*	
	African American	12.26%	7.97%	153.83	Overutilization		
	Asian American	0.00%	1.65%	0.00	Underutilization	*	
	Hispanic American	0.00%	0.00%	-	n/a		
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	12.26%	9.62%	127.46	Overutilization		
2021	WBE	6.02%	5.49%	109.62	Overutilization		
	TOTAL MBE/WBE	18.28%	15.11%	120.97	Overutilization		
	Non-MBE/WBE	81.72%	84.89%	96.27	Underutilization		
	African American	8.89%	7.97%	111.61	Overutilization		
	Asian American	0.00%	1.65%	0.00	Underutilization	*	
	Hispanic American	0.00%	0.00%	-	n/a		
	Native American	0.00%	0.00%	-	n/a		
2022	TOTAL MBE	8.89%	9.62%	92.48	Underutilization		
	WBE	5.55%	5.49%	100.99	Overutilization		
	TOTAL MBE/WBE	14.44%	15.11%	95.57	Underutilization		
	Non-MBE/WBE	85.56%	84.89%	100.79	Overutilization		
	African American	0.11%	7.97%	1.44	Underutilization	*	
	Asian American	0.00%	1.65%	0.00	Underutilization	*	
	Hispanic American	0.00%	0.00%	-	n/a		
Total	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	0.11%	9.62%	1.19	Underutilization	*	
	WBE	0.00%	5.49%	0.00	Underutilization	*	
	TOTAL MBE/WBE	0.11%	15.11%	0.76	Underutilization	*	
	Non-MBE/WBE	99.89%	84.89%	117.66	Overutilization		
	African American	10.87%	7.97%	136.48	Overutilization		
	Asian American	0.00%	1.65%	0.00	Underutilization	*	p < .05
Hispanic American	0.00%	0.00%	-	n/a		n/a	
Native American	0.00%	0.00%	-	n/a		n/a	
TOTAL MBE	10.87%	9.62%	113.08	Overutilization		FALSE	
WBE	11.00%	5.49%	200.15	Overutilization			
TOTAL MBE/WBE	21.87%	15.11%	144.74	Overutilization			
Non-MBE/WBE	78.13%	84.89%	92.04	Underutilization		p < .05	

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Table F-13: Disparity Results, Relevant Market Area, Master Vendor List

Business Ownership Classification by Fiscal Year, Professional Services

Using Awards Dollars, FY 2018-2022, Less than \$1,000,000

MSCS Disparity Study

Fiscal Year	Business Ownership	Percent of Dollars	Percent of Available Firms	Disparity Index	Disparate Impact of Utilization	Less than 80%	Statistical Significance
2018	African American	4.46%	19.96%	22.34	Underutilization	*	
	Asian American	0.00%	0.37%	0.00	Underutilization	*	
	Hispanic American	0.00%	0.66%	0.00	Underutilization	*	
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	4.46%	20.98%	21.25	Underutilization	*	
	WBE	0.19%	3.96%	4.77	Underutilization	*	
	TOTAL MBE/WBE	4.65%	24.94%	18.63	Underutilization	*	
2019	Non-MBE/WBE	95.35%	75.06%	127.04	Overutilization		
	African American	20.87%	19.96%	104.56	Overutilization		
	Asian American	0.00%	0.37%	0.00	Underutilization	*	
	Hispanic American	0.00%	0.66%	0.00	Underutilization	*	
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	20.87%	20.98%	99.45	Underutilization		
	WBE	2.13%	3.96%	53.68	Underutilization	*	
2020	TOTAL MBE/WBE	22.99%	24.94%	92.18	Underutilization		
	Non-MBE/WBE	77.01%	75.06%	102.60	Overutilization		
	African American	14.24%	19.96%	71.34	Underutilization	*	
	Asian American	0.00%	0.37%	0.00	Underutilization	*	
	Hispanic American	0.00%	0.66%	0.00	Underutilization	*	
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	14.24%	20.98%	67.85	Underutilization	*	
2021	WBE	4.94%	3.96%	124.63	Overutilization		
	TOTAL MBE/WBE	19.17%	24.94%	76.87	Underutilization	*	
	Non-MBE/WBE	80.83%	75.06%	107.69	Overutilization		
	African American	18.81%	19.96%	94.23	Underutilization		
	Asian American	0.00%	0.37%	0.00	Underutilization	*	
	Hispanic American	0.00%	0.66%	0.00	Underutilization	*	
	Native American	0.00%	0.00%	-	n/a		
2022	TOTAL MBE	18.81%	20.98%	89.62	Underutilization		
	WBE	8.97%	3.96%	226.47	Overutilization		
	TOTAL MBE/WBE	27.78%	24.94%	111.36	Overutilization		
	Non-MBE/WBE	72.22%	75.06%	96.23	Underutilization		
	African American	26.65%	19.96%	133.56	Overutilization		
	Asian American	0.00%	0.37%	0.00	Underutilization	*	
	Hispanic American	0.00%	0.66%	0.00	Underutilization	*	
2023	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	26.65%	20.98%	127.02	Overutilization		
	WBE	1.30%	3.96%	32.82	Underutilization	*	
	TOTAL MBE/WBE	27.95%	24.94%	112.06	Overutilization		
	Non-MBE/WBE	72.05%	75.06%	95.99	Underutilization		
	African American	17.87%	19.96%	89.52	Underutilization		p < .05
	Asian American	0.00%	0.37%	0.00	Underutilization	*	p < .05
Total	Hispanic American	0.00%	0.66%	0.00	Underutilization	*	p < .05
	Native American	0.00%	0.00%	-	n/a		n/a
	TOTAL MBE	17.87%	20.98%	85.14	Underutilization		p < .05
	WBE	3.28%	3.96%	82.81	Underutilization		FALSE
	TOTAL MBE/WBE	21.15%	24.94%	84.77	Underutilization		p < .05
Non-MBE/WBE	78.85%	75.06%	105.06	Overutilization			

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Table F-14: Disparity Results, Relevant Market Area, Master Vendor List

Business Ownership Classification by Fiscal Year, Other Services

Using Awards Dollars, FY 2018-2022, Less than \$1,000,000

MSCS Disparity Study

Fiscal Year	Business Ownership	Percent of Dollars	Percent of Available Firms	Disparity Index	Disparate Impact of Utilization	Less than 80%	Statistical Significance
2018	African American	8.99%	15.84%	56.77	Underutilization	*	
	Asian American	0.42%	0.27%	157.45	Overutilization		
	Hispanic American	0.01%	0.54%	1.01	Underutilization	*	
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	9.42%	16.65%	56.59	Underutilization	*	
	WBE	9.72%	2.17%	447.54	Overutilization		
	TOTAL MBE/WBE	19.14%	18.82%	101.69	Overutilization		
	Non-MBE/WBE	80.86%	81.18%	99.61	Underutilization		
2019	African American	20.80%	15.84%	131.31	Overutilization		
	Asian American	0.70%	0.27%	259.79	Overutilization		
	Hispanic American	0.04%	0.54%	7.53	Underutilization	*	
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	21.54%	16.65%	129.38	Overutilization		
	WBE	8.11%	2.17%	373.51	Overutilization		
	TOTAL MBE/WBE	29.65%	18.82%	157.55	Overutilization		
	Non-MBE/WBE	70.35%	81.18%	86.66	Underutilization		
2020	African American	9.42%	15.84%	59.49	Underutilization	*	
	Asian American	1.27%	0.27%	472.80	Overutilization		
	Hispanic American	0.02%	0.54%	3.87	Underutilization	*	
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	10.72%	16.65%	64.38	Underutilization	*	
	WBE	2.86%	2.17%	131.57	Overutilization		
	TOTAL MBE/WBE	13.58%	18.82%	72.13	Underutilization	*	
	Non-MBE/WBE	86.42%	81.18%	106.46	Overutilization		
2021	African American	6.67%	15.84%	42.12	Underutilization	*	
	Asian American	3.61%	0.27%	1337.94	Overutilization		
	Hispanic American	0.00%	0.54%	0.00	Underutilization	*	
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	10.28%	16.65%	61.74	Underutilization	*	
	WBE	7.78%	2.17%	358.31	Overutilization		
	TOTAL MBE/WBE	18.06%	18.82%	95.95	Underutilization		
	Non-MBE/WBE	81.94%	81.18%	100.94	Overutilization		
2022	African American	5.46%	15.84%	34.48	Underutilization	*	
	Asian American	1.94%	0.27%	720.49	Overutilization		
	Hispanic American	0.59%	0.54%	108.67	Overutilization		
	Native American	0.00%	0.00%	-	n/a		
	TOTAL MBE	7.99%	16.65%	47.99	Underutilization	*	
	WBE	7.86%	2.17%	361.98	Overutilization		
	TOTAL MBE/WBE	15.85%	18.82%	84.21	Underutilization		
	Non-MBE/WBE	84.15%	81.18%	103.66	Overutilization		
Total	African American	10.94%	15.84%	69.03	Underutilization	*	p < .05
	Asian American	1.46%	0.27%	543.47	Overutilization		
	Hispanic American	0.15%	0.54%	27.75	Underutilization	*	p < .05
	Native American	0.00%	0.00%	-	n/a		n/a
	TOTAL MBE	12.55%	16.65%	75.37	Underutilization	*	p < .05
	WBE	7.64%	2.17%	351.95	Overutilization		
	TOTAL MBE/WBE	20.19%	18.82%	107.28	Overutilization		FALSE
	Non-MBE/WBE	79.81%	81.18%	98.31	Underutilization		p < .05

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Table F-15: Disparity Results, Relevant Market Area, Master Vendor List

Business Ownership Classification by Fiscal Year, Goods
 Using Awards Dollars, FY 2018-2022, Less than \$1,000,000
 MSCS Disparity Study

Fiscal Year	Business Ownership	Percent of Dollars	Percent of Available Firms	Disparity Index	Disparate Impact of Utilization	Less than 80%	Statistical Significance
2018	African American	0.07%	6.95%	0.99	Underutilization	*	
	Asian American	0.00%	0.38%	0.00	Underutilization	*	
	Hispanic American	0.93%	0.35%	268.57	Overutilization		
	Native American	0.00%	0.03%	0.00	Underutilization	*	
	TOTAL MBE	1.00%	8.09%	12.35	Underutilization	*	
	WBE	5.63%	2.71%	207.96	Overutilization		
	TOTAL MBE/WBE	6.63%	10.80%	61.39	Underutilization	*	
	Non-MBE/WBE	93.37%	89.20%	104.67	Overutilization		
2019	African American	1.00%	6.95%	14.34	Underutilization	*	
	Asian American	0.00%	0.38%	0.00	Underutilization	*	
	Hispanic American	0.38%	0.35%	110.76	Overutilization		
	Native American	0.00%	0.03%	0.00	Underutilization	*	
	TOTAL MBE	1.38%	8.09%	17.06	Underutilization	*	
	WBE	6.44%	2.71%	237.74	Overutilization		
	TOTAL MBE/WBE	7.82%	10.80%	72.39	Underutilization	*	
	Non-MBE/WBE	92.18%	89.20%	103.34	Overutilization		
2020	African American	0.00%	6.95%	0.00	Underutilization	*	
	Asian American	#REF!	0.38%	-	n/a		
	Hispanic American	0.76%	0.35%	219.54	Overutilization		
	Native American	0.00%	0.03%	0.00	Underutilization	*	
	TOTAL MBE	6.11%	8.09%	75.49	Underutilization	*	
	WBE	7.45%	2.71%	275.23	Overutilization		
	TOTAL MBE/WBE	13.56%	10.80%	125.57	Overutilization		
	Non-MBE/WBE	86.44%	89.20%	96.91	Underutilization		
2021	African American	10.95%	6.95%	157.57	Overutilization		
	Asian American	0.00%	0.38%	0.00	Underutilization	*	
	Hispanic American	0.22%	0.35%	62.91	Underutilization	*	
	Native American	0.00%	0.03%	0.00	Underutilization	*	
	TOTAL MBE	11.17%	8.09%	138.07	Overutilization		
	WBE	5.56%	2.71%	205.48	Overutilization		
	TOTAL MBE/WBE	16.73%	10.80%	154.97	Overutilization		
	Non-MBE/WBE	83.27%	89.20%	93.35	Underutilization		
2022	African American	6.90%	6.95%	99.23	Underutilization		
	Asian American	0.00%	0.38%	0.00	Underutilization	*	
	Hispanic American	0.14%	0.35%	41.75	Underutilization	*	
	Native American	0.00%	0.03%	0.00	Underutilization	*	
	TOTAL MBE	7.04%	8.09%	87.04	Underutilization		
	WBE	3.59%	2.71%	132.50	Overutilization		
	TOTAL MBE/WBE	10.63%	10.80%	98.44	Underutilization		
	Non-MBE/WBE	89.37%	89.20%	100.19	Overutilization		
Total	African American	4.36%	6.95%	62.68	Underutilization	*	p < .05
	Asian American	0.00%	0.38%	0.00	Underutilization	*	p < .05
	Hispanic American	0.49%	0.35%	141.42	Overutilization		FALSE
	Native American	0.00%	0.03%	0.00	Underutilization	*	FALSE
	TOTAL MBE	4.85%	8.09%	59.90	Underutilization	*	p < .05
	WBE	5.73%	2.71%	211.66	Overutilization		
	TOTAL MBE/WBE	10.58%	10.80%	97.96	Underutilization		FALSE
	Non-MBE/WBE	89.42%	89.20%	100.25	Overutilization		FALSE

