Board of County Commissioners

Leon County, Florida

Workshop on Leon County Minority, Women, and Small Business Enterprise Division Disparity Study Update by MGT of America

October 13, 2009

12:00 – 3:00 P.M.

Leon County Board of County Commissioner Chambers
Leon County Courthouse, 5th Floor

This document distributed: October 2, 2009

Board of County Commissioners
Workshop Item

Date of Meeting:	October 13, 2009
Date Submitted:	October 2, 2009
To:	Honorable Chairman and Members of the Board
From:	Parwez Alam, County Administrator Alan Rosenzweig, Assistant to the County Administrator Iranetta D. Burnett, MWSBE Director
Subject:	Leon County Minority, Women, and Small Business Enterprise Division Disparity Study Update by MGT of America

Statement of Issue:
A workshop to review the draft final report to the Minority, Women and Small Business Enterprise (MWSBE) Disparity Update Study conducted by MGT of America, Inc. (MGT) (Attachment #1).

Background:
At the August 25, 2009 meeting, MGT of America presented their preliminary finds to the Board (Attachment #2). Based on this presentation, the Board requested a workshop be conducted to discuss in more detail the findings of the report. In addition, the Board directed the workshop be expanded to include the participation of various representatives of the business community to participate. As reflected in Attachment #3, the County Administrator sent letters and invitations. The following is a summary of the responses received:

Will Attend
Windell Paige, President of the Capital City Chamber of Commerce
Dale Fuller, Executive Officer of the Tallahassee Builders Association

Will Not Attend
Glenda Thornton, Past Chairman of the Greater Tallahassee Chamber of Commerce
Matt Brown, Current Chairman of the Greater Tallahassee Chamber of Commerce
Sue Dick, President of the Greater Tallahassee Chamber of Commerce
Beth Kirkland, Executive Director of the Tallahassee-Leon County EDC
Kim Williams, Chairman of the Tallahassee-Leon County EDC

Not Sure of Attendance at this Time
Terrence Hinson, Chairman of the Capital City Chamber of Commerce

Analysis:
Attachment #1 contains the Disparity Update Study (Draft Final Report) prepared by MGT of America, Inc. Attachment #2 contains the material previously provided to the Board, including the

summary schedule of the revised aspirational targets. At the workshop, MGT of America will present the information. In addition, various representatives of the business community have been invited to participate in the workshop.

Options:

1. Accept MGT of America's Disparity Update as the final report and approve the minority/women aspirational targets.
2. Direct staff to revise Policy No. 96-1, Purchasing and Minority, Women and Small Business Enterprise Policy, to reflect new minority women-owned business enterprise aspirational targets, which allows targets to be adjusted on individual bids/RFPs when there is insufficient availability of Women/Minority businesses for that specific bid/RFP.

Recommendation:

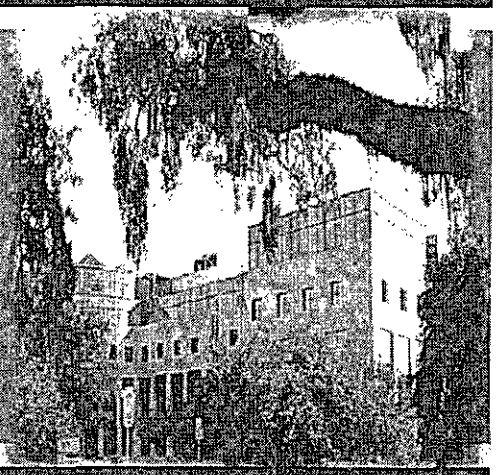
Options # 1 and #2

Attachment #1: MGT of America, Inc.'s Draft Final Report Disparity Update Study
Attachment #2: August 25, 2009 Agenda Item
Attachment #3: Letter of Invitation to the Workshop

Draft Final Report

Leon County Board of County Commissioners

Disparity Update Study



August 28, 2009

MGT
OF AMERICA, INC.

Leon County Board of County Commissioners

Disparity Update Study

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Submitted to:
Mr. Parwez Alam
County Administrator
County Administrator's Office
Leon County Courthouse
Tallahassee, Florida 32301

Submitted by:

MGT
OF AMERICA, INC.

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August 28, 2009

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1.0 INTRODUCTION

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1.0 INTRODUCTION

In October 2008, the Board of Commissioners for Leon County, Florida (County) contracted MGT of America, Inc. (MGT), to conduct a minority- and woman-owned business enterprise (M/WBE) program study update. The study consisted of fact finding to determine whether the M/WBE program had eliminated active discrimination; to determine the effects of past discrimination in County procurement and contracting, and to what extent; and to evaluate various options for future program development if discrimination existed.

1.1 Objective

The purpose of the disparity study was to:

- Examine what, if any, barriers may have resulted in disparities in the utilization of available M/WBEs and non-M/W/Bes, and examine and summarize related findings from other similar studies that encompass the County's relevant marketplace.
- Identify from the most accurate sources the availability of M/WBEs that are ready, willing, and able to do business with the County in the relevant market area.
- Analyze the contracting and expenditure data of the County to determine its utilization of M/WBEs.
- Determine the extent to which any identified disparities in the utilization of available M/WBEs by the County might be impacted by discrimination.
- Recommend programs to remedy the effects of any discrimination identified, and to reduce or eliminate any other marketplace barriers that adversely affect the contract participation of such minority-, woman-, and small-business enterprises (M/W/SBEs) and non-M/W/SBEs.

Governmental entities like the County have authorized disparity studies in response to the *City of Richmond v. J. A. Croson Co.*[1] (*Croson*) decision to determine whether there is a compelling interest for remedial procurement programs. Recommendations resulting from such studies are used to narrowly tailor any resulting programs to specifically address findings of underutilization attributable to unfair business practices.

The results of the County's study are found in this report. Throughout the chapters that follow, MGT presents its findings, analyses, and recommendations. This chapter summarizes the objectives for the study, the technical approach used to accomplish the objectives, the major tasks undertaken, and an overview of the organization of the report.

[1] *City of Richmond v. J. A. Croson, Co.*, 488 U.S. 469 (1989).

1.2 Technical Approach

In conducting the study and preparing recommendations, MGT followed a carefully designed work plan that allowed MGT study team members to fully analyze availability, utilization, and disparity with regard to M/WBE participation. MGT's approach has been tested in over 129 jurisdictions and proven reliable to meet the study's objectives. The work plan consisted of, but was not limited to, the following major tasks:

- Conducting a legal review.
- Establishing data parameters and finalizing a work plan.
- Reviewing policies, procedures and programs.
- Conducting utilization analyses.
- Determining the availability of qualified firms.
- Analyzing the utilization and availability data for disparity analyses.
- Conducting disparity analyses of the relevant private market.
- Providing information on best practices in small and M/WBE business development.
- Identifying narrowly tailored race- and gender-based and race- and gender-neutral remedies.
- Preparing the final report for this study.

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1.3 Report Organization

In addition to this introductory chapter, this report contains the following sections which provide MGT's findings as to the presence, or absence, of disparity in the County's procurement and contracting practices. The study reviewed County contract and procurement data from the period of October 1, 2003, through September 30, 2008. The overview of each chapter is as follows:

- **Chapter 2.0** presents an overview of controlling legal precedents that impact remedial procurement programs.
- **Chapter 3.0** presents a review of the County's procurement policies and procedures and an analysis of its M/WBE program and race- and gender-neutral efforts.
- **Chapter 4.0** presents the methodology used to determine the County's relevant market area and statistical analysis of vendor utilization by the County as well as the availability of firms for procurement activities.

- **Chapter 5.0** provides a discussion of the levels of disparity for prime contractors and subcontractors and a review of the multivariate analysis for the County.

- **Chapter 6.0** presents an analysis of the presence of disparity in the private sector and its effect on the ability of firms to win procurement contracts from the County.

- **Chapter 7.0** presents an overview of the program design and practices of M/W/SBE and DBE programs for federal, state, and local governments.

- **Chapter 8.0** provides a summary of the findings presented in this report with conclusions, commendations, and recommendations.[2]

MGT recommends reading the report in its entirety to understand the basis for the recommendations presented in **Chapter 8.0**.

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[2] **Chapter 8.0** is designed to provide a summary of the overall report, conclusions drawn from the study and MGT's recommendations. **Chapter 8.0** serves as an Executive Summary for the Study.

2.0 LEGAL REVIEW

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2.0 LEGAL REVIEW

2.1 Introduction

This chapter provides legal background for Leon County. The material that follows does not constitute legal advice to Leon County on minority- and woman-owned business (M/WBE) programs, affirmative action, or any other matter. Instead, it provides a context for the statistical and anecdotal analyses that appear in subsequent chapters of this report.

The Supreme Court decision in *City of Richmond v. J.A. Croson Company* (*Croson*)[1] and later cases have established and applied the constitutional standards for an affirmative action program. This chapter identifies and analyzes those decisions, summarizing how courts evaluate the constitutionality of race- and gender-specific programs. Decisions of the Eleventh Circuit, which includes Leon County, offer the most directly binding authority, but where those decisions leave issues unsettled, the review considers decisions from other circuits.

By way of a preliminary outline, the courts have determined that an affirmative action program involving governmental procurement of goods or services must meet the following standards:

- A remedial, race-conscious program is subject to strict judicial scrutiny under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.
  - Strict scrutiny has two basic components: a compelling governmental interest in the program and narrow tailoring of the program.
  - To survive the strict scrutiny standard, a remedial, race-conscious program must be based on a compelling governmental interest.
    - "Compelling interest" means the government must prove past or present racial discrimination requiring remedial attention.
    - There must be a specific "strong basis in the evidence" for the compelling governmental interest.
    - Statistical evidence is preferred and possibly necessary as a practical matter; anecdotal evidence is permissible and can offer substantial support, but it more than likely cannot stand on its own.
  - A program designed to address the compelling governmental interest must be narrowly tailored to remedy the identified discrimination.
    - "Narrow tailoring" means the remedy must fit the findings.
    - The evidence showing compelling interest must guide the tailoring very closely.

[1] 488 U.S. 469 (1989).

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- Race-neutral alternatives must be considered first.

- A lesser standard, intermediate judicial scrutiny, applies to programs that establish gender preferences.

  - To survive the intermediate scrutiny standard, a remedial, gender-conscious program must serve important governmental objectives and be substantially related to the achievement of those objectives.

  - The evidence does not need to be as strong and the tailoring does not need to be as specific under the lesser standard.

2.2 Standards of Review for Race- and Gender-Specific Programs

2.2.1 Race-Specific Programs: The Croson Decision

Croson established the framework for testing the validity of programs based on racial discrimination. In 1983, the Richmond City Council (the Council) adopted a Minority Business Utilization Plan (the Plan) following a public hearing in which citizens testified about historical societal discrimination. In adopting the Plan, the Council also relied on a study indicating that "while the general population of Richmond was 50 percent black, only 0.67 percent of the City's prime construction contracts had been awarded to minority businesses in the 5-year period from 1978 to 1983."[2]

The evidence before the Council also established that a variety of state and local contractor associations had little or no minority business membership. The Council relied on statements by a Council member whose opinion was that "the general conduct of the construction industry in this area and the State, and around the nation, is one in which race discrimination and exclusion on the basis of race is widespread."[3] There was, however, no direct evidence of race discrimination on the part of the City in its contracting activities, and no evidence that the City's prime contractors had discriminated against minority-owned subcontractors.[4]

The Plan required the City's prime contractors to subcontract at least 30 percent of the dollar amount of each contract to one or more minority-owned business enterprise (MBE). The Plan did not establish any geographic limits for eligibility. Therefore, an otherwise qualified MBE from anywhere in the United States could benefit from the 30 percent set-aside.

J.A. Croson Company, a non-MBE mechanical plumbing and heating contractor, filed a lawsuit against the city of Richmond alleging that the Plan was unconstitutional because it violated the Equal Protection Clause of the Fourteenth Amendment. After a considerable record of litigation and appeals, the Fourth Circuit struck down the Richmond Plan and the Supreme Court affirmed this decision.[5] The Supreme Court determined that strict scrutiny was the appropriate standard of judicial review for MBE programs, so that a race-conscious program must be based on a compelling governmental interest and be narrowly tailored to

[2] Id. at 479-80.
[3] Id. at 480.
[4] Id.
[5] Id. at 511.

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achieve its objectives. This standard requires a firm evidentiary basis for concluding that the underutilization of minorities is a product of past discrimination.[6]

2.2.2 Gender-Specific Programs

The Supreme Court has not addressed the specific issue of a gender-based classification in the context of a woman-owned business enterprise (WBE) program. *Croson* was limited to the review of an MBE program. In evaluating gender-based classifications, the Court has used what some call "intermediate scrutiny," a less stringent standard of review than the "strict scrutiny" applied to race-based classifications. Intermediate scrutiny requires that classifying persons on the basis of sex "must carry the burden of showing an exceedingly persuasive justification for the classification."[7] The classification meets this burden "only by showing at least that the classification serves 'important governmental objectives and that the discriminatory means employed' are 'substantially related to the achievement of those objectives.'"[8]

Several federal courts have applied intermediate scrutiny to WBE programs and yet have found the programs to be unconstitutional.[9] Nevertheless, in *Coral Construction v. King County*, the Ninth Circuit upheld a WBE program under the intermediate scrutiny standard.[10] Even using intermediate scrutiny, the court in *Coral Construction* noted that some degree of discrimination must be demonstrated in a particular industry before a gender-specific remedy may be instituted in that industry. As the court stated, "the mere recitation of a benign, compensatory purpose will not automatically shield a gender-specific program from constitutional scrutiny."[11] Indeed, one court has questioned the concept that it might be easier to establish a WBE program than it is to establish an MBE program.[12]

More recently, the Tenth Circuit, on the second appeal in *Concrete Works of Colorado v. City of Denver* (*Concrete Works IV*),[13] approved the constitutionality of a WBE program based on evidence comparable to that supporting an MBE program that the court also upheld in the same decision. Unlike *Coral Construction*, however, *Concrete Works IV* offered no independent guidance on the level of evidence required to support a WBE program.

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[6] Id. at 493.

[7] *Mississippi Univ. for Women v. Hogan*, 458 U.S. 718, 724 (1982) (quoting *Kirchberg* v. *Feenstra*, 450 U.S. 455, 461 (1981)); see also *United States* v. *Virginia*, 518 U. S. 515, 531 (1996), *Tuan Anh Nguyen v. INS*, 533 U.S. 53, 60 (2001).

[8] *Mississippi Univ. for Women, supra,* at 724 (quoting *Wengler v. Druggists Mut. Ins. Co.,* 446 U.S. 142, 150 (1980)); see also *Virginia, supra,* at 533, *Nguyen, supra,* at 60.

[9] See *Assoc. Util. Contrs. v. Baltimore*, 83 F. Supp. 2d 613 (D Md 2000); *Eng'g Contrs. Ass'n of S. Florida, Inc. v. Dade County*, 122 F.3d 895 (11th Cir. 1997); *Builders Ass'n of Greater Chicago v. County of Cook*, 256 F.3d 642 (7th Cir. 2001). The Eighth Circuit did not address the application of intermediate scrutiny to WBE participation in the federal DBE program in *MnDOT*, 345 F.3d 964 (8th Cir. 2003); cert. denied, 158 L.Ed. 2d 729 (2004) – 541 U.S. 1041 *Sherbrooke Turf, Inc. v.*

[10] *Coral Constr. Co. v. King County*, 941 F.2d 910 (9th Cir. 1991), cert. denied, 502 U.S. 1033 (1992).

[11] Id. at 932.

[12] *Builders Ass'n of Greater Chicago*, 256 F.3d at 644. See also *States Paving Co. v. Washington State DOT*, 407 F.3d 983, 991, n.6 (9th Cir. 2005) (rejecting need for separate analysis of WBE program under intermediate scrutiny).

[13] 321 F.3d 950 (10th Cir. 2003).

2.2.3 *An Overview of the Applicable Case Law*

Croson did not find a compelling justification for a complete MBE program. *Croson* found the city of Richmond's evidence to be inadequate as a matter of law. Nevertheless, more recent cases in other federal circuits have addressed applications of the law that were not considered in *Croson*. Thus, it becomes necessary to look to the decisions of other federal circuits to predict what level of evidence might be required to establish an affirmative action program.

The discussion in this review will also attend closely to the most relevant decisions in the area of government contracting. Justice O'Connor, distinguishing her majority opinion on affirmative action in law school admissions from her opinions in government contracting cases, wrote:

> *Context matters when reviewing race-based governmental action under the Equal Protection Clause. . . . Not every decision influenced by race is equally objectionable and strict scrutiny is designed to provide a framework for carefully examining the importance and the sincerity of the reasons advanced by the governmental decision maker for the use of race in that particular context.*[14]

Further, some caution must be exercised in relying upon opinions of the federal district courts, which make both findings of fact and holdings of law. As to holdings of law, the district courts are ultimately subject to rulings by their circuit courts. As to matters of fact, their decisions depend heavily on the precise record before them, in these cases frequently including matters such as evaluations of the credibility and expertise of witnesses. Such findings are not binding precedents outside of their districts, even if they indicate the kind of evidence and arguments that might succeed elsewhere.

Finally, the ways in which municipalities participate in national disadvantaged business enterprise (DBE) programs is a specialized issue distinct from that of supporting municipal programs, even if the same kinds of evidence and same levels of review apply. In *Adarand Constructors, Inc. v. Peña,*[15] the Supreme Court did decide that federal DBE programs should be examined by the same strict scrutiny standard that *Croson* mandated for state and local programs. Nevertheless, cases considering national DBE programs have many important distinctions from cases considering municipal programs, particularly when it comes to finding a compelling governmental interest.[16] The national DBE cases have somewhat more application in determining whether a local program is narrowly tailored (to be discussed in Section 2.6).[17]

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[14] *Grutter v. Bollinger*, 539 U.S. 306, 327 (2003).
[15] *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200-227 (1995).
[16] See *Adarand Constructors, Inc. v. Slater*, 228 F.3d 1147-1165 (10th Cir. 2000), cert. granted in part sub nom., *Adarand Constructors, Inc. v. Mineta*, 532 U.S. 967 (2001); cert. dismissed as improvidently granted, 534 U.S. 103 (2001); *Sherbrooke Turf,* 345 F.3d at 970-1.
[17] Recently the Ninth Circuit ruled in *Western States Paving Co. v. Washington State DOT* that specific evidence of discrimination was necessary at a state level in order for the implementation of race-conscious goals to be narrowly tailored. *States Paving Co.*, 407 F.3d at 997-8. In *Northern Contracting v. Illinois DOT*, the district court, while not striking down the program, also required the Illinois DOT to develop local evidence of discrimination sufficient to justify the imposition of race-conscious goals. In this sense, for these cases narrow tailoring still requires factual predicate information to support race-conscious program elements in a DBE program. *N. Contr. v. Illinois*, No. 00 4515 (ND IL 2004), decided 3/3/04 (2004 U.S. Dist. LEXIS 3226) 139-160.

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Thus, the majority of this review will be based on decisions of the federal circuit courts applying *Croson* to city or county programs designed to increase participation by M/WBEs in government contracting. This is not a large body of case law. While other cases are useful as to particular points, only a small number of circuit court cases have reviewed strictly local M/WBE programs and given clear, specific, and binding guidance about the adequacy of a complete factual record including thorough, local disparity studies with at least some statistical analysis. Further, in one of the three directly applicable circuit court cases, the Third Circuit evaded the issue of compelling justification after lengthy discussion, holding that the Philadelphia M/WBE program was unconstitutional because it was not narrowly tailored.[18]

Ultimately, only two circuit court decisions since *Croson* have passed definitively on thorough, strictly local disparity studies: *Engineering Contractors Association of South Florida, Inc.*,[19] and *Concrete Works IV*.[20] In *Engineering Contractors*, the Eleventh Circuit ultimately upheld the district court finding that Dade County's disparity studies were not adequate to support an M/WBE program, at least in the face of rebuttal evidence.[21] By contrast, in *Concrete Works IV*, the Tenth Circuit, after holding that the district court had used an improper standard for weighing the evidence, went on to evaluate the evidence and determine that it was adequate as a matter of law to establish a compelling justification for Denver's program. The Supreme Court refused to hear the appeal in *Concrete Works IV*,[22] although the refusal in itself has no precedential effect. The dissent to that denial, written by Justice Scalia with the Chief Justice joining, argues that these cases may mark a split in approach among the circuits that will need to be reconciled.

2.3 To Withstand Strict Scrutiny, an MBE Program Must Be Based on Thorough Evidence Showing a Compelling Governmental Interest

For government contracting programs, courts have yet to find a compelling governmental interest for affirmative action other than remedying discrimination in the relevant marketplace. In other arenas, diversity has served as a compelling governmental interest for affirmative action. For example, the Ninth Circuit upheld race-based admission standards at an experimental elementary school in order to provide a more real world education experience.[23] More recently, in *Petit v. City of Chicago*, the Seventh Circuit relied on *Grutter v. Bollinger* in stating that urban police departments had "an even more compelling need for diversity" than universities and upheld the Chicago program "under the *Grutter* standards."[24] The recent holding that other compelling interests may support affirmative action does not yet appear to have any application to public contracting.[25]

[18] *Contractors Ass'n of E. Penn. Inc. v. City of Philadelphia*, 91 F.3d 586, 605 (3rd Cir. 1996).
[19] 122 F.3d 895.
[20] 321 F.3d 950.
[21] Compare *Cone Corp. v. Hillsborough County*, 908 F.2d 908 (11th Cir. 1990), an earlier decision of the Eleventh Circuit reversing summary judgment against an MBE program where more limited statistical evidence was found adequate to require a trial on the merits in the face of a relatively weak challenge.
[22] *Concrete Works of Colo. v. City of Denver*, Scalia, J. dissenting, 540 U.S. 1027, 1027-35 (2003).
[23] *Hunter v. Regents of the Univ. of Cal., 190 F.3d 1061* (9th Cir. 1999).
[24] *Petit v. City of Chicago*, 352 F.3d 1111, 1114 (7th Cir. 2003).
[25] *Grutter v. Bollinger*, 539 U.S. 306 (2003). For an argument that other bases could serve as a compelling interest in public contracting, see Michael K. Fridkin, "The Permissibility of Non-Remedial Justifications for Racial Preferences in Public Contracting," 24 *N. Ill. U. L. Rev.* 509-510 (Summer 2004).

Croson identified two necessary factors for establishing racial discrimination sufficiently to demonstrate a compelling governmental interest in establishing an M/WBE program. First, there needs to be identified discrimination in the relevant market.[26] Second, "the governmental actor enacting the set-aside program must have somehow perpetuated the discrimination to be remedied by the program,"[27] either actively or at least passively with the "infusion of tax dollars into a discriminatory industry."[28]

Although the Supreme Court in *Croson* did not specifically define the methodology that should be used to establish the evidentiary basis required by strict scrutiny, the Court did outline governing principles. Lower courts have expanded the Supreme Court's *Croson* guidelines and have applied or distinguished these principles when asked to decide the constitutionality of state, county, and city programs that seek to enhance opportunities for minorities and women.

2.3.1 Post-Enactment Evidence

The Supreme Court in *Croson* found pre-enactment evidence of discrimination insufficient to justify the program. The defendant in *Croson* did not seek to defend its program based on post-enactment evidence. However, following *Croson,* a number of circuits did defend the use of post-enactment evidence to support the establishment of a local public affirmative action program.[29] Some cases required both pre-enactment and post-enactment evidence.[30]

The Supreme Court case in *Shaw v. Hunt*[31] raised anew the issue of post-enactment evidence in defending local public sector affirmative action programs. *Shaw* involved the use of racial factors in drawing voting districts in North Carolina. In *Shaw*, the Supreme Court rejected the use of reports providing evidence of discrimination in North Carolina because the reports were not developed before the voting districts were designed. Thus, the critical issue was whether the legislative body believed that discrimination had existed before the districts were drafted.[32] Following the *Shaw* decision, two districts courts rejected the use of post-enactment evidence in the evaluation of the constitutionality of local minority business programs.[33]

2.3.2 Agency Evidence

An agency contemplating an M/WBE program should have evidence expressly and specifically linked to the agency itself. The Fifth Circuit criticized the city of Jackson for commissioning a disparity study but not adopting the findings of the study.[34] A district court in New Jersey struck down a set-aside involving New Jersey casino licenses that was

[26] *Croson*, 488 U.S. at 492.
[27] *Coral Construction*, 941 F.2d at 916.
[28] Id.
[29] See *Eng'g Contrs. Ass'n of S. Florida, Inc. v. Dade County*, 122 F.3d 895, 911 (11th Cir. 1997); *Contrs. Ass'n of E. Philadelphia v. Philadelphia*, 6 F.3d 990, 1009 n.18 (2nd Cir. 1993); *Concrete Works of Colorado, Inc. v. City and County of Denver*, 36 F.3d 1513, 1521 (10th Cir. 1994).
[30] See *Coral Construction Co. v. King County*, 941 F.2d 910-920 (9th Cir. 1991).
[31] *Shaw v. Hunt*, 517 U.S. 899 (1996).
[32] Id. at 910.
[33] *AUC v. Baltimore*, 83 F. Supp. 2d 613, 620-22 (D. Md. 2000); *West Tenn. ABC v. Memphis City Schools*, 64 F. Supp. 2d 714, 718-21 (W.D. Tenn. 1999).
[34] *Scott v. City Of Jackson*, 199 F.3d 206, 218 (1999).

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based on the factual predicate study for the state of New Jersey M/WBE program, which did not cover the casino industry.[35]

2.3.3 Outreach Programs

There is some debate about whether or not outreach programs are subject to strict scrutiny. In *Peightal v. Metropolitan Dade County*, the Eleventh Circuit treated recruiting and outreach efforts as "race-neutral" policies.[36] Other lower court cases have stated that expanding the pool disadvantages no one and thus a distinction should be made between inclusive and exclusive outreach.[37] Similarly, in *Allen v. Alabama State Bd. Of Education*, a case involving teacher certification examinations, the Eleventh Circuit stated that the,

> *Board must be conscious of race in developing the examination, choosing test items to minimize any racially disparate impact within the framework of designing a valid and comprehensive teaching examination. Nothing in Adarand requires the application of strict scrutiny to this sort of race-consciousness.*[38]

However, in *Virdi v. DeKalb County School District*, litigation involving a minority vendor program (MVP), the Eleventh Circuit stated that,

> *It is well settled that "all racial classifications imposed by government must be analyzed by a reviewing court under strict scrutiny." Grutter v. Bollinger, 539 U.S. 306, 326,123 S. Ct. 2325, 2337 (2003) (quoting Adarand Constructors, Inc. v. Pena, 515 U.S. 200, 227, 115 S.Ct. 2097, 2113 (1995)). To the extent that Defendants argue that the MVP did not contain racial classifications because it did not include set-asides or mandatory quotas, we note that strict scrutiny applies to all racial classifications, not just those creating binding racial preferences. The MVP includes racial classifications. It is therefore subject to strict scrutiny.*[39]

2.3.4 Disabled Business Enterprise

Disabled business enterprise programs are quite common in federal, state, and local government. Section 15(g) of the Small Business Act provides for a goal of not less than 3 percent utilization of service-disabled veteran businesses in federal contracting.[40] Section 36 of that Act grants the authority to set-aside for service-disabled veteran–owned businesses.[41] These policies were strengthened and reaffirmed in October 2004, in Executive Order 13360. The U.S. Army alone projects $1.8 billion in set-asides to service-disabled veteran–owned businesses in FY 2008.[42]

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[35] *Ass'n. for Fairness in Business, Inc. v. New Jersey*, 82 F. Supp. 2d 353, 361 (D.N.J. 2000).
[36] 26 F.3d 154, 1557-58 (11th Cir. 1994).
[37] *Shuford v. Alabama State Bd. of Educ.*, 897 F. Supp. 1535, 1551-52 (M.D. Ala. 1995).
[38] . 164 F.3d 1347, 1352 (11th Cir.1999).
[39] 135 Fed. Appx. 262, 267, 2005 U.S. App. LEXIS 11203 (11th Cir. 2005).
[40] 15 U.S.C. 644(g).
[41] 15 U.S.C. 657f.
[42] U.S. Army Office of Small Business Programs, www.vetbiz.gov/library/Army.pdf

Disabled business enterprise programs are also common at the state and local government level and are often a component of an M/WBE program.[43] Some local government agencies, in particular California and Connecticut, also set aside government contracts for disabled business enterprises or disabled veteran's business enterprises. California follows the federal program with a 3 percent disabled goal.[44] The state of Connecticut set aside 25 percent of its project for SBEs and then 25 percent of the SBE program is for certified M/WBEs. Disabled firms are classified as minority firms for purposes of the rule.[45] There are also state laws granting preferences of some sort to the disabled, and particularly the service disabled veterans.[46]

While there has been an extensive body of case law involving the Americans for Disabilities Act, there have been no federal court cases challenging the constitutionality of disabled business enterprises under the Equal Protection clause. There are at least two reasons for this absence of a court record. First, at the state and local government level, these programs are typically very small, having only a handful of participants. Second, and more importantly, the U.S. Supreme Court has not ruled that the disabled are a suspect class and thus government programs addressing the disabled are not subject to strict scrutiny, or even intermediate scrutiny.[47] Instead programs both favoring and hampering the disabled are subject to the rational relationship test, the lowest level of judicial scrutiny. Nevertheless, this report will separately analyze data on disabled business enterprises.

2.4 *Sufficiently Strong Evidence of Significant Statistical Disparities Between Qualified Minorities Available and Minorities Utilized Will Satisfy Strict Scrutiny and Justify a Narrowly Tailored M/WBE Program*

The Supreme Court in *Croson* stated that "where gross statistical disparities can be shown, they alone in a proper case may constitute *prima facie* proof of a pattern or practice of discrimination."[48] But the statistics must go well beyond comparing the rate of minority presence in the general population to the rate of prime construction contracts awarded to MBEs. The Court in *Croson* objected to such a comparison, indicating that the proper statistical evaluation would compare the percentage of qualified MBEs in the relevant market with the percentage of total municipal construction dollars awarded to them.[49]

[43] See North Carolina, Executive Order #150 and General Statues 143-48 & 143-128.2(g)(1)(2)(3), Philadelphia, Executive Order 05 Relating To The Participation Of Minority, Women And Disabled Businesses In City Contracts, March 2005; Rhode Island GL 37-2.2-3, (procurement of
Goods and services are available from certified Rhode Island Disability Business Enterprises (dbes) whose workforce consists of more than 75% persons with disabilities or certified nonprofit rehabilitation facilities); The regional Texas certification agencies certify for disabled business enterprises.

[44] California Executive Order D-43-01, June 22, 2001. California Disabled Veteran Business Enterprise Set Aside Program (establishes a goal for state entities to award at least 3% of their contracts for materials, supplies, equipment, alterations, repairs, or improvements to disabled veteran business enterprises. A 2001 act (Assembly Bill 941) requires the departments subject to this goal to appoint disabled veteran business enterprise advocates).

[45] Executive Order D-37-1

[46] See Fl. Stat. _295.07(1) (1991) (exempting disabled veterans from specific hiring procedures and employment exams for state jobs); Fl. Stat. _196.031 (1991) (hiring preferences for disabled veterans).

[47] *City of Cleburne v. Cleburne Living Center,* 473 U.S. 432 (1985) (no rational basis for discriminatory application of special use permit for group home for mentally disabled).

[48] *Croson*, 488 U.S. at 501, quoting *Hazelwood School Division v. United States*, 433 U.S. 299, 307-308 (1977).

[49] Id. at 502.

To meet this more precise requirement, courts have accepted the use of a disparity index.[50] The Supreme Court in *Croson* recognized statistical measures of disparity that compared the number of qualified and available M/WBEs with the rate of municipal construction dollars actually awarded to M/WBEs in order to demonstrate discrimination in a local construction industry.[51] The Ninth Circuit has stated, "In our recent decision [*Coral Construction*] we emphasized that such statistical disparities are 'an invaluable tool' in demonstrating the discrimination necessary to establish a compelling interest."[52]

2.4.1 Determining Availability

To perform proper disparity analysis, the government must determine "availability"—the number of qualified minority contractors willing and able to perform a particular service for the municipality. In *Croson*, the Court stated:

> *Where there is a significant statistical disparity between the number of qualified minority contractors willing and able to perform a particular service and the number of such contractors actually engaged by the locality or the locality's prime contractors, an inference of discriminatory exclusion could arise.*[53]

An accurate determination of availability also permits the government to meet the requirement that it "determine the precise scope of the injury it seeks to remedy" by its program.[54] Following *Croson's* statements on availability, lower courts have considered how legislative bodies may determine the precise scope of the injury sought to be remedied by an MBE program. Nevertheless, the federal courts have not provided clear guidance on the best data sources or techniques for measuring M/WBE availability.

Different forms of data used to measure availability give rise to particular controversies. Census data have the benefit of being accessible, comprehensive, and objective in measuring availability. In *Contractors Ass'n of Eastern Pennsylvania, Inc.,* the Third Circuit, while noting some of the limitations of census data, acknowledged that such data could be of some value in disparity studies.[55] In that case, the city of Philadelphia's consultant calculated a disparity using data showing the total amount of contract dollars awarded by the City, the amount that went to MBEs, and the number of African American construction firms. The consultant combined these data with data from the Census Bureau on the number of construction firms in the Philadelphia Standard Metropolitan Statistical Area.[56] Despite the district courts' reservations about mixing data sources, the Third Circuit appeared to have been prepared to accept such data had it ruled on the showing of a compelling interest.

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[50] See *Engineering Contractors Ass'n of South Florida, Inc.*, 122 F.3d at 914; *Concrete Works IV*, 321 F.3d at 964-69.
[51] *Croson*, 488 U.S. at 503-504.
[52] *Ass'd. General Contrs. of California, Inc. v. Coalition for Economic Equity,* 950 F.2d 1401, 1414 (9th Cir. 1991) (*AGCC II*) citing *Coral Construction*, 941 F.2d at 918; see also *Croson*, 488 U.S. at 509.
[53] *Croson*, 488 U.S. at 509 (emphasis added).
[54] Id. at 498.
[55] *Contractors Assn v. Philadelphia*, 91 F.3d 586, 604 (3rd Cir 1996).
[56] *Contractors Association of Eastern Pennsylvania, Inc.*, 91 F.3d at 604.

At least one commentator has suggested using bidder data to measure M/WBE availability,[57] but *Croson* does not require the use of bidder data to determine availability. In *Concrete Works,* in the context of the plaintiffs' complaint that the city of Denver had not used such information, the Tenth Circuit noted that bid information also has its limits. [58] Firms that bid may not be qualified or able, and firms that do not bid may be qualified and able, to undertake agency contracts.

2.4.2 Racial Classifications

In determining availability, choosing the appropriate racial groups to consider becomes an important threshold interest.[59] In *Croson*, the Supreme Court criticized the city of Richmond's inclusion of "Spanish speaking, Oriental, Indian, Eskimo, or Aleut persons" in its affirmative action program.[60] These groups had not previously participated in City contracting and "The random inclusion of racial groups that, as a practical matter, may never have suffered from discrimination in the construction industry in Richmond suggests that perhaps the City's purpose was not in fact to remedy past discrimination."[61] To evaluate availability properly, data must be gathered for each racial group in the marketplace. The Federal Circuit has also required that evidence as to the inclusion of particular groups be kept reasonably current.[62]

2.4.3 Relevant Market Area

Another issue in availability analysis is the definition of the relevant market area. Specifically, the question is whether the relevant market area should be defined as the area from which a specific percentage of purchases is made, the area in which a specific percentage of willing and able contractors may be located, or the area determined by a fixed geopolitical boundary.

The Supreme Court has not yet established how the relevant market area should be defined, but some circuit courts have done so, including the Tenth Circuit in *Concrete Works II*, the first appeal in the city of Denver litigation.[63] Concrete Works of Colorado, a non-M/WBE construction company, argued that *Croson* precluded consideration of discrimination evidence from the six-county Denver Metropolitan Statistical Area (MSA), so Denver should use data only from within the city and county of Denver. The Tenth Circuit, interpreting *Croson*, concluded, "The relevant area in which to measure discrimination . . . is the local construction market, but that is not necessarily confined by jurisdictional boundaries."[64] The court further stated, "It is important that the pertinent data closely relate to the jurisdictional area of the municipality whose program we scrutinize, but here Denver's contracting activity, insofar as construction work is concerned, is closely related to the Denver MSA."[65]

[57] LaNoue, George R., "Who Counts? Determining the Availability of Minority Businesses for Public Contracting After *Croson*," 21 *Harv. J. L. and Pub. Pol.* 793, 833-834 (1998).
[58] *Concrete Works IV*, 321 F.3d at 983-84.
[59] Racial groups, as the term is used herein, include both racial and ethnic categories.
[60] 488 U.S. at 506.
[61] Id.
[62] *Rothe Development Co. v. U.S. Dept. of Defense*, 262 F.3d 1306, 1323 (Fed. Cir. 2003).
[63] *Concrete Works II*, 36 F.3d at 1520.
[64] Id.
[65] Id.

The Tenth Circuit ruled that because more than 80 percent of Denver Department of Public Works construction and design contracts were awarded to firms located within the Denver MSA, the appropriate market area should be the Denver MSA, not the city and county of Denver alone.[66] Accordingly, data from the Denver MSA were "adequately particularized for strict scrutiny purposes."[67]

2.4.4 Firm Qualifications

Another availability consideration is whether M/WBE firms are qualified to perform the required services. In *Croson*, the Supreme Court noted that although gross statistical disparities may demonstrate *prima facie* proof of discrimination, "when special qualifications are required to fill particular jobs, comparisons to the general population (rather than to the smaller group of individuals who possess the necessary qualifications) may have little probative value."[68] The Court, however, did not define the test for determining whether a firm is qualified.

Considering firm qualifications is important not only to assess whether M/WBEs in the relevant market area can provide the goods and services required, but also to ensure proper comparison between the number of qualified M/WBEs and the total number of similarly qualified contractors in the marketplace.[69] In short, proper comparisons ensure the required integrity and specificity of the statistical analysis. For instance, courts have specifically ruled that the government must examine prime contractors and subcontractors separately when the M/WBE program is aimed primarily at one or the other.[70]

2.4.5 Willingness

Croson requires that an "available" firm must be not only qualified but also willing to provide the required services.[71] In this context, it can be difficult to determine whether a business is willing. Courts have approved including businesses in the availability pool that may not be on the government's certification list. In *Concrete Works II*, Denver's availability analysis indicated that while most MBEs and WBEs had never participated in City contracts, "almost all firms contacted indicated that they were interested in [municipal work]."[72] In *Contractors Association of Eastern Pennsylvania, Inc.*, the Third Circuit explained, "[i]n the absence of some reason to believe otherwise, one can normally assume that participants in a market with the ability to undertake gainful work will be 'willing' to undertake it."[73] The court went on to note:

> *[P]ast discrimination in a marketplace may provide reason to believe the minorities who would otherwise be willing are discouraged from trying to secure the work. . . . [I]f there has been discrimination in City contracting, it is to be expected that [African American] firms may be discouraged from applying, and the low numbers [of African American firms seeking to*

[66] Id.
[67] Id.
[68] *Croson*, 488 U.S. at 501 (quoting *Hazelwood School Dist. v. United States*, 433 U.S. 299, 308, n.13 (1977)).
[69] See *Hazelwood School Dist.*, 433 U.S. at 308; Contractors Ass'n. 91 F.3D at 603.
[70] *W. H. Scott Constr. Co. v. City of Jackson*, 199 F.3d 206, 218 (5th Cir.1999).
[71] *Croson*, 488 U.S. at 509.
[72] *Concrete Works II*, 36 F.3d at 1529, quoting, *Appellant's Appendix*.
[73] *Contractors Association of Eastern Pennsylvania, Inc.*, 91 F.3d at 603 (in original quotation marks).

prequalify for City-funded contracts] may tend to corroborate the existence of discrimination rather than belie it.[74]

Even so, the strongest possible disparity study would also present information about the willingness of M/WBEs to perform the required services.

2.4.6 Ability

Another availability consideration is whether the firms being considered are able to perform a particular service. Those who challenge affirmative action often question whether M/WBE firms have the "capacity" to perform particular services.

The Eleventh Circuit accepted a series of arguments that firm size has a strong impact on "ability" to enter contracts, that M/WBE firms tend to be smaller, and that this smaller size, not discrimination, explains the resulting disparity.[75] By contrast, the Tenth Circuit in *Concrete Works II* and *IV* recognized the shortcomings of this treatment of firm size.[76] *Concrete Works IV* noted that the small size of such firms can itself be a result of discrimination.[77] The Tenth Circuit acknowledged the city of Denver's argument that a small construction firm's precise capacity can be highly elastic.[78] Under this view, the relevance of firm size may be somewhat diminished. Further, the Eleventh Circuit was dealing with a statute which itself limited remedies to M/WBEs that were smaller firms by definition.[79]

2.4.7 Statistical Evidence of Discrimination in Disparity Studies

While courts have indicated that anecdotal evidence may suffice without statistical evidence, no case without statistical evidence has been given serious consideration by any circuit court. In practical effect, courts require statistical evidence. Further, the statistical evidence needs to be held to appropriate professional standards.[80]

The Eleventh Circuit has addressed the role of statistical significance in assessing levels of disparity in public contracting. Generally, disparity indices of 80 percent or higher—indicating close to full participation—are not considered significant.[81] The court referenced the Equal Employment Opportunity Commission's disparate impact guidelines, which establish the 80 percent test as the threshold for determining a *prima facie* case of discrimination.[82] According to the Eleventh Circuit, no circuit that has explicitly endorsed using disparity indices has held that an index of 80 percent or greater is probative of discrimination, but they have held that indices below 80 percent indicate "significant disparities."[83]

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[74] Id. at 603-04.
[75] *Eng'g. Contr. of S. Florida, Inc.* 122 F.3d at 917-18, 924.
[76] *Concrete Works II*, 36 F.3d at 1528-29; *Concrete Works IV*, 321 F.3d at 980-92.
[77] *Concrete Works IV*, 321 F.3d at 982.
[78] Id. at 981
[79] *Eng'g Contrs. Ass'n of S. Florida, Inc.*, 122 F.3d at 900.
[80] See *Contrs. Ass'n of E. Pennsylvania, Inc.*, 91 F.3d at 599-601.
[81] *Eng'g Contrs. Ass'n of S. Florida, Inc.*, 122 F.3d at 914.
[82] Id. at 914, citing 29 C.F.R. § 1607.4D (concerning the disparate impact guidelines and threshold used in employment cases).
[83] *Eng'g Contrs. Ass'n of S. Florida, Inc.*, 122 F.3d at 914, citing *Contrs. Ass'n of E. Pennsylvania, Inc.*, 6 F.3d at 1005 (crediting disparity index of 4 percent) and *Concrete Works II*, 36 F.3d at 1524 (crediting disparity indices ranging from 0 percent to 3.8 percent).

In support of the use of standard deviation analyses to test the statistical significance of disparity indices, the Eleventh Circuit observed that "[s]ocial scientists consider a finding of two standard deviations significant, meaning there is about one chance in 20 that the explanation for the deviation could be random and the deviation must be accounted for by some factor other than chance."[84] With standard deviation analyses, the reviewer can determine whether the disparities are substantial or statistically significant, lending further statistical support to a finding of discrimination. On the other hand, if such analyses can account for the apparent disparity, the study will have little if any weight as evidence of discrimination.

Further, the interpretations of the studies must not assume discrimination has caused the disparities, but must account for alternative explanations of the statistical patterns.[85] The Third and Fifth Circuits have also indicated that statistics about prime contracting disparity have little, if any, weight when the eventual M/WBE program offers its remedies solely to subcontractors.[86]

2.4.8 Anecdotal Evidence of Discrimination in Disparity Studies

Most disparity studies present anecdotal evidence along with statistical data. The Supreme Court in *Croson* discussed the relevance of anecdotal evidence and explained: "[E]vidence of a pattern of individual discriminatory acts can, if supported by appropriate statistical proof, lend support to a local government's determination that broader remedial relief is justified."[87] Although *Croson* did not expressly consider the form or level of specificity required for anecdotal evidence, the Ninth Circuit has addressed both issues.