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Table F-16: Disparity Results, Relevant Market Area, Master Vendor List

Business Ownership Classification by Fiscal Year

Using Awards Dollars, FY 2018-2022, Total Utilization

MSCS Disparity Study

	Business Ownership	Percent of Dollars	Percent of Available Firms	Disparity Index	Disparate Impact of Utilization	Less than 80	Statistical Significance
Construction	African American	19.84%	15.37%	129.08	Overutilization		
	Asian American	0.50%	0.28%	177.53	Overutilization		
	Hispanic American	0.12%	1.07%	10.95	Underutilization	*	p < .05
	Native American	0.00%	0.17%	0.00	Underutilization	*	
	TOTAL MINORITY	20.45%	16.88%	121.14	Overutilization		
	Women	16.50%	3.93%	420.26	Overutilization		0
	TOTAL MBE/WBE	36.95%	20.81%	177.58	Overutilization		0
	TOTAL Non-MBE/WBE	63.05%	79.19%	79.62	Underutilization	*	
	Business Ownership	Percent of Dollars	Percent of Available Firms	Disparity Index	Disparate Impact of Utilization	Less than 80	Statistical Significance
A&E	African American	5.44%	7.97%	68.29	Underutilization	*	p < .05
	Asian American	0.00%	1.65%	0.00	Underutilization	*	p < .05
	Hispanic American	0.00%	0.00%	-	n/a		n/a
	Native American	0.00%	0.00%	-	n/a		n/a
	TOTAL MINORITY	5.44%	9.62%	56.59	Underutilization	*	p < .05
	Women	5.50%	5.49%	100.16	Overutilization		FALSE
	TOTAL MBE/WBE	10.94%	15.11%	72.43	Underutilization	*	p < .05
	TOTAL Non-MBE/WBE	89.06%	84.89%	104.91	Overutilization		
	Business Ownership	Percent of Dollars	Percent of Available Firms	Disparity Index	Disparate Impact of Utilization	Less than 80	Statistical Significance
Professional Services	African American	3.90%	19.96%	19.53	Underutilization	*	p < .05
	Asian American	0.00%	0.37%	0.00	Underutilization	*	p < .05
	Hispanic American	0.00%	0.66%	0.00	Underutilization	*	p < .05
	Native American	0.00%	0.00%	-	n/a		n/a
	TOTAL MINORITY	3.90%	20.98%	18.58	Underutilization	*	p < .05
	Women	15.24%	3.96%	384.74	Overutilization		
	TOTAL MBE/WBE	19.14%	24.94%	76.73	Underutilization	*	p < .05
	TOTAL Non-MBE/WBE	80.86%	75.06%	107.73	Overutilization		
	Business Ownership	Percent of Dollars	Percent of Available Firms	Disparity Index	Disparate Impact of Utilization	Less than 80	Statistical Significance
Other Services	African American	11.59%	15.84%	73.14	Underutilization	*	p < .05
	Asian American	2.57%	0.27%	953.43	Overutilization		
	Hispanic American	0.02%	0.54%	3.71	Underutilization	*	p < .05
	Native American	0.00%	0.00%	-	n/a		n/a
	TOTAL MINORITY	14.18%	16.65%	85.14	Underutilization		p < .05
	Women	3.86%	2.17%	177.83	Overutilization		
	TOTAL MBE/WBE	18.04%	18.82%	95.83	Underutilization		FALSE
	TOTAL Non-MBE/WBE	81.96%	81.18%	100.97	Overutilization		FALSE
	Business Ownership	Percent of Dollars	Percent of Available Firms	Disparity Index	Disparate Impact of Utilization	Less than 80	Statistical Significance
Goods	African American	19.56%	6.95%	281.44	Overutilization		
	Asian American	18.12%	0.38%	4797.14	Overutilization		
	Hispanic American	0.05%	0.35%	14.96	Underutilization	*	p < .05
	Native American	0.00%	0.03%	0.00	Underutilization	*	FALSE
	TOTAL MINORITY	37.73%	8.09%	466.43	Overutilization		
	Women	7.59%	2.71%	280.47	Overutilization		
	TOTAL MBE/WBE	45.32%	10.80%	419.81	Overutilization		
	TOTAL Non-MBE/WBE	54.68%	89.20%	61.29	Underutilization	*	p < .05

Griffin & Strong, P.C. 202



APPENDIX G

**SURVEY OF BUSINESS
OWNERS**

**MEMPHIS-SHELBY COUNTY SCHOOLS
DISPARITY STUDY**

Memphis Disparity Study Survey of Business Owners

A brief note on how tables are calculated

Duplicate responses have been removed. Duplicate responses were removed based on businesses having either the same email address or same business name. The total count of responses for each question includes only those participants who responded to that question. Participants who skipped or were not given a question are not included.

Table 1. Is your company a not-for-profit organization or a government entity?											
	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Yes	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
No	24	32	103	1	1	1	5	5	1	1	174
	100 %	100 %	100 %	100 %	100 %	100 %	100 %	100 %	100 %	100 %	100 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 2. Which one of the following is your company's primary line of business?											
	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Construction	4	7	16	1	1	0	1	1	0	1	32
	16.7 %	21.9 %	15.5 %	100 %	100 %	0 %	20 %	20 %	0 %	100 %	18.4 %
Architecture & Engineering	4	2	3	0	0	1	0	0	0	0	10
	16.7 %	6.2 %	2.9 %	0 %	0 %	100 %	0 %	0 %	0 %	0 %	5.7 %
Professional Services	5	15	55	0	0	0	4	3	1	0	83
	20.8 %	46.9 %	53.4 %	0 %	0 %	0 %	80 %	60 %	100 %	0 %	47.7 %
Non-Professional Services	4	4	17	0	0	0	0	1	0	0	26
	16.7 %	12.5 %	16.5 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	14.9 %
Goods	7	4	12	0	0	0	0	0	0	0	23
	29.2 %	12.5 %	11.7 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	13.2 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 3. How long has your company been in operation?

Responses	Owners' Minority Status										Total
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
Under 1 year	0	0	1	0	0	0	1	0	0	0	2
	0 %	0 %	1 %	0 %	0 %	0 %	20 %	0 %	0 %	0 %	1.1 %
1-5 years	1	3	31	0	0	0	0	0	0	0	35
	4.2 %	9.4 %	30.1 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	20.1 %
6-10 years	2	4	26	0	0	0	0	3	0	0	35
	8.3 %	12.5 %	25.2 %	0 %	0 %	0 %	0 %	60 %	0 %	0 %	20.1 %
11-15 years	2	6	7	0	0	0	2	0	0	0	17
	8.3 %	18.8 %	6.8 %	0 %	0 %	0 %	40 %	0 %	0 %	0 %	9.8 %
16-20 years	4	4	10	0	0	1	2	2	0	0	23
	16.7 %	12.5 %	9.7 %	0 %	0 %	100 %	40 %	40 %	0 %	0 %	13.2 %
Over 20 years	15	15	28	1	1	0	0	0	1	1	62
	62.5 %	46.9 %	27.2 %	100 %	100 %	0 %	0 %	0 %	100 %	100 %	35.6 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 4. Is at least 51% percent of your company owned and controlled by a woman or women?

Responses	Owners' Minority Status										Total
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
Yes	0	32	64	0	1	1	4	2	0	0	104
	0 %	100 %	62.1 %	0 %	100 %	100 %	80 %	40 %	0 %	0 %	59.8 %
No	24	0	39	1	0	0	1	3	1	1	70
	100 %	0 %	37.9 %	100 %	0 %	0 %	20 %	60 %	100 %	100 %	40.2 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 5. Which of the following categories would you consider to be the race or ethnic origin that the person or persons that own at least 51% of the company identify as? Would you say:

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
African American	0	0	102	0	0	0	0	0	0	0	102
	0 %	0 %	99 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	58.6 %
Asian American	0	0	0	0	0	0	4	0	0	0	4
	0 %	0 %	0 %	0 %	0 %	0 %	80 %	0 %	0 %	0 %	2.3 %
Asian Pacific American	0	0	0	0	1	0	0	0	0	0	1
	0 %	0 %	0 %	0 %	100 %	0 %	0 %	0 %	0 %	0 %	0.6 %
Sub-continent Asian American	0	0	0	0	0	1	0	0	0	0	1
	0 %	0 %	0 %	0 %	0 %	100 %	0 %	0 %	0 %	0 %	0.6 %
Hispanic American	0	0	0	0	0	0	0	5	0	0	5
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	100 %	0 %	0 %	2.9 %
American Indian	0	0	0	1	0	0	0	0	0	0	1
	0 %	0 %	0 %	100 %	0 %	0 %	0 %	0 %	0 %	0 %	0.6 %
Cape Verdean	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Portuguese	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Multi-Racial or Bi-Racial	0	0	0	0	0	0	0	0	1	0	1
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	100 %	0 %	0.6 %
Caucasian	22	31	0	0	0	0	0	0	0	0	53
	91.7 %	96.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	30.5 %
Publicly Traded Company	0	0	0	0	0	0	0	0	0	1	1
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	100 %	0.6 %
Other (specify):	2	1	1	0	0	0	1	0	0	0	5
	8.3 %	3.1 %	1 %	0 %	0 %	0 %	20 %	0 %	0 %	0 %	2.9 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 6. What is your current single project bonding limit since 2017?

Responses	Owners' Minority Status										Total
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
\$24,999 or less	0	0	7	0	0	0	0	0	0	0	7
	0 %	0 %	6.8 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	4 %
\$25,000 - \$50,000	0	1	3	0	0	0	0	1	0	0	5
	0 %	3.1 %	2.9 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	2.9 %
\$50,001 - \$100,000	1	2	7	0	0	0	0	0	0	0	10
	4.2 %	6.2 %	6.8 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	5.7 %
\$100,001 - \$250,000	1	1	5	0	0	0	0	0	0	0	7
	4.2 %	3.1 %	4.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	4 %
\$250,001 - \$500,000	0	1	1	0	0	0	1	0	0	0	3
	0 %	3.1 %	1 %	0 %	0 %	0 %	20 %	0 %	0 %	0 %	1.7 %
\$500,001 - \$750,000	0	0	1	0	0	0	0	0	0	0	1
	0 %	0 %	1 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0.6 %
\$750,000 - \$1,000,000	0	0	8	0	0	0	0	1	0	0	9
	0 %	0 %	7.8 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	5.2 %
\$1,000,001 - \$2,500,000	3	0	7	0	0	0	1	1	0	0	12
	12.5 %	0 %	6.8 %	0 %	0 %	0 %	20 %	20 %	0 %	0 %	6.9 %
\$2,500,001 - \$5,000,000	2	2	1	1	0	0	0	1	1	0	8
	8.3 %	6.2 %	1 %	100 %	0 %	0 %	0 %	20 %	100 %	0 %	4.6 %
\$5,000,001 to \$10,000,000	0	1	2	0	0	0	0	0	0	0	3
	0 %	3.1 %	1.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	1.7 %
Over \$10 million	3	2	3	0	0	0	1	0	0	1	10
	12.5 %	6.2 %	2.9 %	0 %	0 %	0 %	20 %	0 %	0 %	100 %	5.7 %
Do Not Know	2	4	10	0	1	0	1	0	0	0	18
	8.3 %	12.5 %	9.7 %	0 %	100 %	0 %	20 %	0 %	0 %	0 %	10.3 %
Not Applicable	12	18	48	0	0	1	1	1	0	0	81
	50 %	56.2 %	46.6 %	0 %	0 %	100 %	20 %	20 %	0 %	0 %	46.6 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 7. What is the largest single contract your company has been awarded since 2017?