In *Coral Construction*, the Ninth Circuit addressed the use of anecdotal evidence alone to prove discrimination. Although King County's anecdotal evidence was extensive, the court noted the absence in the record of any statistical data in support of the program. Additionally, the court stated, "While anecdotal evidence may suffice to prove individual claims of discrimination, rarely, if ever, can such evidence show a *systemic pattern of discrimination necessary for the adoption of an affirmative action plan*."[88] The court concluded, by contrast, that "the combination of convincing anecdotal and statistical evidence is potent."[89]

Regarding the appropriate form of anecdotal evidence, the Ninth Circuit in *Coral Construction* noted that the record provided by King County was "considerably more extensive than that compiled by the Richmond City Council in *Croson*."[90] The King County record contained "affidavits of at least 57 minority or [female] contractors, each of whom complain[ed] in varying degree[s] of specificity about discrimination within the local construction industry."[91] The *Coral Construction* court stated that the M/WBE affidavits "reflect[ed] a broad spectrum of the contracting community" and the affidavits "certainly

[84] *Eng'g Contrs. Ass'n of S. Florida, Inc.*, 122 F.3d at 914 quoting *Peightal v. Metropolitan Dade County*, 26 F.3d 1545, 1556 n.16 (11th Cir. 1994) (quoting *Waisome v. Port Authority*, 948 F.2d 1370, 1376 (2nd Cir. 1991)).
[85] *Eng'g Contrs. Ass'n of S. Florida, Inc.*, 122 F 3d at 922.
[86] *Contrs. Ass'n of E. Pennsylvania, Inc.*, 91 F.3d at 599 (3rd Cir.); *W.H. Schott Constr. Co.*, 199 F. 3d at 218 (5th Cir.)
[87] *Croson*, 488 U.S. at 509.
[88] *Coral Construction*, 941 F.2d at 919 (emphasis added).
[89] Id. See also *AGCC II*, 950 F.2d at 1414-1415.
[90] *Coral Construction*, 941 F.2d at 917.
[91] Id. at 917-18.

suggest[ed] that ongoing discrimination may be occurring in much of the King County business community."[92]

In *Associated General Contractors of California v. Coalition for Economic Equity (AGCC II)*, the Ninth Circuit discussed the specificity of anecdotal evidence required by *Croson*.[93] Seeking a preliminary injunction, the contractors contended that the evidence presented by the city of San Francisco lacked the specificity required by both an earlier appeal in that case and by *Croson*.[94] The court held that the City's findings were based on substantially more evidence than the anecdotes in the two prior cases, and "were clearly based upon dozens of specific instances of discrimination that are laid out with particularity in the record, as well as significant statistical disparities in the award of contracts."[95]

The court also ruled that the City was under no burden to identify specific practices or policies that were discriminatory.[96] Reiterating the City's perspective, the court stated that the City "must simply demonstrate the existence of past discrimination with specificity; there is no requirement that the legislative findings specifically detail each and every instance that the legislative body ha[d] relied upon in support of its decision that affirmative action is necessary."[97]

Not only have courts found that a municipality does not have to specifically identify all the discriminatory practices impeding M/WBE utilization, but the Tenth Circuit in *Concrete Works IV* also held that anecdotal evidence collected by a municipality does not have to be verified. The court stated:

> *There is no merit to [the plaintiff's] argument that witnesses' accounts must be verified to provide support for Denver's burden. Anecdotal evidence is nothing more than a witness' narrative of an incident told from the witness' perspective and including the witness' perceptions...Denver was not required to present corroborating evidence and [the plaintiff] was free to present its own witnesses to either refute the incidents described by Denver's witnesses or to relate their own perceptions on discrimination in the Denver construction industry.*[98]

2.5 The Governmental Entity or Agency Enacting an M/WBE Program Must Be Shown to Have Actively or Passively Perpetuated the Discrimination

In *Croson*, the Supreme Court stated, "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 evil of *private* prejudice."[99] *Croson* provided that the government "can use its spending powers to remedy private discrimination, if it identifies that discrimination with the particularity required by the

[92] Id.
[93] *AGCC II*, 950 F.2d at 1414-1415.
[94] See *AGCC II*, 950 F.2d at 1403-1405.
[95] *AGCC II, 950 F.2d.* at 1416. This evidence came from 10 public hearings and "numerous written submissions from the public." Id. at 1414.
[96] Id. at 1416, n.11.
[97] Id. at 1416.
[98] *Concrete Works IV*, 321 F.3d at 989.
[99] *Croson*, 488 U.S. at 492 (emphasis added).

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Fourteenth Amendment."[100] The government agency's active or passive participation in discriminatory practices in the marketplace may show the compelling interest. Defining passive participation, *Croson* stated:

> *Thus, if the city could show that it had essentially become a "passive participant" in a system of racial exclusion practiced by elements of the local construction industry, we think it clear that the city could take affirmative steps to dismantle such a system.*[101]

The Tenth Circuit decision in *Adarand* concluded that evidence of private sector discrimination provided a compelling interest for a DBE program.[102] Later cases have reaffirmed that the government has a compelling interest in avoiding the financing of private discrimination with public dollars.[103]

Relying on this language in *Croson,* a number of local agencies have increased their emphasis on evidence of discrimination in the private sector. This strategy has not always succeeded. In the purest case, Cook County did not produce a disparity study but instead presented anecdotal evidence that M/WBEs were not solicited for bids in the private sector.[104] Cook County lost the trial and the resulting appeal.[105] Similarly, evidence of private sector discrimination presented in litigation was found inadequate in the Philadelphia and Dade County cases.[106] The Third Circuit stated, in discussing low MBE participation in a local contractors association in the city of Philadelphia, that "racial discrimination can justify a race-based remedy only if the city has somehow participated in or supported that discrimination."[107] Nevertheless, recently in *Concrete Works IV,* the Tenth Circuit upheld the relevance of data from the private marketplace to establish a factual predicate for M/WBE programs.[108] That is, courts mainly seek to ensure that M/WBE programs are based on findings of active or passive discrimination in the government contracting marketplace, and not simply attempts to remedy general societal discrimination.

Courts also seek to find a causal connection between a statistical disparity and actual underlying discrimination. In *Engineering Contractors,* one component of the factual predicate was a study comparing entry rates into the construction business for M/WBEs and non-M/WBEs.[109] The analysis provided statistically significant evidence that minorities and women entered the construction business at rates lower than would be expected, given their numerical presence in the population and human and financial capital variables. The study argued that those disparities persisting after the application of appropriate statistical controls were most likely the result of current and past discrimination. Even so, the Eleventh Circuit criticized this study for reliance on general census data and for the lack of particularized

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[100] *Croson,* 488 U.S. at 492. See generally Ayres, Ian and Frederick E. Vars, "When Does Private Discrimination Justify Public Affirmative Action?" 98 *Columbia Law Review* 1577 (1998).
[101] *Croson,* 488 U.S. at 492.
[102] *Adarand Contrs., Inc.,* 228 F.3d at 1155, 1164-65.
[103] *Associated Gen. Contrs. of Ohio, Inc. v. Drabik,* 214 F.3d 730, 734-35 (6th Cir. 2000). See also *Concrete Works II,* 36 F.3d at 1529; *Coral Constr. Co.,* 941 F.2d at 916.
[104] *Builders Ass'n of Greater Chicago v. County of Cook,* 123 F. Supp. 2d 1087, 1117 (N.D. I.L. 2000).
[105] *Builders Ass'n of Greater Chicago v. County of Cook,* 123 F. Supp. 2d 1087 (N.D. I.L. 2000); 256 F.3d 642, 648 (7th Cir. 2001).
[106] *Contrs. Ass'n of E. Pennsylvania, Inc.,* 91 F.3d at 599-602; *Engineering Contrs. Ass'n of S. Florida, Inc.,* 122 F.3d at 920-926.
[107] *Contrs. Ass'n of E. Pennsylvania, Inc.,* 91 F.3d at 602; see also *Webster v. Fulton County,* 51 F. Supp. 2d 1354, 1363 (N.D. G.A. 1999).
[108] *Concrete Works IV,* 321 F.3d at 976.
[109] *Engineering Contractors Ass'n of South Florida, Inc.,* 122 F.3d at 921-22.

evidence of active or passive discrimination by Dade County, holding that the district court was entitled to find that the evidence did not show compelling justification for an M/WBE program.[110]

The Seventh Circuit has perhaps set a higher bar for connecting private discrimination with government action. The trial court in the Cook County case extensively considered evidence that prime contractors simply did not solicit M/WBEs as subcontractors and considered carefully whether this evidence on solicitation served as sufficient evidence of discrimination, or whether instead it was necessary to provide further evidence that there was discrimination in hiring M/WBE subcontractors.[111] The Seventh Circuit held that this evidence was largely irrelevant.[112] Beyond being anecdotal and partial, evidence that contractors failed to solicit M/WBEs on Cook County contracts was not the same as evidence that M/WBEs were denied the opportunity to bid.[113] Furthermore, such activities on the part of contractors did not necessarily implicate the county as even a passive participant in such discrimination as might exist because there was no evidence that the county knew about it.[114]

Interestingly, some courts have been willing to see capital market discrimination as part of the required nexus between private and public contracting discrimination, even if capital market discrimination could arguably be seen as simply part of broader societal discrimination. In *Adarand v. Slater*, the Tenth Circuit favorably cited evidence of capital market discrimination as relevant in establishing the factual predicate for the federal DBE program.[115] The same court, in *Concrete Works IV*, found that barriers to business formation were relevant insofar as this evidence demonstrated that M/WBEs were "precluded from the outset from competing for public construction contracts."[116] Along related lines, the court also found a regression analysis of census data to be relevant evidence showing barriers to M/WBE formation.[117]

Courts have come to different conclusions about the effects of M/WBE programs on the private sector evidence itself. For instance, is M/WBE participation in public sector projects higher than on private sector projects simply because the M/WBE program increases M/WBE participation in the public sector, or is such a pattern evidence of private sector discrimination? The Seventh Circuit raised the former concern in the recent Cook County litigation.[118] *Concrete Works IV*, however, expressly cited as evidence of discrimination that M/WBE contractors used for business with the city of Denver were not used by the same prime contractors for private sector contracts.[119]

Finally, is evidence of a decline in M/WBE utilization following a change in or termination of an M/WBE program relevant and persuasive evidence of discrimination? The Eighth Circuit in *Sherbrooke Turf* and the Tenth Circuit in *Concrete Works IV* did find that such a decline in

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[110] Id. at 922.
[111] *Builders Ass'n of Chicago*, 123 F.Supp. 2d at 1112-1116.
[112] *Builders Ass'n of Greater Chicago*, 256 F.3d at 645.
[113] Id.
[114] Id.
[115] *Adarand Contrs., Inc.*, 228 F.3d at 1169-70.
[116] *Concrete Works IV*, 321 F.2d at 977. The district court had rejected evidence of credit market discrimination as adequate to provide a factual predicate for an M/WBE program. *Concrete Works of Colorado, Inc. v. City of Denver*, 86 F.Supp. 2d 1042, 1072-73 (D Co. 2000) (*Concrete Works III*).
[117] Id. at 967.
[118] *Builders Ass'n of Greater Chicago*, 256 F.3d at 645.
[119] *Concrete Works IV*, 321 F.3d at 984-85.

M/WBE utilization was evidence that prime contractors were not willing to use M/WBEs in the absence of legal requirements.[120] Other lower courts have arrived at similar conclusions.[121]

2.6 To Withstand Strict Scrutiny, an M/WBE Program Must Be Narrowly Tailored to Remedy Identified Discrimination

The discussion of compelling interest in the court cases has been extensive, but narrow tailoring may be the more critical issue. Many courts have held that even if a compelling interest for the M/WBE program can be found, the program has not been narrowly tailored.[122] Moreover, *Concrete Works IV,*[123] a case that did find a compelling interest for a local M/WBE program, did not consider the issue of narrow tailoring. Instead, the Tenth Circuit held that the plaintiffs had waived any challenge to the original ruling of the district court[124] that the program was narrowly tailored.

Nevertheless, the federal courts have found that the DBE program established pursuant to federal regulations (49 CFR, Part 26) and issued under the Transportation Equity Act (TEA-21) (1998) has been narrowly tailored to serve a compelling interest.[125] The federal courts had previously ruled that there was a factual predicate for the federal Department of Transportation (DOT) DBE program but that in its earlier versions the program was not narrowly tailored.[126] The more recent rulings provide some guidance as to what program configurations the courts will judge to be narrowly tailored. The Eleventh Circuit in particular has identified the following elements of narrow tailoring: (1) the necessity for the relief and the efficacy of alternative remedies; (2) the flexibility and duration of the relief, including the availability of waiver provisions; (3) the relationship of numerical goals to the relevant labor market; and (4) the impact of the relief on the rights of innocent third parties.[127]

2.6.1 Race-Neutral Alternatives

Concerning race-neutral alternatives, the Supreme Court in *Croson* concluded that a governmental entity must demonstrate that it has evaluated the use of race-neutral means to increase MBE participation in contracting or purchasing activities. In upholding the narrow tailoring of federal DBE regulations, the Eighth Circuit noted that those regulations "place strong emphasis on 'the use of race-neutral means to increase minority business participation in government contracting'."[128] The Tenth Circuit had noted that the DBE regulations provided that "if a recipient can meet its overall goal through race-neutral means, it must implement its program without the use of race-conscious contracting

[120] *Concrete Works IV*, 321 F.3d at 985; *Sherbrooke Turf, Inc.*, 345 F.3d at 973.
[121] See *Northern Contracting, Inc. v. Illinois*, No. 00 4515 (ND IL 2004) – 2004 U.S. Dist. LEXIS 3226 150-1.
[122] *Contrs. Ass'n of E. Pennsylvania, Inc.*, 91 F.3d at 606; *Eng'g Contrs. Ass'n of S. Florida, Inc.*, 122 F.3d at 926-929; *Verdi v. DeKalb County Sch. Dist.*, 135 Fed. Appx. 262, 268, 2005 WL 38942 (11th Cir. 2005).
[123] *Concrete Works IV*, 321 F.3d at 992-93.
[124] *Concrete Works of Colo., Inc. v. City of Denver*, 823 F.Supp. 821, 844-845 (D.Co. 1993)(*Concrete Works I*).
[125] *Adarand Constrs., Inc.*, 228 F.3d at 1158, 1187; *Sherbrooke Turf Inc.*, 345 F.3d at 968-969, 974; *W. States Paving Co. v. Wash. State DOT*, 407 F.3d 983 (9th Cir. 2005).
[126] Inre Sherbrooke Sodding, 17 F. Supp. 2d 1026, 1034-35, 1037 (D.Minn. 1998) (*Sherbrooke I*) (finding the program was not narrowly tailored). In 1996, before the new DBE regulations, the district court in Colorado, upon remand from the 1995 U.S. Supreme Court, had made a similar ruling in *Adarand Constrs., Inc . v. Peña*, 965 F. Supp. 1556, 1581 (D.Co. 1997)
[127] *Engineering Contractors*, 122 F.3d at 973 (citing *Ensley Branch*, 31 F.3d at 1569).
[128] *Sherbrooke Turf, Inc.*, 345 F. 3d at 972, quoting *Adarand Constrs., Inc.*, 515 U.S. at 237-38.

measures, and enumerate a list of race-neutral measures."[129] Those measures included "helping overcome bonding and financing obstacles, providing technical assistance, [and] establishing programs to assist start-up firms."[130]

Strict scrutiny does not mandate that every race-neutral measure be considered and found wanting. The Eighth Circuit also affirmed that "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."[131]

2.6.2 Flexibility and Duration of the Remedy

The Eighth Circuit also found that "the revised DBE program has substantial flexibility."[132]

> *A State may obtain waivers or exemptions from any requirement and is not penalized for a good faith failure to meet its overall goal. In addition, the program limits preferences to small businesses falling beneath an earnings threshold, and any individual whose net worth exceeds $ 750,000 cannot qualify as economically disadvantaged.*[133]

DBE and M/WBE programs achieve flexibility by using waivers and variable project goals to avoid merely setting a quota. *Croson* favorably mentioned the contract-by-contract waivers in the federal DOT DBE program.[134] Virtually all successful MBE programs have this waiver feature in their enabling legislation. As for project goals, the approved DBE provisions set aspirational, nonmandatory goals; expressly forbid quotas; and use overall goals as a framework for setting local contract goals, if any, based on local data. All of these factors have impressed the courts that have upheld the constitutionality of the revised DOT DBE program.[135]

With respect to program duration, in *Adarand Constructors, Inc. v. Peña*, the Supreme Court wrote that a program should be "appropriately limited such that it will not last longer than the discriminatory effects it is designed to eliminate."[136] The Eighth Circuit also noted the limits in the DBE program, stating that "the DBE program contains built-in durational limits," in that a "State may terminate its DBE program if it meets its annual overall goal through race-neutral means for two consecutive years."[137] The Eighth Circuit also found durational limits in the fact that "TEA-21 is subject to periodic congressional reauthorization. Periodic legislative debate assures all citizens that the deviation from the norm of equal treatment of all racial and ethnic groups is a temporary matter, a measure taken in the service of the goal of equality itself."[138]

[129] *Adarand Constrs., Inc.*, 228 F.3d. at 1179 (parentheses removed).
[130] Id.
[131] *Sherbrooke Turf, Inc.*, 345 F. 3d at 972, quoting *Grutter*, 123 S. Ct. at 2344-45. See also *Coral Constr. Co.*, 941 F.2d at 923; *AGCC II*, 950 F.2d at 1417.
[132] *Sherbrooke Turf, Inc.*, 345 F. 3d at 972.
[133] Id. at 972, citing, 49 C.F.R. § 26.67(b).
[134] *Croson*, 488 U.S. at 488-489. *Coral Constr. Co.*, 941 F.2d at 924-925.
[135] See *Coral Constr. Co.*, 941 F. 2d at 924-925.
[136] 515 U.S. at 238 (internal quotations and citations omitted).
[137] *Sherbrooke Turf, Inc.*, 345 F. 3d at 972, citing 49 C.F.R. § 26.51(f)(3).
[138] Id., quoting, *Grutter*, 123 S. Ct. at 2346.

Other appellate courts have noted several possible mechanisms for limiting program duration: such as required termination if goals have been met,[139] decertification of MBEs who achieve certain levels of success, or mandatory review of MBE certification at regular, relatively brief periods.[140] Governments thus have some duty to ensure that they update their evidence of discrimination regularly enough to review the need for their programs and to revise programs by narrowly tailoring them to fit the fresh evidence.[141] It is still an open question whether all of these provisions are necessary in every case.

2.6.3 Relationship of Goals to Availability

Narrow tailoring under the *Croson* standard requires that remedial goals be in line with measured availability. Merely setting percentages without a carefully selected basis in statistical studies, as the city of Richmond did in *Croson* itself, has played a strong part in decisions finding other programs unconstitutional.[142]

By contrast, the Eighth, Ninth, and Tenth Circuits have approved the goal-setting process for the DOT DBE program, as revised in 1999.[143] The approved DOT DBE regulations require that goals be based on one of several methods for measuring DBE availability.[144] The Eighth Circuit noted that the "DOT has tied the goals for DBE participation to the relevant labor markets," insofar as the "regulations require grantee States to set overall goals based upon the likely number of minority contractors that would have received federally assisted highway contracts but for the effects of past discrimination."[145] The Eighth Circuit acknowledged that goal setting was not exact, but nevertheless, the exercise...

> *requires the States to focus on establishing realistic goals for DBE participation in the relevant contracting markets. This stands in stark contrast to the program struck down in Croson, which rested upon the completely unrealistic assumption that minorities will choose a particular trade in lockstep proportion to their representation in the local population.*[146]

Moreover, the approved DBE regulations use built-in mechanisms to ensure that DBE goals are not set excessively high relative to DBE availability. For example, the approved DBE goals are to be set-aside if the overall goal has been met for two consecutive years by race-neutral means. The approved DBE contract goals also must be reduced if overall goals have been exceeded with race-conscious means for two consecutive years. The Eighth Circuit courts found these provisions to be narrowly tailored, particularly when implemented according to local disparity studies that carefully calculate the applicable goals.[147]

2.6.4 Burden on Third Parties

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[139] *Sherbrooke Turf, Inc.*, 345 F.3d at 972.
[140] *Adarand Constrs. Inc.*, 228 F.3d at 1179-1180.
[141] *Rothe Dev. Co.*, 262 F.3d at 1323-1324 (commenting on the possible staleness of information after seven, 12, and 17 years).
[142] See *Builders Ass'n of Greater Chicago*, 256 F.3d at 647; *Kohlbeck*, 447 F.3d at 556-557.
[143] *Adarand Constrs. Inc.*, 228 F.3d at 1181-1182; *Sherbrooke Turf, Inc.*, 345 F.3d at 971-973. *W. States Paving Co.*, 407 F.3d at 994-995.
[144] 49 C.F.R., § 26.45 (2006).
[145] *Sherbrooke Turf, Inc.*, at 972, 345 F, 3d citing, 49 C.F.R. § 26.45(c)-(d) (Steps 1 and 2).
[146] Id. at 972, quoting, *Croson*, 488 U.S. at 507.
[147] Id. at 973-974.

Narrow tailoring also requires minimizing the burden of the program on third parties. The Eight Circuit stated the following with respect to the revised DBE program:

> *Congress and DOT have taken significant steps to minimize the race based nature of the DBE program. Its benefits are directed at all small businesses owned and controlled by the socially and economically disadvantaged. While TEA21 creates a rebuttable presumption that members of certain racial minorities fall within that class, the presumption is rebuttable, wealthy minority owners and wealthy minority-owned firms are excluded, and certification is available to persons who are not presumptively disadvantaged but can demonstrate actual social and economic disadvantage. Thus, race is made relevant in the program, but it is not a determinative factor.*[148]

Waivers and good faith compliance are also tools that serve this purpose of reducing the burden on third parties.[149] The DOT DBE regulations have also sought to reduce the program burden on non-DBEs by avoiding DBE concentration in certain specialty areas.[150] These features have gained the approval of the only circuit court to have discussed them at length as measures of lowering impact on third parties.[151]

2.6.5 Over-Inclusion

Narrow tailoring also involves limiting the number and type of beneficiaries of the program. As noted above, there must be evidence of discrimination to justify a group-based remedy, and over-inclusion of uninjured individuals or groups can endanger the entire program.[152] Federal DBE programs have succeeded in part because regulations covering DBE certification do not provide blanket protection to minorities.[153]

Critically, the MBE program must be limited in its geographical scope to the boundaries of the enacting government's marketplace. The Supreme Court indicated in *Croson* that a local agency has the power to address discrimination only within its own marketplace. One fault of the Richmond MBE programs was that minority firms were certified from around the United States.[154]

In *Coral Construction*, the Ninth Circuit concluded that the King County MBE program failed this part of the narrow tailoring test because the definition of MBEs eligible to benefit from the program was overbroad. The definition included MBEs that had had no prior contact with King County, if the MBE could demonstrate that discrimination occurred "in the particular geographic areas in which it operates."[155] This MBE definition suggested that the program was designed to eradicate discrimination not only in King County but also in the particular area in which a non-local MBE conducted business. In essence, King County's program focused on the eradication of societywide discrimination, which is outside the

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[148] *Sherbrooke Turf, Inc.* 345 F. 3d at 972-73, citing, *Grutter*, 123 S. Ct. at 2345-46; *Gratz v. Bollinger*, 123 S. Ct. 2411, 2429 (2003)
[149] See 49 CFR, § 26.53 (2006).
[150] See 49 CFR, § 26.33 (2006).
[151] *Adarand Constrs. Inc.*, 228 F.3d at 1183.
[152] See *Builders Ass'n of Greater Chicago*, 256 F.3d at 647-648.
[153] *Sherbrooke Turf, Inc.*, 345 F.3d 972-73.
[154] *Croson*, 488 U.S. at 508.
[155] *Coral Constr. Co.*, 941 F. 2d at 925 (internal modifications and citations omitted).

power of a state or local government. "Since the County's interest is limited to the eradication of discrimination within King County, the only question that the County may ask is whether a business has been discriminated against in King County."[156]

In clarifying an important aspect of the narrow tailoring requirement, the court defined the issue of eligibility for MBE programs as one of participation, not location. For an MBE to reap the benefits of an affirmative action program, the business must have been discriminated against in the jurisdiction that established the program.[157] As a threshold matter, before a business can claim to have suffered discrimination, it must have attempted to do business with the governmental entity.[158] It was found significant that "if the County successfully proves malignant discrimination within the King County business community, an MBE would be presumptively eligible for relief if it had previously sought to do business in the County."[159]

To summarize, according to the Ninth Circuit, the presumptive rule requires that the enacting governmental agency establish that systemic discrimination exists within its jurisdiction and that the MBE is, or has attempted to become, an active participant in the agency's marketplace.[160] Since King County's definition of an MBE permitted participation by those with no prior contact with King County, its program was overbroad. By useful contrast, *Concrete Works II* held that the more extensive but still local designation of the entire Denver MSA constituted the marketplace to which the programs could apply.[161]

2.7 Personal Liability For Implementing An M/WBE Program

One lower court decision in the Eleventh Circuit, *Herschell Gill Consulting v. Miami-Dade County*,[162] held that Dade County and its Commissioners were held jointly and severally liable for nominal damages and attorney's fees for implementing a M/WBE program in violation of constitutional rights under Section 1983.

In general government officials have absolute immunity for legislative acts, but not for administrative acts. Thus, government officials are immune from personal liability for adopting a M/WBE program but can be personally liable for applying specific policies to particular contracts. Government officials are entitled to "qualified immunity" if their actions did not violate "clearly established statutory or constitutional rights of which a reasonable person would have known."[163] In *Herschell Gill,* there was no recent disparity study, there was parity in contracting, the previous program had been struck down by the same federal court, there was no substantial consideration of race neutral alternatives and the County had not followed its own ordinance in adjusting goals.

2.8 DBE Programs: The "As Applied" Challenge in Western States Paving

[156] Id. (emphasis omitted).
[157] Id.
[158] Id.
[159] Id.
[160] Id.
[161] *Concrete Works II,* 36 F.3d at 1520.
[162] 2004 WL 1924812 (S.D.Fla. 2004).
[163] *Harlow v. Fitzgerald,* 457 U.S. 800, 818 (1982).

The Washington DOT DBE program was struck down not in *Western States Paving* because the federal DBE program had no factual predicate and not because the federal DBE program lacked narrow tailored program features. Instead, the Ninth Circuit ruled that the Washington DOT DBE program was not narrowly tailored "as applied."[164] While a state does not have to independently provide a factual predicate for its DBE program the Ninth Circuit found that, "it cannot be said that TEA-21 is a narrowly tailored remedial measure unless its application is limited to those States in which the effects of discrimination are actually present."[165] In effect, while Washington DOT was not required to produce a separate factual predicate for a DBE program, it was still required to produce a factual predicate (of sorts) to justify race-conscious elements in the local implementation of its DBE program.

While Washington DOT conceded that it had no studies of discrimination in highway contracting, it argued that there was evidence of discrimination in the fact that DBEs received 9 percent of subcontracting dollars on state-funded projects where there were no DBE goals and 18 percent of federal funded projects where there were DBE goals. But the Ninth Circuit stated that, "even in States in which there has never been discrimination, the proportion of work that DBEs receive on contracts that lack affirmative action requirements will be lower than the share that they obtain on contracts that include such measures because minority preferences afford DBEs a competitive advantage."[166]

In contrast, the Eighth Circuit in *Sherbrooke Turf* and the Tenth Circuit in *Adarand v. Slater* found that a decline in DBE utilization following a change in or termination of a DBE program was relevant evidence of discrimination in subcontracting.[167] The Tenth Circuit stated that while this evidence "standing alone is not dispositive, it strongly supports the government's claim that there are significant barriers to minority competition in the public subcontracting."[168]

The Ninth Circuit also dismissed the disparity between the proportion of DBE subcontractors and the proportion of DBE dollars on state-funded contracts, because "DBE firms may be smaller and less experienced than non-DBE firms (especially if they are new businesses started by recent immigrants) or they may be concentrated in certain geographic areas of the State, rendering them unavailable for a disproportionate amount of work."[169] The Ninth Circuit quoted the DC Circuit in *O'Donnell* to the effect that:

> *Minority firms may not have bid on . . . construction contracts because they were generally small companies incapable of taking on large projects; or they may have been fully occupied on other projects; or the District's contracts may not have been as lucrative as others available in the Washington metropolitan area; or they may not have had the expertise*

[164] The Ninth Circuit distinguished a previous case which did not involve an "as applied" challenge to the federal DBE program. *Milwaukee County Pavers Ass'n v. Fiedler*, 922 F.2d 419 (7th Cir. 1991). The Seventh Circuit disagreed with the Ninth Circuit's reading of *Milwaukee County Pavers*. See *Northern Contracting*, at fn 4.
[165] *Western States Paving*, 407 F. 3d at 998.
[166] Western *States Paving*, 407 F. 3d at 1000.
[167] *Sherbrooke Turf*, 345 F.3d at 973.
[168] *Adarand v. Slater*, 228 F.3d at 1174; see also *Concrete Works IV*, 321 F.3d at 985.
[169] *Western States Paving*, at 1001.

> *needed to perform the contracts; or they may have bid but were rejected because others came in with a lower price.*[170]

The Ninth Circuit noted further that "if this small disparity has any probative value, it is insufficient, standing alone, to establish the existence of discrimination against DBEs." The Ninth Circuit contrasted this minor disparity with the Ninth Circuit's decision in *Associated General Contractors of California, Inc. v. Coalition for Economic Equity (AGCCII)* where "discrimination was likely to exist where minority availability for prime contracts was 49.5 percent but minority dollar participation was only 11.1 percent."[171]

2.9 Small Business Procurement Preferences

Small business procurement preferences have existed since the 1940s. The first small business program had its origins in the Smaller War Plants Corporation (SWPC), established during World War II.[172] The SWPC was created to channel war contracts to small business. In 1947, Congress passed the Armed Forces Procurement Act, declaring that "[i]t is the policy of Congress that a fair proportion of the purchases and contracts under this chapter be placed with small business concerns."[173] Continuing this policy, the 1958 Small Business Act requires that government agencies award a "fair proportion" of procurement contracts to small business concerns.[174]

Section 8(b)(11) of the Small Business Act authorizes the Small Business Administration (SBA) to set-aside contracts for placement with small business concerns. The SBA has the power:

> *to make studies and recommendations to the appropriate Federal agencies to insure that a fair proportion of the total purchases and contracts for property and services for the Government be placed with small-business enterprises, to insure that a fair proportion of Government contracts for research and development be placed with small-business concerns, to insure that a fair proportion of the total sales of Government property be made to small-business concerns, and to insure a fair and equitable share materials, supplies, and equipment to small-business concerns.*[175]

Every acquisition of goods and services anticipated to be between $3,000 and $100,000 is set aside exclusively for small business unless the contracting officer has a reasonable expectation of fewer than two bids by small businesses.[176]

There has been only one constitutional challenge to the long-standing federal small business enterprise (SBE) programs. In *J.H. Rutter Rex Manufacturing Co. v. United*

[170] Id. (quoting *O'Donnell Constr. Co.*, 963 F.2d at 426).
[171] *Western States Paving*, at 1001. (Quoting *Associated Gen. Contractors of Cal., Inc. v. Coalition for Econ. Equity*, 950 F.2d 1401, 1414 (9th Cir. 1991).
[172] See, generally, Hasty III, Thomas J., "Minority Business Enterprise Development and the Small Business Administration's 8(a) Program: Past, Present, and (Is There a) Future?" 145 Mil. L. Rev. I.
[173] 10 U.S.C. § 2301 (1976) quoting, *J.H. Rutter Rex Mfg. Co. v. United States*, 706 F. 2d 702, 704 (5th Cir. 1983).
[174] 15 USC 631(a).
[175] 15 U.S.C. § 637(b)(11).
[176] 18 C.F.R. § 19.502-2 (2006).

States,[177] a federal vendor unsuccessfully challenged the Army's small business set-aside program as in violation of the due process clause of the Fifth Amendment to the U.S. Constitution, as well as the Administrative Procedures Act and the Armed Forces Procurement Act.[178] The court held that classifying businesses as small was not a "suspect classification" subject to strict scrutiny. Instead the court ruled:

> *Since no fundamental rights are implicated, we need only determine whether the contested socio-economic legislation rationally relates to a legitimate governmental purpose. Our previous discussion adequately demonstrates that the procurement statutes and the regulations promulgated thereunder are rationally related to the sound legislative purpose of promoting small businesses in order to contribute to the security and economic health of this Nation.*[179]

A large number of state and local governments have maintained small business preference programs for many years.[180] No district court cases were found overturning a state or local small business reference program. One reason for the low level of litigation in this area is that there is significant organizational opposition to SBE programs. There are no reported cases of Associated General Construction (AGC) litigation against local SBE programs. And the legal foundations that have typically sued M/WBE programs have actually promoted SBE procurement preference programs as a race-neutral substitute for M/WBE programs.

There has been one state court case in which an SBE program was struck down as unconstitutional. The Cincinnati SBE program called for maximum practical M/WBE participation and required bidders to use good faith effort requirements to contract with M/WBEs up to government-specified M/WBE availability. Failure to satisfy good faith effort requirements triggered an investigation of efforts to provide opportunities for M/WBE subcontractors. In *Cleveland Construction v. Cincinnati,*[181] the state court ruled that the Cincinnati SBE program had race and gender preferences and had deprived the plaintiff of constitutionally protected property interest without due process of law. The city acknowledged that it had not offered evidence to satisfy strict scrutiny because it felt that it had been operating a race-neutral program.

2.10 Local Business Preferences

The constitutional analysis of local business preferences is somewhat less clear that SBE programs. Again, local business preferences are widespread and some have been in place for almost two decades (for example, the City of Oakland Local Business Enterprise (LBE) program started in 1979).[182] More common is the preference for small local businesses,

[177] 706 F.2d 702 (5th Cir. 1983), cert. denied, 464 U.S. 1008 (1983).
[178] *J.H. Rutter Rex Mfg. Co. v. United States*, 534 F. Supp. 331, 332 (E.D. La. 1982), app'd 706 F. 2d 702 ("Administrative Procedures Act, 5 U.S.C. §§ 552(a)(1)(E) (1976) and the "fair proportion" language of the Armed Forces Procurement Act, 10 U.S.C. § 2301 et seq. (1976), and the Small Business Act, 15 U.S.C. § 631 et seq. (1976)").
[179] *J.H. Rutter Rex Mfg. Co.,* 706 F.2d at 713 (internal citations omitted and emphasis added). See also *Dandridge v. Williams*, 397 U.S. 471, 485-86 (1970).
[180] See Fla. Stat. § 287.001 et req. (starting small business program in 1985); Minn. Stat. § 137.31 (Univ. of Minn. Started in 1979); N.J. Stat. § 52:32-17 et req. (small business program started in 1983).
[181] See instead *Cleveland Constr. Inc. v. Cincinnati*, 2006 Ohio App. LEXIS 6410, *P1-*P19 (Ohio Ct. App. Dec. 8, 2006).
[182] *See, e.g.,* City of Detroit's Detroit-Based Business Program (Executive Order No. 2003-4), City of San

which is an even more widespread practice. While called small business programs, these programs often set-aside contracts for bidding by local SBEs.

There are no federal court cases expressly stating that local business preference programs are unconstitutional. However, local business preferences should be distinguished from preferences for hiring local residents, which have been struck down on constitutional grounds. But LBE programs could be subject to some doubt on constitutional grounds. The three bases for constitutional challenges are the Equal Protection Clause, Dormant Commerce Clause and the Privileges and Immunities Clause.

2.10.1 Equal Protection Clause

A challenge to an LBE program under the Equal Protection Clause is straightforward. The content of the Equal Protection Clause has been discussed above. All challenges to local purchasing preferences based on the Equal Protection Clause have failed. Federal courts have ruled that programs to favor local companies do not involve a suspect classification, and can be justified as having a rational basis under the Equal Protection Clause. For example, Pennsylvania enacted a statute requiring the purchase of Pennsylvania steel.[183] A challenge was made to the Pennsylvania Steel Products Procurement Act, as a "blatant attempt at economic protectionism," in violation of the Equal Protection Clause. But the federal court found that Pennsylvania's distinction between domestic and foreign steel products was "rationally related to a legitimate governmental purpose," that is, to support a struggling industry that contributed significant employment and tax revenue to the agency.

2.10.2 The Dormant Commerce Clause

The next objection to LBE programs comes from the Commerce Clause. Article One of the Constitution confers upon Congress the power to regulate interstate commerce.[184] The Supremacy Clause of the Constitution grants to the federal government the power to preempt state laws that conflict with federal laws. The Supreme Court has found implicit in the Constitution "a self-executing limitation on the power of the States to enact laws imposing substantial burdens on such commerce."[185] Consequently a state statute is unconstitutional under what has become known as the Dormant Commerce Clause if it poses undue burdens on interstate commerce.[186] It follows that under the Dormant Commerce Clause, "discrimination against interstate commerce in favor of local business or investment is *per se* invalid, save in a narrow class of cases in which the municipality can demonstrate, under rigorous scrutiny, that it has no other means to advance a legitimate local interest."[187]

The Dormant Commerce Clause has been justified on both economic and political grounds. On economic grounds the Dormant Commerce Clause "prohibits economic

Francisco Minority/Women Local Business Enterprise Program (San Francisco Ordinance, CHAPTER 12D), City of Oakland Local Business Enterprise Program (City Ordinance 9739), City of New York Local Business Enterprise Program (New York Administrative Code § 6-108.1program).

[183] *Trojan Technologies v. Pennsylvania*, 916 F.2d 903 (3d Cir 1990).

[184] U.S. Const., art. I., 8 (reading, "Congress shall have Power ... to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes ...").

[185] S.-C. *Timber Dev., Inc. v. Wunnicke*, 467 U.S. 82, 87 (1984); see also *New Energy Co. of Ind. v. Limbach*, 486 U.S. 269, 273 (1988).

[186] *See Big Country Foods, Inc. v. Bd. of Educ. Anchorage Sch. Dist.*, 952 F.2d 1173, 1177 (9th Cir. 1992).

[187] *C & A Carbone v. Town of Clarkstown*, 511 U.S. 383, 392 (1994).

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protectionism."[188] From a political standpoint a state law that only harms interests from other states "is not likely to be subjected to those political restraints which are normally exerted on legislation where it affects adversely some interests within the state."[189]

Historically the Supreme Court employed a two-part test for the Dormant Commerce Clause: (1) does the state regulation discriminate against interstate commerce on its face; or, (2) are the burdens imposed on interstate commerce excessive relative to the alleged local benefits.[190] A statute that fails either part of this test (the "Pike test") is invalid under the Dormant Commerce Clause. LBE programs facially discriminate against interstate commerce and thus should fail the Pike test.

But there is an important exception to the Dormant Commerce Clause relevant to an LBE program. The "Market Participant" doctrine allows an agency to pass 'protectionist' legislation so long as an agency is participating in the market as a buyer or seller of goods and services, rather than regulating the market.[191] Thus the Commerce Clause was not intended to prohibit an agency from favoring its own citizens over others when acting as a market participant. The U.S. Supreme Court has ruled that governments enjoy unrestricted ability to select their trading partners.[192] Indeed, in light of "'the long recognized right of trader or manufacturer, engaged in an entirely private business, freely to exercise his own independent discretion as to parties with whom he will deal"...and that "when acting as proprietors, States should similarly share existing freedoms from federal constraints, including the inherent limits of the Commerce Clause."[193]

The U.S. Supreme Court has clarified, however, that the Market Participant doctrine does not allow an agency to impose conditions "that have a substantial regulatory effect outside of that particular market."[194] Note that the line between market participant and market regulator has not always been clear. Nevertheless, under the Market Participant Exception LBE programs should pass constitutional hurdles.

Finally under the Commerce Clause the U.S. Supreme Court has ruled that when local preferences are required under federal grants there is no Dormant Commerce Clause issue, ruling that "where state or local government action is specifically authorized by Congress, it is not subject to the Commerce Clause even if it interferes with interstate commerce."[195]

Given these results it is not surprising that no federal court case was found overturning, or even challenging, an LBE program under the Dormant Commerce Clause.

2.10.3 Privileges and Immunities Clause

The most serious risk to an LBE program comes from the Privileges and Immunities Clause. The U.S. Supreme Court has identified the original purpose of the Privileges and Immunities Clause as prohibiting discrimination on the basis of state citizenship. Historically the U.S

[188] *New Energy Co. of Ind. v. Limbach*, 486 U.S. 269, 274 (1988).
[189] *S.C. St. Hwy. Dept. v. Barnwell Bros.*, Inc., 303 U.S. 177, 185, n. 2 (1938).
[190] *Pike v. Bruce Church, Inc.*, 397 U.S. 137 (1970).
[191] *S.-C. Timber Dev., Inc.*, 467 U.S. at 93 (holding that "if a state is acting as a market participant, rather than as a market regulator, the dormant Commerce Clause places no limitation on its activities").
[192] *Perkins v. Lukens Steel*, 310 U.S. 113, 127 (1940).
[193] Reeves, Inc. v. Stake, 447 U.S. 429, 439 (1980).
[194] *S.-C. Timber Dev., Inc. v. Wunnicke*, 467 U.S. 82, 97 (1984).
[195] *White v. Massachusetts Council of Construction Employers*, Inc. 460 U.S. 204, 213 (1983).

Supreme Court has applied a two-part test under the Privileges and Immunities Clause: (1) did the state or local government agency *violate a fundamental right*, and (2) did the state or local government agency have a substantial reason for doing so.[196]

While similar and interrelated with the Dormant Commerce Clause, the Immunities Clause and the Commerce Clause provide different constitutional protections. The Dormant Commerce Clause is a judicially-created doctrine designed to prevent economic protectionism while the Privileges and Immunities Clause is a Constitutional provision created to protect individual rights.

A clarification of the application of the Immunities Clause to a local preference came in *United Building & Constr. Trades v. Camden.*[197] In *Camden* a municipal ordinance required that at least 40 percent of the employees of contractors and subcontractors working on city construction projects be Camden residents. The Court devised a three-part test to evaluate the constitutionality of such an ordinance under the Privileges and Immunities Clause:

- The jurisdiction must document "substantial reason" for the preference;
- The jurisdiction must demonstrate that non-residents can be held partly responsible for the documented problem; and
- The proposed remedy must be narrowly tailored.

The U.S. Supreme Court held that the Camden ordinance might be unconstitutional and remanded the case for consideration under the specified legal standard. There were three significant element of the Court's holding. First, the *Camden* Court ruled that the Market Participant exception does not apply to Privileges and Immunities analysis. Second, the Court ruled that the Immunities Clause does apply to laws that discriminate on the basis of municipal residency, not simply state residency. Third, the Court ruled that only those rights fundamental to interstate harmony were protected by the Immunities clause. In *Camden* the Court found that employment was a fundamental right under the Immunities Clause, but direct public employment was not.[198] Hence employment by a city vendor was a fundamental right while employment by the city itself was not a fundamental right. All of these results would seem to operate against a constitutional finding sustaining a LBE program.

The application of *Camden* can be seen in *Hudson County Building and Construction v. Jersey City*,[199] which involved a program requiring city vendors to make good faith efforts to hire 51 percent city residents. The district court again noted that there is no fundamental right to direct government employment, but there is a fundamental right to private employment with government contractors. Consequently the program did unduly burden out-of-state residents. While Jersey City provided data on unemployment and poverty in Jersey City, the evidence did not show "that out-of-state workers [were] a cause of unemployment and poverty within its borders." Thus just reciting data on unemployment and poverty will not be enough to overcome an Immunities Clause challenge.

[196] *Toomer v. Witsell*, 334 U.S. 385, 395-96 (1948).
[197] *United Building & Constr. Trades v. Camden*, 465 U.S. 208 (1984).

[198] *McCarthy v. Philadelphia Civil Service Commission*, 424 U.S. 645 (1976) (upholding a municipal ordinance that required all Philadelphia city government employees to be residents of the city).
[199] 960 F.Supp. 823, 831 (Dist Ct D NJ 1996)

But note that *Camden* involved a preference for hiring city residents, not a local business enterprise program. Arguably there should be no distinction between public contracting and direct government hiring under the Privileges and Immunities Clause; that is, public contracts are like public jobs, public works and other government benefits that are owned by the residents. Public contracts are not a fundamental right for Immunities Clause analysis.

In addition, while local hiring programs may face challenge under the Immunities Clause, the Supreme Court has held that the Privileges and Immunities Clause does not protect corporations.[200] Consequently a Immunities challenge should only arise relative to an individual seeking to contract with a local government. But local contracting programs can and should have a clear statement of the economic basis of the program to protect it from challenge by an individual vendor on the basis of the Immunities Clause.

It is worth observing that no case was found overturning, or even challenging, an LBE program based upon the Immunities clause.[201] Only municipal resident hiring programs have been challenged on Immunities Clause grounds.