Responses	Owners' Minority Status										Total
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
\$24,999 or less	0	2	15	0	0	0	1	0	0	0	18
	0 %	6.2 %	14.6 %	0 %	0 %	0 %	20 %	0 %	0 %	0 %	10.3 %
\$25,000 - \$50,000	2	2	12	0	0	0	0	0	0	0	16
	8.3 %	6.2 %	11.7 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	9.2 %
\$50,001 - \$100,000	3	2	6	0	0	0	0	0	0	0	11
	12.5 %	6.2 %	5.8 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	6.3 %
\$100,001 - \$250,000	3	5	13	0	0	0	0	0	0	0	21
	12.5 %	15.6 %	12.6 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	12.1 %
\$250,001 - \$500,000	2	1	6	0	0	0	1	0	0	0	10
	8.3 %	3.1 %	5.8 %	0 %	0 %	0 %	20 %	0 %	0 %	0 %	5.7 %
\$500,001 - \$750,000	0	1	1	0	0	0	0	1	0	0	3
	0 %	3.1 %	1 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	1.7 %
\$750,000 - \$1,000,000	0	3	3	0	0	1	0	2	0	0	9
	0 %	9.4 %	2.9 %	0 %	0 %	100 %	0 %	40 %	0 %	0 %	5.2 %
\$1,000,001 - \$2,500,000	2	8	4	0	1	0	1	0	1	0	17
	8.3 %	25 %	3.9 %	0 %	100 %	0 %	20 %	0 %	100 %	0 %	9.8 %
\$2,500,001 - \$5,000,000	3	1	4	1	0	0	0	1	0	0	10
	12.5 %	3.1 %	3.9 %	100 %	0 %	0 %	0 %	20 %	0 %	0 %	5.7 %
\$5,000,001 to \$10,000,000	1	2	3	0	0	0	1	0	0	0	7
	4.2 %	6.2 %	2.9 %	0 %	0 %	0 %	20 %	0 %	0 %	0 %	4 %
Over \$10 million	3	2	3	0	0	0	0	0	0	1	9
	12.5 %	6.2 %	2.9 %	0 %	0 %	0 %	0 %	0 %	0 %	100 %	5.2 %
Do Not Know	1	0	2	0	0	0	1	0	0	0	4
	4.2 %	0 %	1.9 %	0 %	0 %	0 %	20 %	0 %	0 %	0 %	2.3 %
Not Applicable	4	3	31	0	0	0	0	1	0	0	39
	16.7 %	9.4 %	30.1 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	22.4 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 8. Indicate what you have performed as on any government or private contract since 2017.

Responses	<i>Owners' Minority Status</i>										<i>Total</i>
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
Prime Contractor and Subcontractor	5	12	24	1	1	1	3	2	1	0	50
	20.8 %	37.5 %	23.3 %	100 %	100 %	100 %	60 %	40 %	100 %	0 %	28.7 %
Prime Contractor: As a standalone prime contractor	4	7	13	0	0	0	1	0	0	1	26
	16.7 %	21.9 %	12.6 %	0 %	0 %	0 %	20 %	0 %	0 %	100 %	14.9 %
Prime Contractor: As a joint venture partner	1	0	0	0	0	0	0	0	0	0	1
	4.2 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0.6 %
Prime Contractor: As a member of a teaming arrangement	1	0	1	0	0	0	0	0	0	0	2
	4.2 %	0 %	1 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	1.1 %
Subcontractor: As a standalone subcontractor	2	4	11	0	0	0	0	1	0	0	18
	8.3 %	12.5 %	10.7 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	10.3 %
Subcontractor: As a joint venture partner	0	0	4	0	0	0	0	0	0	0	4
	0 %	0 %	3.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	2.3 %
Subcontractor: As a member of a teaming arrangement	1	2	7	0	0	0	1	1	0	0	12
	4.2 %	6.2 %	6.8 %	0 %	0 %	0 %	20 %	20 %	0 %	0 %	6.9 %
Neither	10	7	43	0	0	0	0	1	0	0	61
	41.7 %	21.9 %	41.7 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	35.1 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 9. On average, how many employees and regular independent contractors does your company keep on the payroll, including full-time and part-time staff? (Number of Employees)

Responses	<i>Owners' Minority Status</i>										<i>Total</i>
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
None	1	2	10	0	0	0	0	1	0	0	14
	4.2 %	6.2 %	9.7 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	8 %
1-10	9	15	77	1	1	1	3	1	0	0	108
	37.5 %	46.9 %	74.8 %	100 %	100 %	100 %	60 %	20 %	0 %	0 %	62.1 %
11-30	5	9	7	0	0	0	2	2	0	0	25
	20.8 %	28.1 %	6.8 %	0 %	0 %	0 %	40 %	40 %	0 %	0 %	14.4 %
31-50	3	2	4	0	0	0	0	1	1	0	11
	12.5 %	6.2 %	3.9 %	0 %	0 %	0 %	0 %	20 %	100 %	0 %	6.3 %
51-75	1	1	2	0	0	0	0	0	0	0	4
	4.2 %	3.1 %	1.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	2.3 %
76-100	2	1	1	0	0	0	0	0	0	0	4
	8.3 %	3.1 %	1 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	2.3 %
101-300	3	2	2	0	0	0	0	0	0	0	7
	12.5 %	6.2 %	1.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	4 %
Over 300	0	0	0	0	0	0	0	0	0	1	1
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	100 %	0.6 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 10. What is the highest level of education completed by any owner of your company? Would you say:

Responses	<i>Owners' Minority Status</i>										<i>Total</i>
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
Some High School	0	0	1	0	0	0	0	0	0	0	1
	0 %	0 %	1 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0.6 %
High School graduate	3	2	4	0	0	0	0	0	0	0	9
	12.5 %	6.2 %	3.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	5.2 %
Some College	3	4	17	1	0	0	0	1	0	0	26
	12.5 %	12.5 %	16.5 %	100 %	0 %	0 %	0 %	20 %	0 %	0 %	14.9 %
College Graduate	11	15	29	0	0	1	1	3	0	0	60
	45.8 %	46.9 %	28.2 %	0 %	0 %	100 %	20 %	60 %	0 %	0 %	34.5 %
Master's Degree	5	8	33	0	1	0	3	0	1	1	52
	20.8 %	25 %	32 %	0 %	100 %	0 %	60 %	0 %	100 %	100 %	29.9 %
Juris Doctorate	0	0	5	0	0	0	0	0	0	0	5
	0 %	0 %	4.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	2.9 %
Doctorate Degree	2	1	8	0	0	0	1	0	0	0	12
	8.3 %	3.1 %	7.8 %	0 %	0 %	0 %	20 %	0 %	0 %	0 %	6.9 %
Trade or Technical Certificate	0	2	6	0	0	0	0	1	0	0	9
	0 %	6.2 %	5.8 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	5.2 %
Do Not Know	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 11. What is the greatest number of years of experience that any owners in your company's line of business have?

Responses	<i>Owners' Minority Status</i>										<i>Total</i>
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
None	0	1	0	0	0	0	0	0	0	0	1
	0 %	3.1 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0.6 %
1-5	0	0	2	0	0	0	0	0	0	0	2
	0 %	0 %	1.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	1.1 %
6-10	1	1	8	0	0	0	0	0	0	0	10
	4.2 %	3.1 %	7.8 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	5.7 %
11-15	0	2	8	0	0	0	2	1	0	0	13
	0 %	6.2 %	7.8 %	0 %	0 %	0 %	40 %	20 %	0 %	0 %	7.5 %
16-20	2	4	17	0	0	0	0	1	0	0	24
	8.3 %	12.5 %	16.5 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	13.8 %
More than 20	21	24	68	1	1	1	3	3	1	1	124
	87.5 %	75 %	66 %	100 %	100 %	100 %	60 %	60 %	100 %	100 %	71.3 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 12. Which of the following categories best approximates your company's gross revenues for: Calendar year 2022 Your best estimate will suffice.

Responses	Owners' Minority Status										Total	
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company		
\$100,000 or less	1	2	36	0	0	0	0	0	0	0	0	39
	4.2 %	6.2 %	35 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	22.4 %
\$100,001 - \$250,000	3	4	23	0	0	0	0	0	0	0	0	30
	12.5 %	12.5 %	22.3 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	17.2 %
\$250,001 - \$500,000	1	4	7	0	0	0	1	0	0	0	0	13
	4.2 %	12.5 %	6.8 %	0 %	0 %	0 %	20 %	0 %	0 %	0 %	0 %	7.5 %
\$500,001 - \$750,000	0	3	5	0	0	0	0	0	0	0	0	8
	0 %	9.4 %	4.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	4.6 %
\$750,000 - \$1,000,000	0	1	9	0	0	0	0	2	0	0	0	12
	0 %	3.1 %	8.7 %	0 %	0 %	0 %	0 %	40 %	0 %	0 %	0 %	6.9 %
\$1,000,001 - \$1,320,000	2	1	1	0	0	0	0	0	0	0	0	4
	8.3 %	3.1 %	1 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	2.3 %
\$1,320,001 - \$1,500,000	1	2	2	1	0	0	0	0	0	0	0	6
	4.2 %	6.2 %	1.9 %	100 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	3.4 %
\$1,500,001 - \$5,000,000	6	7	9	0	1	1	0	3	1	0	0	28
	25 %	21.9 %	8.7 %	0 %	100 %	100 %	0 %	60 %	100 %	0 %	0 %	16.1 %
\$5,000,001 - \$10,000,000	3	4	5	0	0	0	0	0	0	0	0	12
	12.5 %	12.5 %	4.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	6.9 %
\$10,000,001 - \$15,000,000	0	2	2	0	0	0	0	0	0	0	0	4
	0 %	6.2 %	1.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	2.3 %
\$15,000,001 - \$20,000,000	1	0	0	0	0	0	1	0	0	0	0	2
	4.2 %	0 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	0 %	0 %	1.1 %
\$20,000,001 - \$39,500,000	2	2	0	0	0	0	0	0	0	0	0	4
	8.3 %	6.2 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	2.3 %
Over \$39,500,000 million	3	0	0	0	0	0	0	0	0	0	1	4
	12.5 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	100 %	2.3 %
Do Not Know	1	0	4	0	0	0	3	0	0	0	0	8
	4.2 %	0 %	3.9 %	0 %	0 %	0 %	60 %	0 %	0 %	0 %	0 %	4.6 %
Company Out of Business	0	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Total	24	32	103	1	1	1	5	5	1	1	1	174

Table 13. Is your company registered to do business with: [Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Yes	15	24	73	1	0	0	3	3	1	1	121
	65.2 %	77.4 %	73.7 %	100 %	0 %	0 %	60 %	60 %	100 %	100 %	72 %
No	8	7	26	0	1	1	2	2	0	0	47
	34.8 %	22.6 %	26.3 %	0 %	100 %	100 %	40 %	40 %	0 %	0 %	28 %
Total	23	31	99	1	1	1	5	5	1	1	168

Table 14. Is your company registered with any other government entity (including but not limited to): State of Tennessee , Shelby County Government, Tennessee DOT, etc.?