2.10.4 Implications for LBE Program

In conclusion, no constitutional challenges have been succeeded with regard to an LBE program. A LBE program should survive: (1) a challenge under the Equal Protection Clause because LBE programs generally have a rational basis for their existence, (2) a challenge under the Dormant Commerce Clause based upon the Market Participant exception, and (3) a challenge under the Immunities Clause, because the clause does not apply to corporations, public contracts are not a fundamental right and an agency should be able to provide economic justification for an LBE program.

2.11 Conclusions

As summarized earlier, when governments develop and implement a contracting program that is sensitive to race and gender, they must understand the case law that has developed in the federal courts. These cases establish specific requirements that must be addressed so that such programs can withstand judicial review for constitutionality and prove to be just and fair. Under the developing trends in the application of the law, local governments must engage in specific fact-finding processes to compile a thorough, accurate, and specific evidentiary foundation to determine whether there is, in fact, discrimination sufficient to justify an affirmative action plan. Further, local governments must continue to update this information and revise their programs accordingly.

While the Supreme Court has yet to return to this exact area of law to sort out some of the conflicts, the circuit courts have settled on the core standards. Though there are differences among the circuits in the level of deference granted to the finder of fact, these differences do not appear to be profound. The differences in the individual outcomes have been overwhelmingly different in the level of evidence, mostly concerning the rigor with which

[200] *Paul v. Virginia*, 75 U.S. (8 Wall.) 168, 177, 181 (1869). This result was reaffirmed by the Supreme Court in *Western & Southern Life Ins. Co. v. State Bd. of Equalization*, 451 U.S. 648 (1981).

[201] One state court case challenging an LBE program, argued that an Illinois School Board did not have the authority under state statutes to authorize an LBE program. *Best Bus Joint Venture v. The Board of Education of the City of Chicago*, First District Appellate Court No. 1-96-2927 (May 9, 1997).

disparity studies have been conducted and then used as the foundation for narrowly tailored remedies. Most significantly, nationally the DBE program has been consistently upheld as a narrowly tailored remedial program. Ultimately, MBE and WBE programs can withstand challenges if local governments comply with the requirements outlined by the courts.

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3.0 REVIEW OF POLICIES, PROCEDURES, AND PROGRAMS

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3.0 REVIEW OF POLICIES, PROCEDURES, AND PROGRAMS

This chapter focuses on the policies, procedures, and programs used by the Leon County Board of County Commissioners (County) to purchase goods and services and engage in construction projects. This chapter provides a brief description of the procurement and contracting environment in which minority-, woman-owned, and small business enterprises (M/W/SBE) operate. This chapter also provides background for the data analysis and foundation for the report recommendations. Finally, it discusses the remedial efforts undertaken by the County with regard to procurement in the categories of construction, architecture and engineering, professional services, other services, goods and equipment. The period of study for this review was October 1, 2004, through September 30, 2008. The research presented in this chapter also considered changes in policies and programs instituted through March 31, 2009.

This chapter includes the following sections:

3.1 Methodology
3.2 County Organizational Structure and Purchasing Function
3.3 Methods of Procurement
3.4 M/W/SBE Program
3.5 Conclusions

3.1 Methodology

This section discusses the steps taken to summarize the County's contracting and purchasing policies, procedures, and programs; race- and gender-based programs; and race- and gender-neutral programs. MGT's review focused on elements of the purchasing process, including remedial programs that might impact M/W/SBE utilization. The analysis included the following steps:

- Collection, review, and summarization of County contracting and purchasing policies currently in use. Discussions with staff and officials about the changes that contracting and purchasing policies underwent during the study period and their effects on the remedial programs.

- Development of questionnaire utilized to interview key County contracting and purchasing staff and officials to determine how existing contracting and purchasing policies have been implemented. Interviews were conducted with County management and staff regarding the application of policies, discretionary use of policies, exceptions to written policies and procedures, and impact of policies on key users.

- Review of applicable County ordinances, regulations, resolutions, and policies that guide the remedial programs. This included discussing with County personnel the operations, policies, and procedures of the remedial programs and any remedial policy changes over time.

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Finally, MGT collected and reviewed copies of previous studies of minority business development conducted by the County and performed a cursory review of race- and gender-neutral programs.

In July 2004, MGT issued a disparity study update[1] which included an assessment of the County's purchasing policies, procedures, and practices since the previously presented report in December 2000.[2] MGT leveraged the data and findings from the 2004 report as a starting point for this analysis. Therefore, the inquiries for this current study centered on changes that occurred in the County's policies and procedures since the July 2004 study and the impact of those changes on firms interested in doing business with the County.

With the assistance of the County's contract manager for this project, MGT identified appropriate County personnel to interview concerning changes to procurement policies and procedures since MGT's last review. Overall, 11 interviews were conducted with current County staff and representatives and one interview with the Executive Director of the Florida Agriculture & Mechanical University Small Business Development Center (FAMU SBDC). These interviews occurred during the months of April and May 2009. Accordingly, MGT met with the following:

- Senior Assistant to the County Administrator;
- Purchasing Director;
- Purchasing Agent
- Minority/Women/Small Business Enterprise Director;
- Minority/Women/Small Business Enterprise Analyst;
- Director of Public Works;
- Director of Engineering Services;
- Director of Facilities Management;
- Director of Parks and Recreation;
- Senior Assistant County Attorney;
- Health & Human Services Division Director.

In addition, MGT reviewed the documents and sources shown in **Exhibit 3-1**.

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[1] MGT of America, Inc., *Leon County Board of County Commissioners Disparity Study*, July 21, 2004.
[2] MGT of America, Inc., *Purchasing Policy and MBE Program Review for Leon County Board of County Commissioners*, December 12, 2000.

EXHIBIT 3-1
DOCUMENTS AND SOURCES REVIEWED DURING POLICY AND PROCEDURE REVIEW

Index	Description
1	Board of County Commissioners, Leon County Purchasing and Minority/Women Business Enterprise Policy, Revised June 14, 2006.
2	Board of County Commissioners, Leon County Purchasing and Minority/Women Business Enterprise Policy, Revised July 30, 2002.
3	Board of County Commissioners, Purchasing Card Policy, Revised June 14, 2006.
4	Board of County Commissioners, Policy for Purchases of Food, Beverages, and Supplies, October 27, 2004.
5	Board of County Commissioners, Procurement of Paper Products, Revised August 28, 1996
6	Board of County Commissioners, Leon County, Florida, Agenda Item Executive Summary, Thursday, February 26, 2009; Approval of Fast Tracking Program for Public Sector Projects
7	State of Florida, "Procurement of Personal Property and Services," Florida Statutes, Chapter 287.
8	MGT of America, Leon County Board of County Commissioners Disparity Study, Final Report, July 21, 2004.
9	Leon County Board of County of Commissioners, Diversity: "The Cornerstone of Creativity" 2006 Annual Report.
10	Board of County Commissioners Agenda Request 13, submitted June 7, 2006; Approval of a Performance Agreement between Leon County and Florida Agriculture & Mechanical University for Small Business Training through its Small Business Development Center.
11	Board of County Commissioners, Agenda Request 26, Acceptance of Status Report Regarding County Utilization of Minority and Women-Owned Businesses, Submitted December 5, 2007
12	Board of County Commissioners Agenda Request 31, submitted August 27, 2008; Acceptance of Report on Race/Gender Target in Policy No. 96-1, "Purchasing and Minority Women Small Business Enterprise Policy", Submitted August 27, 2008.
13	2008 Leon County Annual Report
14	Minority and Women Business Enterprise (MWBE) Participation Plan Requests For Proposals (RFP)
15	Board of County Commissioners, Leon County, Florida, Agenda Item Executive Summary, Thursday, February 26, 2009; Approval of Agreement to Award Bid to Panacea Coastal
16	www.leoncountyfl.gov
17	www.sbdcatfamu.org
18	www.fbbib.com
19	www.fshcc.com
20	www.accessfloridafinance.com

3.2 County Organizational Structure and Purchasing Function

The County is governed by a home rule charter in accordance with the provisions of Chapter 125 of the Florida Statutes. The Leon County Board of Commissioners consists of five elected members who serve specific commission districts and two elected members who serve at large. A County Administrator is appointed by the Board to

oversee all functions, directives and policies. Other elected County officials include the Judiciary, State Attorney, Public Defender, Clerk of the Court, Property Appraiser, Sheriff, Supervisor of Elections and Tax Collector.[3] The County's organizational structure is shown in **Exhibit 3-2**.

The County's procurement of goods and services is grouped into the following business categories:

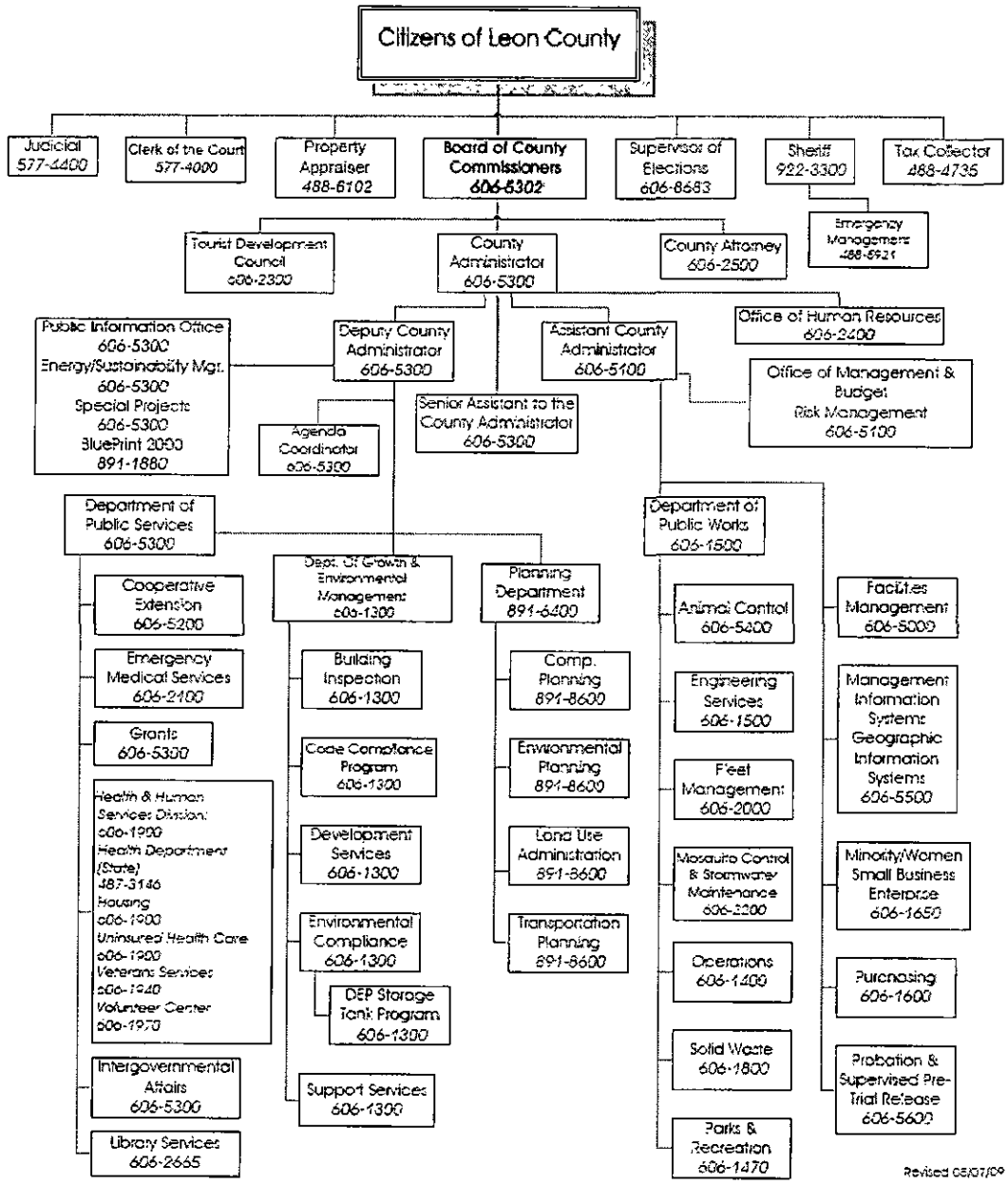
- Construction;
- Professional Services;
- Other Services;
- Materials and Supplies; and
- Purchases.

The procurement function in Leon County is governed by applicable federal and state regulations, such as Chapter 287, Florida Statutes as well as Federal Acquisition Regulation, Part 45 and others. In addition to federal and state guidelines, the Board of County Commissioners approved the revised "Purchasing and Minority/Women Business Enterprise Policy" on June 14, 2006 (hereinafter referred to as "policy") to provide specific directives about the County's procurement function.

The Purchasing Division is responsible for the procurement of supplies, equipment and services for all departments under the Leon County Board of Commissioners, and to a limited extent certain constitutional departments such as the Sheriff's Department, the Court Administrator, and the Supervisor of Elections. As a part of the procurement function, the Purchasing Division operates a warehouse facility, office supply store, and a delivery system for the issuance of supplies and materials to user agencies at wholesale prices. The County has a combination of centralized and decentralized procurement processes. Centralization occurs when departments purchase goods and services for their entire organization. Decentralization is described as when various units within an organization have their own purchasing authority. Leon County has a degree of decentralized purchasing, especially as it relates to the purchasing cards authority that has a spending limit up to $1,000; and departments can purchase goods and supplies up to $1,000 as well as obtain bids and quotes for goods and services under $20,000. However, the Purchasing Department is still involved in ensuring the proper number of quotes, M/WBE solicitation, etc. The County has stringent control measures in place in most cases. The policies and procedures are written and widely available on the internet for purchasing personnel and other users. With the exception of field purchase orders and purchasing cards, which may be used to purchase incidental and/or emergency materials or services, only the Purchasing Division is authorized to act as an agent in awarding, executing, modifying, or canceling purchase orders or contracts. The County does not have a formal vendor registration or a formal prequalification process. However, the County may do prequalification on a project by project basis. Staff has access to the M/W/SBE databases through the internet.

[3] Leon County Internet Web site http://www.co.leon.fl.us/aboutus.asp.

EXHIBIT 3-2
LEON COUNTY ORGANIZATION CHART



Source: Leon County Internet Web Site, May 2009.

The procurement policy in effect during the study period is the "Purchasing and Minority Women Small Business Enterprise Policy" which was adopted by the Board of Commissioners on June 13, 2006. This policy superseded Policy No 96-1, which was adopted on December 13, 2005. The revision resulted "from the County's formation of a Small Business Enterprise (SBE) component to continue its focus of narrowly tailoring its effort to promote M/WBEs and to encourage the growth and development of local small

businesses"[4] and included revision of aspirational targets with separation of race conscious and race neutral targets. The framework for the SBE program was ratified by the Leon County Board of Commissioners on June 28, 2005; however, staff was instructed to further develop the SBE policies which were updated during the County's Local Economic Development workshop held on March 28, 2006.

The Purchasing Director is the central purchasing officer for Leon County. Per the policy, the Purchasing Director:

- Develops and administers operational procedures governing the internal functions of the Division of Purchasing.
- Purchases or supervises the purchase of supplies, services, materials, equipment, and construction services defined in the County's policy.
- Operates a central warehouse.
- Delegates his/her purchasing authority as allowed by law or rule.
- Assists the M/WBE Director in implementing, monitoring, and enforcing the County's M/WBE program policy.

The Purchasing Director has authority to approve procurements in amounts up to $20,000. Purchases greater than $20,001, but less than $50,000, require the additional approval of the County Administrator. Procurements in amounts greater than $20,000 must be approved by the Leon County Board of County Commissioners. The revised policy did not modify these approved levels of authority.

3.3 Methods of Procurement

The procurement processes for Leon County include the purchasing categories shown in **Exhibit 3-3**.

[4] Board of County Commissioners Agenda Request 12, submitted June 7, 2006.

EXHIBIT 3-3
LEON COUNTY BOARD OF COUNTY COMMISSIONERS
PURCHASING CATEGORIES

Purchasing Categories	Dollar Limits
Petty Cash Reimbursements	Not to exceed $100
Field Purchase Orders	$1 to $500
Small Purchase Orders	$1 to $1,000
Warehouse Operations	$1 to $5,000
Blanket Purchase Orders:	
Non-contractual basis	$1,000 to $5,000
Contractual basis	not to exceed $100,000
Field Quotes	$1,000 to $5,000
Purchasing Quotes	$5,001 to $20,000
Informal Bid Process	$20,001 to $50,000
Competitive Sealed Bids	$20,001 and above
Competitive Sealed Proposals:	
Approved by County Administrator	$20,001 and $50,000
Approved by the Board of County Commissioners	$50,001 and above

Source: Board of County Commissioners, Leon County - Purchasing and Minority Women Small Business Enterprise Policy. Adopted June 13, 2006.

The revised policy increased the dollar limits for petty cash transactions from $50 to $100. The policy also increased the dollar limit for field purchase orders from $200 to $500. The increases were made for administrative convenience and have no material impact either positively or negatively on the inclusion of M/WBEs in the County's procurement process.

On February 26, 2009, Leon County staff submitted to the Leon County Board of Commissioners for approval a Fast Tracking Program for Public Sector Projects through development review, permitting, procurement and right-of-way (ROW) acquisition processes. According to staff interviews, the main objectives of the fast track program is the following: reduce the average purchasing and contract administrative timelines, thus reducing the timeline from solicitation to contract execution; change award and signature thresholds for competitive sealed bids and proposals, thus reducing the number of procurements requiring Board approval; and reduce the turnaround time for such items, authorize the Purchasing Director to release Request for Proposals (RFPs) expected to result in cost no greater than $100,000 and authorize the County Administrator or his designee to release all RFPs. "Staff may authorize the release of RFPs and when the procurement process results in costs within the Contract Award and Signature Authority Thresholds, staff may award the work and execute the agreement in a form approved by the County Attorney's Office."[5] This process would also release contractors to begin performance of a contract while the County is completing its internal contract execution process. The Board directed staff to consider changing preference points for Local Preference and M/WBE Participation. Staff recommended no changes be made to the

[5] Board of County Commissioners Leon County, Florida, Agenda Item Executive Summary, Thursday, February 26, 2009, page 7.

current percentage points of 5 percent for Local Preference and 10 percent of total available points for M/WBE participation.

EXHIBIT 3-4
LEON COUNTY BOARD OF COUNTY COMMISSIONERS
FAST TRACK PROGRAM THRESHOLD AND SIGNATURE CHANGES

Table 1 - Purchasing Process Thresholds		
Procurement Method	**Current Threshold**	**Proposed Threshold**
Petty Cash/Reimbursement (Section 5.01 of the Purchasing and M/W/SBE Policy)	Not to exceed $100	*Not to exceed $100
Field Purchase Order (Section 5.02)	$1 to $500	*$1 to $500
Small Purchase Procedures (Section 5.03)	$1 to $1,000	*$1 to $1,000
Warehouse Operations (Section 5.031)	$1 to $5,000	*$1 to $5,000
Blanket Purchase Orders (Section 5.04)		
Non-contractual Basis	$1,000 to $5,000	*$1,000 to $5,000
Contractual Basis	Not to exceed $100,000	*Not to exceed $100,000
Field Quotes (Section 5.05)	$1,000 to $5,000	*$1,000 to $5,000
Purchasing Quotes	$5,001 to $20,000	*$5,001 to $20,000
Bid - Informal Bid Process (requires seeking 3+ written quotes; Section 5.06)	$20,001 to $50,000	$20,001 to $100,000
Bid - Competitive Sealed Bids (Section 5.08)	$50,001 and above	$100,001 and above
RFP - Competitive Sealed Proposals (Section 5.09)	Requires Board Approval to Release RFP; County Administrator authorized to award up to $50,000.	Purchasing Director –Authorized to Release RFPs Expected to Result in Costs No Greater than $100,000; County Administrator Authorized to all RFPs
*No change recommended		

Table 2 - Contract Award and Signature Authority Thresholds		
Entity	**Current**	**Recommend**
Purchasing Director	Purchase Orders and Agreements up to $20,000	*Procurement Agreements up to $100,000 (correlates with the recommended Informal Bid Process threshold)
County Administrator	Procurement Agreements $20,000 up to $50,000	* **Procurement Agreements greater than $100,000 and no greater than $250,000
Board Chairman	Procurement Agreements $50,001+	*Procurement Agreements greater than $250,000
*All contracts will be in a form approved by the County Attorney's Office prior to execution.		
**Correlates with the City of Tallahassee's Manager's Purchasing Authority		

Source: http://www.leoncountyfl.gov/admin/Agenda/view2.asp?id=9113.

3.3.1 Blanket Purchase Orders

Blanket purchase orders are used for repeated and/or multiple purchases of goods or services. Non-contractual blanket purchase orders may be issued in cases where the total value of the purchase order is $5,000 or less. Contractual blanket purchase orders accommodate repeated and/or multiple purchases up to $100,000.

MGT's research for the 2000 and 2004 review of the County's purchasing policy indicated that blanket purchase orders provide a convenient mechanism for repetitive purchases. It was noted during the 2004 study that there were concerns as to whether blanket purchase orders created the potential for exclusion, since this is selection-based procurements without competition. The interviews conducted for this current study did not find these same concerns; however, most interviewees recommended that MGT collect information regarding blanket purchase orders from the Purchasing Director.

M/WBEs were not categorically excluded in the earlier policy nor are they excluded in the revised version. User divisions and departments are advised of M/WBE availability to provide goods and services under blanket purchase orders, which is unchanged from the earlier purchasing procedure. Therefore, policy updates had no material impact on the utilization of M/WBEs by the County on blanket purchase orders.

3.3.2 Field Quotes and Purchasing Quotes

County procurements for amounts greater than $501 and less than $5,000 require competitive Field Quotes to support the purchase in the form of three written or verbal price quotations from potential vendors. County procurements in amounts greater than $5,001 and less than $20,000 must be supported by at least three written Purchasing Quotes from potential vendors. Vendor selection for field quotes and purchasing quotes is ultimately determined by the requesting department.

The policy encourages County decision makers to "seek out and utilize certified minority and women-owned business enterprises in these purchases." During MGT's policy review, MGT learned that the Purchasing Division requires that at least one of the three written quotes come from a certified M/WBE in order to comply with current policy requirements.

3.3.3 Informal Bid Process

According to the policy, procurements in amounts greater than $20,000, but less than $50,000, may be procured by the Informal Bid Process. In this process:

> *The Purchasing Director shall secure, whenever possible, a minimum of three written quotations which shall be the result of written specifications transmitted by mail, by electronic format, or by facsimile. When such quotations are received by facsimile the purchasing agent will immediately seal and label the quotations until the time set for opening bids. In those instances where the securing of three quotations is not*

practicable, the Purchasing Director shall provide written justification of such.[6]

The current policy further states that the County's Purchasing Division will seek out and encourage certified M/WBE participation in this process. The inclusion of this language in the current policy serves to emphasize the County's intent to consider M/WBEs in the procurement process. Inclusion of specific language in the policy documents eliminates ambiguity as to the need for user departments/divisions to solicit M/WBE involvement in the informal bid process, which is a revision of the earlier 2000 policy. This serves to diminish an earlier identified barrier regarding M/WBE participation.

Typically, the informal bid process does not include advertising of the procurement opportunity. Vendors wishing to be notified of informal bid opportunities have the option to subscribe to the *DemandStar.com* service (see Section 3.3.7 of this chapter), contact the Purchasing Division, or check the Purchasing Division's Internet Web Site to learn of these opportunities.

3.3.4 Competitive Sealed Bids

The County uses Competitive Sealed Bids for procurements of $50,000 or more. The steps in this process include:

- Determining the bid specifications and requirements of the requesting department or division.
- Forwarding bid specifications and other supporting documentation to the Purchasing Division for packaging.
- Advertising the Invitation to Bids (ITB).

Projects expected to cost more than $200,000 must be advertised publicly at least once in a newspaper of general circulation in the County. This advertisement must be posted for at least 21 days prior to the established bid opening date, and at least five days prior to any scheduled pre-bid conference. Projects expected to cost more than $500,000 must be advertised publicly at least once, at least 30 days prior to the bid opening and five days prior to the scheduled pre-bid conference. The M/W/SBE Director reviews intended solicitations before publication to maximize the potential for M/WBE response.

The revised policy includes language requiring the M/W/SBE Director, Purchasing representative and a user department representative to review proposed projects and bids in order to determine potential utilization of M/WBEs. If certified M/WBEs are available to perform as subcontractors on pending bids, the M/W/SBE Director will add an M/WBE participation aspirational target requirement to the bid specification. If certified M/WBEs cannot be identified, the M/W/SBE Director advises the procurement representative to include language in the bid specifications that encourages the prime contractor to include M/WBE subcontractors in the submitted bids. This process increases the level of awareness concerning the need to consider M/WBEs for competitive bids.

[6] Section 5.07, Board of County Commissioners - Leon County Purchasing and Minority/Women Business Enterprise Policy, Revised July 30, 2002.

On the predetermined date, bids are opened publicly and are unconditionally accepted. The opened bids are reviewed for compliance with the requirements listed in the request for bids. The Purchasing Division tabulates the bids and presents a Bid Report to the appropriate department or division. Based on the Bid Report, the requesting department or division head makes the determination as to the successful respondent. This recommendation will ultimately be submitted as a Board agenda item. However, prior to the submission of the recommendation to the County Administrator for inclusion on the Board agenda, the department or division head submits its recommendation to the Purchasing Director and M/WBE Director for review. Afterwards, the recommendation is forwarded to the County Administrator and then to the Board of Leon County Commissioners for approval.

Per the policy, "the contract shall be awarded with reasonable promptness to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation to bid." Section 16(F) further states that "for contracts of $100,000 or less, where there is a disparity of 1 percent or less between the total of the base bid and all recommended alternates of a 100 percent owned and operated MBE, WBE or SBE and the apparent low bid which is from a non-minority, woman, or small business enterprise, and all other purchasing requirements have been met, the contract may be awarded to the MBE, WBE or SBE to help achieve race/gender neutral targets or race/gender conscious target, where otherwise permissible." The County has maintained a similar bid price allowance since 1991.

Section 5.08(M) contains local preference provisions whereby the County may allow special consideration for local businesses in purchasing goods or services where pricing is the major consideration. This provision was included with other policy additions in the 2002 and 2005 revisions. The inclusion of the local preference provision is intended to create a slight advantage for local firms that compete for County contracts. The local preference allowance is 5 percent of the bid price for purchases under $250,000, and 2 percent of the bid price for purchases of $250,000 and above. The local preference allowance is capped at $20,000. No opinions were expressed during MGT's interviews if the local preference provisions have had a significant impact on the utilization of M/WBEs in County procurements.

3.3.5 Competitive Sealed Proposals

Competitive sealed proposals are used by the County when the Director of Purchasing "determines that the use of competitive sealed bidding is either not practical or not advantageous to the County." Generally, this procurement process is used for *professional, architectural, engineering, landscape architectural,* and land surveying services. The competitive sealed proposals process begins with the determination of the project requirements by the requesting department or division in the County. Next:

- The Purchasing Director, or designee, reviews the scope of the project requirements.
- The Purchasing Director, or designee, also reviews the scope of work for the project to determine if revisions to—or clarifications of—the scope of work are *required prior to advertising the procurement opportunity.* The M/WBE Director also reviews the project scope and the request for proposals to identify opportunities to facilitate M/WBE participation. If project scope

modifications are needed, the Purchasing Director interacts with the requesting department to make the changes to the scope of work.

- Projects are placed on the County's Web site and listed in the local newspaper.

- If the County receives indications of interest from less than three persons, the Purchasing Director may reissue the request for proposals.

Section 16(E) lists the requirements for fulfilling Race/Gender Neutral (R/N) Targets, Race/Gender Conscious (R/C) Target and Aspirational Targets for Specific Procurement Opportunities. R/C Targets shall be the upper limit for Aspirational Targets set by the M/W/SBE Division for MBE and/or WBE participation in a single procurement opportunity. The R/N Target shall be the upper limit for Aspirational Targets set by M/W/SBE Division for SBE participation in a single procurement, unless such procurement opportunity is specifically identified for competition only between SBEs. The M/W/SBE Director shall coordinate and promote the process of meeting R/N and R/C targets by taking active steps to encourage full participation by certified, capable, and competitive MBE, WBE and SBE businesses and by keeping staff informed of M/W/SBE availabilities.

The selection committee[7] usually comprised of staff, evaluates and ranks submitted proposals with regard to the responsiveness of the proposal to the County's needs. The County Administrator, or designee, determines whether a three-member or five-member selection committee is best suited for the evaluative process based on the complexity and anticipated expense of the requested services.

Staff recommends the top ranked firms in order and requests permission to negotiate with the top ranked firm and, if negotiations fail, to negotiate with the next ranked firms in order. Contract negotiations shall be conducted by the Purchasing Director or his designee or by a negotiation committee. A contract negotiation committee shall consists of the Purchasing Director (shall serve as chair), the head of the primary using department or agency, and the County Attorney. Negotiation committee members may designate alternates to serve in their capacity on the committee.

Section 5.091(A) (7) of the policy allows "a local preference of not more than five percent (5%) of the total score" as part of the evaluation criteria for local businesses that submit proposals for competitive sealed bids. The current revised policy did not contain major changes to the County's competitive sealed proposals process from the 2005 process. As a selection based process, the county has few options to directly encourage M/W/SBE participation as prime contractor respondents. Those opportunities include the determination of the number of evaluation points ascribed to M/W/SBE project involvement and participation in the voting process as part of the selection of the successful respondent.

[7] The selection committee makeup for procurement is different than the selection committee process for employment, because of due process requirements the County elected that the M/W/SBE Director not be a member of the selection committee.

3.3.6 Protested Solicitations and Awards

The 2006 revised policy contains modified language specifying rights to protest decisions regarding the County's Invitations to Bid and Request for Proposals, as did the County's earlier policy. Appeals of the Purchasing Director's decisions are to be heard by a Procurement Appeals Board composed of a chairperson, and two other members. The Appeals Board members are appointed by the County Administrator. The revised policy changed the term of the members to three years for the chairperson and each member. Previously, the Chairperson served a term of three years. One member served for a two-year term and the remaining member served an initial term of one year. Thereafter, members were appointed for three year terms such that one member was appointed annually. Section 5.13(E) specifies the procurement appeals process.

3.3.7 DemandStar.com

In 1999, the County contracted DemandStar.com, Inc. to maintain information and vendor data about pending procurements. As a part of the County's procurement efforts this service was seen as an opportunity to reach more firms[8]. The Purchasing Division provides bid and RFP information to DemandStar.com for notification to their vendor subscriber list. This list categorizes each vendor by commodity codes for the specific goods or services offered by the vendor. Subscribers are notified by fax or e-mail whenever a formal sealed bid has been issued for the commodity or service offered by the vendor.

A second feature of the DemandStar.com system is the maintenance of vendor data. For an annual subscription fee, businesses may register the commodities and services they wish to sell, and receive emailed information about related County procurements that includes the following:

- Legal advertisements.
- Bid/RFP addenda.
- Bid tabulation sheets.
- Procurement listings.
- Requests for proposals.
- Current award recommendations and current Board agenda items.

3.3.8 Other Procurement Methods

The County's purchasing and M/W/SBE policy provide for the following procurement methods for non-routine purchases.

- Sole Source Purchases–for a supply, services, material equipment or construction item(s) where there is a determination that there is only one available source. (Section 5.10)

- Emergency Purchases–when a situation requires the immediate purchase of goods, equipment or services without competitive bidding. (Section 5.11)

[8] The County uses legal notices and the County Web site as its primary means for informing vendors on County opportunities.

- Cooperative Purchasing–from authorized vendors on state contracts, or Federal Supply Schedules or when the County joins with other units of government in cooperative purchasing ventures. (Section 5.12)

3.3.9 General Purchasing Provisions

Insurance Requirements

MGT's review of the County's policy and staff interviews showed no change in the County's policy on insurance since the 2004 study. Policy requires that County contractors purchase and maintain insurance to protect it from claims under Worker's Compensation laws, disability benefit laws and other similar damages and liabilities.[9] The required levels of coverage are determined by the provisions of the Risk Management Policy. Insurance requirements, like bonding requirements, are a necessary component of contractual relationships that serve both parties.

Bonding

The State of Florida requires payment and performance bonds by persons entering into a formal contract with the state or any county, city, or political subdivision "for the prosecution and completion of a public work, or for repairs upon a public building or public work."[10] The state provision allows an exemption from the bonding requirement for work done for any county, city, political subdivision or public authority in amounts less than $200,000.

MGT's review of the County's policy and staff interviews showed no change in the County's policy on bonding since the 2004 study. County bid documents identify procurements that require bonding on behalf of the successful offeror and County policy specifies the types of bonds that may be required as indicated below:

A. Combination Payment and Performance Bond - This type of bond is required for repairs, renovations, new construction, and other public works costing in excess of $50,000. For projects less than that amount, it may be required at the discretion of the Purchasing Director with the approval of the County Administrator or his designee. When a payment and performance bond is required, the bond will be requested in the bid document. No work in connection with the fulfillment of a contract shall commence until the payment and performance bond is accepted by the County.

B. Performance Bond - For a project of an estimated value less than $50,000, requirement of a performance bond will be at the discretion of the Purchasing Director with the approval of the County Administrator or his designee. For projects estimated to be $50,000 or more, such bond will be required to insure that a contract is carried out in accordance with the applicable specifications and at the agreed contract price.

[9] Section 12, "Insurance Requirements", Board of County Commissioners – Leon County, *Purchasing and Minority/Women Business Enterprise Policy*, Revised June 13, 2006.
[10] State of Florida Statutes, Title XVIII, Chapter 255, Section 255.05.

C. Payment and Material Bond - For a project of an estimated value less than $50,000, requirement of a payment and material bond will be at the discretion of the Purchasing Director with the approval of the County Administrator or his designee. For projects estimated to be $50,000 or more, such bond will be required to protect the County from suits for non-payment of debts which might be incurred by a contractor's performance for the County.

D. Warranty Bonds - At the discretion of the Purchasing Director, after consultation with user departments, a Warranty Bond may be required from a successful bidder to insure warranty provisions are fulfilled.

E. Guaranty of Good Faith Deposit (Bid Deposit) - For projects estimated to be less than $40,000, requirement of a bid bond will be at the discretion of the Purchasing Director with the approval of the County Administrator or his designee. For purchases where it is determined by the Purchasing Director to be in the best interest of the County, and projects estimated to be $40,000 or more, bidders will be required to submit with their bid or proposal a guaranty of good faith deposit.

When in the best interest of the County, it is recommended by the Purchasing Director and approved by the County Administrator or his designee, these requirements may be waived.

A. Return of Bond. Such deposit may not be withdrawn until a specified time after the proposals are opened and awards made. The deposit of the bond shall be retained by the Finance Officer of the Board until the Purchasing Director is satisfied that the Contractor's obligations have been satisfactorily completed.

B. Substitutes. In lieu of a surety bid bond, contractor may submit a certified check, cashier's check or treasurer's check, on any national or state bank. Such deposits shall be in the same percentage amounts as the bond. Such deposits shall be retained by the Finance Officer of the Board until all provisions of the contract have been complied with.

C. Irrevocable Letter of Credit. Upon approval of the Purchasing Director, a contractor may present an Irrevocable Letter of Credit from a national or state chartered bank in lieu of any of the foregoing bonds for the same face value as required for the bond. The letter of credit shall be for a period of time not less than three months beyond the scheduled completion date of the purchase of the contracted services or materials.

D. Retention of Payments. The County may require the payment for a project, or a portion thereof, be withheld until the project has been completed as a method of protecting the County's interest. Retention may also be used in lieu of the above listed bonds. The solicitation documents shall specifically state if retention of any portion or all of the payment for the project is to be done.

County policy further defines the amount of the bond or deposit required.

1) Performance Bond: 100 percent of contract price.

2) Payment Bond: 100 percent of contract price.

3) Payment and Performance Bond: 100 percent of contract price.

4) Guaranty of Good Faith Deposit (Bid Deposit or Bond): The bid deposit will be 5 percent of the price bid by the vendor.

Any of the above listed bonds may be required at another amount recommended by the Purchasing Director and approved by the County Administrator or his designee when in the best interest of the County.

3.4 Remedial Program

3.4.1 Historical Background

The establishment of the County's M/WBE Program dates back to 1987. The purpose of the program was to "enhance the participation of qualified minority and women-owned businesses in providing goods and services and construction contracts required by the Board of County Commissioners." The County conducted disparity studies in 2000 and in 2005. The County was receptive to recommendations from the previous studies to enhance its purchasing and M/WBE programs. In 2005, the County accepted the disparity study update conducted by MGT. To strengthen its support of M/W/SBEs and its efforts to narrowly tailor its M/WBE program the County accepted recommendations included in the study to revise race-gender conscious and race-neutral targets and the formation of a small business enterprise (SBE) component. The purpose of the revised and newly created M/W/SBE Program is to "effectively communicate Leon County procurement and contracting opportunities, through enhanced business relationships, to end disparity and to increase participation opportunities for certified minority and women-owned business enterprises and small business enterprises in a competitive environment."[11]

To reflect the addition of the SBE component, the title of the Policy 96-1 was changed to Purchasing and Minority, Women, Small Business (MWSBE) Policy. Consistent with the previous policy section 16, a business will be certified as a MBE, WBE or SBE however an MBE and WBE can also be certified as a SBE.

The following definitions were included in Section 16 to reflect the addition of the SBE component and for clarification of previous terms:

- Affiliate or Affiliation – Shall mean when an eligible either directly or indirectly controls or has the power to control the other; a third party or parties controls or has the power to control both; or other relationships between or among parties exist such that affiliation may be found. A business enterprise is an affiliate of an eligible owner when the eligible owner has possession, direct or indirect of either: (i) the Ownership of or ability to direct the voting of as the case may be more than fifty percent (50%) of the equity interest, value or voting power of such business, or (ii) the power to direct or cause the direction

[11] Board of County Commissioners Leon County, Florida, Policy No. 96-1 Purchasing, Minority, Women, and Small Business Enterprise Policy, June 14, 2006.

of the management and policies of such business whether through the Ownership of voting securities by contract or otherwise. In determining whether a business is an Affiliate with another business or with an Owner, consideration shall be given to all appropriate factors including but not limited to common Ownership, common management, contractual relationship and shared facilities.,

- Commercial useful function - Shall mean a business that: (a) is responsible for the execution of a distinct element of work or services; (b) carries out its obligation by actually performing, managing, or supervising the work involved; (c) performs work that is normal for its business, services and function; and (d) is not further Subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices. A Contractor, Subcontractor, Vendor or Supplier shall not be considered to perform a Commercially Useful Function if the Contractor's, Subcontractor's, Vendor's or Supplier's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of M/W/SBE participation.,

- Joint venture - Shall mean a legal organization that takes the form of a short term partnership in which the parties jointly undertake for a transaction, for which they combine their property, capital, efforts, skills, and knowledge. Generally, each party shall contribute assets and share risks. Joint Ventures can involve any type of business transaction and the parties involved can be individuals, groups of individuals, companies or corporations.

- Race/gender neutral - Shall mean that component of the M/W/SBE Program that seeks to increase participation of MBEs, WBEs, or SBEs in procurements and contracts through means other than setting MBE or WBE (Race/Gender Conscious) Aspirational Targets. Such Race- Neutral means include, but are not limited to, the SBE Program and the coordination and outreach with/to programs and/or agencies whose purpose is to serve and assist businesses regardless of their race or gender, such as the Florida Agricultural & Mechanical University Small Business Development Center, Florida State University Jim Moran Institute, the Small Business Administration, the State of Florida Commission on Minority Economics and Business Development/Minority Business Advocacy and Assistance Office, Tallahassee Chamber of Commerce Economic Development Council and the Capital City Chamber of Commerce .

- Small business enterprise - Shall mean a business whose SBE certification is recognized, effective and accepted by Leon County's M/W/SBE Program.

3.4.1 Staffing and Responsibilities

In further support of M/W/SBEs, the County renamed the M/WBE office to M/W/SBE Division. The M/W/SBE Director's responsibilities include:

- Establish written procedures to implement the M/W/SBE Program, including the certification of businesses as SBEs, MBEs and WBEs.

- Assess the certification of applications for the M/W/SBE program, and coordinate certifications with partner agencies.
- Establish realistic aspirational targets and identify procurement opportunities for competition among SBEs.
- Identify and work to eliminate barriers that inhibit M/W/SBE participation in Leon County's procurement process.
- Establish realistic targets to increase M/W/SBE utilization.
- Provide information and assistance to M/W/SBEs regarding procurement opportunities with Leon County.
- Maintain a database of certified M/W/SBEs and provide information to County departments and divisions in identifying M/W/SBEs for anticipated procurements.
- Monitor the utilization of M/W/SBEs and the progress of the M/W/SBE Program to ensure M/W/SBEs have opportunities to participate in the County's procurement process.
- Implement mechanisms and procedures for monitoring M/W/SBE compliance by prime contractors and staff.
- Perform outreach by networking with state and local governments and others, participate in conventions and seminars sponsored and widely attended by M/W/SBEs.
- Implement mechanisms to evaluate the program's progress.

Staffing for the County's M/W/SBE program consists of two full time positions - the program director and an analyst. After the 2000 disparity study the M/WBE office was comprised of one person. The budget for the M/W/SBE Program for fiscal year 2008 is more than $300,000. This budget includes a one-time fee for an M/W/SBE tracking program, contracted from B_2G Now and staff salaries. The budget was also adjusted by deducting the contract dollars for the SBE training component with the SBDC at Florida Agricultural & Mechanical University.

Per Section 16 of the policy, staff responsibilities include recommending modifications to the County's M/W/SBE aspirational targets; coordinating steps to encourage full participation by M/WSBEs in the County's procurement processes and fostering more economic development in Leon County. In addition to establishing specific M/W/SBE aspirational targets for County procurements, the M/W/SBE program division provides technical assistance and other race-neutral program components, such as outreach activities and maintaining a directory of certified M/WBEs to promote the utilization of these firms.

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3.4.2 M/W/SBE Classifications and Aspirational Targets

Minority-, woman-, and small-owned businesses that wish to be recognized as M/W/SBE vendors in the County's procurement process must apply for M/W/SBE certification through the program office. M/WBEs are businesses that are at least 51 percent owned and controlled by, and whose management functions are at least 51 percent performed by, persons who are:

- African Americans - All persons having origins in any of the Black African racial groups not of Hispanic origins and having community identification as such.
- Hispanic Americans - All persons (Mexican, Puerto Rican, Cuban, Central or South American, or Spanish Culture or origin, regardless of race) who were reared in a Hispanic environment, whose surname is Hispanic and who have community identification as such.
- Asian Americans - All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands and having community identification as such.
- American Indians, Alaskan Natives, and American Aleuts - All persons having origins in any of the original people of North America, maintaining identifiable tribal affiliations through membership and participation and having community identification as such.
- Women – All women who are non-Hispanic white females. Minority women were included in their respective minority category.
- Small – shall mean a business whose SBE certification is recognized, effective and accepted by Leon County's M/W/SBE Program.

M/WBEs that wish to be certified by the County as such must meet the criteria as shown in **Exhibit 3-5**.

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EXHIBIT 3-5
LEON COUNTY, FLORIDA
M/W/SBE CERTIFICATION ELIGIBLITY CRITERIA

CERTIFICATION ELIGIBILITY CRITERIA	Type of Certification (must meet ALL marked criteria)		
	MBE	WBE	SBE
Majority Owner(s) must be a Minority or Minorities who manage and Control the business. In the case of a publicly owned business at least 51% of all classes of the stock which is owned shall be owned by one or more of such persons.	X		
Majority Owner(s) must be a Woman or Women who manage and Control the business. In the case of a publicly owned business, at least 51% of all classes of the stock which is owned shall be owned by one or more of such persons.		X	
Majority Ownership in the business shall not have been transferred to a woman or minority, except by descent or a bona fide sale within the previous two years.	X	X	
Majority owner(s) must reside in Leon, Gadsden, Jefferson or Wakulla County Florida.	X	X	X
Majority owner(s) must be a United States citizen or lawfully admitted permitted resident of the United States	X	X	X
Business must be legally structured either as a corporation, organized under the laws of Florida, or a partnership, sole proprietorship, limited liability, or any other business or professional entity as required by Florida law.	X	X	X
Business must be independent and not an affiliate, front, façade, broker, or pass through.	X	X	X
Business must be a for-profit business concern.	X	X	X
Business must be currently located within market area.	X	X	X

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EXHIBIT 3-5
LEON COUNTY, FLORIDA
M/W/SBE CERTIFICATION ELIGIBILITY CRITERIA (CONTINUED)

CERTIFICATION ELIGIBILITY CRITERIA	Type of Certification (must meet ALL marked criteria)		
	MBE	WBE	SBE
Business must have all license required by local, state and federal law.	X	X	X
Business must currently be licensed and engaging in commercial transactions typical of the filed, with customers in the Local Market Area other than state or government agencies, for each specialty area in which certification is sought. Further, if a Supplier, business must be making sales regularly from goods maintained in stock.	X	X	X
Business must have expertise normally required by the industry for the field for which certification is sought.	X	X	X
Business must have a net worth of no more than $2 million.	X	X	X
Business must employ 50 or fewer full- or part-time employees, including leased employees.	X	X	X
Annual gross receipts on average, over the immediately preceding three (3) year period, shall not exceed: - For business performing construction - $2,000,000/year. - For businesses providing Other Services or Materials & Supplies - $2,000,000/year - For businesses providing Professional Services - $1,000,000/year	X	X	X

Source: http://www.leoncountyfl.gov/bcc/policy/pdf/12-02.pdf.

3.4.2.1 M/W/SBE Certification

The M/W/SBE certification process includes the following steps.

- Submission of a Certification Application Package
- Review and evaluation of the submitted application data and determination of disposition within 30 days of submission.
- Vendors deemed certifiable are notified in writing of the certification.
- If an applicant cannot be determined certifiable based on information provided, the County provides written notification stating the reasons for denial. If the M/W/SBE certification is denied the applicant may not reapply for certification for a period of six months after the notice of the date of denial.
- Certification denials may be appealed in writing to the M/W/SBE Director within 10 working days after receipt of the denial of certification letter. Failing a satisfactory determination, firms denied certification may appeal to the M/W/SBE Citizen Advisory Committee.
- Certification is valid for two years other provided otherwise.

The M/W/SBE Program may accept MBE and WBE certifications from parties to The M/WBE inter-local agreement (such parties currently include the City of Tallahassee, Leon County, and the Leon County School Board; however, such parties may change from time to time without notice or revision to this policy). Further, the M/W/SBE Division reserves the right to review the certification process and documentation utilized by an outside certifying agency; request clarification or additional information from the certified business; to delay acceptance of certification while it is being reviewed; and to deny certification any time during the Certification period.

The certification directory for Leon County and the City of Tallahassee are available on their respective Web sites. As of April 2009, the County directory included 73 M/W/SBE certified firms. The City of Tallahassee directory included more than 200 firms of which 13 were certified by Leon County.

3.4.2.2 Aspirational Targets

The County uses aspirational targets to establish levels of participation by M/WBEs in the County's procurement of goods and services. **Exhibit 3-6** shows the M/WBE aspirational targets:

EXHIBIT 3-6
LEON COUNTY BOARD OF COUNTY COMMISSIONERS

FISCAL YEAR RACE AND GENDER NEUTRAL TARGETS												
Targets	Construction		Construction Subcontracting		Professional Services Consultants		Professional Services Subconsultants		Other Services Vendors		Material and Supplies Vendors	
	MBE	WBE	MBE	WBE	MBE	WBE	MBE	WBE	MBE	WBE	MBE	WBE
Race/Gender Neutral (SBE, etc.)	1%	1%	15%	3%	6%	5%	3%	5%	6%	6%	1%	5%
Race/Gender Neutral Total	2%		18%		11%		8%		12%		6%	
FISCAL YEAR RACE AND GENDER CONSCIOUS TARGETS												
Targets	Construction		Construction Subcontracting		Professional Services Consultants		Professional Services Subconsultants		Other Services Vendors		Material and Supplies Vendors	
	MBE	WBE	MBE	WBE	MBE	WBE	MBE	WBE	MBE	WBE	MBE	WBE
Race/Gender Neutral (SBE, etc.)	5%	1%	3%	N/A	N/A	N/A	18%	9%	N/A	NA	1%	N/A
Race/Gender Neutral Total	6%		3%		N/A		27%		N/A		1%	

Source: Board of County Commissioners - Leon County, Purchasing and Minority/Women Business Enterprise Policy, Revised June 14, 2006.

3.4.2.3 M/W/SBE Incentives

As mentioned in Section 3.3 of this chapter, for contracts of $100,000 or less, where there is a disparity of 1 percent or less between the total of the base bid and all recommended alternates of a 100 percent owned and operated MBE, WBE or SBE and the apparent lowest bid which is from a business that is not a MBE, or SBE, and all other purchasing requirements have been met, the Contract may be awarded to the MBE, WBE or SBE to help achieve Race/Gender Neutral Targets, unless such procurement

opportunity is selected for completion only among SBEs.. On selection based procurements, The County's Purchasing Director or representative, M/W/SBE Director and representatives from user departments shall review each proposed project or bid to determine the potential for subcontracting and the utilization of M/W/SBEs considering the scope of work, available and capable M/W/SBEs to potentially perform the work, and opportunities for multiple bids. Based upon these factors the M/W/SBE Director or designee shall determine the Aspirational targets. Further the M/W/SBE Director shall determine the Race/Gender Conscious targets or Race/Gender Neutral targets, unless such procurement opportunity is selected for completion only among SBEs.

3.4.2.4 Participation Plans

Bidders are to submit a Participation Plan when the procurement opportunity contains Aspirational Targets. Participation Plans shall identify the M/WBEs and non M/WBEs to be utilized, their percentage of utilization, and the commercially useful function they will be providing, consistent with the commodities or services for which they are certified. The participation plan is to be analyzed by the M/W/SBE Director prior to submission to the Board for approval of award.

3.4.2.5 Good Faith Efforts and Substitutions

Prime contractors that are unable to meet the stated M/WBE aspirational targets may submit evidence to the County with bid documents demonstrating the level of effort to attract M/WBE participation. Evidence of good faith efforts include, but are not limited to:

- Submission of proof of M/WBE certification for the M/WBEs that are being used on the project.
- Proof of advertising for bids from M/W/SBEs in non-minority and minority publications in the Leon County, Florida, area.
- Proof that ample time was allowed for M/W/SBE subcontractors to respond to bid opportunities.
- Submission of a list of M/W/SBEs that were directly contacted by the prime contractor.
- Telephone logs demonstrating proof of follow-up calls to M/W/SBEs.
- Information regarding the availability of bid specifications and blueprints to M/W/SBEs.
- Documentation showing the sound basis for rejecting M/W/SBEs as unqualified or unacceptable.
- Documentation showing that the County's M/W/SBE Director was contacted regarding a problem meeting M/W/SBE aspirational targets.
- Any other documentation further proving good faith efforts.

When a proposal is submitted, the M/W/SBE Director reviews the M/WBE Participation Plan to determine if the M/WBE participation levels are met according to a point scale, which is presented in the RFP. If the M/W/SBE Director determines the Bidder with subcontracting and supplier opportunities have not made a Good Faith Effort to meet the aspirational target the M/W/SBE Director shall refer the matter to the Good Faith Effort Committee. The good faith documentation is reviewed by the County's "Good Faith Committee," which consists of the Management Services Director (currently vacant), Purchasing Director or designee, and chair of the M/W/SBE Citizens Advisory Committee and may include others appointed at the discretion of the County Administrator or the County Administrator's designee.

Policy permits substitution of M/W/SBEs after contract award with prior approval of the M/W/SBE Director with assistance from technical staff. Grounds for M/W/SBE substitution include poor work performance, lack of success in improving the work performance level of the M/W/SBE, and withdrawal request by the M/W/SBE.

3.4.3 M/WBE Reporting

The County is required to submit an update to the Board on its performance on meeting its Aspirational targets. According to the M/W/SBE status report of December 11, 2007 the expenditure data was pulled from the County's financial system. Expenses are manually adjusted to eliminate certain costs such as staff, land acquisitions, telephone, utilities, local travel reimbursements, office rent, expenditures with government agencies and expenses outside the market area. Verified subcontractor expenditures were deducted from the prime contractor's expenditures and reported as subcontractor expenditures. Contractors expenditures with subcontractors was only required to be reported on those contractors with M/WBE aspirational targets; therefore, subcontractor expenses with non-minority owned and other business may not have been identified for adjustment and remain in a higher level of classification based on contract type. [12]

Exhibit 3-7 summarizes expenditure data by race and gender for fiscal year 2004/2005 and 2005/2006. The "Total Expenditures" column reflects the actual estimated expenditures by the race and gender of the major business owner. The "Estimated Parity Minus Estimated Expenditures" column reflects the amount the expenditures with each race and gender group is above or below what would be expected if parity were achieved, based on that group's availability in the local market area.

[12] Board of County Commissioners Agenda Request 26, Acceptance of Status Report Regarding County Utilization of Minority and Women-Owned Businesses, December 11, 2007.

EXHIBIT 3-7
LEON COUNTY BOARD OF COUNTY COMMISSIONERS
M/WBE REPORTING
FISCAL YEAR 2004/2005 TO FISCAL YEAR 2005/2006

Summary Across All Business Categories						
	Differences between Actual Estimated Expenditures and Estimated Parity					
	Total Expenditures			Est. Parity Minus Est. Expenditures		
Race/Gender	FY 04/05	FY 05/06	Both Years	FY 04/05	FY 05/06	Both Years
African Americans	$ 2,933,432.00	$ 3,625,204.00	$ 6,558,636.00	$ 876,022.00	$ (708,896.00)	$ 167,126.00
Hispanic Americans	$ 37,654.00	$ 35,894.00	$ 73,548.00	$ (179,317.00)	$ (542,971.00)	$ (722,288.00)
Asian Americans	$ 55,355.00	$ 63,609.00	$ 118,964.00	$ 2,512.00	$ (21,782.00)	$ (19,270.00)
Native Americans	$ 44,880.00	$ 68,354.00	$ 113,234.00	$ (19,405.00)	$ (114,604.00)	$ (134,009.00)
Non-minority Women	$ 2,128,631.00	$ 7,568,233.00	$ 9,696,864.00	$ 997,672.00	$ 5,466,523.00	$ 6,464,195.00
Non-minority	$ 16,337,284.00	$ 35,310,829.00	$ 51,648,113.00	$ (1,677,485.00)	$ (4,078,270.00)	$ (5,755,755.00)
[1] Total All Categories	$ 21,537,236.00	$ 46,672,123.00	$ 68,209,359.00	$ (1.00)	$ -	$ (1.00)

[1] Total difference from parity does not equal zero due to rounding.

Source: M/WBE Reporting, Fiscal Year 2004/2005 to Fiscal Year 2005/2006.

The status report also included a plan for continued success and enhancement opportunities to be performed by the M/W/SBE Division:

- Improve its tracking system to monitor and provide feedback for M/WBE and nonminority procurement activities.
- Continue to inform MBEs about procurement opportunities with the County and encourage managers to utilize MBEs.
- Continue its on-going efforts to identify barriers that prevent procurement opportunities for M/WBEs and eliminate such to enhance the utilization of the available firms.
- Review the Tax Collectors' records to identify and encourage MBEs to become certified for procurement opportunities in areas where there is underutilization.
- Direct M/WBEs to use the services of the Small Business Development Center at Florida Agricultural & Mechanical University to improve the operation of their businesses, thereby enhancing their chances of winning procurement opportunities.

3.5 Conclusions

MGT's research, summarized in this chapter, showed that the County has made significant strides in its commitment to level the playing field for businesses desiring to provide goods and services to the County. The County has been receptive to earlier recommendations to enhance its purchasing and M/WBE programs. For instance, MGT were told of improved levels of cooperation between the Purchasing Division, M/W/SBE Division, and other County departments and divisions. MGT was also told that recently M/W/SBE and nonminority subcontracting participation is being tracked now. The County has also improved the accessibility of information through its Web site, consolidated its purchasing policy and M/W/SBE participation policy and collaborated with the local outreach efforts put forth through the Small Business Enterprise Week and MEDWeek activities with the City of Tallahassee and the Small Business Development Center at Florida Agricultural & Mechanical University.

The consolidation of the purchasing policy and the M/WBE participation policy provided a stronger basis for user departments to involve M/WBE firms in County procurements. Interviewees directed MGT to the Purchasing Department for responses to questions on policy changes and to the M/W/SBE Division to answer questions on M/W/SBE program requirements. The revised policy is clearer on the County's intent to provide competitive opportunities to all vendors and administrative steps (e.g., one of three quotes should be from an M/W/SBE) to facilitate competition. From an organizational perspective, the County elevated the M/W/SBE program to division level, which improves the internal and external perception of the County's commitment to the program's success. The County's suspension of the training criteria for SBE certification until the completion of the disparity study update is viewed as positive by staff.

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4.0 UTILIZATION AND AVAILABILITY ANALYSIS

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4.0 UTILIZATION AND AVAILABILITY ANALYSES

This study for the Board of County Commissioners of Leon County (County) documents and analyzes the participation of minority, women, and nonminority businesses in the County's procurements. This chapter describes the County's market area and analyzes the utilization and availability of minority, women, and nonminority firms. The results of the analyses ultimately determine whether minority, women, or nonminority businesses were underutilized or overutilized in these procurements.

This chapter consists of the following sections:

4.1 Methodology
4.2 Construction
4.3 Architecture and Engineering Services[1]
4.4 Professional Services
4.5 Other Services
4.6 Materials and Supplies
4.7 Summary

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4.1 Methodology

This section presents the methodology for the collection of data and analysis of market areas, utilization, and availability of minority-owned, woman-owned, and nonminority-owned firms. The description of business categories and minority- and woman-owned business enterprise (M/WBE) classifications are also presented in this section, as well as the process used to determine the geographical market areas, utilization, and availability of firms.

4.1.1 Business Categories

The County's mark area, utilization and availability of M/WBE firms and non-M/WBE firms were analyzed for five business categories: construction, architecture and engineering, professional services, other services, and goods, equipment, and supplies.

These categories were consistent with the County's classification of contracts awarded and payments made by the County during the four-year study period. Each contract vendor payment or subcontractor award was grouped into one of the above categories by MGT with assistance from County staff knowledgeable about the contracts and payments. A description of each business category follows.

Architecture and Engineering

Architecture and engineering refers to any architecture or engineering services, including but not limited to:

[1] For the purpose of this study, architecture and engineering services were analyzed separately. In the 2004 Disparity Study, architecture and engineering services were included in the professional services business category.

- Architectural design.
- Professional engineering.
- Environmental consulting.
- Inspections.
- Soil testing.
- Surveying.

Construction

Construction refers to any building and highway construction-related services, including but not limited to:

- General building contractors engaged primarily in the construction of buildings.
- General contracting in the construction of roadways, bridges, sewers, and heavy construction.
- Construction-special trade services, such as electrical work; carpentry, air conditioning repair, maintenance, and installation; plumbing; and renovation.
- Other related services such as water-lining and maintenance, asbestos abatement, drainage, dredging, grading, hauling, landscaping (for large construction projects such as boulevards and highways), paving, and toxic waste clean up.

Professional Services

This category covers services provided by a person or firm that are of a professional nature and require special licensing, educational degrees, and/or highly specialized expertise, including:

- Consulting services.
- Legal services.
- Educational services.
- Computer services.
- Other professional services.

Other Services

This category includes any service that is labor intensive and neither professional nor construction related, including, but not limited to:

- Janitorial and repair services.
- Uniformed guard services.
- Certain job shop services.
- Graphics or photographic services.
- Other nontechnical professional services.

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Materials and Supplies

This business category includes vendors that provide the following, but not limited to:

- Office goods
- Supplies
- Equipment
- Miscellaneous building materials
- Computers

Certain transactions were excluded from analysis in this study. Examples include:

- Administrative items such as utility payments, leases for real estate, and insurance or banking transactions.
- Salary and fringe benefits, payments for food or parking; or conference fees.
- Payments to government entities including nonprofit local organizations, state agencies, and federal agencies.

Firms were assigned to a particular business category based on the County's payment description obtained from the County's financial system. However, based on feedback from the County, certain payments were reclassified according to vendor name rather than the type of payment received and/or payment description.

4.1.2 M/WBE Classifications

In this study, businesses classified as M/WBEs are firms at least 51 percent owned and controlled by members of one of five groups: African Americans, Hispanic Americans, Asian Americans, Native Americans, and nonminority women. These groups were defined according to the United States Census Bureau as follows:

- **African Americans:** U.S. citizens or lawfully admitted permanent residents having an origin in any of the black racial groups of Africa.
- **Hispanic Americans:** U.S. citizens or lawfully admitted permanent residents of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese cultures or origins regardless of race.
- **Asian Americans:** U.S. citizens or lawfully admitted permanent residents who originate from the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.
- **Native Americans:** U.S. citizens or lawfully admitted permanent residents who originate from any of the original peoples of North America and who maintain cultural identification through tribal affiliation or community recognition.
- **Nonminority Women:** U.S. citizens or lawfully admitted permanent residents who are non-Hispanic white females. Minority women were included in their respective minority category.

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The M/WBE determinations reflected in this report were based on the source data discussed below in **Section 4.1.3**. If the business owner classification was unclear in the source data, MGT of America, Inc. (MGT), conducted additional research to determine the proper business owner classification. This included requesting assistance from cognizant County representatives to identify the proper business owner classification. Firms that were identified in the source data as non-M/WBEs were considered to be nonminority-owned firms in the analysis conducted for this study.

4.1.3 Collection and Management of Data

To determine the most appropriate data for our use in the analysis of the County's procurement activity and to identify data sources, MGT conducted interviews with key staff knowledgeable about the County's procurement processes. The decision was made by the County and MGT that procurement data for construction would be extracted from electronic expenditure data, as well as contract award data and contract files. Data for architecture and engineering, professional services, other services, and materials supplies would be extracted from electronic expenditure, purchase order, and purchasing card (Pcard) data.

Contract and Subcontract Data Collection

Once the sources of data for the contract award data was defined and obtained, MGT designed a data collection plan to collect contract data from the hard copy files. Expenditure, purchase order, and Pcard transaction data would be provided in electronic format. The following data were provided:

- Financial Expenditure Data: a file extracted from the County's Banner financial system containing payments made to vendors during the study period.
- List of Agreements: a file containing awards granted to vendors during the study period.
- Vendor List Data: a file extracted from the County's Banner financial system containing vendors that were paid or have registered to do business with the County.
- Permit Data: a file containing commercial construction permits let to prime contractors and subcontractors during the study period. [2]
- Purchase Order Data: a file containing invoices made to vendors during the study period.
- Pcard Transactions Data: a file containing small dollar payments made to vendors during the study period.

Upon further review and discussions with the County, it was agreed that the list of agreements would be used to develop the data collection plan for on-site data collection activities. The financial expenditure data would be used to analyze payments made to vendors, which would be the primary data source for the prime contractor/consultant

[2] Please refer to **Chapter 6.0, Private Sector Analysis**, for a detailed discussion of this data set.

utilization analyses. Each electronic list provided the following data that we used for analysis:

- Name of firm awarded and/or paid.
- Award and/or payment amount of the transaction.
- Contract and/or payment post date of the award and/or payment.
- A description of the contract and/or payment from which the business category of the procurement could be derived.

Once collected and entered or transferred into the MGT database, the data were processed as follows:

- Exclusion of records not relevant to the study. Examples of procurement activity excluded from analysis include duplicate procurement records; contracts out of the time frame of the study; contracts awarded or payments made to nonprofits and government entities; and utility payments such as water, gas, and electricity.
- Identification of the county in which the vendor operated. To accomplish this, the zip code of the vendor was matched against an MGT zip code database of all United States counties.
- Identification of the prime contractor's business category.

MGT designed a data collection plan to collect contract from hard copy contract files and the County's verification reports, which are sent to prime contractors requesting subcontracting activity. The hard copy data was collected by MGT employees and firm area firm, Oppenheim Research. The data collection team were trained on the disparity study data collection techniques and County hard copy files in order to ensure accuracy. Once collected and transferred into the MGT database, the data were processed as follows:

- Exclusion of records not relevant to the study. Examples of procurement activity excluded from analysis include duplicate procurement records; contracts out of the time frame of the study; contracts awarded to nonprofits and government entities; and utility payments such as water, gas, and electricity.
- Identification of the county in which the vendor operated. To accomplish this, the ZIP code of the vendor was matched against an MGT ZIP code database of all United States counties.
- Identification of the prime contractor's business category.

Availability (Vendor) Data Collection

Determining the availability of firms is a critical element in developing disparity analyses. Therefore, MGT analyzes the availability of firms at the prime and subcontractor level.

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For the purposes of this study, MGT defines prime contractors as firms that (1) have performed prime contract work for the County; (2) have bid on prime contract work for the County in the past; or (3) are construction, architecture and engineering, professional services, other services, or materials and supplies firms that were in the County's Banner system These firms are considered to be available because they have either performed or indicated their willingness to perform prime contract work for the local San Antonio market area. These firms are defined as available contractors because they have either performed work or have indicated their willingness to perform work for the County. MGT also used other availability measures, including U.S. Census data for comparison purposes, which will be referenced in **Appendix D**.

For the subcontractor availability, MGT defines subcontractor availability as firms that (1) are considered prime contractors and consultants; (2) firms that have been awarded a contractor by prime contractor; and (3) firms that were proposed to be used by an unsuccessful prime contractor bidder.

This process generated a listing of 13,886 entries; however, a number of the entries were names of nonprofit organizations, governmental agencies, and duplicate entries. As a result, our availability analyses were based on a pool of 8,452 firms. Approximately 6,652 entries (records) of the approximately 13,886 were excluded from the availability analyses. The most common reasons for exclusion were: duplicate records (i.e., unique vendors who appeared in multiple vendor databases provided by the County); no business category (i.e., vendors who were not utilized, a business type was not provided, or a business type could not be identified from their name); nonprofit agencies, associations, or councils; governmental agencies, including schools and universities; travel-related businesses, including hotels, car rental, and conference fees; real estate; and utilities, postage, and hospitals.

Data for Analysis

The total number of expenditure records analyzed for the study period is shown below in **Exhibit 4-1**. The number of records for construction, architecture and engineering, professional services, other services, and materials supplies represents expenditure data.

EXHIBIT 4-1
LEON COUNTY
NUMBER OF ANALYZED RECORDS
OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2008

Business Category	# of Records
Construction	3,059
Architecture & Engineering	1,278
Professional Services	3,209
Other Services	11,213
Materials and Supplies	16,940

Source: Expenditure activity compiled from the County's Banner financial data system.

As far as hard copy files, the data collection plan presented a total of 358 contracts to be reviewed and entered while on-site. A total of 654[3] contracts were reviewed and/or entered while on-site.

4.1.4 Market Area Methodology

In order to establish the appropriate geographic boundaries for the statistical analysis, market areas were determined for each of the business categories included in the study. First, the overall market area was determined and then the relevant market area was established.

Overall Market Area

A United States county is the geographical unit of measure selected for determining market area. The use of counties as geographical units is based on the following considerations:

- The courts have accepted counties as a standard geographical unit of analysis in conducting equal employment opportunity and disparity analysis.
- County boundaries are externally determined and thus free from any researcher bias that might result from any arbitrary determinations of geographical units of analysis.
- Census and other federal and state data are routinely collected and reported by county.

The counties that constituted the County's overall market area were determined by evaluating the total dollars expended by the County in each business category. The results were then summarized by county according to the location of each firm that provided goods or services to the County.

4.1.5 Utilization Methodology

The utilization analyses of construction, architecture and engineering, professional services, other services, and materials and supplies firms were based on information derived from County's financial system for activity occurring between October 1, 2004 and September 30, 2008. The analysis was based on firms located in the following: Leon County, Florida; Gadsden County, Florida; Wakulla County, Florida, and Jefferson County, Florida.

4.1.6 Availability Methodology

To evaluate disparate impact, if any, it is necessary to identify available M/WBEs in the local area for each business category. This determination, referred to as "availability," has been an issue in recent court cases. If the availability of minority- and woman-owned firms is overstated or understated, a distortion of the disparity determination will result.

[3] This increase in number includes the contracts for the housing and rehabilitation projects which were not listed as part of the list of agreements.

This distortion occurs because the quantitative measure of disparity is a direct ratio between utilization and availability.

Several methodologies may be used to determine availability, including analysis of vendor data and bidder data. The use of vendor data is preferable to bidder data because it considers firms that have expressed a readiness, willingness, and ability to provide goods and/or services to procuring entities, even when they have not been successful in doing so. Discriminatory barriers may, under certain circumstances, preclude such firms from submitting bids. For MGT's analysis, MGT used vendor data, as well as firms who bid on County projects in the past for the prime level availability analysis.

For the subcontractor availability, MGT defines subcontractor availability as firms that (1) are considered prime contractors and consultants; (2) firms that have been awarded a contractor by prime contractor; and (3) firms that were proposed to be used by an unsuccessful prime contractor bidder.

As indicated previously in this chapter, MGT utilized various sources to determine prime and subcontractor availability in order to develop the appropriate availability data within the market area.

4.2 Construction

This section presents MGT's analysis of the County's utilization in the construction business category, as well as the utilization and availability of firms.

4.2.1 Utilization Analysis

For firms located in the Leon County market area, the following analysis was conducted:

- Utilization analysis of all M/WBE and non-M/WBE prime contractors' expenditures by year for the study period.
- Utilization analysis of the number of individual prime contractors paid those dollars, according to race/ethnicity/gender classifications.
- Utilization analysis of all identified M/WBE and non-M/WBE subcontractors' awards for the study period.

The utilization analysis of prime construction contractors in the County's market area is shown in **Exhibit 4-2**. M/WBEs were paid more than 16 percent (16.3%) of the total prime construction dollars expended by the County during the study period. The County paid $73.86 million for construction services during the study period. Nonminority women-owned firms received $9.5 million, accounting for 12.9 percent of the 16.3 percent paid to M/WBEs. Among M/WBEs, African American-owned firms were paid $2.6 million, accounting for 3.5 percent of the 16.3 percent paid to M/WBEs. Firms owned by Hispanic Americans, Native Americans and Asian Americans were not utilized at the prime construction level, during the study period, thus not receiving any payments.

EXHIBIT 4-2
CONSTRUCTION
UTILIZATION ANALYSIS OF PAYMENTS
IN THE LEON COUNTY MARKET AREA
DOLLARS AND PERCENTAGE OF TOTAL DOLLARS PAID
BY RACE/ETHNICITY/GENDER CLASSIFICATIONS
OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2008

Calendar Year	African Americans		Hispanic Americans		Asian Americans		Native Americans		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Unknown		Total Dollars Paid
	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$
2005	$640,584.74	6.11%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$255,838.18	2.44%	$896,422.92	8.55%	$9,589,981.55	91.45%	$0.00	0.00%	$10,486,404.47
2006	$638,580.17	1.80%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$3,944,142.43	11.13%	$4,582,722.60	12.93%	$30,846,862.43	87.07%	$0.00	0.00%	$35,429,585.03
2007	$811,002.66	4.91%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$1,942,082.56	11.75%	$2,753,085.22	16.66%	$13,776,179.56	83.34%	$0.00	0.00%	$16,529,264.78
2008	$463,039.50	4.06%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$3,357,186.47	29.40%	$3,820,225.97	33.46%	$7,598,684.80	66.54%	$0.00	0.00%	$11,418,910.77
Total	$2,553,207.07	3.46%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$9,499,249.64	12.86%	$12,052,456.71	16.32%	$61,811,708.34	83.68%	$0.00	0.00%	$73,864,165.05

Source: MGT developed a vendor and expenditure database for the County covering the period from October 1, 2004 through September 30, 2008.
[1] Percentage of total dollars paid annually to prime contractors.

The utilization of firms in the prime construction business category has changed since the 2004 Disparity Study. In the previous study, which was based on contract awards, there was less than 2 percent ($479,980) of the $29.9 million awarded going to M/WBEs. The utilization of African American-owned firms has increased from 0.37 percent ($110,385) to 3.5 percent ($2.6 million). The utilization of nonminority women-owned firms has increased from 1.15 percent ($344,350) to 12.9 percent ($9.5 million).

Exhibit 4-3 shows the number of prime construction firms utilized over the entire the study period. In **Exhibit 4-3**, MGT shows that 15 M/WBE firms (18.9%) were paid for construction projects at the prime contractor level. In comparison, 64 non-M/WBEs were paid during the same period.

EXHIBIT 4-3
CONSTRUCTION
NUMBER OF INDIVIDUAL PRIME CONTRACTORS
UTILIZED IN THE LEON COUNTY MARKET AREA
BY RACE/ETHNICITY/GENDER CLASSIFICATIONS
OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2008

Calendar Year	African Americans		Hispanic Americans		Asian Americans		Native Americans		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Unknown		Total Firms[1]
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#
2005	4	9.30%	0	0.00%	0	0.00%	0	0.00%	5	11.63%	9	20.93%	34	79.07%	0	0.00%	43
2006	4	9.76%	0	0.00%	0	0.00%	0	0.00%	4	9.76%	8	19.51%	33	80.49%	0	0.00%	41
2007	5	12.82%	0	0.00%	0	0.00%	0	0.00%	2	5.13%	7	17.95%	32	82.05%	0	0.00%	39
2008	4	10.26%	0	0.00%	0	0.00%	0	0.00%	3	7.69%	7	17.95%	32	82.05%	0	0.00%	39
Individual Firms over Four Years[2]	**7**	**8.86%**	**0**	**0.00%**	**0**	**0.00%**	**0**	**0.00%**	**8**	**10.13%**	**15**	**18.99%**	**64**	**81.01%**	**0**	**0.00%**	**79**

Source: MGT developed a vendor and expenditure database for the County covering the period from October 1, 2004 through September 30, 2008.
[1] Percentage of Total Firms.
[2] "Individual Firms" counts a firm only once for each year it receives work. Since a firm could be used in multiple years, the "Individual Firms" for the entire study period may not equal the sum of all years.

Construction Subcontractor Analysis

As stated previously, MGT attempted to collect subcontractor data from hard copy files and County verification reports data maintained by the County. It should be noted that the analysis would have been heavily weighted towards M/WBEs because those were the data most readily available.

Because the data are so heavily weighted towards M/WBE firms, we provide in **Exhibit 4-4** an analysis of subcontracting utilization based on an estimated subcontracting level. We had the distribution of the number of M/WBE subcontracts by race and gender, but needed to know construction subcontracts awarded to non-M/WBEs in order to establish a reasonable basis to determine the relative proportion of construction subcontract dollars to overall construction contracts.

Our experience has shown that subcontracting generally represents 20 to 30 percent of the prime construction contract amounts. Census data support the applicability of this rule of thumb for this project. The "2002 Census of Construction – Geographic Area Summary Findings" shows that the cost of construction work subcontracted out in the state of Florida was 25.1 percent. Assuming that the County's construction spending pattern is similar to the overall patterns in the state of Florida, we would conclude that subcontractors received at least 20 percent of the dollars associated with construction prime contracts and as much as 25.1 percent of prime level dollars.

Using the corresponding prime dollars for the four years for which M/WBE subcontracting data were available, we calculate the overall construction subcontract dollars to have been $18.5 million (25 percent) in the market area (see **Exhibit 4-2**). Accordingly, **Exhibit 4-4** shows the estimated construction subcontracting utilization percentages under these assumptions.

Based on the analysis, non-M/WBE firms received 87 percent ($16.1 million of $18.5 million) of the construction subcontract dollars awarded during the study period. M/WBE firms received 12.9 percent, with African American-owned firms receiving 10.1 percent ($1.9 million of $18.5 million).

EXHIBIT 4-4
CONSTRUCTION
UTILIZATION ANALYSIS OF SUBCONTRACTORS
IN THE LEON COUNTY MARKET AREA
DOLLARS AND PERCENTAGE OF TOTAL ESTIMATED DOLLARS
BY RACE/ETHNICITY/GENDER CLASSIFICATIONS
OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2008

Year	Total Construction $[1]	Subcontract Dollars [2]	African American		Hispanic American		Asian American		Native American		Nonminority Women		Total M/WBE	
			%	$	%	$	%	$	%	$	%	$	%	$
2005	$10,486,404.47	$ 2,621,601.12	41.86%	$ 1,097,457.43	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	2.13%	$55,963.24	44.00%	$1,153,420.67
2006	$35,429,585.03	$ 8,857,396.26	3.39%	$ 299,890.00	2.44%	$216,200.00	0.00%	$0.00	0.00%	$250.00	0.42%	$36,998.00	6.25%	$553,338.00
2007	$16,529,264.78	$ 4,132,316.20	9.00%	$ 372,076.00	0.43%	$17,579.70	0.00%	$0.00	0.23%	$9,542.00	2.35%	$97,260.00	12.01%	$496,457.70
2008	$11,418,910.77	$ 2,854,727.69	3.48%	$ 99,416.65	2.41%	$68,800.00	0.00%	$0.00	0.00%	$0.00	0.82%	$23,540.00	6.72%	$191,756.65
Total	$ 73,864,165.05	$ 18,466,041.26	10.12%	$ 1,868,840.08	1.64%	$302,579.70	0.00%	$0.00	0.05%	$9,792.00	1.16%	$213,761.24	12.97%	$2,394,973.02

Source: MGT developed a vendor and expenditure database for the County covering the period from October 1, 2004 through September 30, 2008.
[1] Actual dollar amounts based on expenditure amounts to prime contractors.
[2] Percentage of the total estimated subcontractor dollars awarded.
[3] Calculated as estimated subcontract dollars less M/WBE subcontract dollars.

4.2.2 Availability

The availability of construction firms was derived from the list of overall firms included in MGT's database. However, the availability analysis is based only on firms located within the Leon County market area. As shown in **Exhibit 4-5**, M/WBEs accounted for more than 16 percent of prime construction contractors available to do business with the County at the prime construction level. Among M/WBEs, African American-owned firms were the largest group, accounting for 9.7 percent of the total construction contractors.

EXHIBIT 4-5
CONSTRUCTION
AVAILABILITY OF PRIME CONTRACTORS
BY RACE/ETHNICITY/GENDER CLASSIFICATIONS

	African Americans[1]		Hispanic Americans[1]		Asian Americans[1]		Native Americans[1]		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Unknown		Total Firms
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
Total	18	9.73%	0	0.00%	1	0.54%	0	0.00%	12	6.49%	31	16.76%	154	83.24%	0	0.00%	185

Source: MGT developed a vendor and expenditure database for the County covering the period from October 1, 2004 through September 30, 2008.
[1] Minority male and female firms are included in their respective minority classifications.

Exhibit 4-6 displays availability percentages for subcontractors. M/WBEs accounted for 32.3 percent of construction subcontractors available to do business. Among M/WBEs, African American-owned firms were the largest group, accounting for 18.8 percent of the total M/WBE construction contractors. The data for subcontractors was based on readily available data collected from hard copy files, which included firms who were awarded work at a subcontractor level, as well as firms who were proposed to be utilized by a prime contractor. For M/WBE subcontractor availability, by individual race/ethnicity/gender classifications, African American firms represented 18.75 percent, Hispanic American firms 1.56 percent, Asian American firms 0.52 percent, Native American firms 0.69 percent, and nonminority women firms 10.76 percent.

EXHIBIT 4-6
CONSTRUCTION
AVAILABILITY OF SUBCONTRACTORS
BY RACE/ETHNICITY/GENDER CLASSIFICATIONS
OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2008

	African Americans[1]		Hispanic Americans[1]		Asian Americans[1]		Native Americans[1]		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Total Firms
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
Total	108	18.75%	9	1.56%	3	0.52%	4	0.69%	62	10.76%	186	32.29%	390	67.71%	576

Source: MGT developed a vendor and expenditure database for the County covering the period from October 1, 2004 through September 30, 2008.
[1] Minority male and female firms are included in their respective minority classifications.

4.3 Architecture and Engineering

This section presents MGT's analysis for the architecture and engineering business category. This analysis is based on County payments to firms providing architectural and engineering services. In this section, MGT shows the results of the utilization and availability analysis of M/WBEs and non-M/WBEs as architecture and engineering consultants, within the County market area.

4.3.1 Utilization Analysis

Exhibit 4-7 presents the utilization analysis of architecture and engineering prime consultants in the County's market area and shows that M/WBEs received over $1.1 million (14.6%) of the architecture and engineering payment dollars. Non-M/WBEs accounted for more than $6.1 million of the architecture and engineering dollars expended by the County over the study period, receiving 85.4 percent of the dollars.

EXHIBIT 4-7
ARCHITECTURE AND ENGINEERING
UTILIZATION ANALYSIS OF PAYMENTS
IN THE LEON COUNTY MARKET AREA
DOLLARS AND PERCENTAGE OF TOTAL DOLLARS PAID
BY RACE/ETHNICITY/GENDER CLASSIFICATIONS
OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2008

Calendar Year	African Americans		Hispanic Americans		Asian Americans		Native Americans		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Unknown		Total Dollars Paid
	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$
2005	$82,183.00	5.67%	$0.00	0.00%	$56,035.00	3.87%	$0.00	0.00%	$8,649.30	0.60%	$146,867.30	10.14%	$1,301,953.15	89.86%	$0.00	0.00%	$1,448,820.45
2006	$117,864.97	6.36%	$0.00	0.00%	$64,867.50	3.50%	$0.00	0.00%	$50,872.02	2.74%	$233,604.49	12.60%	$1,619,850.93	87.40%	$0.00	0.00%	$1,853,455.42
2007	$206,002.65	8.15%	$0.00	0.00%	$62,249.00	2.46%	$0.00	0.00%	$133,750.14	5.29%	$402,001.79	15.91%	$2,124,160.92	84.09%	$0.00	0.00%	$2,526,162.71
2008	$131,213.11	9.58%	$0.00	0.00%	$13,157.50	0.96%	$0.00	0.00%	$126,841.52	9.26%	$271,212.13	19.80%	$1,098,551.33	80.20%	$0.00	0.00%	$1,369,763.46
Total	$537,263.73	7.46%	$0.00	0.00%	$196,309.00	2.73%	$0.00	0.00%	$320,112.98	4.45%	$1,053,685.71	14.64%	$6,144,516.33	85.36%	$0.00	0.00%	$7,198,202.04

Source: MGT developed a vendor and expenditure database for the County covering the period from October 1, 2004 through September 30, 2008.
[1] Percentage of total dollars paid annually to prime consultants.

Exhibit 4-8 shows the number of prime architecture and engineering firms utilized over the entire the study period. In **Exhibit 4-8**, MGT shows that 12 M/WBE firms (38.7%) were paid for architecture and engineering services at the prime consultant level. In comparison, 19 non-M/WBEs were paid during the same period.

EXHIBIT 4-8
ARCHITECTURE AND ENGINEERING
NUMBER OF INDIVIDUAL PRIME CONSULTANTS
UTILIZED IN THE LEON COUNTY MARKET AREA
BY RACE/ETHNICITY/GENDER CLASSIFICATIONS
OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2008

Calendar Year	African Americans		Hispanic Americans		Asian Americans		Native Americans		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Unknown		Total Firms[1]
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#
2005	2	9.52%	0	0.00%	2	9.52%	0	0.00%	3	14.29%	7	33.33%	14	66.67%	0	0.00%	21
2006	3	12.50%	0	0.00%	2	8.33%	0	0.00%	4	16.67%	9	37.50%	15	62.50%	0	0.00%	24
2007	4	15.38%	0	0.00%	2	7.69%	0	0.00%	4	15.38%	10	38.46%	16	61.54%	0	0.00%	26
2008	3	13.64%	0	0.00%	2	9.09%	0	0.00%	5	22.73%	10	45.45%	12	54.55%	0	0.00%	22
Individual Firms over Four Years [2]	**4**	**12.90%**	**0**	**0.00%**	**2**	**6.45%**	**0**	**0.00%**	**6**	**19.35%**	**12**	**38.71%**	**19**	**61.29%**	**0**	**0.00%**	**31**

Source: MGT developed a vendor and expenditure database for the County covering the period from October 1, 2004 through September 30, 2008.
[1] Percentage of Total Firms.
[2] "Individual Firms" counts a firm only once for each year it receives work. Since a firm could be used in multiple years, the "Individual Firms" for the entire study period may not equal the sum of all years.

The comparison of utilization of firms in the prime architecture and engineering business category was not conducted since this service was previously categorized in professional services.

4.3.2 Availability

The availability of architecture and engineering firms was derived from the list of overall firms included in MGT's database. However, the availability analysis is based only on firms located within the Leon County market area. As shown in **Exhibit 4-9**, M/WBEs accounted for more than 30 percent of architecture and engineering firms available to do business with the County at the prime level. Among M/WBEs, nonminority women-owned firms were the largest group, accounting for 17.4 percent of the total M/WBE construction contractors.

EXHIBIT 4-9
ARCHITECTURE AND ENGINEERING
AVAILABILITY OF PRIME CONSULTANTS
BY RACE/ETHNICITY/GENDER CLASSIFICATIONS

	African Americans[1]		Hispanic Americans[1]		Asian Americans[1]		Native Americans[1]		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Unknown		Total Firms
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
Total	4	8.70%	0	0.00%	2	4.35%	0	0.00%	8	17.39%	14	30.43%	32	69.57%	0	0.00%	46

Source: MGT developed a vendor and expenditure database for the County covering the period from October 1, 2004 through September 30, 2008.
[1] Minority male and female firms are included in their respective minority classifications.

4.4 *Professional Services*

This section presents MGT's analysis for the professional services business category. This analysis is based on County payments to firms providing professional services. In this section, MGT shows the results of the utilization and availability analysis of M/WBEs and non-M/WBEs as professional services prime consultants, within the County market area.

4.4.1 *Utilization Analysis*

Exhibit 4-10 presents the utilization analysis of professional services prime consultants in the County's market area and shows that M/WBEs received over $719,300 (16.1%) of the professional services payment dollars. Non-M/WBEs accounted for more than $3.7 million of the professional services dollars expended by the County over the study period, receiving 83.9 percent of the dollars.

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EXHIBIT 4-10
PROFESSIONAL SERVICES
UTILIZATION ANALYSIS OF PAYMENTS
IN THE LEON COUNTY MARKET AREA
DOLLARS AND PERCENTAGE OF TOTAL DOLLARS PAID
BY RACE/ETHNICITY/GENDER CLASSIFICATIONS
OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2008

Calendar Year	African Americans		Hispanic Americans		Asian Americans		Native Americans		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Unknown		Total Dollars
	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$
2005	$44,172.11	3.06%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$220,646.61	15.30%	$264,818.72	18.36%	$1,177,461.95	81.64%	$0.00	0.00%	$1,442,280.67
2006	$55,888.25	4.91%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$203,911.61	17.92%	$259,799.86	22.83%	$878,396.89	77.17%	$0.00	0.00%	$1,138,196.75
2007	$52,857.25	5.09%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$109,314.42	10.53%	$162,171.67	15.62%	$875,764.85	84.38%	$0.00	0.00%	$1,037,936.52
2008	$28,512.00	3.30%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$4,075.00	0.47%	$32,587.00	3.77%	$831,526.33	96.23%	$0.00	0.00%	$864,113.33
Total	$181,429.61	4.05%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$537,947.64	12.00%	$719,377.25	16.05%	$3,763,150.02	83.95%	$0.00	0.00%	$4,482,527.27

Source: MGT developed a vendor and expenditure database for the County covering the period from October 1, 2004 through September 30, 2008.

[1] Percentage of total dollars paid annually to prime consultants.

Exhibit 4-11 shows the number of prime professional services firms utilized over the entire the study period. In **Exhibit 4-11**, MGT shows that 22 M/WBE firms (32.4%) were paid for professional services at the prime consultant level. In comparison, 46 non-M/WBEs were paid during the same period.

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EXHIBIT 4-11
PROFESSIONAL SERVICES
NUMBER OF INDIVIDUAL PRIME CONSULTANTS
UTILIZED IN THE LEON COUNTY MARKET AREA
BY RACE/ETHNICITY/GENDER CLASSIFICATIONS
OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2008

Calendar Year	African Americans		Hispanic Americans		Asian Americans		Native Americans		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Unknown		Total Firms[1]
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#
2005	4	9.30%	0	0.00%	0	0.00%	0	0.00%	10	23.26%	14	32.56%	29	67.44%	0	0.00%	43
2006	2	5.88%	0	0.00%	0	0.00%	0	0.00%	8	23.53%	10	29.41%	24	70.59%	0	0.00%	34
2007	2	6.25%	0	0.00%	0	0.00%	0	0.00%	7	21.88%	9	28.13%	23	71.88%	0	0.00%	32
2008	1	4.17%	0	0.00%	0	0.00%	0	0.00%	5	20.83%	6	25.00%	18	75.00%	0	0.00%	24
Individual Firms over Four Years [2]	**5**	**7.35%**	**0**	**0.00%**	**0**	**0.00%**	**0**	**0.00%**	**17**	**25.00%**	**22**	**32.35%**	**46**	**67.65%**	**0**	**0.00%**	**68**

Source: MGT developed a vendor and expenditure database for the County covering the period from October 1, 2004 through September 30, 2008.
[1] Percentage of Total Firms.
[2] "Individual Firms" counts a firm only once for each year it receives work. Since a firm could be used in multiple years, the "Individual Firms" for the entire study period may not equal the sum of all years.