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Yes	22	28	78	1	1	1	4	2	1	1	139
	91.7 %	87.5 %	75.7 %	100 %	100 %	100 %	80 %	40 %	100 %	100 %	79.9 %
No	2	4	25	0	0	0	1	3	0	0	35
	8.3 %	12.5 %	24.3 %	0 %	0 %	0 %	20 %	60 %	0 %	0 %	20.1 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 15. Why is your company not registered with: (Indicate all that apply.) [Do not know how to register?] [Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	5	3	10	0	0	1	2	1	0	0	22
	62.5 %	42.9 %	38.5 %	0 %	0 %	100 %	100 %	50 %	0 %	0 %	46.8 %
Selected	3	4	16	0	1	0	0	1	0	0	25
	37.5 %	57.1 %	61.5 %	0 %	100 %	0 %	0 %	50 %	0 %	0 %	53.2 %
Total	8	7	26	0	1	1	2	2	0	0	47

Table 16. [Did not know there was a registry?] [Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	5	3	14	0	1	1	1	0	0	0	25
	62.5 %	42.9 %	53.8 %	0 %	100 %	100 %	50 %	0 %	0 %	0 %	53.2 %
Selected	3	4	12	0	0	0	1	2	0	0	22
	37.5 %	57.1 %	46.2 %	0 %	0 %	0 %	50 %	100 %	0 %	0 %	46.8 %
Total	8	7	26	0	1	1	2	2	0	0	47

Table 17. [Do not see any benefit in registering?] [Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	6	7	18	0	1	1	2	1	0	0	36
	75 %	100 %	69.2 %	0 %	100 %	100 %	100 %	50 %	0 %	0 %	76.6 %
Selected	2	0	8	0	0	0	0	1	0	0	11
	25 %	0 %	30.8 %	0 %	0 %	0 %	0 %	50 %	0 %	0 %	23.4 %
Total	8	7	26	0	1	1	2	2	0	0	47

Table 18. [Do not want to do business with government?] [Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	8	7	21	0	1	1	2	2	0	0	42
	100 %	100 %	80.8 %	0 %	100 %	100 %	100 %	100 %	0 %	0 %	89.4 %
Selected	0	0	5	0	0	0	0	0	0	0	5
	0 %	0 %	19.2 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	10.6 %
Total	8	7	26	0	1	1	2	2	0	0	47

Table 19. [Do not want to do business in Massachusetts?] [Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Not Selected	7	6	18	0	1	1	2	1	0	0	36
	87.5 %	85.7 %	69.2 %	0 %	100 %	100 %	100 %	50 %	0 %	0 %	76.6 %
Selected	1	1	8	0	0	0	0	1	0	0	11
	12.5 %	14.3 %	30.8 %	0 %	0 %	0 %	0 %	50 %	0 %	0 %	23.4 %
Total	8	7	26	0	1	1	2	2	0	0	47

Table 20. [Do not see opportunities in my field of work?] [Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Not Selected	7	6	19	0	1	1	2	2	0	0	38
	87.5 %	85.7 %	73.1 %	0 %	100 %	100 %	100 %	100 %	0 %	0 %	80.9 %
Selected	1	1	7	0	0	0	0	0	0	0	9
	12.5 %	14.3 %	26.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	19.1 %
Total	8	7	26	0	1	1	2	2	0	0	47

Table 21. [Do not believe firm would be awarded contract?][Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Not Selected	7	7	14	0	1	1	1	1	0	0	32
	87.5 %	100 %	53.8 %	0 %	100 %	100 %	50 %	50 %	0 %	0 %	68.1 %
Selected	1	0	12	0	0	0	1	1	0	0	15
	12.5 %	0 %	46.2 %	0 %	0 %	0 %	50 %	50 %	0 %	0 %	31.9 %
Total	8	7	26	0	1	1	2	2	0	0	47

Table 22. From 2017 - Present, how many times has your company submitted bids or proposals for projects as prime contractor on: [Memphis-Shelby County Schools (MSCS) Projects]

Responses	<i>Owners' Minority Status</i>										<i>Total</i>
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
None	11	14	59	1	1	1	3	3	0	0	93
	61.1 %	50 %	60.8 %	100 %	100 %	100 %	60 %	60 %	0 %	0 %	58.9 %
1-10	6	10	34	0	0	0	2	2	1	1	56
	33.3 %	35.7 %	35.1 %	0 %	0 %	0 %	40 %	40 %	100 %	100 %	35.4 %
11-25	1	1	1	0	0	0	0	0	0	0	3
	5.6 %	3.6 %	1 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	1.9 %
26-50	0	1	2	0	0	0	0	0	0	0	3
	0 %	3.6 %	2.1 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	1.9 %
51-100	0	1	1	0	0	0	0	0	0	0	2
	0 %	3.6 %	1 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	1.3 %
Over 100	0	1	0	0	0	0	0	0	0	0	1
	0 %	3.6 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0.6 %
Do Not Know/NA	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Total	18	28	97	1	1	1	5	5	1	1	158

Table 23. Private Sector Projects

Responses	<i>Owners' Minority Status</i>										<i>Total</i>
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
None	4	8	45	1	0	0	1	0	0	0	59
	16.7 %	25 %	43.7 %	100 %	0 %	0 %	20 %	0 %	0 %	0 %	33.9 %
1-10	3	6	30	0	0	1	2	3	0	0	45
	12.5 %	18.8 %	29.1 %	0 %	0 %	100 %	40 %	60 %	0 %	0 %	25.9 %
11-25	2	2	7	0	0	0	1	0	0	0	12
	8.3 %	6.2 %	6.8 %	0 %	0 %	0 %	20 %	0 %	0 %	0 %	6.9 %
26-50	0	0	8	0	0	0	0	0	0	0	8
	0 %	0 %	7.8 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	4.6 %
51-100	2	3	2	0	0	0	0	1	0	0	8
	8.3 %	9.4 %	1.9 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	4.6 %
Over 100	6	9	3	0	1	0	1	0	1	1	22
	25 %	28.1 %	2.9 %	0 %	100 %	0 %	20 %	0 %	100 %	100 %	12.6 %
Do Not Know/NA	7	4	8	0	0	0	0	1	0	0	20
	29.2 %	12.5 %	7.8 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	11.5 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 24. Other Public Sector (non-City of Memphis, Memphis-Shelby County Schools (MSCS), Memphis Light, Gas and Water (MLGW) Projects)

Responses	Owners' Minority Status										Total
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
None	4	10	53	1	0	0	1	0	0	0	69
	16.7 %	31.2 %	51.5 %	100 %	0 %	0 %	20 %	0 %	0 %	0 %	39.7 %
1-10	3	10	36	0	0	1	2	3	1	0	56
	12.5 %	31.2 %	35 %	0 %	0 %	100 %	40 %	60 %	100 %	0 %	32.2 %
11-25	5	3	7	0	0	0	0	1	0	0	16
	20.8 %	9.4 %	6.8 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	9.2 %
26-50	3	2	1	0	0	0	1	0	0	1	8
	12.5 %	6.2 %	1 %	0 %	0 %	0 %	20 %	0 %	0 %	100 %	4.6 %
51-100	1	3	0	0	0	0	0	0	0	0	4
	4.2 %	9.4 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	2.3 %
Over 100	1	1	1	0	1	0	0	0	0	0	4
	4.2 %	3.1 %	1 %	0 %	100 %	0 %	0 %	0 %	0 %	0 %	2.3 %
Do Not Know/NA	7	3	5	0	0	0	1	1	0	0	17
	29.2 %	9.4 %	4.9 %	0 %	0 %	0 %	20 %	20 %	0 %	0 %	9.8 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 25. From 2017 - Present, how many times has your company been awarded contracts to perform as a prime contractor: [Memphis-Shelby County Schools (MSCS) Projects]

Responses	<i>Owners' Minority Status</i>										<i>Total</i>
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
None	13	17	77	1	1	1	3	5	0	1	119
	68.4 %	58.6 %	81.9 %	100 %	100 %	100 %	60 %	100 %	0 %	100 %	75.8 %
1-10	6	8	16	0	0	0	2	0	1	0	33
	31.6 %	27.6 %	17 %	0 %	0 %	0 %	40 %	0 %	100 %	0 %	21 %
11-25	0	2	0	0	0	0	0	0	0	0	2
	0 %	6.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	1.3 %
26-50	0	2	1	0	0	0	0	0	0	0	3
	0 %	6.9 %	1.1 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	1.9 %
51-100	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Over 100	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Do Not Know/NA	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Total	19	29	94	1	1	1	5	5	1	1	157

Table 26. Private Sector Projects

Responses	<i>Owners' Minority Status</i>										<i>Total</i>
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
None	3	11	52	1	0	0	2	2	0	0	71
	12.5 %	34.4 %	50.5 %	100 %	0 %	0 %	40 %	40 %	0 %	0 %	40.8 %
1-10	4	5	25	0	0	1	1	2	0	0	38
	16.7 %	15.6 %	24.3 %	0 %	0 %	100 %	20 %	40 %	0 %	0 %	21.8 %
11-25	1	3	9	0	0	0	0	0	0	0	13
	4.2 %	9.4 %	8.7 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	7.5 %
26-50	1	1	4	0	0	0	0	0	0	1	7
	4.2 %	3.1 %	3.9 %	0 %	0 %	0 %	0 %	0 %	0 %	100 %	4 %
51-100	1	3	1	0	1	0	0	1	0	0	7
	4.2 %	9.4 %	1 %	0 %	100 %	0 %	0 %	20 %	0 %	0 %	4 %
Over 100	6	5	0	0	0	0	1	0	1	0	13
	25 %	15.6 %	0 %	0 %	0 %	0 %	20 %	0 %	100 %	0 %	7.5 %
Do Not Know/NA	8	4	12	0	0	0	1	0	0	0	25
	33.3 %	12.5 %	11.7 %	0 %	0 %	0 %	20 %	0 %	0 %	0 %	14.4 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 27. Other Public Sector (non-City of Memphis, Memphis-Shelby County Schools (MSCS), Memphis Light, Gas and Water (MLGW) Projects)

Responses	Owners' Minority Status										Total
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
None	6	11	66	1	0	0	2	3	0	0	89
	25 %	34.4 %	64.1 %	100 %	0 %	0 %	40 %	60 %	0 %	0 %	51.1 %
1-10	5	12	25	0	0	1	1	2	1	1	48
	20.8 %	37.5 %	24.3 %	0 %	0 %	100 %	20 %	40 %	100 %	100 %	27.6 %
11-25	4	3	3	0	0	0	0	0	0	0	10
	16.7 %	9.4 %	2.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	5.7 %
26-50	1	0	1	0	0	0	0	0	0	0	2
	4.2 %	0 %	1 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	1.1 %
51-100	1	1	0	0	1	0	0	0	0	0	3
	4.2 %	3.1 %	0 %	0 %	100 %	0 %	0 %	0 %	0 %	0 %	1.7 %
Over 100	1	1	0	0	0	0	0	0	0	0	2
	4.2 %	3.1 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	1.1 %
Do Not Know/NA	6	4	8	0	0	0	2	0	0	0	20
	25 %	12.5 %	7.8 %	0 %	0 %	0 %	40 %	0 %	0 %	0 %	11.5 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 28. From 2017 - Present, how many times has your company submitted bids or proposals for projects as a subcontractor on: [Memphis-Shelby County Schools (MSCS) Projects]

Responses	<i>Owners' Minority Status</i>										<i>Total</i>
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
None	15	18	67	0	0	1	2	2	0	1	106
	78.9 %	66.7 %	69.1 %	0 %	0 %	100 %	50 %	50 %	0 %	100 %	67.9 %
1-10	4	5	26	0	1	0	2	2	1	0	41
	21.1 %	18.5 %	26.8 %	0 %	100 %	0 %	50 %	50 %	100 %	0 %	26.3 %
11-25	0	2	3	1	0	0	0	0	0	0	6
	0 %	7.4 %	3.1 %	100 %	0 %	0 %	0 %	0 %	0 %	0 %	3.8 %
26-50	0	2	1	0	0	0	0	0	0	0	3
	0 %	7.4 %	1 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	1.9 %
51-100	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Over 100	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Do Not Know/NA	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Total	19	27	97	1	1	1	4	4	1	1	156