The comparison of utilization of firms in the prime professional services business category was not conducted since architecture and engineering services was previously categorized in professional services.

4.4.2 Availability

The availability of professional services firms was derived from the list of overall firms included in MGT's database. However, the availability analysis is based only on firms located within the Leon County market area. As shown in **Exhibit 4-12**, M/WBEs accounted for more than 27 percent of professional services firms available to do business with the County at the prime level. Among M/WBEs, nonminority women-owned firms were the largest group, accounting for 18.2 percent of the total M/WBEs.

EXHIBIT 4-12
PROFESSIONAL SERVICES
AVAILABILITY OF PRIME CONSULTANTS
BY RACE/ETHNICITY/GENDER CLASSIFICATIONS

	African Americans[1]		Hispanic Americans[1]		Asian Americans[1]		Native Americans[1]		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Unknown		Total Firms
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
Total	8	8.08%	1	1.01%	0	0.00%	0	0.00%	18	18.18%	27	27.27%	72	72.73%	0	0.00%	99

Source: MGT developed a vendor and expenditure database for the County covering the period from October 1, 2004 through September 30, 2008.
[1] Minority male and female firms are included in their respective minority classifications.

4.5 Other Services

This section presents MGT's analysis for the other services business category. This analysis is based on County payments to firms providing other services. In this section, MGT shows the results of the utilization and availability analysis of M/WBEs and non-M/WBEs as other services firms, within the County market area.

4.5.1 Utilization Analysis

Exhibit 4-13 presents the utilization analysis of other services firms, in the County's market area and shows that M/WBEs received over $3.4 million (53.8%) of the other services payment dollars. Non-M/WBEs accounted for more than $2.9 million of the other services dollars expended by the County over the study period, receiving 46.4 percent of the dollars.

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EXHIBIT 4-13
OTHER SERVICES
UTILIZATION ANALYSIS OF PAYMENTS
IN THE LEON COUNTY MARKET AREA
DOLLARS AND PERCENTAGE OF TOTAL DOLLARS PAID
BY RACE/ETHNICITY/GENDER CLASSIFICATIONS
OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2008

Calendar Year	African Americans		Hispanic Americans		Asian Americans		Native Americans		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Unknown		Total Dollars Paid
	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$
2005	$208,003.57	14.46%	$25,871.76	1.80%	$420.00	0.03%	$3,696.37	0.26%	$379,951.03	26.41%	$617,942.73	42.96%	$820,575.79	57.04%	$0.00	0.00%	$1,438,518.52
2006	$234,253.76	14.04%	$33,739.90	2.02%	$1,345.80	0.08%	$0.00	0.00%	$652,018.22	39.09%	$921,357.68	55.24%	$746,620.92	44.76%	$0.00	0.00%	$1,667,978.60
2007	$256,595.23	15.29%	$48,199.94	2.87%	$435.00	0.03%	$0.00	0.00%	$653,888.27	38.95%	$959,118.44	57.14%	$719,526.61	42.86%	$0.00	0.00%	$1,678,645.05
2008	$118,763.45	7.53%	$211,276.72	13.40%	$1,471.00	0.09%	$0.00	0.00%	$578,024.31	36.66%	$909,535.48	57.69%	$667,098.26	42.31%	$0.00	0.00%	$1,576,633.74
Total	$817,616.01	12.85%	$319,088.32	5.02%	$3,671.80	0.06%	$3,696.37	0.06%	$2,263,881.83	35.59%	$3,407,954.33	53.57%	$2,953,821.58	46.43%	$0.00	0.00%	$6,361,775.91

Source: MGT developed a vendor and expenditure database for the County covering the period from October 1, 2004 through September 30, 2008.

[1] Percentage of total dollars paid annually to prime consultants.

Exhibit 4-14 shows the number of other services firms utilized over the entire the study period. In **Exhibit 4-14**, MGT shows that 56 M/WBE firms (26.4%) were paid for other services by the County. In comparison, 156 non-M/WBEs were paid during the same period.

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EXHIBIT 4-14
OTHER SERVICES
NUMBER OF INDIVIDUAL FIRMS
UTILIZED IN THE LEON COUNTY MARKET AREA
BY RACE/ETHNICITY/GENDER CLASSIFICATIONS
OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2008

Calendar Year	African Americans		Hispanic Americans		Asian Americans		Native Americans		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Unknown		Total Firms[1]
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#
2005	16	14.68%	3	2.75%	1	0.92%	1	0.92%	12	11.01%	33	30.28%	76	69.72%	0	0.00%	109
2006	18	16.07%	2	1.79%	1	0.89%	0	0.00%	14	12.50%	35	31.25%	77	68.75%	0	0.00%	112
2007	15	14.42%	2	1.92%	1	0.96%	0	0.00%	16	15.38%	34	32.69%	70	67.31%	0	0.00%	104
2008	12	13.33%	2	2.22%	1	1.11%	0	0.00%	11	12.22%	26	28.89%	64	71.11%	0	0.00%	90
Individual Firms over Four Years[2]	**27**	**12.74%**	**3**	**1.42%**	**1**	**0.47%**	**1**	**0.47%**	**24**	**11.32%**	**56**	**26.42%**	**156**	**73.58%**	**0**	**0.00%**	**212**

Source: MGT developed a vendor and expenditure database for the County covering the period from October 1, 2004 through September 30, 2008.
[1] Percentage of Total Firms.
[2] "Individual Firms" counts a firm only once for each year it receives work. Since a firm could be used in multiple years, the "Individual Firms" for the entire study period may not equal the sum of all years.

The utilization of firms in the other services business category has changed since the 2004 Disparity Study. In the previous study, which was based on purchase order awards, there was less than 30 percent ($3.3 million) of the $11.1 million awarded going to M/WBEs. As far as percentages, the utilization of M/WBE firms has increased from 30 percent to 53.6 percent. As far as percentages and dollars, the utilization of nonminority women-owned firms has increased from 11.8 percent ($1.3 million) to 35.6 percent ($2.3 million).

4.5.2 Availability

The availability of other services firms was derived from the list of overall firms included in MGT's database. However, the availability analysis is based only on firms located within the Leon County market area. As shown in **Exhibit 4-15**, M/WBEs accounted for more than 24 percent of other services firms available to do business with the County at the prime level. Among M/WBEs, African American-owned firms were the largest group, accounting for 11.6 percent of the total firms.

EXHIBIT 4-15
OTHER SERVICES
AVAILABILITY OF FIRMS
BY RACE/ETHNICITY/GENDER CLASSIFICATIONS

	African Americans[1]		Hispanic Americans[1]		Asian Americans[1]		Native Americans[1]		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Unknown		Total Firms
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
Total	30	11.63%	3	1.16%	1	0.39%	1	0.39%	27	10.47%	62	24.03%	181	70.16%	15	5.81%	258

Source: MGT developed a vendor and expenditure database for the County covering the period from October 1, 2004 through September 30, 2008.
[1] Minority male and female firms are included in their respective minority classifications.

4.6 Materials and Supplies

This section presents MGT's analysis for the materials and supplies business category. This analysis is based on County payments to firms providing other services. In this section, MGT shows the results of the utilization and availability analysis of M/WBEs and non-M/WBEs as materials and supplies firms, within the County market area.

4.6.1 Utilization Analysis

Exhibit 4-16 presents the utilization analysis of materials and supplies firms, in the County's market area and shows that M/WBEs received over $1.6 million (13.8%) of the materials and supplies payment dollars. Non-M/WBEs accounted for more than $10 million of the materials and supplies dollars expended by the County over the study period, receiving 86.2 percent of the dollars.

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EXHIBIT 4-16
MATERIALS AND SUPPLIES
UTILIZATION ANALYSIS OF PAYMENTS
IN THE LEON COUNTY MARKET AREA
DOLLARS AND PERCENTAGE OF TOTAL DOLLARS PAID
BY RACE/ETHNICITY/GENDER CLASSIFICATIONS
OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2008

Calendar Year	African Americans		Hispanic Americans		Asian Americans		Native Americans		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Unknown		Total Dollars Paid
	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$
2005	$73,865.75	3.42%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$410,216.65	18.98%	$484,082.40	22.40%	$1,676,722.18	77.60%	$0.00	0.00%	$2,160,804.58
2006	$17,710.00	0.49%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$435,346.85	11.94%	$453,056.85	12.42%	$3,194,080.90	87.58%	$0.00	0.00%	$3,647,137.75
2007	$4,100.00	0.16%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$339,654.85	13.66%	$343,754.85	13.83%	$2,142,570.53	86.17%	$0.00	0.00%	$2,486,325.38
2008	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$324,213.93	9.73%	$324,213.93	9.73%	$3,006,335.46	90.27%	$0.00	0.00%	$3,330,549.39
Total	$95,675.75	0.82%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$1,509,432.28	12.98%	$1,605,108.03	13.81%	$10,019,709.07	86.19%	$0.00	0.00%	$11,624,817.10

Source: MGT developed a vendor and expenditure database for the County covering the period from October 1, 2004 through September 30, 2008.

[1] Percentage of total dollars paid annually to prime consultants.

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Exhibit 4-17 shows the number of materials and supplies firms utilized over the entire the study period. In **Exhibit 4-17**, MGT shows that 20 M/WBE firms (11.3%) were paid for materials and supplies by the County. In comparison, 157 non-M/WBEs were paid during the same period.

EXHIBIT 4-17
MATERIALS AND SUPPLIES
NUMBER OF INDIVIDUAL FIRMS
UTILIZED IN THE LEON COUNTY MARKET AREA
BY RACE/ETHNICITY/GENDER CLASSIFICATIONS
OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2008

Calendar Year	African Americans		Hispanic Americans		Asian Americans		Native Americans		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Unknown		Total Firms[1]
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#
2005	3	2.54%	0	0.00%	0	0.00%	0	0.00%	13	11.02%	16	13.56%	102	86.44%	0	0.00%	118
2006	1	0.88%	0	0.00%	0	0.00%	0	0.00%	8	7.02%	9	7.89%	105	92.11%	0	0.00%	114
2007	2	1.89%	0	0.00%	0	0.00%	0	0.00%	8	7.55%	10	9.43%	96	90.57%	0	0.00%	106
2008	0	0.00%	0	0.00%	0	0.00%	0	0.00%	8	8.42%	8	8.42%	87	91.58%	0	0.00%	95
Individual Firms over Four Years[2]	**5**	**2.82%**	**0**	**0.00%**	**0**	**0.00%**	**0**	**0.00%**	**15**	**8.47%**	**20**	**11.30%**	**157**	**88.70%**	**0**	**0.00%**	**177**

Source: MGT developed a vendor and expenditure database for the County covering the period from October 1, 2004 through September 30, 2008.
[1] Percentage of Total Firms.
[2] "Individual Firms" counts a firm only once for each year it receives work. Since a firm could be used in multiple years, the "Individual Firms" for the entire study period may not equal the sum of all years.

The utilization of firms in the materials and supplies business category has changed since the 2004 Disparity Study. In the previous study, which was based on purchase order awards, there was slightly more than 16 percent ($2.7 million) of the $17.1 million awarded going to M/WBEs. As far as percentages, the utilization of M/WBE firms has decreased from 16 percent to 13.8 percent.

4.6.2 Availability

The availability of materials and supplies firms was derived from the list of overall firms included in MGT's database. However, the availability analysis is based only on firms located within the Leon County market area. As shown in **Exhibit 4-18**, M/WBEs accounted for slightly more than 10 percent of materials and supplies firms available to do business with the County at the prime level. Among M/WBEs, nonminority women-owned firms were the largest group, accounting for 8 percent of the total firms.

EXHIBIT 4-18
MATERIALS AND SUPPLIES
AVAILABILITY OF FIRMS
BY RACE/ETHNICITY/GENDER CLASSIFICATIONS

	African Americans[1]		Hispanic Americans[1]		Asian Americans[1]		Native Americans[1]		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Unknown		Total Firms
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
Total	4	1.45%	1	0.36%	1	0.36%	0	0.00%	22	8.00%	28	10.18%	247	89.82%	0	0.00%	275

Source: MGT developed a vendor and expenditure database for the County covering the period from October 1, 2004 through September 30, 2008.
[1] Minority male and female firms are included in their respective minority classifications.

4.7 Summary

Exhibit 4-19 summarizes the analysis results presented in this chapter. The utilization and availability data presented in these exhibits are further analyzed in **Chapter 5.0** of this report.

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EXHIBIT 4-19
SUMMARY OF M/WBE UTILIZATION
BY BUSINESS CATEGORY

Business Category	African American	Hispanic American	Asian American	Native American	Nonminority Women	Total M/WBE
Construction Prime Contractors						
Utilization Dollars	$2,553,207	$0	$0	$0	$9,499,250	$12,052,457
Utilization Percent	3.46%	0.00%	0.00%	0.00%	12.86%	16.32%
Availability Percent	9.73%	0.00%	0.54%	0.00%	6.49%	16.76%
Construction Subcontractors (Overall Subcontractor Level)						
Utilization Dollars	$1,868,840	$0	$302,580	$0	$0	$9,792
Utilization Percent	10.12%	1.64%	0.00%	0.05%	1.16%	12.97%
Availability Percent	18.75%	1.56%	0.52%	0.69%	10.76%	32.29%
Architecture and Engineering Prime Consultants						
Utilization Dollars	$537,264	$0	$196,309	$0	$320,113	$1,053,686
Utilization Percent	7.46%	0.00%	2.73%	0.00%	4.45%	14.64%
Availability Percent	8.70%	0.00%	4.35%	0.00%	17.39%	30.43%
Professional Services Prime Consultants						
Utilization Dollars	$181,430	$0	$0	$0	$537,948	$719,377
Utilization Percent	4.05%	0.00%	0.00%	0.00%	12.00%	16.05%
Availability Percent	8.08%	1.01%	0.00%	0.00%	18.18%	27.27%
Other Services Firms						
Utilization Dollars	$817,616	$319,088	$3,672	$3,696	$2,263,882	$3,407,954
Utilization Percent	12.85%	5.02%	0.06%	0.06%	35.59%	53.57%
Availability Percent	11.63%	1.16%	0.39%	0.39%	10.47%	24.03%
Materials and Supplies Vendors						
Utilization Dollars	$95,676	$0	$0	$0	$1,509,432	$1,605,108
Utilization Percent	0.82%	0.00%	0.00%	0.00%	12.98%	13.81%
Availability Percent	1.45%	0.36%	0.36%	0.00%	8.00%	10.18%

Source: Results from Chapter 4.0 Analysis of Utilization and Availability Results

5.0 DISPARITY ANALYSIS

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5.0 DISPARITY ANALYSIS

This chapter examines the issue of disparity within each business category of procurement. Disparity, in this context, is the analysis of the differences between the utilization of minority- and women-owned business enterprises (M/WBEs) and the availability of those firms. Accordingly, MGT of America, Inc. (MGT), used disparity indices to examine whether M/WBEs received a proportional share of dollars based on the availability of M/WBEs in the relevant market area.

This chapter consists of the following sections:

- **Section 5.1** describes the methodology used by MGT to test for the presence or absence of disparity in each of the business categories.
- **Section 5.2** applies the disparity indices to the business categories and determines the presence or absence of disparity in the County's procurement activity.
- **Section 5.3** summarizes the chapter and presents our conclusions

5.1 Methodology

MGT used the availability and utilization information presented in **Chapter 4.0** of this report as the basis to determine if M/WBEs received a proportional share of payments by the Board of County Commissioners of Leon County (County). This determination is made primarily through the disparity index calculation which compares the availability of firms with the utilization of those firms. The disparity index also provides a value that can be given a commonly accepted substantive interpretation.

The underlying assumption of this approach is that, absent discrimination, the proportion of dollars received by a particular M/WBE group should approximate that group's proportion of the relevant population of vendors. To determine if disparity exists M/WBEs and non-M/WBEs within a specific business category, MGT compared the utilization of each group to its respective availability within each of the relevant market areas.

5.1.1 Disparity Index

MGT pioneered the use of disparity indices as a means of quantifying the disparity in utilization relative to availability. The use of a disparity index for such calculations is supported by several post-*Croson* cases, most notably *Contractors Association of Eastern Pennsylvania v. City of Philadelphia*.[1] Although a variety of similar indices could be utilized, MGT's standard for choosing its particular index methodology is that it must yield a value that is easily calculable, understandable in its interpretation, and universally comparable such that a disparity in utilization within M/WBE categories can be assessed with reference to the utilization of non-M/WBEs.

[1] *Contractors Association of Eastern Pennsylvania, Inc. v. City of Philadelphia*, 91 F 3d at 603.

For this study, the ratio of the percentage of utilization[2] to the percentage of availability multiplied by 100 serves as the measure of choice, as shown in the formula:

$$\text{(1) Disparity Index} = \frac{\%Um_1p_1}{\%Am_1p_1} X\ 100$$

Where: Um_1p_1 = utilization of M/S/WBE$_1$ for procurement$_1$
Am_1p_1 = availability of M/S/WBE$_1$ for procurement$_1$

Due to the mathematical properties involved in the calculations, a disparity index value of 0.00 for a given race, ethnicity or gender category of firm indicates absolutely no utilization and, therefore, absolute disparity. An index of 100 indicates that vendor utilization is perfectly proportionate to availability for a particular group in a given business category, indicating the absence of disparity—that is, the proportion of utilization relative to availability one would expect, all things being equal. In general, firms within a business category are considered underutilized if the disparity indices are less than 100, and overutilized if the indices are above 100.

Since there is no standardized measurement to evaluate the levels of underutilization or overutilization within a procurement context, MGT has appropriated the Equal Opportunity Commission's (EEOC) "80 percent rule" in *Uniform Guidelines on Employee Selection Procedures*. In context of employment discrimination, an employment disparity ratio below 80 indicates a "substantial disparity" in employment. The Supreme Court has accepted the use of the 80 percent rule in *Connecticut v. Teal* (*Teal*), 457 U.S. 440 (1982), and in *Teal* and other affirmative action cases, the terms "adverse impact," "disparate impact," and "discriminatory impact" are used interchangeably to characterize values of 80 and below.

5.2 Disparity Indices Results

Tables showing disparity indices for construction, architecture and engineering, professional services, other services, and goods and supplies are analyzed in this section. As mentioned before, the tables are based on the utilization and availability of M/WBEs and non-M/WBEs in the Leon County relevant market area[3] as shown in **Chapter 4.0**.

5.2.1 Construction

Disparity Analysis of Construction Firms

Exhibit 5-1 shows the disparity indices for prime construction payments based on the County's expenditure data. As can be seen, during the four-year study period for the County, non-M/WBEs firms were overutilized with a disparity index of 100.53. Based on all years, WBEs were overutilized with a disparity index of 198.26. African American- and Asian American-owned firms were substantially underutilized with a disparity index of 35.53 and 0.00, respectively. Firms owned by Hispanic Americans, Native Americans,

[2] Percentage of utilization is based on expenditure dollars and the percentage of availability is based on the number of firms.
[3] The Leon County relevant market area includes the following counties: Leon County, Florida; Gadsden County, Florida; Jefferson County, Florida, and Wakulla County, Florida.

and Asian Americans were not utilized on the prime contractor level during the four-year study period.

EXHIBIT 5-1
DISPARITY ANALYSIS OF CONSTRUCTION FIRMS
ON THE PRIME CONTRACTOR LEVEL
IN THE LEON COUNTY MARKET AREA
BY BUSINESS OWNER CLASSIFICATIONS
OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2008

Business Owner Classification	% of Dollars[1]	% of Available Firms[2]	Disparity Index[3]	Disparate Impact of Utilization
2005				
African Americans	6.11%	9.73%	62.78	* Underutilization
Hispanic Americans	0.00%	0.00%	N/A	N/A
Asian Americans	0.00%	0.54%	0.00	* Underutilization
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	2.44%	6.49%	37.61	* Underutilization
Non-M/WBE Firms	91.45%	83.24%	109.86	Overutilization
2006				
African Americans	1.80%	9.73%	18.52	* Underutilization
Hispanic Americans	0.00%	0.00%	N/A	N/A
Asian Americans	0.00%	0.54%	0.00	* Underutilization
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	11.13%	6.49%	171.62	Overutilization
Non-M/WBE Firms	87.07%	83.24%	104.59	Overutilization
2007				
African Americans	4.91%	9.73%	50.43	* Underutilization
Hispanic Americans	0.00%	0.00%	N/A	N/A
Asian Americans	0.00%	0.54%	0.00	* Underutilization
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	11.75%	6.49%	181.14	Overutilization
Non-M/WBE Firms	83.34%	83.24%	100.12	Overutilization
2008				
African Americans	4.06%	9.73%	41.68	* Underutilization
Hispanic Americans	0.00%	0.00%	N/A	N/A
Asian Americans	0.00%	0.54%	0.00	* Underutilization
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	29.40%	6.49%	453.25	Overutilization
Non-M/WBE Firms	66.54%	83.24%	79.94	* Underutilization
All Years				
African Americans	3.46%	9.73%	35.53	* Underutilization
Hispanic Americans	0.00%	0.00%	N/A	N/A
Asian Americans	0.00%	0.54%	0.00	* Underutilization
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	12.86%	6.49%	198.26	Overutilization
Non-M/WBE Firms	83.68%	83.24%	100.53	Overutilization

Source: MGT developed an expenditure and vendor database for the County from October 1, 2004, through September 30, 2008.
[1] The percentage of dollars is taken from the prime utilization exhibit previously shown in **Chapter 4.0**.
[2] The percentage of available firms is taken from the availability exhibit previously shown in **Chapter 4.0**.
[3] The disparity index is the ratio of % utilization to % availability times 100.
* An asterisk is used to indicate a substantial level of disparity – index below 80.00.

2004 Disparity Study Comparison

Exhibit 5-2 presents a summary comparison of the utilization, availability, and disparity findings from the 2004 and 2009 studies. In the previous study, of the M/WBEs utilized at the prime contractor construction level, all M/WBEs were substantially underutilized. The current study shows that firms owned by African Americans and Asian Americans are still being substantially underutilized. Firms owned by nonminority women have changed from substantial underutilization to overutilization with a disparity index from 38.20 to 198.26. According to both studies, firms owned by Asian Americans and Native Americans were not utilized at the prime contractor level for construction projects. Based on percentages, M/WBE utilization has increased among few groups. Utilization of African American-owned firms has increased from 0.37 percent to 3.46 percent and 1.15 percent to 12.86 percent for nonminority-women. The utilization of Hispanic Americans has decreased from 0.08 percent to no utilization.

EXHIBIT 5-2
SUMMARY OF UTILIZATION, AVAILABILITY, AND DISPARITY ANALYSIS
BETWEEN 2004 STUDY AND 2009 STUDY
PRIME CONSTRUCTION CONTRACTORS
IN THE LEON COUNTY MARKET AREA
BY M/WBE CLASSIFICATIONS

	Percent of Prime Dollars[1]		% of Available Firms[2]		Disparity Index[3]		Disparate Impact of Utilization	
	2004 Study	2009 Study	2004 Study	2009 Study	2004 Study	2009 Study	2004 STUDY	2009 Study
African Americans	0.37%	3.46%	6.03%	9.73%	6.12	35.53	* Underutilization	* Underutilization
Hispanic Americans	0.08%	0.00%	1.51%	0.00%	5.60	N/A	* Underutilization	N/A
Asian Americans	0.00%	0.00%	0.00%	0.54%	0.00	0.00	N/A	* Underutilization
Native Americans	0.00%	0.00%	0.50%	0.00%	0.00	N/A	* Underutilization	N/A
Nonminority Women	1.15%	12.86%	3.02%	6.49%	38.20	198.26	* Underutilization	Overutilization

Source: Leon County Board of Commissioners September 2004 Disparity Study, **Chapter 5.0**, and Leon County Board of Commissioners August 2009 Disparity Study, **Chapter 5.0**.
[1] The percentage of dollars is taken from the prime utilization exhibit previously shown in **Chapter 4.0**.
[2] The percentage of available contractors is taken from the availability exhibit previously shown in **Chapter 4.0**.
[3] The disparity index is the ratio of % utilization to % availability times 100.
* An asterisk is used to indicate a substantial level of disparity – index below 80.00.

The construction subcontractor disparity analysis was based on the percentages of estimated subcontractor dollars as well as the availability of firms based on vendor data as mentioned in **Chapter 4.0.**

Exhibit 5-3 shows the construction subcontractor disparity analysis for all years of the study period is shown. Among the various M/WBE groups, utilization fluctuated between overutilization to substantial underutilization. Firms owned by African Americans were overutilized in 2005 resulting with a disparity index of 223.26. However, in subsequent years the utilization of African American-owned firms awarded to provide subcontracting services decreased, thus resulting in overall substantial underutilization with a disparity index of 53.98. Firms owned by Hispanic Americans were overutilized in 2006 and 2008 resulting in overall overutilization with a disparity index of 104.87. Excluding Hispanic American-owned firms, M/WBEs were substantially underutilized overall as subcontractors. Firms owned by Asian Americans were not awarded subcontracts during the study period, thus resulting in no utilization.

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EXHIBIT 5-3
DISPARITY ANALYSIS OF CONSTRUCTION SUBCONTRACTORS IN THE LEON COUNTY MARKET AREA BY BUSINESS OWNER CLASSIFICATIONS OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2008

Business Owner Classification	% of Dollars[1]	% of Available Firms[2]	Disparity Index[3]	Disparate Impact of Utilization
2005				
African Americans	41.86%	18.75%	223.26	Overutilization
Hispanic Americans	0.00%	1.56%	0.00	* Underutilization
Asian Americans	0.00%	0.52%	0.00	* Underutilization
Native Americans	0.00%	0.69%	0.00	* Underutilization
Nonminority Women	2.13%	10.76%	19.83	* Underutilization
Non-M/WBE Firms	56.00%	67.71%	82.71	Underutilization
2006				
African Americans	3.39%	18.75%	18.06	* Underutilization
Hispanic Americans	2.44%	1.56%	156.22	Overutilization
Asian Americans	0.00%	0.52%	0.00	* Underutilization
Native Americans	0.00%	0.69%	0.41	* Underutilization
Nonminority Women	0.42%	10.76%	3.88	* Underutilization
Non-M/WBE Firms	93.75%	67.71%	138.47	Overutilization
2007				
African Americans	9.00%	18.75%	48.02	* Underutilization
Hispanic Americans	0.43%	1.56%	27.23	* Underutilization
Asian Americans	0.00%	0.52%	0.00	* Underutilization
Native Americans	0.23%	0.69%	33.25	* Underutilization
Nonminority Women	2.35%	10.76%	21.87	* Underutilization
Non-M/WBE Firms	87.99%	67.71%	129.95	Overutilization
2008				
African Americans	3.48%	18.75%	18.57	* Underutilization
Hispanic Americans	2.41%	1.56%	154.24	Overutilization
Asian Americans	0.00%	0.52%	0.00	* Underutilization
Native Americans	0.00%	0.69%	0.00	* Underutilization
Nonminority Women	0.82%	10.76%	7.66	* Underutilization
Non-M/WBE Firms	93.28%	67.71%	137.77	Overutilization
All Years				
African Americans	10.12%	18.75%	53.98	* Underutilization
Hispanic Americans	1.64%	1.56%	104.87	Overutilization
Asian Americans	0.00%	0.52%	0.00	* Underutilization
Native Americans	0.05%	0.69%	7.64	* Underutilization
Nonminority Women	1.16%	10.76%	10.75	* Underutilization
Non-M/WBE Firms	87.03%	67.71%	128.54	Overutilization

Source: MGT developed an expenditure and vendor database for the County from October 1, 2004, through September 30, 2008.

[1] The percentage of subcontract dollars is taken from the subcontract utilization exhibit previously shown in **Chapter 4.0**. Calculations are based on estimates of nonminority subcontractor utilization at 25.1% of the total project dollars, which is the average for the state of Florida construction projects.

[2] The percentage of available subcontractors is taken from the availability exhibit previously shown in **Chapter 4.0**. These percentages were calculated using vendor data.

[3] The disparity index is the ratio of % utilization to % availability times 100. An asterisk is used to indicate a substantial level of disparity (index below 80.00).

2004 Disparity Study Comparison

Exhibit 5-4 presents a summary comparison of the utilization, availability, and disparity findings from the 2004 and 2009 studies. In the previous study, of the MBEs utilized at the subcontractor level, all MBEs were either underutilized or substantially underutilized. In the previous study, nonminority women-owned firms were overutilized at the subcontractor level, but the current study shows substantial underutilization of these firms with a disparity index of 10.75. Hispanic American-owned firms were not utilized in the previous study, thus resulting in underutilization. Hispanic American-owned firms were utilized in the current study resulting in a disparity index of 104.87, which resulted in overutilization overall. The utilization of Native American-owned firms at the subcontractor level has decreased in the disparate impact from underutilization to substantial underutilization with a disparity index of 87.17 to 7.64, respectively.

EXHIBIT 5-4
SUMMARY OF UTILIZATION, AVAILABILITY, AND DISPARITY ANALYSIS
BETWEEN 2004 STUDY AND 2009 STUDY
SUBCONTRACTOR LEVEL
IN THE LEON COUNTY MARKET AREA
BY M/WBE CLASSIFICATIONS

	Percent of Dollars[1]		% of Available Firms[2]		Disparity Index[3]		Disparate Impact of Utilization	
	2004 Study	2009 Study	2004 Study	2009 Study	2004 Study	2009 Study	2004 STUDY	2009 Study
African Americans	14.37%	10.12%	22.09%	18.75%	65.09	53.98	* Underutilization	* Underutilization
Hispanic Americans	0.00%	1.64%	1.20%	1.56%	0.00	104.87	* Underutilization	Overutilization
Asian Americans	0.00%	0.00%	0.40%	0.52%	0.00	0.00	* Underutilization	* Underutilization
Native Americans	0.35%	0.05%	0.40%	0.69%	87.17	7.64	Underutilization	* Underutilization
Nonminority Women	3.60%	1.16%	3.21%	10.76%	112.18	10.75	Overutilization	* Underutilization

Source: Leon County Board of Commissioners September 2004 Disparity Study, **Chapter 5.0**, and Leon County Board of Commissioners August 2009 Disparity Study, **Chapter 5.0**.
[1] The percentage of dollars is taken from the prime utilization exhibit previously shown in **Chapter 4.0**.
[2] The percentage of available contractors is taken from the availability exhibit previously shown in **Chapter 4.0**.
[3] The disparity index is the ratio of % utilization to % availability times 100.
* An asterisk is used to indicate a substantial level of disparity – index below 80.00.

5.2.2 Architecture and Engineering

In this section, the results of the disparity analysis for the architecture and engineering business category for firms within the San Antonio MSA are presented.

Disparity Analysis of Architecture and Engineering Firms

Exhibit 5-5 shows the disparity indices for architecture and engineering firms at the prime level. Based on the overall study period, MBEs were overutilized. Firms owned by Asian Americans were utilized in each year of the study, resulting in underutilization with a disparity index of 62.73. Firms owned by African Americans were underutilized in each year of the study period, expect for 2008, which resulted in underutilization with a disparity index of 85.83. Firms owned by nonminority women were substantially underutilized in each year of the study, resulting in substantial underutilization with a disparity index of 25.57. Firms owned by Hispanic Americans and Native Americans were not utilized.

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EXHIBIT 5-5
DISPARITY ANALYSIS OF ARCHITECTURE AND ENGINEERING FIRMS IN THE LEON COUNTY MARKET AREA BY BUSINESS OWNER CLASSIFICATIONS OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2008

Business Owner Classification	% of Dollars[1]	% of Available Firms[2]	Disparity Index[3]	Disparate Impact of Utilization
2005				
African Americans	5.67%	8.70%	65.23	* Underutilization
Hispanic Americans	0.00%	0.00%	N/A	N/A
Asian Americans	3.87%	4.35%	88.96	Underutilization
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	0.60%	17.39%	3.43	* Underutilization
Non-M/WBE Firms	89.86%	69.57%	129.18	Overutilization
2006				
African Americans	6.36%	8.70%	73.13	* Underutilization
Hispanic Americans	0.00%	0.00%	N/A	N/A
Asian Americans	3.50%	4.35%	80.50	Underutilization
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	2.74%	17.39%	15.78	* Underutilization
Non-M/WBE Firms	87.40%	69.57%	125.63	Overutilization
2007				
African Americans	8.15%	8.70%	93.78	Underutilization
Hispanic Americans	0.00%	0.00%	N/A	N/A
Asian Americans	2.46%	4.35%	56.68	* Underutilization
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	5.29%	17.39%	30.44	* Underutilization
Non-M/WBE Firms	84.09%	69.57%	120.87	Overutilization
2008				
African Americans	9.58%	8.70%	110.16	Overutilization
Hispanic Americans	0.00%	0.00%	N/A	N/A
Asian Americans	0.96%	4.35%	22.09	* Underutilization
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	9.26%	17.39%	53.25	* Underutilization
Non-M/WBE Firms	80.20%	69.57%	115.29	Overutilization
All Years				
African Americans	7.46%	8.70%	85.83	Underutilization
Hispanic Americans	0.00%	0.00%	N/A	N/A
Asian Americans	2.73%	4.35%	62.73	* Underutilization
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	4.45%	17.39%	25.57	* Underutilization
Non-M/WBE Firms	85.36%	69.57%	122.71	Overutilization

Source: MGT developed an expenditure and vendor database for the County from October 1, 2004, through September 30, 2008.
[1] The percentage of dollars is taken from the prime utilization exhibit previously shown in **Chapter 4.0**.
[2] The percentage of available firms is taken from the availability exhibit previously shown in **Chapter 4.0**.
[3] The disparity index is the ratio of % utilization to % availability times 100.
* An asterisk is used to indicate a substantial level of disparity – index below 80.00.

2004 Disparity Study Comparison

A summary comparison of the utilization, availability, and disparity findings from the 2004 and 2009 studies based on architectural and engineering services was not conducted. Architectural and engineering services were classified under professional

services in the previous study. Therefore, the comparison between both studies for professional services will be discussed in the next section.

5.2.3 Professional Services

In this section, the results of the disparity analysis for the professional services business category for firms are presented.

Disparity Analysis of Professional Services Firms

Exhibit 5-6 shows the disparity indices for professional services firms. Overall, of the firms utilized, M/WBE firms were substantially underutilized as professional services firms. African American- and nonminority women-owned firms were substantially underutilized with a disparity index of 50.09 and 66.01, respectively. Nonminority male-owned firms were overutilized with a disparity index of 115.43.

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EXHIBIT 5-6
DISPARITY ANALYSIS OF PROFESSIONAL SERVICES FIRMS IN THE LEON COUNTY MARKET AREA BY BUSINESS OWNER CLASSIFICATIONS OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2008

Business Owner Classification	% of Dollars[1]	% of Available Firms[2]	Disparity Index[3]	Disparate Impact of Utilization
2005				
African Americans	3.06%	8.08%	37.90	* Underutilization
Hispanic Americans	0.00%	1.01%	0.00	* Underutilization
Asian Americans	0.00%	0.00%	N/A	N/A
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	15.30%	18.18%	84.14	Underutilization
Non-M/WBE Firms	81.64%	72.73%	112.25	Overutilization
2006				
African Americans	4.91%	8.08%	60.76	* Underutilization
Hispanic Americans	0.00%	1.01%	0.00	* Underutilization
Asian Americans	0.00%	0.00%	N/A	N/A
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	17.92%	18.18%	98.53	Underutilization
Non-M/WBE Firms	77.17%	72.73%	106.11	Overutilization
2007				
African Americans	5.09%	8.08%	63.02	* Underutilization
Hispanic Americans	0.00%	1.01%	0.00	* Underutilization
Asian Americans	0.00%	0.00%	N/A	N/A
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	10.53%	18.18%	57.93	* Underutilization
Non-M/WBE Firms	84.38%	72.73%	116.02	Overutilization
2008				
African Americans	3.30%	8.08%	40.83	* Underutilization
Hispanic Americans	0.00%	1.01%	0.00	* Underutilization
Asian Americans	0.00%	0.00%	N/A	N/A
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	0.47%	18.18%	2.59	* Underutilization
Non-M/WBE Firms	96.23%	72.73%	132.31	Overutilization
All Years				
African Americans	4.05%	8.08%	50.09	* Underutilization
Hispanic Americans	0.00%	1.01%	0.00	* Underutilization
Asian Americans	0.00%	0.00%	N/A	N/A
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	12.00%	18.18%	66.01	* Underutilization
Non-M/WBE Firms	83.95%	72.73%	115.43	Overutilization

Source: MGT developed an expenditure and vendor database for the County from October 1, 2004, through September 30, 2008.
[1] The percentage of dollars is taken from the prime utilization exhibit previously shown in **Chapter 4.0**.
[2] The percentage of available firms is taken from the availability exhibit previously shown in **Chapter 4.0**.
[3] The disparity index is the ratio of % utilization to % availability times 100.
* An asterisk is used to indicate a substantial level of disparity – index below 80.00.

2004 Disparity Study Comparison

Exhibit 5-7 presents a summary comparison of the utilization, availability, and disparity findings from the 2004 and 2009 studies. In the previous study, of the M/WBEs utilized at the prime consultant professional services level, African American-owned firms were

underutilized with a disparity index of 83.30. The current study shows substantial underutilization for African American-owned firms with a disparity index of 50.09. In both studies, firms owned by nonminority women were overutilized. .

EXHIBIT 5-7
SUMMARY OF UTILIZATION, AVAILABILITY, AND DISPARITY ANALYSIS
BETWEEN 2004 STUDY AND 2009 STUDY
PRIME CONSULTANT LEVEL PROFESSIONAL SERVICES
IN THE LEON COUNTY MARKET AREA
BY M/WBE CLASSIFICATIONS

	Percent of Prime Dollars[1]		% of Available Firms[2]		Disparity Index[3]		Disparate Impact of Utilization	
	2004 Study	2009 Study	2004 Study	2009 Study	2004 Study	2009 Study	2004 STUDY	2009 Study
African Americans	4.69%	4.05%	5.63%	8.08%	83.30	50.09	Underutilization	*Underutilization
Hispanic Americans	0.00%	0.00%	0.00%	1.01%	0.00	0.00	N/A	*Underutilization
Asian Americans	1.30%	0.00%	0.63%	0.00%	207.72	N/A	Overutilization	N/A
Native Americans	0.00%	0.00%	0.00%	0.00%	0.00	N/A	N/A	N/A
Nonminority Women	6.25%	12.00%	5.63%	18.18%	111.15	66.01	Overutilization	*Underutilization

Source: Leon County Board of Commissioners September 2004 Disparity Study, Chapter 5.0, and Leon County Board of Commissioners August 2009 Disparity Study, Chapter 5.0.
[1] The percentage of dollars is taken from the prime utilization exhibit previously shown in Chapter 4.0.
[2] The percentage of available contractors is taken from the availability exhibit previously shown in Chapter 4.0.
* An asterisk is used to indicate a substantial level of disparity – index below 80.00.

5.2.4 Other Services

Disparity Analysis of Other Services Firms

In **Exhibit 5-8**, MGT's analysis shows that firms owned by African American, Hispanic American, and nonminority women were overutilized in each year of the study period, except 2008, resulting in overall overutilization with a disparity index of 110.53, 431.35, and 340.04, respectively. Overall, firms owned by Asian Americans and Native Americans were substantially underutilized with a disparity index of 14.89 and 14.99, respectively.

EXHIBIT 5-8
DISPARITY ANALYSIS OF OTHER SERVICES FIRMS IN THE LEON COUNTY MARKET AREA BY BUSINESS OWNER CLASSIFICATIONS OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2008

Business Owner Classification	% of Dollars[1]	% of Available Firms[2]	Disparity Index[3]	Disparate Impact of Utilization
2005				
African Americans	14.46%	11.63%	124.35	Overutilization
Hispanic Americans	1.80%	1.16%	154.67	Overutilization
Asian Americans	0.03%	0.39%	7.53	* Underutilization
Native Americans	0.26%	0.39%	66.29	* Underutilization
Nonminority Women	26.41%	10.47%	252.39	Overutilization
Non-M/WBE Firms	57.04%	70.16%	81.31	Underutilization
2006				
African Americans	14.04%	11.63%	120.78	Overutilization
Hispanic Americans	2.02%	1.16%	173.96	Overutilization
Asian Americans	0.08%	0.39%	20.82	* Underutilization
Native Americans	0.00%	0.39%	0.00	* Underutilization
Nonminority Women	39.09%	10.47%	373.53	Overutilization
Non-M/WBE Firms	44.76%	70.16%	63.80	* Underutilization
2007				
African Americans	15.29%	11.63%	131.46	Overutilization
Hispanic Americans	2.87%	1.16%	246.94	Overutilization
Asian Americans	0.03%	0.39%	6.69	* Underutilization
Native Americans	0.00%	0.39%	0.00	* Underutilization
Nonminority Women	38.95%	10.47%	372.22	Overutilization
Non-M/WBE Firms	42.86%	70.16%	61.10	* Underutilization
2008				
African Americans	7.53%	11.63%	64.78	* Underutilization
Hispanic Americans	13.40%	1.16%	1,152.44	Overutilization
Asian Americans	0.09%	0.39%	24.07	* Underutilization
Native Americans	0.00%	0.39%	0.00	* Underutilization
Nonminority Women	36.66%	10.47%	350.33	Overutilization
Non-M/WBE Firms	42.31%	70.16%	60.31	* Underutilization
All Years				
African Americans	12.85%	11.63%	110.53	Overutilization
Hispanic Americans	5.02%	1.16%	431.35	Overutilization
Asian Americans	0.06%	0.39%	14.89	* Underutilization
Native Americans	0.06%	0.39%	14.99	* Underutilization
Nonminority Women	35.59%	10.47%	340.04	Overutilization
Non-M/WBE Firms	46.43%	70.16%	66.18	* Underutilization

Source: MGT developed an expenditure and vendor database for the County from October 1, 2004, through September 30, 2008.
[1] The percentage of dollars is taken from the prime utilization exhibit previously shown in **Chapter 4.0**.
[2] The percentage of available firms is taken from the availability exhibit previously shown in **Chapter 4.0**.
[3] The disparity index is the ratio of % utilization to % availability times 100.
* An asterisk is used to indicate a substantial level of disparity – index below 80.00.

2004 Disparity Study Comparison

Exhibit 5-9 presents a summary comparison of the utilization, availability, and disparity findings from the 2004 and 2009 studies. In the previous study, of the M/WBEs utilized, all groups were overutilized. The current study shows substantial underutilization for

Asian American- and Native American-owned firms with a disparity index of 14.89 and 14.99, respectively.

EXHIBIT 5-9
SUMMARY OF UTILIZATION, AVAILABILITY, AND DISPARITY ANALYSIS
BETWEEN 2004 STUDY AND 2009 STUDY
OTHER SERVICES
IN THE LEON COUNTY MARKET AREA
BY M/WBE CLASSIFICATIONS

	Percent of Prime Dollars[1]		% of Available Firms[2]		Disparity Index[3]		Disparate Impact of Utilization	
	2004 Study	2009 Study	2004 Study	2009 Study	2004 Study	2009 Study	2004 STUDY	2009 Study
African Americans	13.29%	12.85%	6.93%	11.63%	191.7	110.53	Overutilization	Overutilization
Hispanic Americans	4.00%	5.02%	0.27%	1.16%	1,498.20	431.35	Overutilization	Overutilization
Asian Americans	0.65%	0.06%	0.27%	0.39%	241.90	14.89	Overutilization	*Underutilization
Native Americans	0.00%	0.06%	0.00%	0.39%	0.00	14.99	N/A	*Underutilization
Nonminority Women	11.77%	35.59%	6.93%	10.47%	169.82	340.04	Overutilization	Overutilization

Source: *Leon* County Board of Commissioners September 2004 Disparity Study, Chapter 5.0, and Leon County Board of Commissioners August 2009 Disparity Study, Chapter 5.0.
[1] The percentage of dollars is taken from the prime utilization exhibit previously shown in Chapter 4.0.
[2] The percentage of available contractors is taken from the availability exhibit previously shown in Chapter 4.0.
* An asterisk is used to indicate a substantial level of disparity – index below 80.00.

5.2.5 Materials and Supplies

Disparity Analysis of Materials and Supplies Firms

Exhibit 5-10 presents the disparity findings for goods and supplies firms. Firms owned by African Americans were substantially underutilized with a disparity index of 56.58.Firms owned by Hispanic Americans, Asian Americans, and Native Americans were not utilized during the study period. Firms owned by nonminority women were overutilized with a disparity index of 162.31.

EXHIBIT 5-10
DISPARITY ANALYSIS OF MATERIALS AND SUPPLIES FIRMS IN THE LEON COUNTY MARKET AREA BY BUSINESS OWNER CLASSIFICATIONS OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2008

Business Owner Classification	% of Dollars[1]	% of Available Firms[2]	Disparity Index[3]	Disparate Impact of Utilization
2005				
African Americans	3.42%	1.45%	235.02	Overutilization
Hispanic Americans	0.00%	0.36%	0.00	* Underutilization
Asian Americans	0.00%	0.36%	0.00	* Underutilization
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	18.98%	8.00%	237.31	Overutilization
Non-M/WBE Firms	77.60%	89.82%	86.39	Underutilization
2006				
African Americans	0.49%	1.45%	33.38	* Underutilization
Hispanic Americans	0.00%	0.36%	0.00	* Underutilization
Asian Americans	0.00%	0.36%	0.00	* Underutilization
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	11.94%	8.00%	149.21	Overutilization
Non-M/WBE Firms	87.58%	89.82%	97.51	Underutilization
2007				
African Americans	0.16%	1.45%	11.34	* Underutilization
Hispanic Americans	0.00%	0.36%	0.00	* Underutilization
Asian Americans	0.00%	0.36%	0.00	* Underutilization
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	13.66%	8.00%	170.76	Overutilization
Non-M/WBE Firms	86.17%	89.82%	95.94	Underutilization
2008				
African Americans	0.00%	1.45%	0.00	* Underutilization
Hispanic Americans	0.00%	0.36%	0.00	* Underutilization
Asian Americans	0.00%	0.36%	0.00	* Underutilization
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	9.73%	8.00%	121.68	Overutilization
Non-M/WBE Firms	90.27%	89.82%	100.50	Overutilization
All Years				
African Americans	0.82%	1.45%	56.58	* Underutilization
Hispanic Americans	0.00%	0.36%	0.00	* Underutilization
Asian Americans	0.00%	0.36%	0.00	* Underutilization
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	12.98%	8.00%	162.31	Overutilization
Non-M/WBE Firms	86.19%	89.82%	95.96	Underutilization

Source: MGT developed an expenditure and vendor database for the County from October 1, 2004, through September 30, 2008.

[1] The percentage of dollars is taken from the prime utilization exhibit previously shown in **Chapter 4.0**.

[2] The percentage of available firms is taken from the availability exhibit previously shown in **Chapter 4.0**.

[3] The disparity index is the ratio of % utilization to % availability times 100.

* An asterisk is used to indicate a substantial level of disparity – index below 80.00.

2004 Disparity Study Comparison

Exhibit 5-11 presents a summary comparison of the utilization, availability, and disparity findings from the 2004 and 2009 studies. In both studies, of the MBEs utilized, all groups were substantially underutilized and nonminority women-owned firms were overutilized.

EXHIBIT 5-11
SUMMARY OF UTILIZATION, AVAILABILITY, AND DISPARITY ANALYSIS BETWEEN 2004 STUDY AND 2009 STUDY MATERIALS AND SUPPLIES IN THE LEON COUNTY MARKET AREA BY M/WBE CLASSIFICATIONS

	Percent of Prime Dollars[1]		% of Available Firms[2]		Disparity Index[3]		Disparate Impact of Utilization	
	2004 Study	2009 Study	2004 Study	2009 Study	2004 Study	2009 Study	2004 STUDY	2009 Study
African Americans	0.68%	0.82%	2.86%	1.45%	23.63	56.58	*Underutilization	*Underutilization
Hispanic Americans	0.07%	0.00%	0.26%	0.36%	27.90	0.00	*Underutilization	*Underutilization
Asian Americans	0.00%	0.00%	0.26%	0.36%	0.00	0.00	*Underutilization	*Underutilization
Native Americans	0.00%	0.00%	0.00%	0.00%	0.00	N/A	N/A	N/A
Nonminority Women	15.44%	12.98%	5.99%	8.00%	257.73	162.31	Overutilization	Overutilization

Source: Leon County Board of Commissioners September 2004 Disparity Study, Chapter 5.0, and Leon County Board of Commissioners August 2009 Disparity Study, Chapter 5.0.
[1] The percentage of dollars is taken from the prime utilization exhibit previously shown in Chapter 4.0.
[2] The percentage of available contractors is taken from the availability exhibit previously shown in Chapter 4.0.
* An asterisk is used to indicate a substantial level of disparity – index below 80.00.

5.2.6 Conclusions Based on Disparity Indices

This chapter used disparity indices to compare the availability and utilization findings from **Chapter 4.0**. The disparity indices for each of the business categories indicate whether disparity exists for each ethnic or gender group.

Exhibit 5-12 summarizes the findings of M/WBE underutilization.

EXHIBIT 5-12
SUMMARY OF M/WBE UNDERUTILIZATION IN THE LEON COUNTY MARKET AREA BY M/WBE CLASSIFICATIONS OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2008

Business Category	African American	Hispanic American	Asian American	Native American	Nonminority Women
Construction Prime Contractors	Underutilization *	N/A	Underutilization *	N/A	Overutilization
Construction Subcontractors (Overall Subcontractor Level)	Underutilization *	Overutilization	Underutilization *	Underutilization *	Underutilization *
Architecture and Engineering Prime Consultants	Underutilization	N/A	Underutilization *	N/A	Underutilization *
Professional Services Prime Consultants	Underutilization *	Underutilization *	N/A	N/A	Underutilization *
Other Services Firms	Overutilization	Overutilization	Underutilization *	Underutilization *	Overutilization
Materials and Supplies Vendors	Underutilization *	Underutilization *	Underutilization *	N/A	Overutilization

* An asterisk is used to indicate a substantial level of disparity – index below 80.00.

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6.0 PRIVATE SECTOR UTILIZATION AND DISPARITY ANALYSES

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6.0 PRIVATE SECTOR UTILIZATION AND DISPARITY ANALYSES

This chapter reports two sets of analyses pertaining to minority- and woman-owned business enterprise (M/WBE) utilization and availability in Leon County's (County) private sector marketplace. The first analysis examines M/WBE utilization and availability in the local market area's private commercial construction industry to determine disparities in M/WBE utilization at both the prime contractor and subcontractor level. Once the record of private sector utilization has been established, MGT will also be able to compare rates of M/WBE and non-M/WBE utilization in the private sector to their utilization by the County for public sector construction procurement.

This chapter is organized into the following sections:

6.1 Methodology – Private Sector Commercial Construction Analysis

6.2 Collection and Management of Data

6.3 Private Sector Utilization Analysis by Race/Gender/Ethnicity of Business Ownership for Construction Prime Contractors and Subcontractors

6.4 Private Sector Availability Analysis by Race/Gender/ Ethnicity of Business Ownership for Construction Contractors

6.5 Analysis of Disparities in Private Sector Utilization by Race/ Gender/ Ethnicity of Business Ownership for Construction Prime Contractors and Subcontractors

6.6 Assessment of Disparities in Private Sector Utilization by Race/Gender/ Ethnicity of Business Ownership for Construction Prime Contractors and Subcontractors

6.7 Comparison of the County Utilization of M/WBE Contractors with M/WBE Utilization in the Private Sector

6.8 Conclusions

6.1 Methodology – Private Sector Commercial Construction Analysis

This section describes MGT's methodology for collecting data and calculating the County's relevant market area as the basis for MGT's analysis of private sector utilization of minority-, woman-, and nonminority-owned firms and their availability.

6.1.1 Private Sector Analysis – Rationale

In *Croson*, the Court established that a "municipality has a compelling government interest in redressing not only discrimination committed by the municipality itself, but also discrimination committed by private parties within the municipality's legislative jurisdiction, so long as the municipality in some way participated in the discrimination to be remedied by the program."[1] This argument was reinforced by the Court of Appeals decision in *Adarand*, concluding that there was a compelling interest for a government

[1] *Croson*, 488 U.S. 46, 109 S.Ct. at 720-21, 744-45.

DBE program, based primarily on evidence of private sector discrimination.[2] According to this argument, discriminatory practices found in the private sector marketplace may be indicative of government's passive or, in some cases, active participation in local discrimination. To remedy such discrimination, *Croson* provided that government "can use its spending powers to remedy private discrimination, if it identifies that discrimination with the particularity required by the Fourteenth Amendment."[3]

The purpose of this private sector analysis is to evaluate the presence or absence of discrimination in the private sector marketplace regarding difficulties M/WBEs have in securing work on private sector projects. Passive discrimination was examined in a disparity analysis of the utilization of M/WBE construction subcontractors by majority prime contractors on non-County funded projects in the County construction market. A comparison of public sector M/WBE utilization with private sector utilization allows for an assessment of the extent to which majority prime contractors have tended to hire M/WBE subcontractors only to satisfy public sector requirements. Thus, the following questions are addressed:

- Are there disparities in the utilization of M/WBEs as prime contractors for commercial, private sector construction projects relative to their availability in the relevant market area?
- Are there disparities in the utilization of M/WBEs as subcontractors for commercial, private sector construction projects relative to their availability in the relevant market area?
- To what extent are M/WBE subcontractors utilized for the County projects also utilized in private sector construction projects?

6.2 Collection and Management of Data

MGT selected two sources of data for its private sector analysis: (1) permit data (such as building, electrical, plumbing)[4] provided by the County for commercial construction projects permitted during the period of the study and (2) permit data (such as building, electrical, plumbing) provided by the City of Tallahassee for commercial construction projects permitted during the period of the study. The value in examining permits is that they offer the most complete and up-to-date record of actual construction activity undertaken in the relevant market area.

The permit data was extracted from County's and City's Permits and Enforcement Tracking System (PETS) and transmitted electronically to MGT in Microsoft Access databases. In order to isolate commercial construction projects, public sector and residential building permit records were identified and excluded from the analysis. Permit data provided to MGT included, but was not limited to:

- Project_No
- Permit Type Code
- Permit Type Text

[2] *Adarand v. Slater*, 228 F.3d 1147 (10th Cir. 2000).
[3] See *Richmond v. Croson*, 488 U.S. 492 (1989).
[4] A construction permit or building permit is a permit required in most jurisdictions for new construction or adding onto pre-existing structures, and in some cases for major renovations.

- Permit Class Code
- Permit Class Text
- Permit #
- Comp_Type
- Project Description
- Scope of Work Performed
- Title
- Issued Date
- Construction Value Project
- Dollar Value of Permit
- Public Project
- Job Location
- Owner of Project
- Owner Address
- Residential Project
- Commercial Project
- Activity Number
- Primary Contractor
- Subcontractor
- Contractor
- Relationship

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6.2.1 Determining Race, Ethnicity, and Gender of Business Ownership for Vendors Issued Building Permits by the County

Since permit data does not contain contractor racial, ethnic, and gender information, MGT obtained this information from its Master Vendor Database[5] to update the vendors in the permit database for where racial, ethnic, and gender information were needed.

6.2.2 Market Area Methodology

The private sector analysis of permits data is based on the determined relevant geographic relevant market area for public construction which was the following counties within the state of Florida: Leon County, Gadsden County, Jefferson County, and Wakulla County.

6.2.3 Availability (Vendor) Data Collection

Once counties for the County's relevant market area had been identified, MGT ascertained M/WBE availability by determining the availability of M/WBEs within these counties as reported by the U.S. Census Bureau Survey of Business Owners (SBO)[6].

[5] MGT used data gathered from several sources to develop a master list of firms. M/WBE lists within the relevant market area were also used to further identify the business category and ethnicity of firms.

[6] The SBO is a consolidation of two prior surveys, the Surveys of Minority- and Women-Owned Business Enterprises (SMOBE/SWOBE), and includes questions from a survey discontinued in 1992 on Characteristics of Business Owners (CBO).The SBO is part of the Economic Census, which is conducted every five years. SBO findings are based on the characteristics of U.S. businesses by ownership category, by geographic area; by 2-digit industry sector based on the 2002 North American Industry Classification System (NAICS); and by size of firm (employment and receipts).

6.2.4 M/WBE Classifications and Business Categories

In Chapter 4.0, the five M/WBE classifications described—African American, Hispanic American, Asian American, Native American, and nonminority women—were used as the basis of MGT's private sector analysis of utilization and disparity. However, for the business category analysis, findings reported in this chapter deal only with private sector construction for two reasons: (1) permit data, by nature, pertain only to construction activity, which is also the category for which data tend to be most extensive and reliable, and (2) in the courts, historically, construction activity in a given jurisdiction has been scrutinized more than any other business category because in both the public and the private sector it tends to have the strongest impact on a local economy, and because the courts have asserted that jurisdictions have a "compelling interest" to advance M/WBE business interests in their local markets. Accordingly, for the analysis, the data were classified according to two categories of construction contractor—prime contractor and subcontractor—based on the permit type.

6.3 Private Sector Utilization Analysis by Race/Gender/Ethnicity of Business Ownership for Construction Prime Contractors and Subcontractors

This section reports findings from the analysis of the utilization of M/WBE and non-M/WBE firms in the County's private sector commercial construction market.

6.3.1 Permits – Prime Contracts

Permits – Leon County

Exhibit 6-1 reports permits received for prime commercial construction during the four-year study period based on Leon County permit data. The exhibit reports that for total construction dollars on prime commercial construction during the study period totaling $23.9 million, of which non-M/WBE firms received $23.1 million (96.66%). Permits issued to M/WBEs were valued at slightly less than $800,000, representing more than 3 percent (3.34%) of construction values. Nonminority women-owned firms were awarded the highest share at 2.48 percent ($592,480), followed by African American-owned firms at .86 percent ($205,000).

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EXHIBIT 6-1
PERMITS UTILIZATION ANALYSIS OF PRIME CONTRACTORS IN THE COUNTY'S RELEVANT MARKET AREA BASED ON LEON COUNTY COMMERCIAL PERMIT DATA BY RACE/ETHNICITY/GENDER CLASSIFICATION OCTOBER 1, 2004, THROUGH SEPTEMBER 30, 2008

Year	African Americans		Hispanic Americans		Asian Americans		Native Americans		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Total Construction Values
	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$
2005	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$1,908,510.00	100.00%	$1,908,510.00
2006	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$9,066,408.00	100.00%	$9,066,408.00
2007	$205,000.00	4.22%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$205,000.00	4.22%	$4,653,924.00	95.78%	$4,858,924.00
2008	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$592,480.00	0.00%	$592,480.00	7.39%	$7,426,195.75	92.61%	$8,018,675.75
Total	$205,000.00	0.86%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$592,480.00	2.48%	$797,480.00	3.34%	$23,055,037.75	96.66%	$23,852,517.75

Source: Permit data extracted from the County's and City's Permits and Enforcement Tracking System (PETS).
[1] Percentage of total construction valuation dollars awarded annually to prime contractors.

Exhibit 6-2 reports private commercial M/WBE prime contractor utilization by number of permits let by the County and number of individual contractors receiving permits. Of M/WBEs, one African American-owned firm (1.47% of contractors) was issued permits for four projects, which represents 3.42 percent of all permits analyzed. Of the permits analyzed, six permits were issued to M/WBE firms.

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EXHIBIT 6-2
PERMITS UTILIZATION ANALYSIS OF PRIME CONTRACTORS IN THE COUNTY'S RELEVANT MARKET AREA BASED ON LEON COUNTY COMMERCIAL PERMIT DATA OCTOBER 1, 2004, THROUGH SEPTEMBER 30, 2008

NUMBER OF COMMERCIAL PERMITS ISSUED BY RACE/ETHNICITY/GENDER CLASSIFICATION

Year	African Americans		Hispanic Americans		Asian Americans		Native Americans		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Total Permits
	#	%[1]	#	%[1]	#	%[1]	#	%[1]	#	%[1]	#	%[1]	#	%[1]	#
2005	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	9	100.00%	9
2006	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	35	100.00%	35
2007	4	13.33%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	4	13.33%	26	86.67%	30
2008	0	0.00%	0	0.00%	0	0.00%	0	0.00%	2	4.65%	2	4.65%	41	95.35%	43
Total	**4**	**3.42%**	**0**	**0.00%**	**0**	**0.00%**	**0**	**0.00%**	**2**	**1.71%**	**6**	**5.13%**	**111**	**94.87%**	**117**

Source: Permit data extracted from the County's and City's Permits and Enforcement Tracking System (PETS).
[1] Percentage of total analyzed permits awarded annually to prime contractors.

As the following exhibit shows, three individual M/WBE firms, 4.41 percent of all individual firms were issued private commercial construction permits as prime contractors. Two nonminority women- owned firms accounted for 2.94 percent of the total firms and one individual African American-owned firm were utilized during the course of the study period at the prime contractor level, accounting for 1.47 percent

NUMBER OF CONTRACTORS AND TOTAL OF INDIVIDUAL CONTRACTORS BY RACE/ETHNICITY/GENDER CLASSIFICATION

Year	African Americans		Hispanic Americans		Asian Americans		Native Americans		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Total Contractors
	#	%[2]	#	%[2]	#	%[2]	#	%[2]	#	%[2]	#	%[2]	#	%[2]	#
2005	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	9	100.00%	9
2006	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	23	100.00%	23
2007	1	4.35%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	1	4.35%	22	95.65%	23
2008	0	0.00%	0	0.00%	0	0.00%	0	0.00%	2	6.67%	2	6.67%	28	93.33%	30
Total Unique Contractors[3]	**1**	**1.47%**	**0**	**0.00%**	**0**	**0.00%**	**0**	**0.00%**	**2**	**2.94%**	**3**	**4.41%**	**65**	**95.59%**	**68**

Source: Permit data extracted from the County's and City's Permits and Enforcement Tracking System (PETS).
[2] Percentage of total Contractors.
[3] "Total Individual Contractors" counts a firm only once for each year it receives work, since a firm could be used in multiple years, the "total individual vendors" for the entire study period may not equal the sum of all years.

Permits – City of Tallahassee

Exhibit 6-3 reports permits received for prime commercial construction during the four-year study period based on City of Tallahassee commercial permit data. The exhibit reports that for total construction dollars on prime commercial construction during the study period totaling $173.1 million, of which non-M/WBE firms received $171.2 million (98.95%). Permits issued to M/WBEs were valued at $1.82 million, representing slightly more than 1 percent (1.05%) of construction values. Nonminority women-owned firms were awarded the highest share at 1.02 percent ($1.77 million), followed by African American-owned firms at .03 percent ($55,000).

EXHIBIT 6-3
PERMITS UTILIZATION ANALYSIS OF PRIME CONTRACTORS
IN THE COUNTY'S RELEVANT MARKET AREA
BASED ON CITY OF TALLAHASSEE COMMERCIAL PERMIT DATA
BY RACE/ETHNICITY/GENDER CLASSIFICATION
OCTOBER 1, 2004, THROUGH SEPTEMBER 30, 2008

Year	African Americans		Hispanic Americans		Asian Americans		Native Americans		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Total Construction Values
	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$
2005	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$18,115.00	0.26%	$18,115.00	0.26%	$7,009,067.00	99.74%	$7,027,182.00
2006	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$1,673,584.00	3.54%	$1,673,584.00	3.54%	$45,645,681.46	96.46%	$47,319,265.46
2007	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$33,075.00	0.05%	$33,075.00	0.05%	$69,144,066.66	99.95%	$69,177,141.66
2008	$55,000.00	0.11%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$42,956.00	0.09%	$97,956.00	0.20%	$49,436,643.56	99.80%	$49,534,599.56
Total	**$55,000.00**	**0.03%**	**$0.00**	**0.00%**	**$0.00**	**0.00%**	**$0.00**	**0.00%**	**$1,767,730.00**	**1.02%**	**$1,822,730.00**	**1.05%**	**$171,235,458.68**	**98.95%**	**$173,058,188.68**

Source: Permit data extracted from the County's and City's Permits and Enforcement Tracking System (PETS).
[1] Percentage of total construction valuation dollars awarded annually to prime contractors.

Exhibit 6-4 reports private commercial M/WBE prime contractor utilization by number of permits let by the City and number of individual contractors receiving commercial permits. Of M/WBEs, one African American-owned firm (0.63% of contractors) was issued permits for one project, which represents 0.19 percent of all permits analyzed. Of the permits analyzed, ten permits were issued to M/WBE firms.

EXHIBIT 6-4
PERMITS UTILIZATION ANALYSIS OF PRIME CONTRACTORS IN THE COUNTY'S RELEVANT MARKET AREA BASED ON CITY OF TALLAHASSEE COMMERCIAL PERMIT DATA OCTOBER 1, 2004, THROUGH SEPTEMBER 30, 2008

NUMBER OF COMMERCIAL PERMITS ISSUED BY RACE/ETHNICITY/GENDER CLASSIFICATION

Year	African Americans		Hispanic Americans		Asian Americans		Native Americans		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Total Permits
	#	%[1]	#	%[1]	#	%[1]	#	%[1]	#	%[1]	#	%[1]	#	%[1]	#
2005	0	0.00%	0	0.00%	0	0.00%	0	0.00%	1	2.56%	1	2.56%	38	97.44%	39
2006	0	0.00%	0	0.00%	0	0.00%	0	0.00%	4	2.42%	4	2.42%	161	97.58%	165
2007	0	0.00%	0	0.00%	0	0.00%	0	0.00%	2	1.05%	2	1.05%	188	98.95%	190
2008	1	0.78%	0	0.00%	0	0.00%	0	0.00%	2	1.55%	3	2.33%	126	97.67%	129
Total	**1**	**0.19%**	**0**	**0.00%**	**0**	**0.00%**	**0**	**0.00%**	**9**	**1.72%**	**10**	**1.91%**	**513**	**98.09%**	**523**

Source: Permit data extracted from the County's and City's Permits and Enforcement Tracking System (PETS).
[1] Percentage of total analyzed permits awarded annually to prime contractors.

As the following exhibit shows, six individual M/WBE firms, 3.8 percent of all individual firms were issued private commercial construction permits as prime contractors. Five nonminority women-owned firms accounted for 3.16 percent of the total firms and one individual African American-owned firm were utilized during the course of the study period at the prime contractor level, accounting for 0.63 percent

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EXHIBIT 6-4 (Continued)
PERMITS UTILIZATION ANALYSIS OF PRIME CONTRACTORS IN THE COUNTY'S RELEVANT MARKET AREA BASED ON CITY OF TALLAHASSEE COMMERCIAL PERMIT DATA OCTOBER 1, 2004, THROUGH SEPTEMBER 30, 2008

NUMBER OF CONTRACTORS AND TOTAL OF INDIVIDUAL CONTRACTORS BY RACE/ETHNICITY/GENDER CLASSIFICATION

Year	African Americans		Hispanic Americans		Asian Americans		Native Americans		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Total Contractors
	#	%[2]	#	%[2]	#	%[2]	#	%[2]	#	%[2]	#	%[2]	#	%[2]	#
2005	0	0.00%	0	0.00%	0	0.00%	0	0.00%	1	3.70%	1	3.70%	26	96.30%	27
2006	0	0.00%	0	0.00%	0	0.00%	0	0.00%	4	4.65%	4	4.65%	82	95.35%	86
2007	0	0.00%	0	0.00%	0	0.00%	0	0.00%	2	2.50%	2	2.50%	78	97.50%	80
2008	1	1.54%	0	0.00%	0	0.00%	0	0.00%	2	3.08%	3	4.62%	62	95.38%	65
Total Individual Contractors[3]	**1**	**0.63%**	**0**	**0.00%**	**0**	**0.00%**	**0**	**0.00%**	**5**	**3.16%**	**6**	**3.80%**	**152**	**96.20%**	**158**

Source: Permit data extracted from the County's and City's Permits and Enforcement Tracking System (PETS).
[2]Percentage of Total Contractors.
[3] "Total Individual Contractors" counts a firm only once for each year it receives work; since a firm could be used in multiple years, the "total individual vendors" for the entire study period may not equal the sum of all years.

6.3.2 *Permits-Subcontracts*

Permits-Leon County

Exhibit 6-5 indicates permit values totaling $61.1 million in commercial construction subcontracting projects analyzed for the four-year study period based on County permit data. Among M/WBE firms, WBEs were issued permits for projects totaling $2.32 million (3.80% of all subcontracting projects), which was the total share to M/WBE firms.

EXHIBIT 6-5
PERMITS UTILIZATION ANALYSIS OF SUBCONTRACTORS IN THE COUNTY'S RELEVANT MARKET AREA BASED ON LEON COUNTY COMMERCIAL PERMIT DATA BY RACE/ETHNICITY/GENDER CLASSIFICATION OCTOBER 1, 2004, THROUGH SEPTEMBER 30, 2008

Year	African Americans		Hispanic Americans		Asian Americans		Native Americans		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Total Construction Values
	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$
2005	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$850,000.00	100.00%	$850,000.00
2006	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$12,992,369.00	100.00%	$12,992,369.00
2007	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$13,965,765.00	100.00%	$13,965,765.00
2008	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$2,321,000.00	0.00%	$2,321,000.00	6.97%	$30,965,621.00	93.03%	$33,286,621.00
Total	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$2,321,000.00	3.80%	$2,321,000.00	3.80%	$58,773,755.00	96.20%	$61,094,755.00

Source: Permit data extracted from the County's and City's Permits and Enforcement Tracking System (PETS).
[1] Percentage of total construction valuation dollars awarded annually to contractors based on subcontractor level work.

Exhibit 6-6 reports private commercial subcontractor utilization by number of permits let by the County and number of individual contractors receiving commercial permits. The following exhibit shows that three individual (different) nonminority women-owned firms were issued permits. Of permitted subcontractor level of work, M/WBE firms accounted for more than 2 percent (2.65%) of the permits issued Among M/WBE firms, WBEs received all of the commercial permits on the subcontractor level for the four-year study period based on the data analyzed.

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EXHIBIT 6-6
PERMITS UTILIZATION ANALYSIS OF SUBCONTRACTORS IN THE COUNTY'S MARKET AREA OCTOBER 1, 2004, THROUGH SEPTEMBER 30, 2008

NUMBER OF COMMERCIAL PERMITS ISSUED BY RACE/ETHNICITY/GENDER CLASSIFICATION

Year	African Americans		Hispanic Americans		Asian Americans		Native Americans		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Total Permits
	#	%[1]	#	%[1]	#	%[1]	#	%[1]	#	%[1]	#	%[1]	#	%[1]	#
2005	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	4	100.00%	4
2006	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	21	100.00%	21
2007	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	43	100.00%	43
2008	0	0.00%	0	0.00%	0	0.00%	0	0.00%	3	6.67%	3	6.67%	42	93.33%	45
Total	**0**	**0.00%**	**0**	**0.00%**	**0**	**0.00%**	**0**	**0.00%**	**3**	**2.65%**	**3**	**2.65%**	**110**	**97.35%**	**113**

Source: Permit data extracted from the County's and City's Permits and Enforcement Tracking System (PETS).
[1] Percentage of total permits.

The following exhibit shows that 63 individual non-M/WBE firms accounted for 95.5 percent of firms issued permits to perform subcontractor level of work.

NUMBER OF CONTRACTORS AND TOTAL OF INDIVIDUAL CONTRACTORS BY RACE/ETHNICITY/GENDER CLASSIFICATION

Year	African Americans		Hispanic Americans		Asian Americans		Native Americans		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Total Contractors
	#	%[2]	#	%[2]	#	%[2]	#	%[2]	#	%[2]	#	%[2]	#	%[2]	#
2005	0	0.00%	0	0.00%	0	0.00%	0	0.00%	1	14.29%	1	14.29%	6	85.71%	7
2006	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	15	100.00%	15
2007	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	34	100.00%	34
2008	0	0.00%	0	0.00%	0	0.00%	0	0.00%	3	9.68%	3	9.68%	28	90.32%	31
Total Individual Contractors[3]	**0**	**0.00%**	**0**	**0.00%**	**0**	**0.00%**	**0**	**0.00%**	**3**	**4.55%**	**3**	**4.55%**	**63**	**95.45%**	**66**

Source: Permit data extracted from the County's and City's Permits and Enforcement Tracking System (PETS).
[2] Percentage of Total Contractors.
[3] "Total Individual Contractors" counts a firm only once for each year it receives work, since a firm could be used in multiple years, the "total individual vendors" for the entire study period may not equal the sum of all years.

Permits-City of Tallahassee

Exhibit 6-7 indicates permit values totaling $20.7 million in commercial construction subcontracting projects analyzed for the four-year study period based on city of Tallahassee commercial permits data. Among M/WBE firms, WBEs were issued permits for projects totaling $3.77 million (18.2% of all subcontracting projects) and firms owned by African Americans were issued less than 1 percent (0.04%).

EXHIBIT 6-7
PERMITS UTILIZATION ANALYSIS OF SUBCONTRACTORS
IN THE COUNTY'S RELEVANT MARKET AREA
BASED ON CITY OF TALLAHASSEE COMMERCIAL PERMIT DATA
BY RACE/ETHNICITY/GENDER CLASSIFICATION
OCTOBER 1, 2004, THROUGH SEPTEMBER 30, 2008

Year	African Americans		Hispanic Americans		Asian Americans		Native Americans		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Total Construction Values
	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$
2005	$3,500.00	0.20%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$97,800.00	5.67%	$101,300.00	5.87%	$1,624,689.00	94.13%	$1,725,989.00
2006	$5,500.00	0.08%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$3,485,500.00	49.34%	$3,491,000.00	49.41%	$3,573,924.50	50.59%	$7,064,924.50
2007	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$15,100.00	0.26%	$15,100.00	0.26%	$5,868,218.00	99.74%	$5,883,318.00
2008	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$168,140.00	2.77%	$168,140.00	2.77%	$5,894,793.00	97.23%	$6,062,933.00
Total	$9,000.00	0.04%	$0.00	0.00%	$0.00	0.00%	$0.00	0.00%	$3,766,540.00	18.16%	$3,775,540.00	18.21%	$16,961,624.50	81.79%	$20,737,164.50

Source: Permit data extracted from the County's and City's Permits and Enforcement Tracking System (PETS).
[1] Percentage of total construction valuation dollars awarded annually to contractors based on subcontractor level work.

Exhibit 6-8 reports private commercial subcontractor utilization by number of permits let by the city of Tallahassee and number of individual contractors receiving permits. The following exhibit shows that 6 individual (different) M/WBE firms were issued permits. Of permitted subcontractor level of work, M/WBE firms accounted for more than 6 percent (6.46%) of the permits issued.

EXHIBIT 6-8
PERMITS UTILIZATION ANALYSIS OF SUBCONTRACTORS IN THE COUNTY'S MARKET AREA OCTOBER 1, 2004, THROUGH SEPTEMBER 30, 2008

NUMBER OF PERMITS ISSUED BY RACE/ETHNICITY/GENDER CLASSIFICATION

Year	African Americans		Hispanic Americans		Asian Americans		Native Americans		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Total Permits
	#	%[1]	#	%[1]	#	%[1]	#	%[1]	#	%[1]	#	%[1]	#	%[1]	#
2005	2	3.33%	0	0.00%	0	0.00%	0	0.00%	8	13.33%	10	16.67%	50	83.33%	60
2006	2	0.94%	0	0.00%	0	0.00%	0	0.00%	16	7.51%	18	8.45%	195	91.55%	213
2007	0	0.00%	0	0.00%	0	0.00%	0	0.00%	3	1.48%	3	1.48%	200	98.52%	203
2008	0	0.00%	0	0.00%	0	0.00%	0	0.00%	12	6.32%	12	6.32%	178	93.68%	190
Total	**4**	**0.60%**	**0**	**0.00%**	**0**	**0.00%**	**0**	**0.00%**	**39**	**5.86%**	**43**	**6.46%**	**623**	**93.54%**	**666**

Source: Permit data extracted from the County's and City's Permits and Enforcement Tracking System (PETS).
[1] Percentage of total permits.

The following exhibit shows that 155 individual non-M/WBE firms accounted for 96.3 percent of firms issued permits to perform subcontractor level of work based on city of Tallahassee commercial permit data.

NUMBER OF CONTRACTORS AND TOTAL OF INDIVIDUAL CONTRACTORS BY RACE/ETHNICITY/GENDER CLASSIFICATION

Year	African Americans		Hispanic Americans		Asian Americans		Native Americans		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms		Total Contractors
	#	%[2]	#	%[2]	#	%[2]	#	%[2]	#	%[2]	#	%[2]	#	%[2]	#
2005	2	5.71%	0	0.00%	0	0.00%	0	0.00%	2	5.71%	4	11.43%	31	88.57%	35
2006	2	2.22%	0	0.00%	0	0.00%	0	0.00%	2	2.22%	4	4.44%	86	95.56%	90
2007	0	0.00%	0	0.00%	0	0.00%	0	0.00%	1	1.16%	1	1.16%	85	98.84%	86
2008	0	0.00%	0	0.00%	0	0.00%	0	0.00%	3	3.30%	3	3.30%	88	96.70%	91
Total Individual Contractors[3]	**3**	**1.86%**	**0**	**0.00%**	**0**	**0.00%**	**0**	**0.00%**	**3**	**1.86%**	**6**	**3.73%**	**155**	**96.27%**	**161**

Source: Permit data extracted from the County's and City's Permits and Enforcement Tracking System (PETS).
[2] Percentage of Total Contractors.
[3] "Total Individual Contractors" counts a firm only once for each year it receives work, since a firm could be used in multiple years, the "total individual vendors" for the entire study period may not equal the sum of all years.

6.4 Private Sector Availability Analysis by Race/Gender/Ethnicity of Business Ownership for Construction Contractors

Exhibits 6-9 and **6-10** report findings based on U.S. Census Survey of Business Owners (SBO) data for the population of available contractors in the County's market area by racial/ethnic/gender category. The availability for construction was derived from those firms that have construction or construction-related services based on the NAICS Code 23.

6.4.1 Construction Availability

The availability of M/WBE and non-M/WBE prime contractors in the County's market area is displayed in **Exhibit 6-7**. M/WBEs comprised 25.68 percent of all contractors, breaking down by individual M/WBE category as follows:

- African American: 3.60 percent
- Hispanic American: 2.26 percent
- Asian American: 1.78 percent
- Native American: 0 percent
- Nonminority women: 18.05 percent

EXHIBIT 6-9
AVAILABILITY OF CONTRACTORS
IN THE COUNTY'S MARKET PLACE
BY RACE/ETHNICITY/GENDER CLASSIFICATION
BASED ON CENSUS DATA USING NAICS 23
BASED ON PAID EMPLOYEES ONLY

	African Americans[1]		Hispanic Americans[1]		Asian Americans[1]		Native Americans[1]		Nonminority Women		M/WBE Subtotal		Non-M/WBE Firms[2]		Total Firms[3]
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
Total	26	3.60%	16	2.26%	13	1.78%	0	0.00%	132	18.05%	187	25.68%	543	74.32%	730

Source of Data: U.S. Census Bureau 2002, Survey of Business Owners, based on firms with paid employees only.
[1] Minority men and women firms are included in their respective minority classifications.
[2] Number of non-M/WBE firms derived by subtracting all M/WBE firms from total firms.
[3] Total firms derived from the U.S. Census Bureau and Survey of Business Owners (SBO).

The availability analysis was also based on firms with paid and non-paid employees, which is displayed in **Exhibit 6-8**. M/WBEs comprised 44.29 percent of all contractors, differentiated by individual M/WBE category as follows:

- African American: 9.59 percent
- Hispanic American: 3.02 percent
- Asian American: 2.59 percent
- Native American: 1.25 percent
- Nonminority women: 27.84 percent

EXHIBIT 6-10
AVAILABILITY OF SUBCONTRACTORS
IN THE COUNTY'S MARKET AREA
BY RACE/ETHNICITY/GENDER CLASSIFICATION
BASED ON CENSUS DATA USING NAICS 23
BASED PAID AND NON-PAID EMPLOYEES

	African Americans[1]		Hispanic Americans[1]		Asian Americans[1]		Native Americans[1]		Nonminority Women		#REF! Subtotal		Non-M/WBE Firms[2]		Total Firms[3]
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
Total	278	9.59%	88	3.02%	75	2.59%	36	1.25%	808	27.84%	1,285	44.29%	1,616	55.71%	2,901

Source of Data: U.S. Bureau of the Census 2002, Survey of Business Owners, based on firms with paid and non-paid employees.
[1] Minority men and women firms are included in their respective minority classifications.
[2] Number of non-M/WBE firms derived by subtracting all M/WBE firms from total firms.
[3] Total firms derived from the U.S. Census Bureau and Survey of Business Owners (SBO).

6.5 *Analysis of Disparities in Private Sector Utilization by Race/Gender/ Ethnicity of Business Ownership for Construction Prime Contractors and Subcontractors*

MGT pioneered disparity indices as a means of quantifying the disparity in utilization relative to availability. The use of a disparity index for such a calculation is supported by several post-*Croson* cases, most notably *Contractors' Association of Eastern Pennsylvania v. City of Philadelphia.*[7] Although a variety of similar indices could be utilized, MGT's standard for choosing its particular index methodology is that it must yield a value that is easily calculable, understandable in its interpretation, and universally comparable such that a disparity in utilization within M/WBE categories can be assessed with reference to the utilization of non-M/WBEs.

For this study, to assess disparity MGT calculated the ratio of the percentage of utilization to the percentage of availability multiplied by 100, as in the formula below:

$$\text{(1) Disparity Index} = \frac{\%Um_1p_1}{\%Am_1p_1} \times 100$$

Where: Um_1p_1 = utilization of M/WBE$_1$ for procurement$_1$
Am_1p_1 = availability of M/WBE$_1$ for procurement$_1$

The interpretation of this calculation is straightforward. In the extreme, a disparity index value of 0.00 for a given racial, ethnic or gender category of firm indicates absolutely no utilization and, therefore, absolute disparity. An index of 100 indicates that vendor utilization is perfectly proportionate to availability for a particular group in a given business category, indicating the absence of disparity—that is, a proportion of utilization relative to availability one would expect, all things being equal. In general, firms within a business category are considered underutilized if the disparity indices are less than 100, and overutilized if the indices are above 100.

[7] *Contractors Association of Eastern Pennsylvania, Inc. v. City of Philadelphia*, 91 F 3d at 603.

Since there is no standardized measure to evaluate levels of underutilization or overutilization within a procurement context, MGT has appropriated the Equal Employment Opportunity Commission's (EEOC) "80 percent rule" in the *Uniform Guidelines on Employee Selection Procedures*. In the context of employment discrimination, an employment disparity ratio below 80 indicates a "substantial disparity" in employment. The Supreme Court has accepted the use of the 80 percent rule in *Connecticut v. Teal (Teal)*, 457 U.S. 440 (1982), and in *Teal* and other affirmative action cases, the terms "adverse impact," "disparate impact," and "discriminatory impact" are used interchangeably to characterize values of 80 and below.

Once the record of vendor utilization was calculated from building permit data for each racial, ethnic, and gender category, it could be compared to vendor availability in these categories to derive an index of disparity in private sector utilization for a given M/WBE prime contractor and subcontractor category. Findings are reported in **Sections 6.6.1** through **6.6.3**.

6.5.1 Permits-Prime Contracts

Permits – Leon County

This section reports disparity indices for County commercial permits based on U.S. Census availability of firms within the racial, ethnic, and gender categories for firms with paid employees only.

Exhibit 6-11 presents these findings based on availability of firms with paid employees only specializing in construction and construction-related services categorized as NAICS 23. African American-, Hispanic American-, Asian American- and nonminority women-owned firms were substantially underutilized as prime contractors in private commercial construction sector based on County commercial permits data. From **Exhibit 6-11** MGT also find that:

- Hispanic American-, Asian American-, and Native American-owned firms were not utilized.
- African American-owned firms were substantially underutilized as prime contractors, with a disparity index of 23.87.
- Nonminority women firms were substantially underutilized in each year, resulting in an overall disparity index of 13.76.
- Nonminority male firms were overutilized, having a 130.05 disparity index.

Based on County commercial permits data and U.S. Census availability of firms with paid employees only, it can be concluded that of those M/WBEs being analyzed, all M/WBEs were either not utilized or substantially underutilized on commercial construction projects at the prime contractor level and that, conversely, nonminority male-owned firms were overutilized.

EXHIBIT 6-11
DISPARITY ANALYSIS OF PRIVATE SECTOR PRIME CONTRACTORS IN THE COUNTY'S RELEVANT MARKET AREA BASED ON CENSUS DATA NAICS CODES 23 PAID EMPLOYEES ONLY AND LEON COUNTY COMMERCIAL PERMITS DATA OCTOBER 1, 2004, THROUGH SEPTEMBER 30, 2008

Business Owner Classification	% of Construction Value Dollars[1]	% of Available Firms[2]	Disparity Index[3]	Disparate Impact of Utilization
2005				
African Americans	0.00%	3.60%	0.00	* Underutilization
Hispanic Americans	0.00%	2.26%	0.00	* Underutilization
Asian Americans	0.00%	1.78%	0.00	* Underutilization
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	0.00%	18.05%	0.00	* Underutilization
Non-M/WBE Firms	100.00%	74.32%	134.55	Overutilization
2006				
African Americans	0.00%	3.60%	0.00	* Underutilization
Hispanic Americans	0.00%	2.26%	0.00	* Underutilization
Asian Americans	0.00%	1.78%	0.00	* Underutilization
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	0.00%	18.05%	0.00	* Underutilization
Non-M/WBE Firms	100.00%	74.32%	134.55	Overutilization
2007				
African Americans	4.22%	3.60%	117.19	Overutilization
Hispanic Americans	0.00%	2.26%	0.00	* Underutilization
Asian Americans	0.00%	1.78%	0.00	* Underutilization
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	0.00%	18.05%	0.00	* Underutilization
Non-M/WBE Firms	95.78%	74.32%	128.88	Overutilization
2008				
African Americans	0.00%	3.60%	0.00	* Underutilization
Hispanic Americans	0.00%	2.26%	0.00	* Underutilization
Asian Americans	0.00%	1.78%	0.00	* Underutilization
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	0.00%	18.05%	0.00	* Underutilization
Non-M/WBE Firms	92.61%	74.32%	124.61	Overutilization
All Years				
African Americans	0.86%	3.60%	23.87	* Underutilization
Hispanic Americans	0.00%	2.26%	0.00	* Underutilization
Asian Americans	0.00%	1.78%	0.00	* Underutilization
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	2.48%	18.05%	13.76	* Underutilization
Non-M/WBE Firms	96.66%	74.32%	130.05	Overutilization

Source of Data: Permit data extracted from the County's and City's Permits and Enforcement Tracking System (PETS) and U.S. Bureau of the Census 2002, Survey of Business Owners, based on firms with paid employees.

[1] The percentage of construction valuation dollars is taken from the prime utilization exhibit shown in Section 6.3.1.

[2] The percentage of available contractors is taken from the availability exhibit shown in Section 6.5.1.

[3] The disparity index is the ratio of percent utilization to percent availability times 100.

* An asterisk is used to indicate a substantial level of disparity (index below 80.00).

Permits – City of Tallahassee

This section reports disparity indices for city of Tallahassee commercial permits based on U.S. Census availability of firms within the racial, ethnic, and gender categories for firms with paid employees only.

Exhibit 6-12 presents these findings based on availability of firms with paid employees only specializing in construction and construction-related services categorized as NAICS 23. African American-, Hispanic American-, Asian American- and nonminority women-owned firms were substantially underutilized as prime contractors in private commercial construction sector based on city of Tallahassee commercial permits data. From **Exhibit 6-12** MGT also finds that:

- Hispanic American-, Asian American-, and Native American-owned firms were not utilized.
- African American-owned firms were substantially underutilized as prime contractors, with a disparity index of 0.88.
- Nonminority women firms were substantially underutilized in each year, resulting in an overall disparity index of 5.66.
- Nonminority male firms were overutilized, having a 133.14 disparity index.

Based on County commercial permits data and U.S. Census availability of firms with paid employees only, it can be concluded that of those M/WBEs being analyzed, all M/WBEs were either not utilized or substantially underutilized on commercial construction projects at the prime contractor level and that, conversely, nonminority male-owned firms were overutilized.