Table 29. Private Sector Projects

Responses	<i>Owners' Minority Status</i>										<i>Total</i>
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
None	8	15	58	0	0	0	2	1	0	1	85
	33.3 %	46.9 %	56.3 %	0 %	0 %	0 %	40 %	20 %	0 %	100 %	48.9 %
1-10	1	6	23	0	0	1	2	3	0	0	36
	4.2 %	18.8 %	22.3 %	0 %	0 %	100 %	40 %	60 %	0 %	0 %	20.7 %
11-25	2	1	8	1	0	0	0	0	0	0	12
	8.3 %	3.1 %	7.8 %	100 %	0 %	0 %	0 %	0 %	0 %	0 %	6.9 %
26-50	1	1	5	0	0	0	0	0	0	0	7
	4.2 %	3.1 %	4.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	4 %
51-100	0	0	0	0	1	0	0	0	0	0	1
	0 %	0 %	0 %	0 %	100 %	0 %	0 %	0 %	0 %	0 %	0.6 %
Over 100	4	5	2	0	0	0	0	0	1	0	12
	16.7 %	15.6 %	1.9 %	0 %	0 %	0 %	0 %	0 %	100 %	0 %	6.9 %
Do Not Know/NA	8	4	7	0	0	0	1	1	0	0	21
	33.3 %	12.5 %	6.8 %	0 %	0 %	0 %	20 %	20 %	0 %	0 %	12.1 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 30. Other Public Sector (non-City of Memphis, Memphis-Shelby County Schools (MSCS), Memphis Light, Gas and Water (MLGW) Projects)

Responses	Owners' Minority Status										Total
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
None	10	14	64	0	0	0	1	1	0	1	91
	41.7 %	43.8 %	62.1 %	0 %	0 %	0 %	20 %	20 %	0 %	100 %	52.3 %
1-10	2	9	24	0	0	1	3	3	1	0	43
	8.3 %	28.1 %	23.3 %	0 %	0 %	100 %	60 %	60 %	100 %	0 %	24.7 %
11-25	3	1	5	1	0	0	0	0	0	0	10
	12.5 %	3.1 %	4.9 %	100 %	0 %	0 %	0 %	0 %	0 %	0 %	5.7 %
26-50	1	0	2	0	0	0	0	0	0	0	3
	4.2 %	0 %	1.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	1.7 %
51-100	1	2	1	0	1	0	0	0	0	0	5
	4.2 %	6.2 %	1 %	0 %	100 %	0 %	0 %	0 %	0 %	0 %	2.9 %
Over 100	0	2	0	0	0	0	0	0	0	0	2
	0 %	6.2 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	1.1 %
Do Not Know/NA	7	4	7	0	0	0	1	1	0	0	20
	29.2 %	12.5 %	6.8 %	0 %	0 %	0 %	20 %	20 %	0 %	0 %	11.5 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 31. From 2017 - Present, how many times has your company been awarded contracts to perform as a subcontractor: [Memphis-Shelby County Schools (MSCS) Projects]

Responses	<i>Owners' Minority Status</i>										<i>Total</i>
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
None	14	19	86	1	1	1	3	4	0	1	130
	77.8 %	67.9 %	92.5 %	100 %	100 %	100 %	75 %	80 %	0 %	100 %	85 %
1-10	3	8	6	0	0	0	1	1	1	0	20
	16.7 %	28.6 %	6.5 %	0 %	0 %	0 %	25 %	20 %	100 %	0 %	13.1 %
11-25	1	0	1	0	0	0	0	0	0	0	2
	5.6 %	0 %	1.1 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	1.3 %
26-50	0	1	0	0	0	0	0	0	0	0	1
	0 %	3.6 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0.7 %
51-100	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Over 100	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Do Not Know/NA	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Total	18	28	93	1	1	1	4	5	1	1	153

Table 32. Private Sector Projects

Responses	<i>Owners' Minority Status</i>										<i>Total</i>
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
None	7	14	63	0	0	0	3	2	0	1	90
	29.2 %	43.8 %	61.2 %	0 %	0 %	0 %	60 %	40 %	0 %	100 %	51.7 %
1-10	2	5	21	1	0	1	1	2	0	0	33
	8.3 %	15.6 %	20.4 %	100 %	0 %	100 %	20 %	40 %	0 %	0 %	19 %
11-25	2	1	5	0	0	0	0	0	0	0	8
	8.3 %	3.1 %	4.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	4.6 %
26-50	0	1	4	0	1	0	0	0	0	0	6
	0 %	3.1 %	3.9 %	0 %	100 %	0 %	0 %	0 %	0 %	0 %	3.4 %
51-100	0	3	0	0	0	0	0	0	0	0	3
	0 %	9.4 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	1.7 %
Over 100	4	3	0	0	0	0	0	1	1	0	9
	16.7 %	9.4 %	0 %	0 %	0 %	0 %	0 %	20 %	100 %	0 %	5.2 %
Do Not Know/NA	9	5	10	0	0	0	1	0	0	0	25
	37.5 %	15.6 %	9.7 %	0 %	0 %	0 %	20 %	0 %	0 %	0 %	14.4 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 33. Other Public Sector (non-City of Memphis, Memphis-Shelby County Schools (MSCS), Memphis Light, Gas and Water (MLGW) Projects)

Responses	<i>Owners' Minority Status</i>										<i>Total</i>
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
None	9	15	74	0	0	0	3	3	0	1	105
	37.5 %	46.9 %	71.8 %	0 %	0 %	0 %	60 %	60 %	0 %	100 %	60.3 %
1-10	3	8	18	1	0	1	0	2	1	0	34
	12.5 %	25 %	17.5 %	100 %	0 %	100 %	0 %	40 %	100 %	0 %	19.5 %
11-25	3	2	2	0	0	0	0	0	0	0	7
	12.5 %	6.2 %	1.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	4 %
26-50	0	1	0	0	1	0	0	0	0	0	2
	0 %	3.1 %	0 %	0 %	100 %	0 %	0 %	0 %	0 %	0 %	1.1 %
51-100	1	0	0	0	0	0	0	0	0	0	1
	4.2 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0.6 %
Over 100	0	2	0	0	0	0	0	0	0	0	2
	0 %	6.2 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	1.1 %
Do Not Know/NA	8	4	9	0	0	0	2	0	0	0	23
	33.3 %	12.5 %	8.7 %	0 %	0 %	0 %	40 %	0 %	0 %	0 %	13.2 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 34. How many times have you been dropped from a project as a subcontractor from 2017 - Present?

Responses	Owners' Minority Status										Total
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
None	19	24	81	1	1	1	4	3	1	1	136
	79.2 %	75 %	78.6 %	100 %	100 %	100 %	80 %	60 %	100 %	100 %	78.2 %
1-10	0	3	8	0	0	0	0	1	0	0	12
	0 %	9.4 %	7.8 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	6.9 %
11-25	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
26-50	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
51-100	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Over 100	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Do Not Know/NA	5	5	14	0	0	0	1	1	0	0	26
	20.8 %	15.6 %	13.6 %	0 %	0 %	0 %	20 %	20 %	0 %	0 %	14.9 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 35. The following is a list of things that may prevent companies from bidding or obtaining work on a project. In your experience, have any of the following been a barrier to your firm obtaining work on projects for: [Pre-qualification requirements] [Memphis-Shelby County Schools (MSCS)]

Responses	Owners' Minority Status										Total
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
Not Selected	24	27	89	1	1	1	4	5	1	1	154
	100 %	84.4 %	86.4 %	100 %	100 %	100 %	80 %	100 %	100 %	100 %	88.5 %
Selected	0	5	14	0	0	0	1	0	0	0	20
	0 %	15.6 %	13.6 %	0 %	0 %	0 %	20 %	0 %	0 %	0 %	11.5 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 36. [Performance bond requirements] [Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	22	32	89	1	1	1	5	5	1	1	158
	91.7 %	100 %	86.4 %	100 %	100 %	100 %	100 %	100 %	100 %	100 %	90.8 %
Selected	2	0	14	0	0	0	0	0	0	0	16
	8.3 %	0 %	13.6 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	9.2 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 37. [Excessive paperwork] [Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	23	29	87	1	0	1	4	5	0	0	150
	95.8 %	90.6 %	84.5 %	100 %	0 %	100 %	80 %	100 %	0 %	0 %	86.2 %
Selected	1	3	16	0	1	0	1	0	1	1	24
	4.2 %	9.4 %	15.5 %	0 %	100 %	0 %	20 %	0 %	100 %	100 %	13.8 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 38. [Bid bond requirements] [Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	23	31	89	1	1	1	5	5	1	1	158
	95.8 %	96.9 %	86.4 %	100 %	100 %	100 %	100 %	100 %	100 %	100 %	90.8 %
Selected	1	1	14	0	0	0	0	0	0	0	16
	4.2 %	3.1 %	13.6 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	9.2 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 39. [Financing] [Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	23	32	81	1	1	1	5	5	1	1	151
	95.8 %	100 %	78.6 %	100 %	100 %	100 %	100 %	100 %	100 %	100 %	86.8 %
Selected	1	0	22	0	0	0	0	0	0	0	23
	4.2 %	0 %	21.4 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	13.2 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 40. [Insurance requirements] [Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	23	31	93	1	1	1	5	5	1	1	162
	95.8 %	96.9 %	90.3 %	100 %	100 %	100 %	100 %	100 %	100 %	100 %	93.1 %
Selected	1	1	10	0	0	0	0	0	0	0	12
	4.2 %	3.1 %	9.7 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	6.9 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 41. [Bid specifications] [Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	23	31	92	1	0	1	4	5	1	0	158
	95.8 %	96.9 %	89.3 %	100 %	0 %	100 %	80 %	100 %	100 %	0 %	90.8 %
Selected	1	1	11	0	1	0	1	0	0	1	16
	4.2 %	3.1 %	10.7 %	0 %	100 %	0 %	20 %	0 %	0 %	100 %	9.2 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 42. [Lack of access to competitive supplier pricing] [Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	22	31	87	1	1	1	4	5	1	1	154
	91.7 %	96.9 %	84.5 %	100 %	100 %	100 %	80 %	100 %	100 %	100 %	88.5 %
Selected	2	1	16	0	0	0	1	0	0	0	20
	8.3 %	3.1 %	15.5 %	0 %	0 %	0 %	20 %	0 %	0 %	0 %	11.5 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 43. [Limited time given to prepare bid package or quote] [Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	21	30	93	1	1	1	4	5	0	0	156
	87.5 %	93.8 %	90.3 %	100 %	100 %	100 %	80 %	100 %	0 %	0 %	89.7 %
Selected	3	2	10	0	0	0	1	0	1	1	18
	12.5 %	6.2 %	9.7 %	0 %	0 %	0 %	20 %	0 %	100 %	100 %	10.3 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 44. [Limited knowledge of purchasing /contracting policies and procedures] [Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	22	29	87	1	1	1	4	3	1	1	150
	91.7 %	90.6 %	84.5 %	100 %	100 %	100 %	80 %	60 %	100 %	100 %	86.2 %
Selected	2	3	16	0	0	0	1	2	0	0	24
	8.3 %	9.4 %	15.5 %	0 %	0 %	0 %	20 %	40 %	0 %	0 %	13.8 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 45. [Language Barriers] [Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	24	32	100	1	1	1	5	4	1	1	170
	100 %	100 %	97.1 %	100 %	100 %	100 %	100 %	80 %	100 %	100 %	97.7 %
Selected	0	0	3	0	0	0	0	1	0	0	4
	0 %	0 %	2.9 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	2.3 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 46. [Lack of experience] [Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	24	32	94	1	1	1	4	4	1	1	163
	100 %	100 %	91.3 %	100 %	100 %	100 %	80 %	80 %	100 %	100 %	93.7 %
Selected	0	0	9	0	0	0	1	1	0	0	11
	0 %	0 %	8.7 %	0 %	0 %	0 %	20 %	20 %	0 %	0 %	6.3 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 47. [Lack of personnel] [Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	24	32	98	1	1	1	5	4	1	1	168
	100 %	100 %	95.1 %	100 %	100 %	100 %	100 %	80 %	100 %	100 %	96.6 %
Selected	0	0	5	0	0	0	0	1	0	0	6
	0 %	0 %	4.9 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	3.4 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 48. [Contract too large] [Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Not Selected	23	29	94	1	1	1	5	3	1	1	159
	95.8 %	90.6 %	91.3 %	100 %	100 %	100 %	100 %	60 %	100 %	100 %	91.4 %
Selected	1	3	9	0	0	0	0	2	0	0	15
	4.2 %	9.4 %	8.7 %	0 %	0 %	0 %	0 %	40 %	0 %	0 %	8.6 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 49. [Contract too expensive to bid] [Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Not Selected	24	32	93	1	1	1	5	4	1	1	163
	100 %	100 %	90.3 %	100 %	100 %	100 %	100 %	80 %	100 %	100 %	93.7 %
Selected	0	0	10	0	0	0	0	1	0	0	11
	0 %	0 %	9.7 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	6.3 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 50. [Selection process] [Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Not Selected	19	25	87	1	1	1	2	4	0	0	140
	79.2 %	78.1 %	84.5 %	100 %	100 %	100 %	40 %	80 %	0 %	0 %	80.5 %
Selected	5	7	16	0	0	0	3	1	1	1	34
	20.8 %	21.9 %	15.5 %	0 %	0 %	0 %	60 %	20 %	100 %	100 %	19.5 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 51. [Not certified] [Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	23	32	96	1	1	1	5	5	1	1	166
	95.8 %	100 %	93.2 %	100 %	100 %	100 %	100 %	100 %	100 %	100 %	95.4 %
Selected	1	0	7	0	0	0	0	0	0	0	8
	4.2 %	0 %	6.8 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	4.6 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 52. [Unfair competition with large firms] [Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	22	28	74	0	1	1	2	3	0	1	132
	91.7 %	87.5 %	71.8 %	0 %	100 %	100 %	40 %	60 %	0 %	100 %	75.9 %
Selected	2	4	29	1	0	0	3	2	1	0	42
	8.3 %	12.5 %	28.2 %	100 %	0 %	0 %	60 %	40 %	100 %	0 %	24.1 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 53. What is the amount of time that it typically takes to receive payment, from the date you submit your invoice to [Memphis-Shelby County Schools (MSCS)]

Responses	Owners' Minority Status										Total
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
30 days or less	3	4	16	0	0	0	0	0	0	0	23
	12.5 %	13.3 %	17.2 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	14.2 %
31-60 days	5	10	14	0	0	0	2	2	0	1	34
	20.8 %	33.3 %	15.1 %	0 %	0 %	0 %	40 %	40 %	0 %	100 %	21 %
61-90 days	0	2	0	0	1	0	0	0	0	0	3
	0 %	6.7 %	0 %	0 %	100 %	0 %	0 %	0 %	0 %	0 %	1.9 %
91-120 days	0	1	0	0	0	0	0	0	1	0	2
	0 %	3.3 %	0 %	0 %	0 %	0 %	0 %	0 %	100 %	0 %	1.2 %
Over 120 days	1	0	0	0	0	0	0	0	0	0	1
	4.2 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0.6 %
Do Not Know/NA	15	13	63	1	0	1	3	3	0	0	99
	62.5 %	43.3 %	67.7 %	100 %	0 %	100 %	60 %	60 %	0 %	0 %	61.1 %
Total	24	30	93	1	1	1	5	5	1	1	162

Table 54. What is the amount of time that it typically takes to receive payment, from the date you submit your invoice to the prime contractor for your services on [Memphis-Shelby County Schools (MSCS)]

Responses	Owners' Minority Status										Total
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
30 days or less	1	3	10	0	0	0	0	1	0	0	15
	4.2 %	10 %	11.1 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	9.4 %
31-60 days	1	5	9	0	0	0	1	1	0	0	17
	4.2 %	16.7 %	10 %	0 %	0 %	0 %	20 %	20 %	0 %	0 %	10.7 %
61-90 days	2	2	1	1	0	0	0	0	0	0	6
	8.3 %	6.7 %	1.1 %	100 %	0 %	0 %	0 %	0 %	0 %	0 %	3.8 %
91-120 days	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Do Not Know/NA	20	20	70	0	1	1	4	3	1	1	121
	83.3 %	66.7 %	77.8 %	0 %	100 %	100 %	80 %	60 %	100 %	100 %	76.1 %
Total	24	30	90	1	1	1	5	5	1	1	159

Table 55. Does your company hold any of the following certifications? [MWSDL]

<i>Owners' Minority Status</i>											
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Yes	11	30	93	1	1	1	5	5	1	0	148
	45.8 %	93.8 %	90.3 %	100 %	100 %	100 %	100 %	100 %	100 %	0 %	85.1 %
No	13	2	10	0	0	0	0	0	0	1	26
	54.2 %	6.2 %	9.7 %	0 %	0 %	0 %	0 %	0 %	0 %	100 %	14.9 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 56. MBE (Minority Business Enterprise)

<i>Owners' Minority Status</i>											
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Yes	0	2	86	1	1	1	3	5	1	0	100
	0 %	6.7 %	92.5 %	100 %	100 %	100 %	60 %	100 %	100 %	0 %	67.6 %
No	9	16	5	0	0	0	2	0	0	0	32
	81.8 %	53.3 %	5.4 %	0 %	0 %	0 %	40 %	0 %	0 %	0 %	21.6 %
N/A	2	12	2	0	0	0	0	0	0	0	16
	18.2 %	40 %	2.2 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	10.8 %
Total	11	30	93	1	1	1	5	5	1	0	148

Table 57. WBE (Women Business Enterprise)

<i>Owners' Minority Status</i>											
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Yes	0	28	27	0	0	0	4	1	0	0	60
	0 %	93.3 %	29 %	0 %	0 %	0 %	80 %	20 %	0 %	0 %	40.5 %
No	9	1	32	0	1	1	1	4	1	0	50
	81.8 %	3.3 %	34.4 %	0 %	100 %	100 %	20 %	80 %	100 %	0 %	33.8 %
N/A	2	1	34	1	0	0	0	0	0	0	38
	18.2 %	3.3 %	36.6 %	100 %	0 %	0 %	0 %	0 %	0 %	0 %	25.7 %
Total	11	30	93	1	1	1	5	5	1	0	148

Table 58. SBE (Small Business Enterprise)

Responses	<i>Owners' Minority Status</i>										<i>Total</i>
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
Yes	6	22	63	0	1	1	4	4	0	0	101
	54.5 %	73.3 %	67.7 %	0 %	100 %	100 %	80 %	80 %	0 %	0 %	68.2 %
No	5	6	22	0	0	0	1	1	1	0	36
	45.5 %	20 %	23.7 %	0 %	0 %	0 %	20 %	20 %	100 %	0 %	24.3 %
N/A	0	2	8	1	0	0	0	0	0	0	11
	0 %	6.7 %	8.6 %	100 %	0 %	0 %	0 %	0 %	0 %	0 %	7.4 %
Total	11	30	93	1	1	1	5	5	1	0	148

Table 59. DBE (Disadvantaged Business Enterprise)

Responses	<i>Owners' Minority Status</i>										<i>Total</i>
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
Yes	0	11	45	1	0	1	1	2	0	0	61
	0 %	36.7 %	48.4 %	100 %	0 %	100 %	20 %	40 %	0 %	0 %	41.2 %
No	8	11	31	0	1	0	3	3	1	0	58
	72.7 %	36.7 %	33.3 %	0 %	100 %	0 %	60 %	60 %	100 %	0 %	39.2 %
N/A	3	8	17	0	0	0	1	0	0	0	29
	27.3 %	26.7 %	18.3 %	0 %	0 %	0 %	20 %	0 %	0 %	0 %	19.6 %
Total	11	30	93	1	1	1	5	5	1	0	148

Table 66. Certification does not benefit and/or will negatively impact my company

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	12	2	8	0	0	0	0	0	0	1	23
	92.3 %	100 %	80 %	0 %	0 %	0 %	0 %	0 %	0 %	100 %	88.5 %
Selected	1	0	2	0	0	0	0	0	0	0	3
	7.7 %	0 %	20 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	11.5 %
Total	13	2	10	0	0	0	0	0	0	1	26

Table 67. Do not understand how certification can benefit my company

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	10	2	9	0	0	0	0	0	0	1	22
	76.9 %	100 %	90 %	0 %	0 %	0 %	0 %	0 %	0 %	100 %	84.6 %
Selected	3	0	1	0	0	0	0	0	0	0	4
	23.1 %	0 %	10 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	15.4 %
Total	13	2	10	0	0	0	0	0	0	1	26

Table 68. Between 2017 - Present, did your company apply and receive any of the following? [Business start-up loan?]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Never Applied	24	31	94	0	1	1	5	3	1	1	161
	100 %	96.9 %	91.3 %	0 %	100 %	100 %	100 %	60 %	100 %	100 %	92.5 %
Applied, Never Approved	0	0	4	0	0	0	0	1	0	0	5
	0 %	0 %	3.9 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	2.9 %
Applied, Some Approved	0	0	3	1	0	0	0	0	0	0	4
	0 %	0 %	2.9 %	100 %	0 %	0 %	0 %	0 %	0 %	0 %	2.3 %
Applied, All Approved	0	1	2	0	0	0	0	1	0	0	4
	0 %	3.1 %	1.9 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	2.3 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 69. Operating capital loan?

Responses	<i>Owners' Minority Status</i>										<i>Total</i>
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
Never Applied	19	26	78	0	1	1	5	3	1	1	135
	79.2 %	81.2 %	75.7 %	0 %	100 %	100 %	100 %	60 %	100 %	100 %	77.6 %
Applied, Never Approved	0	0	8	0	0	0	0	1	0	0	9
	0 %	0 %	7.8 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	5.2 %
Applied, Some Approved	0	0	7	0	0	0	0	0	0	0	7
	0 %	0 %	6.8 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	4 %
Applied, All Approved	5	6	10	1	0	0	0	1	0	0	23
	20.8 %	18.8 %	9.7 %	100 %	0 %	0 %	0 %	20 %	0 %	0 %	13.2 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 70. Equipment loan?

Responses	<i>Owners' Minority Status</i>										<i>Total</i>
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
Never Applied	20	26	84	1	1	1	4	2	0	1	140
	83.3 %	81.2 %	81.6 %	100 %	100 %	100 %	80 %	40 %	0 %	100 %	80.5 %
Applied, Never Approved	0	0	6	0	0	0	0	1	0	0	7
	0 %	0 %	5.8 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	4 %
Applied, Some Approved	0	0	4	0	0	0	0	0	0	0	4
	0 %	0 %	3.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	2.3 %
Applied, All Approved	4	6	9	0	0	0	1	2	1	0	23
	16.7 %	18.8 %	8.7 %	0 %	0 %	0 %	20 %	40 %	100 %	0 %	13.2 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 71. Commercial/Professional liability insurance?

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Never Applied	7	11	46	0	0	0	2	0	0	0	66
	29.2 %	34.4 %	44.7 %	0 %	0 %	0 %	40 %	0 %	0 %	0 %	37.9 %
Applied, Never Approved	0	0	1	0	0	0	0	1	0	0	2
	0 %	0 %	1 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	1.1 %
Applied, Some Approved	0	0	4	0	0	0	1	0	0	0	5
	0 %	0 %	3.9 %	0 %	0 %	0 %	20 %	0 %	0 %	0 %	2.9 %
Applied, All Approved	17	21	52	1	1	1	2	4	1	1	101
	70.8 %	65.6 %	50.5 %	100 %	100 %	100 %	40 %	80 %	100 %	100 %	58 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 72. PPP (Paycheck Protection Program loan)?

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Never Applied	8	9	45	0	0	0	2	0	0	1	65
	33.3 %	28.1 %	43.7 %	0 %	0 %	0 %	40 %	0 %	0 %	100 %	37.4 %
Applied, Never Approved	0	1	6	0	0	0	0	0	0	0	7
	0 %	3.1 %	5.8 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	4 %
Applied, Some Approved	0	1	14	0	0	0	1	1	0	0	17
	0 %	3.1 %	13.6 %	0 %	0 %	0 %	20 %	20 %	0 %	0 %	9.8 %
Applied, All Approved	16	21	38	1	1	1	2	4	1	0	85
	66.7 %	65.6 %	36.9 %	100 %	100 %	100 %	40 %	80 %	100 %	0 %	48.9 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 73. What was the largest commercial loan you received from 2017 - Present?