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EXHIBIT 6-12
DISPARITY ANALYSIS OF PRIVATE SECTOR PRIME CONTRACTORS IN THE COUNTY'S RELEVANT MARKET AREA BASED ON CENSUS DATA NAICS CODES 23 PAID EMPLOYEES ONLY AND CITY OF TALLAHASSEE COMMERCIAL PERMITS DATA OCTOBER 1, 2004, THROUGH SEPTEMBER 30, 2008

Business Owner Classification	% of Construction Value Dollars[1]	% of Available Firms[2]	Disparity Index[3]	Disparate Impact of Utilization
2005				
African Americans	0.00%	3.60%	0.00	* Underutilization
Hispanic Americans	0.00%	2.26%	0.00	* Underutilization
Asian Americans	0.00%	1.78%	0.00	* Underutilization
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	0.26%	18.05%	1.43	* Underutilization
Non-M/WBE Firms	99.74%	74.32%	134.21	Overutilization
2006				
African Americans	0.00%	3.60%	0.00	* Underutilization
Hispanic Americans	0.00%	2.26%	0.00	* Underutilization
Asian Americans	0.00%	1.78%	0.00	* Underutilization
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	3.54%	18.05%	19.60	* Underutilization
Non-M/WBE Firms	96.46%	74.32%	129.79	Overutilization
2007				
African Americans	0.00%	3.60%	0.00	* Underutilization
Hispanic Americans	0.00%	2.26%	0.00	* Underutilization
Asian Americans	0.00%	1.78%	0.00	* Underutilization
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	0.05%	18.05%	0.26	* Underutilization
Non-M/WBE Firms	99.95%	74.32%	134.49	Overutilization
2008				
African Americans	0.11%	3.60%	3.08	* Underutilization
Hispanic Americans	0.00%	2.26%	0.00	* Underutilization
Asian Americans	0.00%	1.78%	0.00	* Underutilization
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	0.09%	18.05%	0.48	* Underutilization
Non-M/WBE Firms	99.80%	74.32%	134.29	Overutilization
All Years				
African Americans	0.03%	3.60%	0.88	* Underutilization
Hispanic Americans	0.00%	2.26%	0.00	* Underutilization
Asian Americans	0.00%	1.78%	0.00	* Underutilization
Native Americans	0.00%	0.00%	N/A	N/A
Nonminority Women	1.02%	18.05%	5.66	* Underutilization
Non-M/WBE Firms	98.95%	74.32%	133.14	Overutilization

Source of Data: Permit data extracted from the County's and City's Permits and Enforcement Tracking System (PETS) and U.S. Bureau of the Census 2002, Survey of Business Owners, based on firms with paid employees.

[1] The percentage of construction valuation dollars is taken from the prime utilization exhibit shown in Section 6.3.1.

[2] The percentage of available contractors is taken from the availability exhibit shown in Section 6.5.1.

[3] The disparity index is the ratio of percent utilization to percent availability times 100.

* An asterisk is used to indicate a substantial level of disparity (index below 80.00).

6.5.2 Permits – Subcontracts

Permits – Leon County

This section reports disparity indices for County commercial permits data based on U.S. Census availability of firms (paid and non-paid employees) within the racial, ethnic, and gender categories. As **Exhibit 6-14** indicates, all M/WBE groups were substantially underutilized as subcontractors in private commercial construction. From **Exhibit 6-14** MGT also finds that:

- Hispanic American-, Asian American-, and Native American-owned firms were not utilized, thus resulting in substantial underutilization as subcontractors, with a disparity index of 0.
- African American-owned firms were substantially underutilized in each year, resulting in a disparity index of 0.45.
- Nonminority women-owned firms were substantially underutilized resulting in a disparity index of 3.67.
- Nonminority male-owned firms were overutilized resulting in a 146.83 disparity index.

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EXHIBIT 6-13
DISPARITY ANALYSIS OF PRIVATE SECTOR SUBCONTRACTORS IN THE COUNTY'S MARKET AREA BASED ON CENSUS DATA NAICS CODE 23 AND COUNTY COMMERCIAL PERMITS DATA OCTOBER 1, 2004, THROUGH SEPTEMBER 30, 2008 BASED ON PAID AND NON-PAID EMPLOYEES

Business Owner Classification	% of Construction Value Dollars[1]	% of Available Firms[2]	Disparity Index[3]	Disparate Impact of Utilization
2005				
African Americans	0.00%	9.59%	0.00	* Underutilization
Hispanic Americans	0.00%	3.02%	0.00	* Underutilization
Asian Americans	0.00%	2.59%	0.00	* Underutilization
Native Americans	0.00%	1.25%	0.00	* Underutilization
Nonminority Women	0.00%	27.84%	0.00	* Underutilization
Non-M/WBE Firms	100.00%	55.71%	179.51	Overutilization
2006				
African Americans	0.00%	9.59%	0.00	* Underutilization
Hispanic Americans	0.00%	3.02%	0.00	* Underutilization
Asian Americans	0.00%	2.59%	0.00	* Underutilization
Native Americans	0.00%	1.25%	0.00	* Underutilization
Nonminority Women	0.00%	27.84%	0.00	* Underutilization
Non-M/WBE Firms	100.00%	55.71%	179.51	Overutilization
2007				
African Americans	0.00%	9.59%	0.00	* Underutilization
Hispanic Americans	0.00%	3.02%	0.00	* Underutilization
Asian Americans	0.00%	2.59%	0.00	* Underutilization
Native Americans	0.00%	1.25%	0.00	* Underutilization
Nonminority Women	0.00%	27.84%	0.00	* Underutilization
Non-M/WBE Firms	100.00%	55.71%	179.51	Overutilization
2008				
African Americans	0.00%	9.59%	0.00	* Underutilization
Hispanic Americans	0.00%	3.02%	0.00	* Underutilization
Asian Americans	0.00%	2.59%	0.00	* Underutilization
Native Americans	0.00%	1.25%	0.00	* Underutilization
Nonminority Women	0.00%	27.84%	0.00	* Underutilization
Non-M/WBE Firms	93.03%	55.71%	167.00	Overutilization
All Years				
African Americans	0.00%	9.59%	0.00	* Underutilization
Hispanic Americans	0.00%	3.02%	0.00	* Underutilization
Asian Americans	0.00%	2.59%	0.00	* Underutilization
Native Americans	0.00%	1.25%	0.00	* Underutilization
Nonminority Women	2.48%	27.84%	8.92	* Underutilization
Non-M/WBE Firms	96.20%	55.71%	172.69	Overutilization

Source of Data: Permit data extracted from the County's and City's Permits and Enforcement Tracking System (PETS) and U.S. Bureau of the Census 2002, Survey of Business Owners, based on firms with paid and non-paid employees.

[1] The percentage of construction valuation dollars is taken from the subcontractor utilization exhibit shown in Section 6.3.1.

[2] The percentage of available contractors is taken from the availability exhibit shown in Section 6.5.1.

[3] The disparity index is the ratio of percent utilization to percent availability times 100.

* An asterisk is used to indicate a substantial level of disparity (index below 80.00).

Permits – City of Tallahassee

This section reports disparity indices for city of Tallahassee commercial permits data based on U.S. Census availability of firms (paid and non-paid employees) within the racial, ethnic, and gender categories. As **Exhibit 6-14** indicates, all M/WBE groups were substantially underutilized as subcontractors in private commercial construction. From **Exhibit 6-14** MGT also finds that:

- Hispanic American-, Asian American-, and Native American-owned firms were not utilized, thus resulting in substantial underutilization as subcontractors, with a disparity index of 0.
- African American-owned firms were substantially underutilized in each year, resulting in a disparity index of 0.45.
- Nonminority women-owned firms were substantially underutilized in each year, resulting in a disparity index of 3.67.
- Nonminority male-owned firms were overutilized, having a 146.83 disparity index.

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EXHIBIT 6-14
DISPARITY ANALYSIS OF PRIVATE SECTOR SUBCONTRACTORS IN THE COUNTY'S MARKET AREA BASED ON CENSUS DATA NAICS CODE 23 AND CITY OF TALLAHASSEE COMMERCIAL PERMITS DATA OCTOBER 1, 2004, THROUGH SEPTEMBER 30, 2008 BASED ON PAID AND NON-PAID EMPLOYEES

Business Owner Classification	% of Construction Value Dollars[1]	% of Available Firms[2]	Disparity Index[3]	Disparate Impact of Utilization
2005				
African Americans	0.20%	9.59%	2.11	* Underutilization
Hispanic Americans	0.00%	3.02%	0.00	* Underutilization
Asian Americans	0.00%	2.59%	0.00	* Underutilization
Native Americans	0.00%	1.25%	0.00	* Underutilization
Nonminority Women	5.67%	27.84%	20.36	* Underutilization
Non-M/WBE Firms	94.13%	55.71%	168.98	Overutilization
2006				
African Americans	0.08%	9.59%	0.81	* Underutilization
Hispanic Americans	0.00%	3.02%	0.00	* Underutilization
Asian Americans	0.00%	2.59%	0.00	* Underutilization
Native Americans	0.00%	1.25%	0.00	* Underutilization
Nonminority Women	49.34%	27.84%	177.23	Overutilization
Non-M/WBE Firms	50.59%	55.71%	90.81	Underutilization
2007				
African Americans	0.00%	9.59%	0.00	* Underutilization
Hispanic Americans	0.00%	3.02%	0.00	* Underutilization
Asian Americans	0.00%	2.59%	0.00	* Underutilization
Native Americans	0.00%	1.25%	0.00	* Underutilization
Nonminority Women	0.26%	27.84%	0.92	* Underutilization
Non-M/WBE Firms	99.74%	55.71%	179.05	Overutilization
2008				
African Americans	0.00%	9.59%	0.00	* Underutilization
Hispanic Americans	0.00%	3.02%	0.00	* Underutilization
Asian Americans	0.00%	2.59%	0.00	* Underutilization
Native Americans	0.00%	1.25%	0.00	* Underutilization
Nonminority Women	2.77%	27.84%	9.96	* Underutilization
Non-M/WBE Firms	97.23%	55.71%	174.54	Overutilization
All Years				
African Americans	0.04%	9.59%	0.45	* Underutilization
Hispanic Americans	0.00%	3.02%	0.00	* Underutilization
Asian Americans	0.00%	2.59%	0.00	* Underutilization
Native Americans	0.00%	1.25%	0.00	* Underutilization
Nonminority Women	1.02%	27.84%	3.67	* Underutilization
Non-M/WBE Firms	81.79%	55.71%	146.83	Overutilization

Source of Data: Permit data extracted from the County's and City's Permits and Enforcement Tracking System (PETS) and U.S. Bureau of the Census 2002, Survey of Business Owners, based on firms with paid and non-paid employees.

[1] The percentage of construction valuation dollars is taken from the subcontractor utilization exhibit shown in Section 6.3.1.

[2] The percentage of available contractors is taken from the availability exhibit shown in Section 6.5.1.

[3] The disparity index is the ratio of percent utilization to percent availability times 100.

* An asterisk is used to indicate a substantial level of disparity (index below 80.00).

6.6 Comparison of the County's Utilization of M/WBE Contractors with M/WBE Businesses Utilization in the Private Sector

Exhibit 6-15 reports M/WBE and nonminority male-owned firm utilization of prime contractors and subcontractors for public sector construction projects awarded by the County from October 1, 2004 through September 30, 2008 and compares this with private commercial construction utilization calculated from County- and city of Tallahassee-construction permit information for the County's local market area. **Exhibit 6-15** summarizes findings from all three data sets for firm utilization at the prime contractor level based on the County's expenditure data (Banner financial system), and, at the subcontractor level, compares public sector utilization with private sector utilization based on the County's and city of Tallahassee's permit data.

EXHIBIT 6-15
COMPARISON OF M/WBE UTILIZATION PERCENTAGE OF DOLLARS
PRIVATE COMMERCIAL CONSTRUCTION
WITH THE COUNTY PUBLIC SECTOR CONSTRUCTION
(EXPENDITURE AND CONTRACT AWARD DATA)
OCTOBER 1, 2004, THROUGH SEPTEMBER 30, 2008

Business Category/Data Source	African American	Hispanic American	Asian American	Native American	Nonminority Women	M/WBE Firms	Non-M/WBE Firms
Prime Contractors							
Leon County Construction Prime Contractors (Based on Expenditure Data Only)	3.46%	0.00%	0.00%	0.00%	12.86%	16.32%	83.68%
Private Construction Prime Contractors (Leon County, Florida Building Permits)	0.86%	0.00%	0.00%	0.00%	2.48%	3.34%	96.66%
Private Construction Prime Contractors (City of Tallahassee, Florida Building Permits)	0.03%	0.00%	0.00%	0.00%	1.02%	1.05%	98.95%
Subcontractors	**African American**	**Hispanic American**	**Asian American**	**Native American**	**Nonminority Women**	**M/WBE Firms**	**Non-M/WBE Firms**
Leon County Construction Subcontractors (Overall Subconractor Level)[1]	10.12%	1.64%	0.00%	0.05%	1.16%	12.97%	87.03%
Private Construction Subcontractors (Leon County, Florida Building Permits)	0.00%	0.00%	0.00%	0.05%	3.80%	3.80%	96.20%
Private Construction Subcontractors (City of Tallahassee, Florida Building Permits)	0.04%	0.00%	0.00%	0.00%	18.16%	18.21%	81.79%

Source: The Leon County public sector data (expenditure and contract award), Leon County permit data, and City of Tallahassee permit data.

From **Exhibit 6-15**, at the construction prime contractor level, MGT finds M/WBEs received more than 16 percent (16.32%) of the dollars, based on expenditure data. At the construction prime contractor level, M/WBE utilization was much greater in the public sector (Leon County expenditure data) than in the private sector. Based on the permit data analyzed, M/WBE utilization was more than 3 percent (3.34%) and slightly more than 1 percent (1.05%) based on County-provided commercial permits . Moreover, at the prime level for both permit data sets, based on matches with M/WBE vendor lists, of the

M/WBE prime contractor activity, nonminority women-owned firms had the highest share of utilization.

As for construction subcontractors, MGT finds that M/WBEs received .3.8 percent and 18 percent (18.21%) of the County- and city of Tallahassee-provided permits related to subcontractor-level activity. Based on the County's data, M/WBE utilization was substantially higher at 20 percent (12.97%) than in the private sector based on Leon County permit data.

6.7 *Conclusions*

Exhibits 6-15 presented a summary of prime and subcontractor vendor utilization by racial/ethnic/gender category, comparing M/WBE utilization for the County construction projects with private sector commercial construction projects from October 1, 2004 through September 30, 2008. Based on identified M/WBEs for both public sector and private sector construction projects, substantial M/WBE underutilization was evident in both sectors. On the other hand, according to findings from permit data, M/WBE prime contractors fared better in the public sector, which includes the County, but were substantially underutilized in some race/ethnicity/gender classifications nonetheless. Furthermore, M/WBE subcontractors fared better in the public sector as opposed to the private sector, based on permit data.[8]

Due to exclusionary laws and years of discrimination, M/WBEs have entered the marketplace only recently, from a historical perspective, when compared with nonminority male-owned firms. They thus tend to be smaller than more established and older nonminority male-owned firms. These factors, in turn, limits their capacity not only to undertake large-scale construction projects but also to access capital and other advantages in bonding and insurance available to larger, more established firms. This conclusion is underscored by findings from the analysis of race/ethnicity/gender effects on the propensity for self-employment and self-employment earnings that suggest that M/WBEs are treated differently than their majority counterparts in the marketplace and that this difference in treatment affects rates of M/WBE business formation and earning capacity.

However, capacity alone is not a sufficient explanation for these differences, especially at the subcontractor level in the construction industry, where capacity is a lesser consideration and availability far exceeds the record of utilization, particularly in the private sector. When private sector M/WBE utilization at the subcontractor level for commercial building projects is only a fraction of public sector M/WBE utilization, there is a strong argument that nonminority firms utilized for public sector construction projects employ M/WBE subcontractors only because the municipality encourages them to do so as a condition of winning a given public contract. If M/WBE subcontractor utilization is all but absent in the private sector and the County does not require contractors who apply for public sector construction projects to demonstrate a "good faith" record of their efforts to utilize M/WBE subcontractors in the private sector as well, credence may be given to the proposition established in *Croson* that government, however effective its own M/WBE policies, may be a passive participant in private sector discrimination.

[8] Excluding the permit data analyses, based on the city of Tallahassee commercial permit data at the subcontractor level.

7.0 SELECTED BEST PRACTICES

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7.0 SELECTED BEST PRACTICES

7.1 Small Business Enterprise Prime Contractor Programs

7.1.1 Small Business Enterprise Set-Asides

The federal government aims to set aside every acquisition of goods and services anticipated to be between $2,500 and $100,000 for small business enterprises (SBEs). In response to litigation and state constitutional amendments limiting affirmative action, such as Proposition 209, many agencies have adopted SBE programs. A number of agencies (Phoenix, Arizona; Broward County, Florida; Miami-Dade County, Florida; Tampa, Florida; North Carolina Department of Transportation; Port Authority of New York and New Jersey) set aside contracts for SBEs.

North Carolina Department of Transportation (NCDOT). In the NCDOT program, small contractors are defined as firms with less than $1.5 million in revenue. There is a small contractor goal of $2 million for each of the 14 NCDOT divisions. The current cap on project size for small contractors is $500,000. For contracts less than $500,000, NCDOT can solicit three informal bids from SBEs.[1] North Carolina law permits the waiving of bonds and licensing requirements for these small contracts let to SBEs.[2] In 2002, M/WBEs won over 35 percent of SBE contract awards.[3]

City of Phoenix, Arizona. The city of Phoenix, which uses the United States Small Business Administration (SBA) small business size standards, has a modest SBE set-aside program. The SBE program only accounted for 0.5 percent of total M/WBE utilization in construction subcontracting, and 0.2 percent of total M/WBE utilization in goods and supplies. However, there was strong M/WBE utilization in the city SBE program. In the SBE program, over 92.9 percent and 89.1 percent of the dollars went to M/WBEs in construction subcontracting and goods and supplies, respectively. Firms that were certified as both M/WBEs and SBEs were awarded $98.1 million in contract dollars.

Other SBE set-asides include:

- The city of Tampa, Florida, has an SBE set-aside program for firms with less than 25 employees and less than $2 million in revenue.[4]
- The city of San Diego, California, set aside all construction contracts up to $250,000.
- Sacramento Municipal Utility District (SMUD) set aside contracts up to $50,000.
- Hillsborough County, Florida, set aside construction contracts up to $200,000.

[1] NCGS § 136-28.10(a).
[2] NCGS § 136-28.10(b.
[3] NCDOT, Small Business Enterprise Program (April 1, 2002).
[4] Small Business Enterprise (SBE) Program Executive Order No. 2002-48 (December 18, 2002).

- Orlando Orange County Expressway Authority's (OOCEA) Micro Contracts Program set aside construction, *maintenance*, professional services, or other services that are expected to cost less than $200,000or electrical services expected to cost less than $50,000. OOCEA adopted a joint-check policy to assist small firms with trade credit in the program.

7.1.2 Small Business Enterprise Bid Preferences

A number of agencies have bid preferences for SBEs (Miamia-Dade County, Florida; Port Authority of New York and New Jersey; SMUD; city of Sacramento, California; city of Oakland, California; East Bay Municipal Utility District; San Francisco, California). SBE bid preferences operate along similar lines as M/WBE bid preferences. A typical example is a bid preference of 5 percent on contracts under $100,000 (Sacramento, California; SMUD; Los Angeles County, California).

Port of Portland Bid Preferences for Small Business. The Port of Portland (Port) found that a bid preference of 5 percent had no impact on contract outcomes, but a bid preference of 10 percent did impact contract outcomes.

7.1.3 Other SBE Prime Contractor Assistance

City of Charlotte, North Carolina. The city of Charlotte has a comprehensive SBE program including SBE set-asides and business assistance. In addition, the city of Charlotte sets department goals for SBE utilization, sets SBE goals on formal and informal contracts, and makes SBE utilization part of department performance review utilization numbers.

North Carolina Department of Transportation Fully Operated Rental Agreements. Under these arrangements a firm may bid an hourly rate for using certain equipment and the necessary staff. In these field-let contracts, engineers select the firm with the appropriate equipment and the lowest bid rate. If that firm is not available, the engineers select the next lowest hourly rate. This rental agreement technique is used primarily to supplement equipment in the event of NCDOT equipment failure or peak demand for NCDOT services. The rental agreement technique is attractive to small contractors because the typical small firm has much better knowledge of its own hourly costs than it does of the costs to complete an entire project.

Florida Department of Transportation (Florida DOT) Business Development Initiative. The Florida DOT has just undertaken a stepped-up small business initiative with the following principle components:

- Reserving certain construction, maintenance, and professional services contracts for small businesses.

- Providing bid preference points to small businesses, and to firms offering subcontracts to small businesses on professional services contracts.

- Waiving performance and bid bond requirements for contracts under $250,000.

- Using a modified pre-qualification process for certain construction and maintenance projects.

Port Authority of New York and New Jersey (Port Authority) Financial Advisors Program. The Port Authority has encouraged the use of M/WBEs in finance through its financial advisory call-in program, which targets small firms to serve as a pool of advisors for the Port Authority Chief Financial Officer. The financial advisors address debt issuance, financial advisory services, real estate transactions, and green initiatives. There are three to four firms in each of these categories in the financial advisory call-in program.

7.2 HUBZones

Another variant of an SBE program provides incentives for SBEs located in distressed areas. For example, under the *Small Business Reauthorization Act of 1997*, the federal government started the federal HUBZone program. A HUBZone firm is a small business that is: (1) owned and controlled by U.S. citizens; (2) has at least 35 percent of its employees who reside in a HUBZone; and (3) has its principal place of business located in a HUBZone.[5] HUBZone programs can serve as a vehicle for encouraging M/WBE contract utilization. Nationally, there are 5,357 women and minority HUBZone firms, representing 56.2 percent of total HUBZone firms.[6]

City of New York, New York. The city of New York has a HUBZone type program providing subcontracting preferences to small construction firms (with less than $2 million in average revenue) that either perform 25 percent of their work in economically distressed areas or for which 25 percent of their employees are economically disadvantaged individuals.[7]

State of California. The state of California provides a 5 percent preference for a business work site located in state enterprise zones and an additional 1 to 4 percent preference (not to exceed $50,000 on goods and services contracts in excess of $100,000) for hiring from within the enterprise zone.[8]

Miami-Dade County, Florida. Miami-Dade County has a Community Workforce Program that requires all Capital Construction Projects contractors to hire 10 percent of their workforce from Designated Target Areas (which include Empowerment Zones, Community Development Block Grant Eligible Block Groups, Enterprise Zones, and Target Urban Areas) in which the Capital Project is located.[9]

It is worth noting that some agencies have implemented HUBZone type programs and then terminated them, including New Jersey in the 1980s and Seattle, Washington's, BOOST program in 2001.

[5] 13 C.F.R. 126.200 (1999).
[6] Based on the SBA pro-net database located at http://pro-net.sba.gov/pro-net/search.html.
[7] New York Administrative Code § 6-108.1. For a description of the New York local business enterprise program see http://www.nyc.gov/html/sbs/html/lbe.html.
[8] Cal Code Sec 4530 *et seq.*
[9] Miami Ordinance 03-237.

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7.3 Small Business Enterprise Program for Subcontracts

7.3.1 Small Business Enterprise Project Goals

City of Charlotte, North Carolina. The city of Charlotte sets SBE projects goals for contracts.[10] The city has waiver provisions for bidders, but has rejected bids for bidder noncompliance with the SBE program. Other SBE subcontractor goal programs include:

- Oakland, California – 50 percent local SBE.
- New Jersey – 25 percent (up from 15 percent).
- Connecticut – 25 percent SBE.
- Sacramento County, California – 25 percent SBE.
- San Antonio, Texas – 50 percent SBE.

7.3.2 Mandatory Subcontracting

As part of their SBE subcontracting program, some agencies impose mandatory subcontracting clauses which would promote SBE utilization and be consistent with industry practice.

City of Columbia, South Carolina. The city of Columbia Subcontractor Outreach Program established in 2003 applies to city contracts of $200,000 or more. A prime must subcontract a minimum percentage of its bid. The minimums are set out in **Exhibit 7-1**.

EXHIBIT 7-1
MINIMUM SUBCONTRACTING REQUIREMENTS FOR COLUMBIA SUBCONTRACTOR OUTREACH PROGRAM

Projects	Minimum Subcontracting
Parks	20%
Pipelines (water and sewer)	20%
Pump Stations	20%
Street Improvements	20%
Traffic Signals/Street Lighting	20%
Buildings Project by Project	Not to exceed 49%
Miscellaneous Projects	20%

Source: City of Columbia, Subcontracting Outreach Program (March 2003).

Bidders must make affirmative efforts in outreach to DBEs, Disabled Veteran Business Enterprises (DVBEs), and Other Business Enterprises (OBEs) (defined as a business that does not qualify as either a DBE or a DVBE). A bidder will be deemed non-responsive for failure to meet the subcontractor goal, failure to document their outreach efforts, or failure to meet 80 out of 100 points for good faith efforts. Points are granted on a pass/fail basis, awarding either zero or full points.

[10] A description of the Charlotte SBE program can be found at www.charmeck.org/Departments/Economic+Development/Small+Business/Home.htm.

City of San Diego, California. As part of its Subcontractor Outreach Program, San Diego requires mandatory outreach, mandatory use of subcontractors, and mandatory submission of an outreach document. Whether a contract has mandatory subcontracting is determined by the engineer on the project.

Contra Costa County, California. The Contra Costa County Outreach Program sets mandatory subcontracting minimums on a contract-by-contract basis.[11] The Contra Costa County Outreach Program requires that M/WBEs be considered by contractors as possible sources of supply and subcontracting opportunities.

7.3.3 Listing of Subcontractors

The listing of subcontractors reduces the possibility of bid shopping. This also assists the city during the submission review process, goal-setting process, and goal attainment review, and assists with avoiding administrative issues of handling noncompliance after contract award.

7.3.4 Subcontractor Disclosure and Substitution

State of Oregon. Under Oregon law, bidders are required to disclose first-tier subcontractors that will be furnishing labor for the project and have a contract value greater than or equal to 5 percent of the bid or $15,000 (whichever is greater), or $350,000 regardless of the percentage of the total project.[12] First-tier subcontractor disclosure does not apply to contracts below $100,000, or contracts exempt from competitive bidding requirements.[13] Bidders are not required to disclose the race or gender of the first-tier subcontractors.

Bidders are allowed to substitute subcontractors.[14] The subcontractor substitution statute provides standards sufficient for cause regarding subcontractor substitution, including subcontractor bankruptcy, poor performance, inability to meet bonding requirement, licensing deficiencies, ineligibility to work based upon applicable statutes, and for "good cause" as defined by the Construction Contractors Board.[15] The statute provides a process by which subcontractors can issue complaints about substitutions. Violation of subcontractor substitution rules may result in civil penalties.[16]

7.4 Disadvantaged Business Enterprise Programs

Following the federal model, some agencies have added DBE programs.[17] SBE programs focus on the disadvantage of the business, HUBZone programs focus on the disadvantage of the business location, and DBE programs focus on the disadvantage of the individual operating the business.

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[11] Contra Costa County, Outreach Program, Ordinance Section 3-2 et seq.
[12] ORS § 279C.370(1)(a)(A),(B).
[13] ORS § 279C.370(1)(c),(d).
[14] ORS § 279C.370(5), ORS § 279C.585.
[15] ORS § 279C.585.
[16] ORS § 279C.590.
[17] DBE programs and Airport Concession Disadvantaged Enterprise (ACDBE) programs are required to be developed and implemented as a part of the federal funding process.

State of North Carolina. The state of North Carolina changed the definition of minority used in the state minority construction program to include socially and economically disadvantaged individuals, as defined in the federal rules.[18] Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.[19] Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area that are not socially disadvantaged.[20] This rule permits firms certified under the federal 8(a), DBE, and small disadvantaged business enterprise (S/DBE) programs to be certified as a minority firm in North Carolina. This rule also implies that firms owned by majority males are eligible for the program as there are firms owned by majority males that qualify for the 8(a), DBE, and S/DBE programs by making an individual showing of their social and economic disadvantage.

Milwaukee Emerging Business Enterprise Program. The city of Milwaukee, Wisconsin, defines disadvantage along six dimensions:

- Disadvantage with respect to education.
- Disadvantage with respect to location.
- Disadvantage with respect to employment.
- Social disadvantage (lack of traditional family structure, impoverished background, and related issues).
- Lack of business training.
- Economic disadvantage (credit issues, inability to win contracts, and related issues).

The city of Milwaukee defines an emerging business as a business owned by an individual satisfying the sixth dimension of disadvantage and three out of the five other dimensions of disadvantage.[21] The city of Milwaukee has set a goal of 18 percent spending with emerging businesses, including both prime contracting and subcontracting.

7.5 Bidder Rotation

Some political jurisdictions use bidder rotation schemes to limit habit purchases from majority firms and to ensure that M/WBEs have an opportunity to bid along with majority firms. A number of agencies, including the city of Indianapolis, Indiana; Fairfax County, Virginia; the Port Authority of New York and New Jersey; and Miami-Dade County,

[18] NC GS § 143-128.2(g).
[19] 15 USC 637(a)(5).
[20] 15 USC 637(a)(6)(A).
[21] Milwaukee Ordinance, Emerging Business Enterprise Program, 360-01 (12).

Florida, use bid rotation to encourage M/WBE utilization, particularly in architecture and engineering (A&E). Some examples of bidder rotation from other agencies include:

Miami-Dade County, Florida. Miami-Dade County uses small purchase orders for the Community Business Enterprise program and rotates on that basis. In addition, Miami-Dade County utilizes an Equitable Distribution Program, whereby a pool of qualified A&E professionals are rotated awards of county miscellaneous A&E services as prime contractors and subcontractors.

DeKalb County, Georgia. DeKalb County has used a form of bidder rotation called a bidder box system to promote M/WBE utilization. This system selects a group of bidders from the list of county registered vendors to participate in open market procurements. Under the bidder rotation system, the buyer identifies the commodity or service by entering an item box number. Using this item box, the computer selects five to six firms. The lowest responsible bidder is awarded the contract. M/WBEs were afforded an increased number of bid opportunities than would ordinarily be the case with a sequential selection process.

Port Authority of New York and New Jersey. The Port Authority has a Quick Bid rotation system for small contracts less than $500,000. In this program, the agency solicits bids via telephone and fax from a minimum of six contractors on a rotating basis. The period between bid, award, and contract start is generally not more than six weeks. Bidders are provided free construction documents with which to prepare their bids.[22]

7.6 Outreach

Bexar County, Texas, Small, Minority, and Women Business Owners Conference. Bexar County, in conjunction with the city of San Antonio, has sponsored annual Small, Minority, and Women Business Owners conferences since 2001. The conferences have been co-sponsored by the Central and South Texas Minority Business Council in conjunction with a number of major corporations, including Dell, Toyota, and AT&T. Typically, conference workshops have addressed the following:

- Doing business with federal, state, and local agencies, and the private sector.
- Access to capital.
- Human resources.
- Franchising.
- Management.
- Veterans.
- Responding to bids and RFPs.

Registered attendees grew from 1,200 in 2001 to 2,400 in 2006; estimated total attendance grew from 1,800 in 2001 to 5,000 in 2006. The number of exhibitors grew from 75 in 2001 to 180 in 2006.[23] Virtually all the major local agencies, loan providers, business development providers, and chambers of commerce participate in the

[22] Port Authority of NY & NJ, Engineering Department, *2002 Construction Program*, at 8.
[23] Small, Minority, and Women Business Owners (S/M/WBO) Conference, Frequently Asked Questions, at 6.

conference along with a number of major corporations. The conference budget for 2007 was $250,000.

7.7 Construction Management, Request for Proposals, and Design-Build

One method of debundling in construction is through the use of multiprime construction contracts in which a construction project is divided into several prime contracts that are then managed by a construction manager-at-risk. For example, this approach has been used on projects where each prime contractor is responsible for installation and repair in particular areas. The construction manager is responsible for obtaining materials at volume discounts based upon total agency purchases. If one contractor defaults, a change order is issued to another prime contractor working in an adjacent area. The construction manager-at-risk is responsible for cost overruns that result from prime contractor default.

Construction management also facilitates the rotation of contracts within an area of work. For example, if several subcontractors have the capacity of bidding on an extended work activity such as concrete flat work, traffic control, or hauling, the construction manager can rotate contracting opportunities over the duration of the activity.

Using a request for proposal (RFP) process can provide the flexibility for including M/WBE participation in prime contractor requirements and selection. One of the nonfinancial criteria can be the proposer's approach and past history with M/WBE subcontractor utilization as well as women and minority workforce participation. A number of agencies (Fulton County, Georgia, New Jersey Transit, Washington Metropolitan Transit, and many major airports) have a mandate for construction managers to include a team member to perform the function of the M/WBE office staff.

A number of universities around the country, the Charlotte-Mecklenburg School System, North Carolina; the Tri-County Metropolitan Transportation District of Oregon; the city of Phoenix, Arizona; and the city of Columbia, South Carolina, have had some success with this approach.[24]

7.8 Outsourcing

City of Indianapolis, Indiana. The city of Indianapolis increased M/WBE utilization through privatization. The city prioritized outsourcing in procurement areas where minority businesses had particular expertise and experience. The city claims to have been particularly successful in contracting out street repair.

[24] Federal Transit Administration, *Lessons Learned #45* (May 2002). www.fta.dot.gov/library/program/ll/man/ll45.html

7.9 Race-Neutral Joint Ventures

City of Atlanta, Georgia. The city of Atlanta requires establishment of joint ventures on large projects of over $10 million.[25] Primes are required to create a joint venture with a firm from a different ethnic/gender group in order to ensure prime contracting opportunities for all businesses. This rule applies to women and minority firms as well as nonminority firms. This rule has resulted in tens of millions of dollars in contract awards to women- and minority-owned firms.

Washington Suburban Sanitation Commission (WSSC). The WSSC Competitive Business Demonstration Project requires joint ventures between a local SBE and an established firm in procurement areas that do not generate enough bids.

7.10 Combined Race-Neutral and Race-Conscious Programs

A number of agencies (Tampa, Florida; Phoenix, Arizona; Charlotte, North Carolina; Hillsborough County, Florida; Jacksonville, Florida; Port Authority of New York and New Jersey; and Connecticut) combine race-neutral and race-conscious program features.

City of Saint Paul, Minnesota. The city of Saint Paul Vendor Outreach Program requires that contractors document their solicitation of bids, in addition to listing subcontracting opportunities, from SBEs, MBEs, and WBEs attending pre-bid conferences and seeking assistance from M/WBE organizations.[26] Saint Paul achieved 10.4 percent SBE spending (out of $113.2 million in total spending). In the SBE program, 62.5 percent of SBE spending went to WBEs, 21.2 percent to nonminority males, and 16.3 percent to MBEs.[27]

City of Jacksonville, Florida. The city of Jacksonville implemented a hybrid program by establishing a declining schedule of race-conscious targets.[28] In the first program year, Jacksonville proposes to meet 70 percent of its M/WBE goal with race-conscious means, the second year, 50 percent, and the third year, 25 percent. At the end of the three-year period the program is to be evaluated.

State of Connecticut. The state of Connecticut reserves 25 percent of its SBE contracts for M/WBEs.

7.11 Management and Technical Services

A number of agencies hire an outside management and technical assistance provider to provide needed technical services related to business development and performance. Such a contract can be structured to include providing incentives to produce results, such as the number of M/WBEs being registered as qualified vendors with agencies, the number of M/WBEs graduating from subcontract work to prime contracting, and rewarding firms that utilize M/WBEs in their private sector business activities.

[25] City of Atlanta Ordinance Sec. 2-1450 and Sec. 2-1451.
[26] City of St. Paul, Vendor Outreach Program, Ordinance 84.08, .09
[27] City of St. Paul, *Vendor Outreach Program Detailed Report*, FY 2004, at 6.
[28] City of Jacksonville, Executive Order No. 04-02.

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Port Authority of New York and New Jersey. The Port Authority has a three-year fee-for-service contract with the Regional Alliance for Small Contractors capped at $275,000.[29] Previously, the contract was a flat grant, but it was changed to a fee-for-service arrangement to reward creative uses of financial resources.

7.12 Certification

7.12.1 Size Standards for Certification

State of Oregon. The state of Oregon has a two-tier system for small business certification. A tier one firm employs fewer than 20 full-time equivalent employees and has average annual gross receipts for the last three years that do not exceed $1.5 million for construction, or $600,000 for non-construction. A tier two firm employs fewer than 30 full-time equivalent employees and has average annual gross receipts for the last three years that do not exceed $3 million for construction, or $1 million for non-construction. [30] An emerging small business cannot be a subsidiary or a franchise. In 2006, small business program participation was extended from seven to 12 years.[31]

State of New Jersey. For the state of New Jersey, there are separate size standards for small businesses and emerging small businesses. For large projects, the state of New Jersey carves out portions of the contract for both tiers of small business. Thus, a single solicitation requires that the prime spend a certain percentage of the contract with small firms and another percentage with emerging small firms. Along related lines, the federal government sets aside contracts for bidding only amongst small firms, and other contracts may be set aside for bidding only by emerging small firms.

Federal Government. The federal government has the additional categories:

- Emerging Small Business, defined as being 50 percent of the SBA size standards.
- Very Small Business, defined as fewer than 15 employees and less than $1 million in revenue.

7.12.2 Personal Net Worth Limits

The United States Department of Transportation DBE personal net worth limit of $750,000 is a standard net worth requirement employed by many local agencies. The USDOT net worth limit excludes the owner's home and business equity in determining net worth.

[29] The Regional Alliance was started in 1989. For general background on the Regional Alliance see Timothy Bates, "Case Studies of City Minority Business Assistance Programs," report for the U.S. MBDA, September 1993.
[30] OAR 445-050-0115.
[31] OAR 445-050-0135.

7.13 Economic Development Projects

A number of cities (including Atlanta, Georgia; Jersey City, New Jersey; and Saint Paul, Minnesota) have encouraged private sector M/WBE utilization by one of two methods: (1) asking prospective bidders to report their private sector M/WBE utilization, and (2) setting aspirational goals for private sector projects with significant city tax incentives, such as tax allocation districts and community improvement districts. The city of Oakland, California, Local Small Business Enterprise Program also provides bid preferences to SBEs on tax-assisted projects. Saint Paul and Jersey City have separate offices negotiating, tracking, and managing M/WBE participation on development projects.

Bexar County Tax Phase-In Agreements. M/W/SBE participation was added to the county tax incentive policy in 2004. The county currently considers tax abatements of up to 40 percent on qualified real property improvements and new personal property investment.[32] Property taxes are 80 percent of county revenue. The county considers an increased property tax abatement of up to 80 percent based on other project criteria. This criteria includes hiring 25 percent of positions created with county residents, hiring 25 percent economically disadvantaged or dislocated individuals, practicing sound environmental practices, and dividing work to the extent practical to assist M/W/SBEs in obtaining contracts. Applicants are encouraged to award 20 percent of projects to M/WBEs and 30 percent to certified small businesses.[33] Currently, there are no similar M/W/SBE policies for tax increment financing (TIF) subsidy.[34]

In a Tax Phase-In Agreement for Lowe's Home Centers, Lowe's agreed to:

- Use good faith efforts to include certified M/WBEs.
- Work in good faith to set construction and operational services goals for M/WBEs based on M/WBE availability.
- Establish a mutually agreed upon M/WBE reporting format.

The agreement acknowledged that although Lowe's still has national contracts it must comply with, and retained the right to choose any vendor, they have agreed to explore subcontracting opportunities.[35]

In a HEB Grocery Tax Phase-In Agreement, HEB Grocery committed to 20 percent M/WBE participation and 10 percent SBE participation.[36] This was in addition to agreeing to hire 25 percent from Bexar County and 25 percent from economically disadvantaged or dislocated workers.

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[32] The County Tax Phase-In Policy is currently being revised.

[33] Bexar County Economic Development & Special Programs Office, Tax Phase-In Guidelines for Bexar County and the city of San Antonio, effective June 15, 2006 through June 14, 2008, adopted February 28, 2006. Not all agreements include M/W/SBE objectives. For examples, the Kautex Tax Phase In Agreement did not address M/W/SBE policy. See Bexar County, Tax Phase-In Agreement (Kautex), December 20, 2005.

[34] Bexar County, Texas, Tax Increment Financing and Reinvestment Zone (TIF/TIRZ), Guidelines and Criteria, Commissioner's Court Amended and Approved: August 23, 2005.

[35] Bexar County, Tax Phase-In Agreement (Lowe's), June 27, 2006, Exhibit E.

[36] Bexar County, Tax Phase-In Agreement (HEB Grocery), March 11, 2003, Section 5.01(c).

Bexar County Public Improvement Districts. County policies allow for the county to enter into an economic development agreement for Public Improvement Districts (PIDs).[37] PIDs are projected to be used in conjunction with TIFs for housing and infrastructure development.[38] As a condition of the economic development agreement, the firm seeking such an agreement has to meet, at a minimum, certain criteria involving employment, health care benefits, environmental practices, and M/W/SBE policy. M/W/SBE policy was added to PIDs in 2006.

In an agreement with Marriott, which has been labeled a "super PID," the agreement provided that Marriot would "use reasonable efforts to comply with the M/W/SBE policies and procedures attached."[39] The Marriott agreement noted that the project owner had established 20 percent M/W/SBE goals in construction. Marriott retained the right to accept the lowest qualified bid. The agreement also provided for the hotel to develop M/WBE goals in operational services, to work with the M/W/SBE office in implementing the Marriott supplier diversity program, to use certified firms, and semi-annual M/W/SBE reporting. "The sole remedy for noncompliance with this provision shall be the obligation of Marriott to prepare and implement a plan that provide for reasonable efforts to achieve the goals set forth."

7.14 Project Goal Setting

North Carolina Department of Transportation. The NCDOT regulations emphasize that goals should be set on projects "determined appropriate by the Department [of Transportation]."[40] Individual goals are set based on a project's geographic location, characteristics of the project, the percentage of that type of work that is typically performed by M/WBEs, the areas in which M/WBEs are known to provide services, and the goals set by the North Carolina General Assembly.[41] The NCDOT M/WBE regulations specify (although they do not limit to) particular areas for M/WBE goals: clearing and grubbing, hauling and trucking, storm drainage, concrete and masonry construction, guardrail, landscaping, erosion control, reinforcing steel, utility construction, and pavement marking.

The NCDOT goal setting process begins with an engineering estimate of the project to determine what items might reasonably be subcontracted out. Next, estimates of the percentage of work that could be potentially performed by DBEs and M/WBEs are developed.[42] These estimates are confidential and made available only to the Estimator (and staff), the provisions engineer in the proposals and contracts section (and staff), and members of the DBE/M/WBE committee at the DBE/M/WBE committee meetings.
Next, NCDOT looks at whether there are M/WBEs available based on the NCDOT DBE/M/WBE directory and the location of the project. The NCDOT directory is a searchable database that classifies firms by location, prime contractor/subcontractor

[37] Such an agreement is allowed for under Chapter 372 of the Texas Local Government Code.
[38] Bexar County, Texas, 2005 – 2009 Consolidated Plan, Executive Summary, at 61.
[39] Senior Priority Economic Development Agreement By and Between Cibolo Canyons Special Improvement District, Marriott International, Inc and Bexar County, Texas, January 12, 2006, Exhibit B.
[40] 19A NCAC 02D.1108(a).
[41] 19A NCAC 02D.1108(a).
[42] NCDOT, Division of Highways, Roadway Design and Design Services Unit, *Policy and Procedure Manual*, Chapter 10, at 4.

status, and six-digit work type.[43] The Goal Setting Committee is assisted in this process by EEO Contract Compliance staff in the Office of Civil Rights.

Prime contractors then submit documentation of good faith efforts to achieve the individual project goal. A statement of how they will make efforts to achieve the goal satisfies the good faith effort requirements.

The NCDOT Goal Setting Committee (in collaboration with the EEO Contract Compliance staff) seeks to set goals relative to where there is interest, availability and capacity, beyond mere looking at the certification lists. NCDOT relies on the EEO Contract Compliance staff to provide input on whether existing businesses are fully occupied. However, if EEO Contract Compliance says M/WBEs are not fully occupied, but prime contractors submit evidence that M/WBEs are fully occupied (for example, with invoices), then NCDOT accepts those explanations.