Responses	<i>Owners' Minority Status</i>										<i>Total</i>
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
\$50,000 or less	1	4	19	0	0	1	2	1	0	0	28
	4.2 %	12.5 %	18.4 %	0 %	0 %	100 %	40 %	20 %	0 %	0 %	16.1 %
\$50,001 - \$100,000	0	1	5	0	0	0	0	1	0	0	7
	0 %	3.1 %	4.9 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	4 %
\$100,001 - \$300,000	3	3	7	0	1	0	0	3	1	0	18
	12.5 %	9.4 %	6.8 %	0 %	100 %	0 %	0 %	60 %	100 %	0 %	10.3 %
\$300,001 - \$500,000	0	2	4	0	0	0	0	0	0	0	6
	0 %	6.2 %	3.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	3.4 %
\$500,001 - \$1,000,000	1	1	1	1	0	0	0	0	0	0	4
	4.2 %	3.1 %	1 %	100 %	0 %	0 %	0 %	0 %	0 %	0 %	2.3 %
\$1,000,001 - \$3,000,000	2	2	2	0	0	0	0	0	0	0	6
	8.3 %	6.2 %	1.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	3.4 %
\$3,000,001 - \$5,000,000	0	0	1	0	0	0	0	0	0	0	1
	0 %	0 %	1 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0.6 %
\$5,000,001 to \$10,000,000	1	0	0	0	0	0	0	0	0	0	1
	4.2 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0.6 %
Over \$10,000,000	1	0	0	0	0	0	0	0	0	0	1
	4.2 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0.6 %
Do Not Know/ Not Applicable	15	19	64	0	0	0	3	0	0	1	102
	62.5 %	59.4 %	62.1 %	0 %	0 %	0 %	60 %	0 %	0 %	100 %	58.6 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 74. How many times have you been denied a commercial (business) bank loan from 2017 - Present?

Responses	<i>Owners' Minority Status</i>										<i>Total</i>
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
None	16	21	43	1	0	1	4	2	1	0	89
	66.7 %	65.6 %	41.7 %	100 %	0 %	100 %	80 %	40 %	100 %	0 %	51.1 %
1-10	1	2	28	0	0	0	0	3	0	0	34
	4.2 %	6.2 %	27.2 %	0 %	0 %	0 %	0 %	60 %	0 %	0 %	19.5 %
11-25	0	0	1	0	0	0	0	0	0	0	1
	0 %	0 %	1 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0.6 %
26-50	0	0	1	0	0	0	0	0	0	0	1
	0 %	0 %	1 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0.6 %
51-100	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Over 100	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Do Not Know/ Not Applicable	7	9	30	0	1	0	1	0	0	1	49
	29.2 %	28.1 %	29.1 %	0 %	100 %	0 %	20 %	0 %	0 %	100 %	28.2 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 75. Of the items your company was denied, what was the denial reason? (Please check all that apply) [Business start-up loan?] [Insufficient Documentation]

Responses	<i>Owners' Minority Status</i>										<i>Total</i>
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
Not Selected	0	0	6	1	0	0	0	1	0	0	8
	0 %	0 %	85.7 %	100 %	0 %	0 %	0 %	100 %	0 %	0 %	88.9 %
Selected	0	0	1	0	0	0	0	0	0	0	1
	0 %	0 %	14.3 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	11.1 %
Total	0	0	7	1	0	0	0	1	0	0	9

Table 76. Insufficient Business History

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	0	0	4	1	0	0	0	0	0	0	5
	0 %	0 %	57.1 %	100 %	0 %	0 %	0 %	0 %	0 %	0 %	55.6 %
Selected	0	0	3	0	0	0	0	1	0	0	4
	0 %	0 %	42.9 %	0 %	0 %	0 %	0 %	100 %	0 %	0 %	44.4 %
Total	0	0	7	1	0	0	0	1	0	0	9

Table 77. Confusion about Process

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	0	0	7	1	0	0	0	1	0	0	9
	0 %	0 %	100 %	100 %	0 %	0 %	0 %	100 %	0 %	0 %	100 %
Selected	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Total	0	0	7	1	0	0	0	1	0	0	9

Table 78. Credit History

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	0	0	5	1	0	0	0	1	0	0	7
	0 %	0 %	71.4 %	100 %	0 %	0 %	0 %	100 %	0 %	0 %	77.8 %
Selected	0	0	2	0	0	0	0	0	0	0	2
	0 %	0 %	28.6 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	22.2 %
Total	0	0	7	1	0	0	0	1	0	0	9

Table 79. Do Not Know

<i>Owners' Minority Status</i>											
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Not Selected	0	0	5	1	0	0	0	1	0	0	7
	0 %	0 %	71.4 %	100 %	0 %	0 %	0 %	100 %	0 %	0 %	77.8 %
Selected	0	0	2	0	0	0	0	0	0	0	2
	0 %	0 %	28.6 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	22.2 %
Total	0	0	7	1	0	0	0	1	0	0	9

Table 80. N/A

<i>Owners' Minority Status</i>											
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Not Selected	0	0	5	0	0	0	0	1	0	0	6
	0 %	0 %	71.4 %	0 %	0 %	0 %	0 %	100 %	0 %	0 %	66.7 %
Selected	0	0	2	1	0	0	0	0	0	0	3
	0 %	0 %	28.6 %	100 %	0 %	0 %	0 %	0 %	0 %	0 %	33.3 %
Total	0	0	7	1	0	0	0	1	0	0	9

Table 81. [Operating capital loan?] [Insufficient Documentation]

<i>Owners' Minority Status</i>											
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Not Selected	0	0	13	0	0	0	0	1	0	0	14
	0 %	0 %	86.7 %	0 %	0 %	0 %	0 %	100 %	0 %	0 %	87.5 %
Selected	0	0	2	0	0	0	0	0	0	0	2
	0 %	0 %	13.3 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	12.5 %
Total	0	0	15	0	0	0	0	1	0	0	16

Table 82. Insufficient Business History

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	0	0	9	0	0	0	0	0	0	0	9
	0 %	0 %	60 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	56.2 %
Selected	0	0	6	0	0	0	0	1	0	0	7
	0 %	0 %	40 %	0 %	0 %	0 %	0 %	100 %	0 %	0 %	43.8 %
Total	0	0	15	0	0	0	0	1	0	0	16

Table 83. Confusion about Process

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	0	0	15	0	0	0	0	1	0	0	16
	0 %	0 %	100 %	0 %	0 %	0 %	0 %	100 %	0 %	0 %	100 %
Selected	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Total	0	0	15	0	0	0	0	1	0	0	16

Table 84. Credit History

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	0	0	10	0	0	0	0	1	0	0	11
	0 %	0 %	66.7 %	0 %	0 %	0 %	0 %	100 %	0 %	0 %	68.8 %
Selected	0	0	5	0	0	0	0	0	0	0	5
	0 %	0 %	33.3 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	31.2 %
Total	0	0	15	0	0	0	0	1	0	0	16

Table 85. Do Not Know

<i>Owners' Minority Status</i>											
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Not Selected	0	0	12	0	0	0	0	1	0	0	13
	0 %	0 %	80 %	0 %	0 %	0 %	0 %	100 %	0 %	0 %	81.2 %
Selected	0	0	3	0	0	0	0	0	0	0	3
	0 %	0 %	20 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	18.8 %
Total	0	0	15	0	0	0	0	1	0	0	16

Table 86. N/A

<i>Owners' Minority Status</i>											
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Not Selected	0	0	12	0	0	0	0	1	0	0	13
	0 %	0 %	80 %	0 %	0 %	0 %	0 %	100 %	0 %	0 %	81.2 %
Selected	0	0	3	0	0	0	0	0	0	0	3
	0 %	0 %	20 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	18.8 %
Total	0	0	15	0	0	0	0	1	0	0	16

Table 87. [Equipment loan?] [Insufficient Documentation]

<i>Owners' Minority Status</i>											
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Not Selected	0	0	10	0	0	0	0	1	0	0	11
	0 %	0 %	100 %	0 %	0 %	0 %	0 %	100 %	0 %	0 %	100 %
Selected	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Total	0	0	10	0	0	0	0	1	0	0	11

Table 88. Insufficient Business History

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	0	0	7	0	0	0	0	1	0	0	8
	0 %	0 %	70 %	0 %	0 %	0 %	0 %	100 %	0 %	0 %	72.7 %
Selected	0	0	3	0	0	0	0	0	0	0	3
	0 %	0 %	30 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	27.3 %
Total	0	0	10	0	0	0	0	1	0	0	11

Table 89. Confusion about Process

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	0	0	10	0	0	0	0	1	0	0	11
	0 %	0 %	100 %	0 %	0 %	0 %	0 %	100 %	0 %	0 %	100 %
Selected	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Total	0	0	10	0	0	0	0	1	0	0	11

Table 90. Credit History

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	0	0	7	0	0	0	0	1	0	0	8
	0 %	0 %	70 %	0 %	0 %	0 %	0 %	100 %	0 %	0 %	72.7 %
Selected	0	0	3	0	0	0	0	0	0	0	3
	0 %	0 %	30 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	27.3 %
Total	0	0	10	0	0	0	0	1	0	0	11

Table 91. Do Not Know

<i>Owners' Minority Status</i>											
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Not Selected	0	0	6	0	0	0	0	1	0	0	7
	0 %	0 %	60 %	0 %	0 %	0 %	0 %	100 %	0 %	0 %	63.6 %
Selected	0	0	4	0	0	0	0	0	0	0	4
	0 %	0 %	40 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	36.4 %
Total	0	0	10	0	0	0	0	1	0	0	11

Table 92. N/A

<i>Owners' Minority Status</i>											
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Not Selected	0	0	8	0	0	0	0	0	0	0	8
	0 %	0 %	80 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	72.7 %
Selected	0	0	2	0	0	0	0	1	0	0	3
	0 %	0 %	20 %	0 %	0 %	0 %	0 %	100 %	0 %	0 %	27.3 %
Total	0	0	10	0	0	0	0	1	0	0	11

Table 93. [Commercial/Professional liability insurance?] [Insufficient Documentation]

<i>Owners' Minority Status</i>											
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Not Selected	0	0	5	0	0	0	1	1	0	0	7
	0 %	0 %	100 %	0 %	0 %	0 %	100 %	100 %	0 %	0 %	100 %
Selected	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Total	0	0	5	0	0	0	1	1	0	0	7

Table 94. Insufficient Business History

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	0	0	5	0	0	0	1	1	0	0	7
	0 %	0 %	100 %	0 %	0 %	0 %	100 %	100 %	0 %	0 %	100 %
Selected	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Total	0	0	5	0	0	0	1	1	0	0	7

Table 95. Confusion about Process

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	0	0	5	0	0	0	1	1	0	0	7
	0 %	0 %	100 %	0 %	0 %	0 %	100 %	100 %	0 %	0 %	100 %
Selected	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Total	0	0	5	0	0	0	1	1	0	0	7

Table 96. Credit History

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	0	0	5	0	0	0	1	1	0	0	7
	0 %	0 %	100 %	0 %	0 %	0 %	100 %	100 %	0 %	0 %	100 %
Selected	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Total	0	0	5	0	0	0	1	1	0	0	7

Table 97. Do Not Know

<i>Owners' Minority Status</i>											
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Not Selected	0	0	5	0	0	0	1	1	0	0	7
	0 %	0 %	100 %	0 %	0 %	0 %	100 %	100 %	0 %	0 %	100 %
Selected	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Total	0	0	5	0	0	0	1	1	0	0	7

Table 98. N/A

<i>Owners' Minority Status</i>											
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Not Selected	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Selected	0	0	5	0	0	0	1	1	0	0	7
	0 %	0 %	100 %	0 %	0 %	0 %	100 %	100 %	0 %	0 %	100 %
Total	0	0	5	0	0	0	1	1	0	0	7

Table 99. [PPP (Paycheck Protection Program) loan?] [Insufficient Documentation]

<i>Owners' Minority Status</i>											
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Not Selected	0	2	20	0	0	0	1	1	0	0	24
	0 %	100 %	100 %	0 %	0 %	0 %	100 %	100 %	0 %	0 %	100 %
Selected	0	0	0	0	0	0	0	0	0	0	0
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %
Total	0	2	20	0	0	0	1	1	0	0	24

Table 100. Insufficient Business History

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	0	2	19	0	0	0	1	1	0	0	23
	0 %	100 %	95 %	0 %	0 %	0 %	100 %	100 %	0 %	0 %	95.8 %
Selected	0	0	1	0	0	0	0	0	0	0	1
	0 %	0 %	5 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	4.2 %
Total	0	2	20	0	0	0	1	1	0	0	24

Table 101. Confusion about Process

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	0	2	17	0	0	0	1	1	0	0	21
	0 %	100 %	85 %	0 %	0 %	0 %	100 %	100 %	0 %	0 %	87.5 %
Selected	0	0	3	0	0	0	0	0	0	0	3
	0 %	0 %	15 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	12.5 %
Total	0	2	20	0	0	0	1	1	0	0	24

Table 102. Credit History

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	0	2	18	0	0	0	1	1	0	0	22
	0 %	100 %	90 %	0 %	0 %	0 %	100 %	100 %	0 %	0 %	91.7 %
Selected	0	0	2	0	0	0	0	0	0	0	2
	0 %	0 %	10 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	8.3 %
Total	0	2	20	0	0	0	1	1	0	0	24

Table 103. Do Not Know

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	0	1	12	0	0	0	0	1	0	0	14
	0 %	50 %	60 %	0 %	0 %	0 %	0 %	100 %	0 %	0 %	58.3 %
Selected	0	1	8	0	0	0	1	0	0	0	10
	0 %	50 %	40 %	0 %	0 %	0 %	100 %	0 %	0 %	0 %	41.7 %
Total	0	2	20	0	0	0	1	1	0	0	24

Table 104. N/A

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Not Selected	0	1	12	0	0	0	1	0	0	0	14
	0 %	50 %	60 %	0 %	0 %	0 %	100 %	0 %	0 %	0 %	58.3 %
Selected	0	1	8	0	0	0	0	1	0	0	10
	0 %	50 %	40 %	0 %	0 %	0 %	0 %	100 %	0 %	0 %	41.7 %
Total	0	2	20	0	0	0	1	1	0	0	24

Table 105. From 2017 - Present, how often has your company experienced any racial, gender, or ethnicity discriminatory behavior from the Memphis Metropolitan Area (i.e., non-governmental entities)?

Responses	Owners' Minority Status										Total
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
Never	17	13	35	0	0	0	3	1	0	0	69
	70.8 %	40.6 %	34 %	0 %	0 %	0 %	60 %	20 %	0 %	0 %	39.7 %
Seldom	3	10	15	1	1	0	1	1	1	0	33
	12.5 %	31.2 %	14.6 %	100 %	100 %	0 %	20 %	20 %	100 %	0 %	19 %
Often	0	3	14	0	0	1	1	1	0	0	20
	0 %	9.4 %	13.6 %	0 %	0 %	100 %	20 %	20 %	0 %	0 %	11.5 %
Very Often	1	0	12	0	0	0	0	1	0	0	14
	4.2 %	0 %	11.7 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	8 %
Do Not Know	3	6	27	0	0	0	0	1	0	1	38
	12.5 %	18.8 %	26.2 %	0 %	0 %	0 %	0 %	20 %	0 %	100 %	21.8 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 106. From 2017 - Present, how often has your company experienced any racial, gender, or ethnicity discriminatory behavior from: [Memphis-Shelby County Schools (MSCS)]

Responses	Owners' Minority Status										Total
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
Never	15	20	50	0	1	0	3	2	0	1	92
	65.2 %	64.5 %	49 %	0 %	100 %	0 %	60 %	40 %	0 %	100 %	53.8 %
Seldom	0	2	8	1	0	0	1	0	1	0	13
	0 %	6.5 %	7.8 %	100 %	0 %	0 %	20 %	0 %	100 %	0 %	7.6 %
Often	0	0	3	0	0	0	0	1	0	0	4
	0 %	0 %	2.9 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	2.3 %
Very Often	1	1	3	0	0	0	0	0	0	0	5
	4.3 %	3.2 %	2.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	2.9 %
Do Not Know	7	8	38	0	0	1	1	2	0	0	57
	30.4 %	25.8 %	37.3 %	0 %	0 %	100 %	20 %	40 %	0 %	0 %	33.3 %
Total	23	31	102	1	1	1	5	5	1	1	171

Table 107. Do you believe there is an informal network of prime and subcontractors doing business with [Memphis-Shelby County Schools (MSCS)] that monopolizes the public contracting process? Informal network is defined as firms that have an advantage due to their relationships inside the [Memphis-Shelby County Schools (MSCS)].

	Owners' Minority Status										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Yes	10	15	75	1	1	1	2	3	1	1	110
	41.7 %	46.9 %	72.8 %	100 %	100 %	100 %	40 %	60 %	100 %	100 %	63.2 %
No	14	17	28	0	0	0	3	2	0	0	64
	58.3 %	53.1 %	27.2 %	0 %	0 %	0 %	60 %	40 %	0 %	0 %	36.8 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 108. Please tell us if you strongly agree, agree, neither agree nor disagree, disagree, or strongly disagree with each of the following statements: [Double standards in qualifications and work performance make it more difficult for Minority and/or Woman-owned business to win bids or contracts.]

	Owners' Minority Status										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	Total
Strongly agree	1	2	49	1	0	0	0	1	0	0	54
	4.2 %	6.2 %	47.6 %	100 %	0 %	0 %	0 %	20 %	0 %	0 %	31 %
Agree	2	8	23	0	0	0	3	2	1	1	40
	8.3 %	25 %	22.3 %	0 %	0 %	0 %	60 %	40 %	100 %	100 %	23 %
Neither agree nor disagree	9	14	25	0	1	1	2	2	0	0	54
	37.5 %	43.8 %	24.3 %	0 %	100 %	100 %	40 %	40 %	0 %	0 %	31 %
Disagree	2	5	3	0	0	0	0	0	0	0	10
	8.3 %	15.6 %	2.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	5.7 %
Strongly disagree	10	3	3	0	0	0	0	0	0	0	16
	41.7 %	9.4 %	2.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	9.2 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 109. Sometimes, a prime contractor will contact a Minority and/or Woman owned firm to ask for quotes but never give the proposal sufficient review to consider giving that firm the award.

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Strongly agree	2	3	46	0	0	0	1	1	1	1	55
	8.3 %	9.4 %	44.7 %	0 %	0 %	0 %	20 %	20 %	100 %	100 %	31.6 %
Agree	3	9	24	1	1	0	2	2	0	0	42
	12.5 %	28.1 %	23.3 %	100 %	100 %	0 %	40 %	40 %	0 %	0 %	24.1 %
Neither agree nor disagree	10	15	30	0	0	1	1	2	0	0	59
	41.7 %	46.9 %	29.1 %	0 %	0 %	100 %	20 %	40 %	0 %	0 %	33.9 %
Disagree	1	3	1	0	0	0	0	0	0	0	5
	4.2 %	9.4 %	1 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	2.9 %
Strongly disagree	8	2	2	0	0	0	1	0	0	0	13
	33.3 %	6.2 %	1.9 %	0 %	0 %	0 %	20 %	0 %	0 %	0 %	7.5 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 110. The City of Memphis, (Memphis-Shelby County Schools (MSCS) or Memphis Light, Gas and Water (MLGW)) are generally accommodating to the language needs of its vendor community. [Memphis-Shelby County Schools (MSCS)]

	<i>Owners' Minority Status</i>										
Responses	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	<i>Total</i>
Strongly agree	6	3	22	0	0	0	0	0	0	0	31
	25 %	9.4 %	21.4 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	17.8 %
Agree	8	6	20	1	0	0	3	2	1	0	41
	33.3 %	18.8 %	19.4 %	100 %	0 %	0 %	60 %	40 %	100 %	0 %	23.6 %
Neither Agree or Disagree	10	20	56	0	1	1	2	2	0	1	93
	41.7 %	62.5 %	54.4 %	0 %	100 %	100 %	40 %	40 %	0 %	100 %	53.4 %
Disagree	0	3	2	0	0	0	0	1	0	0	6
	0 %	9.4 %	1.9 %	0 %	0 %	0 %	0 %	20 %	0 %	0 %	3.4 %
Strongly Disagree	0	0	3	0	0	0	0	0	0	0	3
	0 %	0 %	2.9 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	1.7 %
Total	24	32	103	1	1	1	5	5	1	1	174

Table 111. Breakdown of Survey Respondents

Responses	Owners' Minority Status										Total
	Caucasian	Woman	African American	American Indian	Asian Pacific American	Sub-continent Asian American	Asian American	Hispanic American	Multi-Racial or Bi-Racial	Publicly Traded Company	
Caucasian	24	0	0	0	0	0	0	0	0	0	24
	100 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	13.8 %
Woman	0	32	0	0	0	0	0	0	0	0	32
	0 %	100 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	18.4 %
African American	0	0	103	0	0	0	0	0	0	0	103
	0 %	0 %	100 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	59.2 %
American Indian	0	0	0	1	0	0	0	0	0	0	1
	0 %	0 %	0 %	100 %	0 %	0 %	0 %	0 %	0 %	0 %	0.6 %
Asian Pacific American	0	0	0	0	1	0	0	0	0	0	1
	0 %	0 %	0 %	0 %	100 %	0 %	0 %	0 %	0 %	0 %	0.6 %
Sub-continent Asian American	0	0	0	0	0	1	0	0	0	0	1
	0 %	0 %	0 %	0 %	0 %	100 %	0 %	0 %	0 %	0 %	0.6 %
Asian American	0	0	0	0	0	0	5	0	0	0	5
	0 %	0 %	0 %	0 %	0 %	0 %	100 %	0 %	0 %	0 %	2.9 %
Hispanic American	0	0	0	0	0	0	0	5	0	0	5
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	100 %	0 %	0 %	2.9 %
Multi-Racial or Bi-Racial	0	0	0	0	0	0	0	0	1	0	1
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	100 %	0 %	0.6 %
Publicly Traded Company	0	0	0	0	0	0	0	0	0	1	1
	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	100 %	0.6 %
Total	24	32	103	1	1	1	5	5	1	1	174



APPENDIX H

DETAILED AVAILABILITY IN THE RELEVANT GEOGRAPHIC MARKET

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Appendix H – Availability Numbers

Tables H-1 through H- 5 presents numbers on MWBE availability corresponding to the availability percentages in Figures 1- 5 in the Quantitative Analysis chapter. The availability methodology for creating the Master Vendor table for these availability tables is contained in the Quantitative Analysis chapter.

Table H-1: *Availability of Firms by Business Ownership in Market Area*

Construction - Master Vendor List

MSCS Disparity Study

Business Ownership Classification	Number of Firms	Percentage Total
African American	274	15.37%
Asian American	5	0.28%
Hispanic American	19	1.07%
Native American	3	0.17%
TOTAL MBE	301	16.88%
WBE	70	3.93%
TOTAL MWBE	371	20.81%
NON-MWBE	1,412	79.19%
TOTAL FIRMS	1,783	100.00%

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Table H-2: Availability of Firms by Business Ownership in Market Area

A&E - Master Vendor List

MSCS Disparity Study

Business Ownership Classification	Number of Firms	Percent of Firms
African American	29	7.97%
Asian American	6	1.65%
Hispanic American	0	0.00%
Native American	0	0.00%
TOTAL MBE	35	9.62%
WBE	20	5.49%
TOTAL MWBE	55	15.11%
NON-MWBE	309	84.89%
TOTAL FIRMS	364	100.00%

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Table H-3: Availability of Firms by Business Ownership in Market Area

Professional Services - Master Vendor List

MSCS Disparity Study

Business Ownership Classification	Number of Firms	Percent of Firms
African American	272	19.96%
Asian American	5	0.37%
Hispanic American	9	0.66%
Native American	0	0.00%
TOTAL MBE	286	20.98%
WBE	54	3.96%
TOTAL MWBE	340	24.94%
NON-MWBE	1,023	75.06%
TOTAL FIRMS	1,363	100.00%

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Table H-4: Availability of Firms by Business Ownership in Market Area

Prime Data, Other Service - Master Vendor List

MSCS Disparity Study

Business Ownership Classification	Number of Firms	Percent of Firms
African American	1,058	15.84%
Asian American	18	0.27%
Hispanic American	36	0.54%
American Indian	0	0.00%
TOTAL MBE	1,112	16.65%
WBE	145	2.17%
TOTAL MWBE	1,257	18.82%
NON-MWBE	5,421	81.18%
TOTAL FIRMS	6,678	100.00%

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Table H-5: Availability of Firms by Business Ownership in Market Area

Prime Data, Goods - Master Vendor List

MSCS Disparity Study

Business Ownership Classification	Number of Firms	Percent of Firms
African American	233	6.95%
Asian American	12	0.38%
Hispanic American	11	0.35%
Native American	1	0.03%
TOTAL MBE	257	8.09%
Non-Minority Woman	86	2.71%
TOTAL MWBE	343	10.80%
Non-MWBE	2,834	89.20%
TOTAL FIRMS	3,177	100.00%

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