As part of goal setting, NCDOT regulations provide that:

- A documented excessive subcontractor bid constitutes a basis for not subcontracting with an M/WBE.
- A documented record of poor experience constitutes a basis for not subcontracting with an M/WBE.[44]

In addition, a review of NCDOT DBE and M/WBE goals has been a regular topic at the Associated General Contractors (AGC)-DOT Joint Cooperative Committee meetings.[45]

City of Phoenix, Arizona. The city of Phoenix Goal Setting Committee is responsible for setting project goals on public works contracts bid by the city. The assigned project manager provides goal-setting information for the specific project to the Bid Specifications section of the Engineering & Architectural Services Department (EASD) at least 21 days before the project is to be advertised. The required information includes design plans, a detailed cost estimate, a project description, and the client department's construction budget.

The Goal Setting Committee identifies trade areas needed for each eligible project. The EASD staff identifies available MBE and WBE subcontractors that could perform in each trade area identified in the project description and provides the information to the Goal Setting Committee for use in establishing M/WBE project goals. The Goal Setting Committee develops appropriate goals for each trade area based on estimated dollar amounts and M/WBE availability. EASD publishes these goals in the bid specifications. The equal opportunity department monitors projects for which MBE and WBE goals have been set. The Goal Setting Committee meets to establish goals on projects estimated to cost more than $50,000.00.

Goals may be adjusted if the Goal Setting Committee finds, after consideration of historical bidding and utilization data, that such an adjustment is necessary to ensure a narrowly tailored goal. The Goal Setting Committee then forwards the goal to EASD for

[43] http://apps.dot.state.nc.us/constructionunit/directory/.
[44] The last two elements are adopted by the North Carolina DOT. 19A NCAC 02D.1110(7).
[45] AGC-DOT Joint Cooperative Committee Meeting Minutes, February 2001 through August 2003.

review. If EASD determines that delays or changes in the project will require modification of the goals, the recommendation is returned to the Goal Setting Committee for revision.

7.14.1 Waivers of Goals

City of Phoenix, Arizona. The city of Phoenix established a Waiver Review Committee (Committee) that is responsible for deciding whether to recommend waiver requests to the city engineer. The Committee has established a Subcontracting Goals Waiver Review Form. The form lists the criteria used by the Committee to determine whether to grant a waiver request. The Committee reviews each category on the form and evaluates the contractor's good faith efforts in attempting to meet project goals. Bidders requesting waivers must submit a letter explaining their reason(s) for the waiver along with supporting documentation demonstrating efforts made to solicit MBEs and WBEs as subcontractors on a project. The Committee then decides whether to grant the waiver based on the total number of categories in which the contractor has sufficiently complied with the requirements. Based on interviews with city officials, the criteria listed for granting or denying a waiver are not ranked in order of importance, the criteria are not weighted, and city officials have not established a definite number of categories that need to be satisfied to obtain a waiver.

Over a five-year period, the city awarded 504 projects with M/WBE goals, 25 waivers were requested by the low bidder and ten were rejected.

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8.0 FINDINGS AND RECOMMENDATIONS

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8.0 FINDINGS AND RECOMMENDATIONS

In October 2008, MGT of America, Inc. (MGT), was retained to conduct a minority and women business enterprise disparity study for Leon County Florida, (County), to determine whether there was a compelling interest to establish a narrowly-tailored *minority*- and women-owned business enterprise (M/WBE) program for the County. The study consisted of fact-finding to examine the extent to which race- and gender-conscious and race- and gender-neutral remedial efforts by the County had effectively eliminated ongoing effects of any past discrimination affecting the County's relevant marketplace; to analyze the County procurement trends and practices for the study period from October 1, 2004, through September 30, 2008; and to evaluate various options for future program development.

The results of this study and conclusions drawn are presented in detail in **Chapters 2.0** through **7.0** of this report. The following sections summarize each of the study's findings, which are followed by related major recommendations. Commendations are also noted in those instances in which the County already has procedures, programs, and policies in place that respond to findings. Selected best practices are described in **Chapter 7.0** to this report. These best practices expand on the findings and recommendations that are marked with an asterisk (*).

8.1 Findings for M/WBE Utilization and Availability

FINDING 8-1: Historical M/WBE Utilization

The dollar value of M/WBE utilization by the County in 2004 Leon County Disparity Study was as follows:

- M/WBEs won construction prime contracts for $479,980 (1.61 percent of the total).
- M/WBEs won construction subcontracts for $5.47 million (18.32 percent of total contract value).
- M/WBEs won professional services *prime* contracts for $914,754 (12.24 percent of the total).
- M/WBEs won professional services subcontracts for $422,975 (5.66 percent of the total).
- M/WBEs won other services contracts for $3.28 million (29.71 percent of the total).
- M/WBEs won materials and supplies contracts for $2.76 million (16.19 percent of the total).

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FINDING 8-2: M/WBE Prime Utilization, Availability and Disparity

The dollar value of M/WBE prime utilization by the County over the study period of October 1, 2004 through September 30, 2008, is shown in **Exhibit 8-1**:

- M/WBEs were paid $12.05 million (16.32 percent of the total) for prime construction services. There was substantial disparity for firms owned by African Americans and Asian Americans.
- M/WBEs were paid $1.05 million (14.64 percent of the total) for architecture and engineering (A&E) services. There was substantial disparity for Asian American- and nonminority women-owned firms.
- M/WBEs were paid $719,377 (16.05 percent of the total) for professional services. There was substantial disparity for firms owned by African Americans, Hispanic Americans, and nonminority women.
- M/WBEs were paid $3.40 million (53.57 percent of the total) for other services. There was substantial disparity for firms owned by Asian Americans, and Native Americans.
- M/WBEs were paid $1.60 million (13.81 percent of the total) for materials and supplies. There was substantial disparity for firms owned by African Americans, Hispanic Americans, and Asian Americans.

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EXHIBIT 8-1
M/WBE PRIME UTILIZATION, AVAILABILITY, AND DISPARITY
LEON COUNTY
OCTOBER 1, 2004, THROUGH SEPTEMBER 30, 2008

Business Category	African American	Hispanic American	Asian American	Native American	Nonminority Women	Total M/WBE
Construction Prime Contractors						
Utilization Dollars	$2,553,207	$0	$0	$0	$9,499,250	$12,052,457
Utilization Percent	3.46%	0.00%	0.00%	0.00%	12.86%	16.32%
Availability Percent	9.73%	0.00%	0.54%	0.00%	6.49%	16.76%
Disparity	**Underutilization ***	**N/A**	**Underutilization ***	**N/A**	**Overutilization**	
Architecture and Engineering Prime Consultants						
Utilization Dollars	$537,264	$0	$196,309	$0	$320,113	$1,053,686
Utilization Percent	7.46%	0.00%	2.73%	0.00%	4.45%	14.64%
Availability Percent	8.70%	0.00%	4.35%	0.00%	17.39%	30.43%
Disparity	**Underutilization**	**N/A**	**Underutilization ***	**N/A**	**Underutilization ***	
Professional Services Prime Consultants						
Utilization Dollars	$181,430	$0	$0	$0	$537,948	$719,377
Utilization Percent	4.05%	0.00%	0.00%	0.00%	12.00%	16.05%
Availability Percent	8.08%	1.01%	0.00%	0.00%	18.18%	27.27%
Disparity	**Underutilization ***	**Underutilization ***	**N/A**	**N/A**	**Underutilization ***	
Other Services Firms						
Utilization Dollars	$817,616	$319,088	$3,672	$3,696	$2,263,882	$3,407,954
Utilization Percent	12.85%	5.02%	0.06%	0.06%	35.59%	53.57%
Availability Percent	11.63%	1.16%	0.39%	0.39%	10.47%	24.03%
Disparity	**Overutilization**	**Overutilization**	**Underutilization ***	**Underutilization ***	**Overutilization**	
Materials and Supplies Vendors						
Utilization Dollars	$95,676	$0	$0	$0	$1,509,432	$1,605,108
Utilization Percent	0.82%	0.00%	0.00%	0.00%	12.98%	13.81%
Availability Percent	1.45%	0.36%	0.36%	0.00%	8.00%	10.18%
Disparity	**Underutilization ***	**Underutilization ***	**Underutilization ***	**N/A**	**Overutilization**	

Source: Utilization findings are taken from the exhibit previously shown in **Chapter 3.0** and **Chapter 4.0**. Availability is based on bidders/vendors.
N/A-not applicable.
*Substantial disparity.

FINDING 8-3: M/WBE Subcontractor Utilization, Availability, and Disparity

The dollar value of M/WBE construction subcontractors over the study period is shown in **Exhibit 8-2** below:

- M/WBEs won construction subcontracts for $2.39 million (12.97 percent of the total). There was substantial disparity in the utilization of available African American, Asian American, Native American, and nonminority women construction subcontractors.

EXHIBIT 8-2
M/WBE SUBCONTRACTOR UTILIZATION, AVAILABILITY, AND DISPARITY
LEON COUNTY
OCTOBER 1, 2004, THROUGH SEPTEMBER 30, 2008

Business Category	African American	Hispanic American	Asian American	Native American	Nonminority Women	Total M/WBE
Construction Subcontractors						
Utilization Dollars (Overall Subcontractor Level)	$1,868,840	$302,580	$0	$9,792	$213,761	$2,394,973
Utilization Percent (Overall Subcontractor Level)	10.12%	1.64%	0.00%	0.05%	1.16%	12.97%
Availability Percent	18.75%	1.56%	0.52%	0.69%	10.76%	32.29%
Disparity (Overall Subcontractor Level)	Underutilization *	Overutilization	Underutilization *	Underutilization *	Underutilization *	

Source: Subcontractor bidders; *Utilization* and disparity findings are taken from the exhibit previously shown in **Chapters 3.0** and **4.0**.
N/A-not applicable.
*Substantial disparity.

FINDING 8-4: M/WBE Utilization in Private Sector Commercial Construction

MBE prime and subcontractor utilization in private sector commercial construction in the County was generally quite low, as measured by data from building permits. MBE subcontractor utilization in particular was low in absolute terms (less than 4 percent) (**Exhibit 8-3**), in comparison to MBE subcontractor utilization on County projects (more than 12 percent), and in comparison to MBE availability (about 21 percent).

EXHIBIT 8-3
COMPARISON OF M/WBE UTILIZATION PERCENTAGE OF DOLLARS
PRIVATE COMMERCIAL CONSTRUCTION
LEON COUNTY
OCTOBER 1, 2004, THROUGH SEPTEMBER 30, 2008

Business Category/Data Source	African American	Hispanic American	Asian American	Native American	Nonminority Women	M/WBE Firms	Non-M/WBE Firms
Prime Contractors							
Leon County Construction Prime Contractors (Based on Expenditure Data Only)	3.46%	0.00%	0.00%	0.00%	12.86%	16.32%	83.68%
Private Construction Prime Contractors (Leon County, Florida Building Permits)	0.86%	0.00%	0.00%	0.00%	2.48%	3.34%	96.66%
Private Construction Prime Contractors (City of Tallahassee, Florida Building Permits)	0.03%	0.00%	0.00%	0.00%	1.02%	1.05%	98.95%
Subcontractors	**African American**	**Hispanic American**	**Asian American**	**Native American**	**Nonminority Women**	**M/WBE Firms**	**Non-M/WBE Firms**
Leon County Construction Subcontractors (Overall Subcontractor Level)[1]	10.12%	1.64%	1.64%	0.05%	1.16%	12.97%	87.03%
Private Construction Subcontractors (Leon County, Florida Building Permits)	3.54%	0.00%	0.00%	0.05%	0.26%	3.80%	96.20%
Private Construction Subcontractors (City of Tallahassee, Florida Building Permits)	0.04%	0.00%	0.00%	0.00%	18.16%	18.21%	81.79%

Source: Utilization findings are taken from the exhibit previously shown in **Chapters 3.0** and **6.0**.

FINDING 8-5: Disparities in the Census Data

There was evidence of disparities based on the 2002 Survey of Business Owners from the U.S. Census Bureau (for groups for which data was available):

- *Construction Firms.* Women-owned firms were 6.8 percent of firms, 6.2 percent of sales, with $84,224 in average revenue per firm, 90.9 percent of the market place average.

- *Professional Services Firms.* African American-owned firms were 5.6 percent of firms, 0.9 percent of sales, with $15,000 in average revenue per firm, 16.9 percent of the market place average. Women-owned firms were 24.4 percent of firms, 12.7 percent of sales, with $202,148 in average revenue per firm, 52.1 percent of the market place average.

8.2 Commendations and Recommendations

8.2.1 Commendations and Recommendations for Race-Neutral Alternatives

COMMENDATION and RECOMMENDATION 8-1: Outreach*

The County should be commended for its outreach efforts, including sponsoring workshops; participating in the Small Business Enterprise Week and MEDWeek, activities with the city of Tallahassee; partnerships with business development organizations such as the Small Business Development Center at Florida Agricultural and Mechanical (Florida A&M) University; and posting opportunities on the Web. Additional outreach can be conducted though special vendor fairs, networking sessions, and "brown bag" sessions targeting vendors for major projects such as federal funded stimulus projects and the joint public safety building. Division directors should be included in outreach sessions. In addition, the consolidation of the County and city of Tallahassee certified firms' directory would assist primes and staff with identifying available firms for M/W/SBE opportunities.

COMMENDATION and RECOMMENDATION 8-2: Vendor Rotation*

The County should consider the wider use of vendor rotation to expand utilization of under-utilized M/WBE groups. Some political jurisdictions use vendor rotation arrangements to limit habitual repetitive purchases from incumbent majority firms and to ensure that M/W/SBEs have an opportunity to bid along with majority firms. Generally, a diverse team of firms are prequalified for work and then teams alternate undertaking projects. A number of agencies, including the city of Indianapolis, Indiana; Fairfax County, Virginia; the Port Authority of New York and New Jersey; and Miami-Dade County, Florida; use vendor rotation to encourage utilization of underutilized M/WBE groups, particularly in professional services.

COMMENDATION and RECOMMENDATION 8-3: SBE Program for Prime Contracts*

The County should be commended for starting an SBE program. A strong SBE program is central to maintaining a narrowly tailored program to promote M/WBE utilization. In particular, the County should focus on increasing M/WBE utilization through the SBE program. The County does not face constitutional restrictions on its SBE program, only those procurement restrictions imposed by state law. Specific suggestions for the County's SBE program can be found in features of other SBE programs around the United States, including:

- Setting aside small financial consulting projects (Port Authority of New York and New Jersey SBE Program).
- Providing bid preferences to SBEs in bidding on contracts (Miami-Dade County, Florida, Community SBE Program; Port Authority of New York and New Jersey SBE Program; Port of Portland, East Bay Municipal Utility District Contract Equity Program).[1]
- Setting SBE goals on formal and informal contracts (city of Charlotte, North Carolina, SBE Program).
- Setting department goals for SBE utilization (city of Charlotte, North Carolina, SBE Program).
- Access to low cost insurance on small projects (city of San Diego, California, Minor Construction Program).
- Providing bid preferences to SBEs on tax-assisted projects (city of Oakland, California, Local Small Business Enterprise Program, and Port of Portland Emerging Small Business Program).
- Making SBE utilization part of department performance reviews (city of Charlotte, North Carolina, SBE Program).
- Mentor-protégé programs for small businesses (Port of Portland Emerging Small Business Program).

The County SBE training requirement has limited the effectiveness of the existing SBE program. The County should exempt firms from the training requirement if: (1) they have a record of satisfactory performance on similar projects with the County (or other major public/private organization), or (2) have satisfied similar training sessions with other organizations.

[1] The Port of Portland found that 10 percent bid preferences were more effective than 5 percent bid preferences.

RECOMMENDATION 8-4: Mandatory Subcontracting*

The County should consider imposing mandatory subcontracting clauses where such clauses would promote M/W/SBE utilization, and be consistent with industry practice.[2]

RECOMMENDATION 8-5: Business Development Assistance*

The County did attempt some business development initiatives for SBEs and M/WBEs. However, there have been problems with the existing delivery of training services. The County should focus on partnerships with organizations with a proven track record of business development assistance, such as the Florida Department of Transportation's Supportive Services program.

The County should evaluate the impact of these business development initiatives on M/W/SBE utilization. The County should follow the example of the Port Authority of New York and New Jersey, for which management and technical assistance contracts have been structured to include incentives for producing results, such as increasing the number of M/WBEs being registered as qualified vendors with the Port, and increasing the number of M/WBEs graduating from subcontract work to prime contracting.

8.2.2 M/WBE Policy Commendations and Recommendations

RECOMMENDATION 8-6: Narrowly Tailored M/W/SBE Program

This study provides evidence to support a narrowly tailored program to promote M/WBE utilization. This conclusion is based primarily on statistical disparities in current M/WBE utilization, particularly in subcontracting, substantial disparities in the private marketplace, evidence of discrimination in business formation and revenue earned from self-employment, and some evidence of passive participation in private sector disparities. The County should tailor its women and minority participation policy to remedy each of these specific disparities.

The case law involving federal disadvantaged business enterprise (DBE) programs provide important insight into the design of local M/WBE programs. In January 1999, the United States Department of Transportation (USDOT) published its final DBE rule in Title 49, Code of Federal Regulations, Part 26 (49 CFR 26). The federal courts have consistently found the DBE regulations to be narrowly tailored.[3] The federal DBE program has the features listed in **Exhibit 8-4** that contribute to this characterization as a narrowly tailored remedial procurement preference program. The County should adopt these features in any new narrowly tailored M/WBE program.

[2] San Diego, as part of its Subcontractor Outreach Program (SCOPe), has mandatory outreach, mandatory use of subcontractors, and mandatory submission of an outreach document. Whether a contract has subcontracting is determined by the engineer on the project.

[3] *Adarand v. Slater*, 228 F.3d 1147 (10th Cir. 2000), *Gross Seed. v. State of Nebraska*, 345 F.3d 968 (8th Cir. 2003); cert denied, 158 L.Ed. 2d 729 (2004), *Northern Contracting v. Illinois DOT*, 2005 U.S. Dist. LEXIS 19868 (ND IL 2005).

EXHIBIT 8-4
NARROWLY TAILORED M/WBE PROGRAM FEATURES

Narrowly Tailored Goal-Setting Features	DBE Regulations
The County should not use quotas.	49 CFR 26(43)(a)
The County should use race- or gender-conscious set-asides only in cases where other methods are inadequate to address the disparity.	49 CFR 26(43)(b)
The County should meet the maximum amount of its M/WBE goals through race-neutral means.	49 CFR 26(51)(a)
The County should use M/WBE contract goals only where race-neutral means are not sufficient.	49 CFR 26(51)(d)
The County should use M/WBE goals only where there are subcontracting possibilities.	49 CFR 26(51)(e)(1)
If the County estimates that it can meet the entire M/WBE goal with race-neutral means, then the County should not use contract goals.	49 CFR 26(51)(f)(1)
If it is determined that the County is exceeding its goal, then the County should reduce the use of M/WBE contract goals.	49 CFR 26(51)(f)(2)
If the County exceeds goals with race-neutral means for two years, then the County should not set contract goals the next year.	49 CFR 26(51)(f)(3)
If the County exceeds M/WBE goals with contract goals for two years, then the County should reduce use of contract goals the next year.	49 CFR 26(51)(f)(4)
If the County uses M/WBE goals, then the County should award only to firms that made good faith efforts.	49 CFR 26(53)(a)
The County should give bidders an opportunity to cure defects in good faith efforts.	49 CFR 26(53)(d)

COMMENDATION and RECOMMENDATION 8-7: Aspirational M/WBE TARGETS

The County should periodically adjust aspirational goals by business category, and not establish rigid project goals. Adjustments should be based on the degree of success of the program in previous years. To establish a benchmark for goal setting, aspirational goals should be based on relative M/WBE availability. The primary means for achieving these aspirational goals should be the SBE program, race-neutral joint ventures, outreach, and adjustments in the County procurement policy. As in the DOT, DBE program goals on particular projects should, in general, vary from overall aspirational goals. Possible revised aspirational goals based on M/WBE availability are proposed in **Exhibit 8-5**. These aspirational goals can be further decomposed by procurement category, ethnicity, and gender.

EXHIBIT 8-5
PROPOSED M/WBE ASPIRATIONAL TARGETS
LEON COUNTY
BY PROCUREMENT CATEGORY

Procurement Category	Aspirational MBE Target	Aspirational WBE Target
Construction Prime Contractors	8%	5%
Construction Subcontractors*	17%	9%
Architecture & Engineering	10%	14%
Professional Services	7%	15%
Other Services	10%	8%
Materials and Supplies	1%	6%

Source: Availability estimates are based on vendor data.
*Of total subcontract dollar value.

RECOMMENDATION 8-8: Joint Ventures

The County should consider adopting a joint venture policy similar to the one implemented by the city of Atlanta, Georgia. The city of Atlanta requires establishment of joint ventures on large projects of over $10 million.[4] Primes are required to joint venture with a firm from a different ethnic/gender group in order to ensure prime contracting opportunities for all businesses. This rule applies to women and minority firms as well as nonminority firms. This rule has resulted in tens of millions of dollars in contract awards to women and minority firms.

COMMENDATION and RECOMMENDATION 8-9: M/WBE Subcontractor Plans*

The County should consider reestablishing the good faith effort goal requirements in its contracts. The basis for retaining good faith efforts requirements is significant disparities in construction subcontracting, the very low utilization in private sector commercial construction and other evidence of private sector disparities, even after controlling for capacity and other race-neutral variables. The core theme should be that prime contractors should document their outreach efforts and the reasons why they may have rejected qualified M/WBEs that were the low-bidding subcontractors. Accordingly, the following narrow tailoring elements should be considered:

1. Good faith effort requirements should apply to both M/WBE and nonminority prime contractors.

2. Projects goals should vary by project and reflect realistic M/WBE availability for particular projects.

3. A documented excessive subcontractor bid can be a basis for not subcontracting with an M/WBE.

4. A documented record of poor performance can be a basis for not subcontracting with an M/WBE.[5]

[4] City of Atlanta Ordinance Sec. 2-1450 and Sec. 2-1451.
[5] The last two elements were adopted by the North Carolina Department of Transportation (NCDOT). 19A NCAC 02D.1110(7).

COMMENDATION 8-10: RFP Language*

The County is commended for putting in its request for proposals (RFPs) language asking proposers about their strategies for M/WBE inclusion on projects. A number of agencies, including the Port Authority of New York and New Jersey, have had success in soliciting creative responses to these requests, even in areas such as large-scale insurance contracts.

RECOMMENDATION 8-11: Economic Development*

The County should consider extending the M/W/SBE program to economic development projects. Jersey City, New Jersey, and the city of Saint Paul, Minnesota, have established offices that focus on employment and M/W/SBE utilization on economic development projects. San Antonio and Bexar County, Texas, also have very active M/W/SBE initiatives for development projects that receive tax subsidies.

RECOMMENDATION 8-12: Certification*

Two-Tier Size Standards. The federal case law points to the use of size standards and net worth requirements as one factor in the narrow tailoring of remedial procurement programs. At present, the County uses its own size standard.

Size standards for remedial procurement programs face a dilemma. If the size standard is placed too high, large firms crowd out new firms. If the size standard is placed too low, too many experienced firms lose the advantages of the remedial program. The second problem is an issue with the current County SBE certification. One solution to this dilemma is to adopt a two-tier standard for M/WBE and SBE certification. The federal government and the states of Oregon and New Jersey use a two-tier size standard. Thus, for example, contracts could be set aside for small and very small firms and goals that included very large M/W/SBEs could be established on large projects. A standard approach is to use the Small Business Administration (SBA) size standard for small firms and a percentage of the SBA size standard (for example, 25 or 50 percent) for very small firms.

Automatic SBE Certification. Firms that already satisfy the size and location requirements for the SBE program should be automatically certified as SBEs, unless they elect to remove themselves from the SBE directory. Several jurisdictions have used this approach to expand the pool of SBEs.

Socially and Economically Disadvantaged Firms. The County should consider adding socially and economically disadvantaged firms to its definition of targeted groups. The North Carolina M/WBE program has this feature.

Program Participation Limits. Another graduation provision is to restrict the overall amount of dollars a program participant can receive. For example, the city of New York graduates firms that have received more than $15 million in prime contracts within the past three years.[6]

[6] Local Laws of New York, Section 7-1292 (c) (17).

COMMENDATION and RECOMMENDATION 8-13: M/WBE Program Data Management

It is important for the County to closely monitor the utilization of all businesses by race, ethnicity, and gender, and by prime and subcontractor utilization, over time to determine whether the County's M/W/SBE policy has the potential to eliminate race and gender disparities without applying specific race and gender goals. The County should be commended for its improved tracking of subcontractor utilization and for the implementation of the B2G system for tracking M/W/SBE contract compliance.

COMMENDATION and RECOMMENDATION 8-14: Purchasing and M/W/SBE Policy

The County should be commended for the consolidation of the purchasing policy and the M/WBE participation policy and elevating the M/W/SBE program to division level, which improved the internal and external perception of the County's commitment to the program's success. The County should ensure that vendors submit the required contract compliance documents pertaining to the M/W/SBE program as part of their request for payment.

COMMENDATION and RECOMMENDATION 8-15: M/W/SBE Program Staff

The County should be commended for the efforts of the County's M/W/SBE staff. The County could increase staff, training and resources to ensure the necessary resources to operate the MWBE program. The reason for an increase of staff would be: setting M/WBE project goals (targets), updating an M/WBE policy manual, re-establishing an SBE program, reporting M/WBE utilization to the highest levels of County management, overseeing business assistance, improving outreach, reserving contracts under an SBE program, and monitoring M/W/SBE targets and contract compliance.

RECOMMENDATION 8-16: Performance Measures*

The County should add performance measures other than M/W/SBE percentage utilization. Some suggested measures come from the Florida Department of Transportation's Small Business Initiative (discussed in the best practices section of this report). The County should develop additional measures to gauge the effectiveness of its efforts. Possible measures include:

- Growth in the number of M/W/SBEs winning their first award from the County.
- Growth in percentage of M/W/SBE utilization by the County.
- Growth in M/W/SBE prime contracting.
- Growth in M/W/SBE subcontractors to prime contractors.
- Number of M/W/SBEs that receive bonding.
- Number of M/W/SBEs that successfully graduate from the program.
- Number of graduated firms that successfully win County projects.

- Percentage of M/W/SBE utilization for contracts not subject to competitive bidding requirements.
- Growth in the number of M/W/SBEs utilized by the County.
- Number of joint ventures involving M/W/SBEs.
- Largest contract won by an M/W/SBE.
- Comparability in annual growth rates and median sales for M/W/SBEs and non-M/W/SBEs in the County contracts.

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APPENDICES

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APPENDIX A: UTILIZATION DETAILS

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APPENDIX A
UTILIZATION DETAILS

Utilization Details - Construction

VENDOR NAME	ETHNICITY	COUNTY_STATE	EXPENDITURE AMT
1001 USES UTILITY BLDG	NONMINORITY MALE	LEON, FL	$4,298.00
ABSOLUTE DEMO, INC	NONMINORITY MALE	LEON, FL	$6,000.00
ALBRITTON ELECTRICAL SERVICE INC	NONMINORITY MALE	LEON, FL	$475,790.14
ALL FLORIDA ELECTRIC OF TALLAHASSEE INC	NONMINORITY MALE	LEON, FL	$500.00
ALLEN'S EXCAVATING, INC.	NONMINORITY MALE	LEON, FL	$11,096,038.40
ALLWEATHER INSULATION INC	NONMINORITY MALE	LEON, FL	$1,902.00
ANYTIME CONCRETE, INC	NONMINORITY MALE	LEON, FL	$352.00
APACHEE ROOFING	NONMINORITY MALE	LEON, FL	$10,250.00
APALACHEE BACKHOE & SEPTIC TANK LLC	NONMINORITY MALE	LEON, FL	$204,268.35
B & S UTILITIES	NONMINORITY MALE	LEON, FL	$48,456.68
BASS CONSTRUCTION CO INC	NONMINORITY MALE	LEON, FL	$267,160.68
BAYCREST CORPORATION	NONMINORITY MALE	LEON, FL	$773,711.46
BLANKENSHIP CONTRACTNG INC	NONMINORITY MALE	LEON, FL	$4,569,664.70
BLUE CHIP CONSTRUCTION	AFRICAN AMERICAN	LEON, FL	$2,049,796.46
BOB MCKEITHEN & SONS	NONMINORITY MALE	LEON, FL	$3,885.00
BRYAN SCRUGGS CONSTRUCTION, INC	NONMINORITY MALE	GADSDEN, FL	$419,150.58
C & C ASPHALT, LLC	NONMINORITY MALE	LEON, FL	$14,870.00
C & R CONSTRUCTION SVS, INC	AFRICAN AMERICAN	LEON, FL	$33,259.00
CAMP DRESSER & MCKEE INC	NONMINORITY MALE	LEON, FL	$599,873.08
CAPITAL QUALITY BUILDINGS, INC	NONMINORITY MALE	LEON, FL	$5,325.00
COUNCIL CONTRACTING, INC	NONMINORITY FEMALE	LEON, FL	$834,907.23
CPS RESIDENTIAL & COMMERCIAL CONSTRUCTION SERVICES	NONMINORITY MALE	LEON, FL	$76,797.74
CUMBIE CONCRETE CONSTRUCTION CO.	NONMINORITY MALE	LEON, FL	$389.85
DAVIS CONSTRUCTION	NONMINORITY MALE	LEON, FL	$600.00
DIXIE PAVING & GRADING, INC	NONMINORITY MALE	LEON, FL	$487,949.65
DOVE ROOFING CO INC	NONMINORITY MALE	LEON, FL	$48,231.10
FLORIDA DESIGN AND CONSTRUCTION	AFRICAN AMERICAN	LEON, FL	$1,975.00
FLORIDA DEVELOPERS INC	AFRICAN AMERICAN	LEON, FL	$42,823.00
GAINES	NONMINORITY MALE	LEON, FL	$300.00
GAINES & SONS STRIPING,INC	AFRICAN AMERICAN	LEON, FL	$332,679.87
GARRISON DESIGN & CONTRUCTION INC	NONMINORITY MALE	LEON, FL	$628,376.74
GEMINI ELECTRIC	NONMINORITY MALE	LEON, FL	$8,200.00
GREAT SOUTHERN DEMOLITION INC	NONMINORITY MALE	LEON, FL	$15,826.00
HARRELL ROOFING INC	NONMINORITY MALE	LEON, FL	$86,387.00
HODGES ELECTRIC, INC.	NONMINORITY MALE	LEON, FL	$1,303.30
JACKSON COOK INC	NONMINORITY FEMALE	LEON, FL	$10,359.45
JIMMIE CROWDER EXCAVATING & LAND CLEARING, INC	NONMINORITY MALE	LEON, FL	$3,238,291.93
JP POWELL SERVICES	NONMINORITY FEMALE	LEON, FL	$47,917.49
KCW ELECTRIC CO	NONMINORITY MALE	LEON, FL	$29,405.55
KEITH LAWSON COMPANY	NONMINORITY MALE	LEON, FL	$877.00
KINSEY CONTRACTORS INC	NONMINORITY MALE	LEON, FL	$443,816.17
KRATOFIL'S HEATING & AIR CONDITIONING INC	NONMINORITY MALE	LEON, FL	$5,880.00
LANCE MAXWELL PLUMBING	NONMINORITY MALE	LEON, FL	$2,260.00
LARRY HAGAMAN PLUMBING CONTRACTOR	NONMINORITY MALE	LEON, FL	$1,235.00
M OF TALLAHASSEE	NONMINORITY MALE	LEON, FL	$102,400.00
M&L PLUMBING	NONMINORITY MALE	LEON, FL	$3,775.00
MEYER CONSTRUCTION COMPANY, LLC	NONMINORITY MALE	LEON, FL	$59,204.00

VENDOR NAME	ETHNICITY	COUNTY_STATE	EXPENDITURE AMT
MIKE SCOTT CONSTRUCTION	NONMINORITY MALE	LEON, FL	$266,329.68
MORGAN ELECTRIC CO.	NONMINORITY MALE	LEON, FL	$111,777.57
MOSLEY ENTERPRISES	NONMINORITY MALE	GADSDEN, FL	$36,620.00
MSTCONSTRUCTION	NONMINORITY MALE	GADSDEN, FL	$1,449.46
MUD WORKS	AFRICAN AMERICAN	LEON, FL	$16,907.00
NORTH FLORIDA ASPHALT INC	NONMINORITY MALE	LEON, FL	$1,714,065.65
PAGEL CONSTRUCTION, INC	NONMINORITY MALE	LEON, FL	$348,281.50
PANHANDLE CONTRACTING	NONMINORITY MALE	LEON, FL	$6,500.00
PEARSON CONSTRUCTION COMPANY LLC	NONMINORITY MALE	LEON, FL	$1,157,452.96
PEAVY & SON CONSTRUCTION CO INC	NONMINORITY MALE	GADSDEN, FL	$7,185,506.99
PETER R BROWN CONSTRUCTION	NONMINORITY FEMALE	LEON, FL	$8,510,946.67
PHOENIX CONSTRUCTION & FENCING	AFRICAN AMERICAN	LEON, FL	$75,766.74
PRO STEEL BLDG INC	NONMINORITY MALE	LEON, FL	$631,779.15
REYNOLDS HOME BUILDERS, INC	NONMINORITY FEMALE	LEON, FL	$67,773.80
RIPPEE CONSTRUCTION INC	NONMINORITY FEMALE	LEON, FL	$21,820.00
ROTO ROOTER PLUMBERS	NONMINORITY MALE	LEON, FL	$39,826.13
SANDCO INC	NONMINORITY MALE	LEON, FL	$26,326,144.83
SCOTT-BURNETT INC	NONMINORITY MALE	LEON, FL	$2,435.48
SOUTHEAST CONCRETE CUTTING AND DEMOLITION INC	NONMINORITY MALE	LEON, FL	$450.00
SOUTHERN GENERAL CONTRACTORS, LLC	NONMINORITY MALE	LEON, FL	$28,430.00
SPECIALTY CONTRACTORSOF TALLAHASSEE INC	NONMINORITY MALE	LEON, FL	$8,597.36
STREAMLINE ROOFING	NONMINORITY MALE	LEON, FL	$556.94
STRICKLAND ELECTRIC COMPANY OF TALLAHASSEE INC	NONMINORITY FEMALE	LEON, FL	$5,525.00
T S BUILDERS, INC	NONMINORITY MALE	LEON, FL	$155,978.07
TOM SHAW CONSTRUCTION COMPANY	NONMINORITY MALE	LEON, FL	$37,450.39
VAUSE MECHANICAL CONTRACTING, INC.	NONMINORITY MALE	LEON, FL	$2,724.00
WHITE'S PLUMBING INC	NONMINORITY MALE	LEON, FL	$6,350.08

Utilization Details - Architecture & Engineering

VENDOR NAME	ETHNICITY	COUNTY_STATE	EXPENDITURE AMT
ACOUSTI ENGINEERING CO OF FLORIDA	NONMINORITY FEMALE	LEON, FL	$2,304.92
ADVANCED GEOSPATIAL, INC	NONMINORITY MALE	LEON, FL	$80,425.00
AKIN & ASSOCIATES ARCHITECTS	AFRICAN AMERICAN	LEON, FL	$146,460.64
ALLEN NOBLES AND ASSOCIATES INC	NONMINORITY MALE	LEON, FL	$157,454.71
BARNETT FRONCZAK ARCHITECTS	NONMINORITY MALE	LEON, FL	$522,894.85
BENEDICT ENGINEERING COMPANY INC	NONMINORITY MALE	LEON, FL	$9,080.50
CAPITAL ENGINEERING & SURVEYING,INC	NONMINORITY MALE	LEON, FL	$5,662.00
COLONEY BELL ENGINEERING	NONMINORITY MALE	LEON, FL	$1,852.50
CS & K ASSOCIATES, INC	NONMINORITY FEMALE	LEON, FL	$2,660.00
DIVERSIFIED DESIGN % DRAFTING SERVICES, INC	NONMINORITY FEMALE	LEON, FL	$1,760.00
EMO ARCHITECTS, INC	NONMINORITY MALE	LEON, FL	$458,382.35
ENVIRONMENTAL & GEOTECHNICAL SPECIALISTS INC (EGS)	NONMINORITY MALE	LEON, FL	$67,388.69
ENVIRONMENTAL CONSULTING & TECHNOLOGY INC	NONMINORITY FEMALE	LEON, FL	$292,967.33
GENESIS GROUP INC	NONMINORITY MALE	LEON, FL	$1,490,568.99
GPI SOUTHEAST INC	NONMINORITY MALE	LEON, FL	$29,607.32
HAMMOND DESIGN GROUP	NONMINORITY MALE	LEON, FL	$251,525.58
JOHNSON PETERSON ARCHITECTS INC	NONMINORITY MALE	LEON, FL	$516,512.57
JRA ARCHITECTS INC	NONMINORITY MALE	LEON, FL	$2,845.00
McGINNISS & FLEMING ENGINEERING INC	NONMINORITY MALE	LEON, FL	$131,844.38
MIHIR ENVIRONICS INC	ASIAN AMERICAN	LEON, FL	$22,465.00
MOORE BASS CONSULTING INC	NONMINORITY FEMALE	LEON, FL	$16,108.73
POOLE ENGINEERING	NONMINORITY FEMALE	LEON, FL	$4,312.00
POST BUCKLEY SCHUH & JERNIGAN, INC	NONMINORITY MALE	LEON, FL	$2,359,696.37
REGISTE,SLIGER ENGINEERING,INC	AFRICAN AMERICAN	LEON, FL	$153,869.20
ROSENBAUM ENGINEERING	NONMINORITY MALE	LEON, FL	$38,084.02
SOUTHERN EARTH SCIENCES INC	NONMINORITY MALE	LEON, FL	$9,319.00
SPECTRA ENGINEERING & RESEARCH, INC	AFRICAN AMERICAN	LEON, FL	$210,018.89
STRUCTURAL DIAGNOSTICS	AFRICAN AMERICAN	LEON, FL	$26,915.00
TRAK ENGINEERING INC	NONMINORITY MALE	LEON, FL	$11,072.50
WELCH & WARD ARCHITECTS INC	ASIAN AMERICAN	LEON, FL	$173,844.00
WILLIAMSON & ASSOCIATES, INC.	NONMINORITY MALE	LEON, FL	$300.00

Utilization Details - Professional Services

VENDOR NAME	ETHNICITY	COUNTY_STATE	EXPENDITURE AMT
ACCURATE STENOTYPE REPORTERS	NONMINORITY FEMALE	LEON, FL	$1,838.40
ALL PRO DRUG TESTING INC	NONMINORITY FEMALE	LEON, FL	$40.00
ALLIED VET EMERGENCY SERVICES INC	NONMINORITY MALE	LEON, FL	$200.00
APPRAISAL GROUP OF TALLAHASSEE,INC	NONMINORITY FEMALE	LEON, FL	$10,000.00
BANKS & MORRIS, P.A.	NONMINORITY MALE	LEON, FL	$36,968.13
BECK & BARRIOS, PA	NONMINORITY MALE	LEON, FL	$2,500.00
BIBLER DESIGN DEVELOPMENT	NONMINORITY MALE	LEON, FL	$3,800.00
BOUTIN BROWN REALTY ADVISORS INC	NONMINORITY MALE	LEON, FL	$107,707.50
BRADLEY	NONMINORITY MALE	LEON, FL	$560.00
BROWN AND BROWN PA	AFRICAN AMERICAN	LEON, FL	$9,089.81
BRYANT MILLER & OLIVE PA	NONMINORITY MALE	LEON, FL	$171,961.83
CARR ALLISON	NONMINORITY MALE	LEON, FL	$241,767.93
CHARLES E HOBBS II, ESQ	AFRICAN AMERICAN	LEON, FL	$420.00
CLINICAL PHYCHOLOGICAL SERVICES, INC	NONMINORITY MALE	LEON, FL	$205.00
COMPUTER TUTORS USA INC	NONMINORITY FEMALE	LEON, FL	$20,095.00
COOPER BYRNE BLUE & SCHWARTZ, LLC	NONMINORITY MALE	LEON, FL	$90,364.11
CURETON-JOHNSON & ASSOCIATES	NONMINORITY MALE	LEON, FL	$8,750.00
DAVID C HAWKINS,PLLC	NONMINORITY MALE	LEON, FL	$16,686.25
DEBEAUBIEN KNIGHT SIMMONS MANTZARIS & NEAL, LLP	NONMINORITY MALE	LEON, FL	$4,700.80
DIANE WILKENS PRODUCTIONS	NONMINORITY FEMALE	LEON, FL	$750.00
DISASTERS, STRATEGIES AND IDEAS GROUP, LLC	NONMINORITY MALE	LEON, FL	$49,757.64
DISKIN PROPERTY RESEARCH	NONMINORITY MALE	LEON, FL	$64,368.86
EMPLOYEE MANAGEMENT SYSTEMS	NONMINORITY MALE	LEON, FL	$7,280.00
FIXEL & MAGUIRE	NONMINORITY MALE	LEON, FL	$9,567.00
FLORIDA PROPERTY CONSULTANTS GROUP	NONMINORITY MALE	LEON, FL	$6,000.00
FOR THE RECORD REPORTING	NONMINORITY FEMALE	LEON, FL	$112.50
FRANK E SHEFFIELD PA	NONMINORITY MALE	LEON, FL	$29,635.50
GARDNER, BIST, WIENER, WADSWORTH & BOWDEN, P.A.	NONMINORITY MALE	LEON, FL	$48,825.00
GENTRY & WAY PA	NONMINORITY FEMALE	LEON, FL	$6,406.08
GREGORY J CUMMINGS	NONMINORITY MALE	LEON, FL	$1,445.94
HENNINGSEN INVESTMENT INC	NONMINORITY MALE	LEON, FL	$2,542.43
HERRLE COMMUNICATIONS GROUP	NONMINORITY FEMALE	LEON, FL	$1,665.50
I S CONSULTING	NONMINORITY FEMALE	LEON, FL	$30,160.00
INFINITY SOFTWARE DEVELOPMENT	NONMINORITY MALE	LEON, FL	$9,338.75
INOVIA CONSULTING GROUP	NONMINORITY MALE	LEON, FL	$22,686.40
INTEGRITY PUBLIC FINANCE CONSULTING	NONMINORITY MALE	LEON, FL	$22,300.00
JORDAN RESEARCH & CONSULTING	NONMINORITY MALE	LEON, FL	$456.25
KETCHAM APPRAISAL GRP PA	NONMINORITY MALE	LEON, FL	$114,348.45
KETCHAM REALTY GROUP, INC	NONMINORITY MALE	LEON, FL	$75.00
KNOWLES & RANDOLPH PA	AFRICAN AMERICAN	LEON, FL	$138,225.00
LAW OFFICES OF GARY ANTON, PA	NONMINORITY MALE	LEON, FL	$1,911.40
LEWIS LONGMAN & WALKER P.A.	NONMINORITY MALE	LEON, FL	$178,693.10
MCGLYNN LABORATORIES	NONMINORITY FEMALE	LEON, FL	$430,440.13
MERIT REPORTING	NONMINORITY FEMALE	LEON, FL	$145.00
MESSER CAPARELLO & SELF	NONMINORITY MALE	LEON, FL	$2,287.04
MGT OF AMERICA INC	NONMINORITY MALE	LEON, FL	$60,310.70

VENDOR NAME	ETHNICITY	COUNTY_STATE	EXPENDITURE AMT
MOORE CONSULTING GROUP	NONMINORITY FEMALE	LEON, FL	$3,000.00
NABORS GIBLIN & NICKERSON PA	NONMINORITY MALE	LEON, FL	$63,178.12
PARTNERS IN COMMUNICATION	NONMINORITY FEMALE	LEON, FL	$4,162.50
PAUL CONSULTING INC	NONMINORITY MALE	LEON, FL	$1,413,875.00
PROFESSIONAL PRACTICE SOLUTIONS, LLC	NONMINORITY FEMALE	LEON, FL	$10,885.00
REMILLARD LAW FIRM, P.A.	NONMINORITY MALE	LEON, FL	$1,168.75
RICHARD A GREENBERG ATTY	NONMINORITY MALE	LEON, FL	$1,002.31
ROGERS, ATKINS, GUNTERE & ASSOCIATES	NONMINORITY MALE	LEON, FL	$3,850.00
ROSE, SUNDSTROM & BENTLEY, LLP	NONMINORITY MALE	LEON, FL	$23,788.66
ROTHENBERG, LOUIS PAUL	NONMINORITY MALE	LEON, FL	$331.50
ROUMELIS PLANNING & DEVELOP SERVICES INC	NONMINORITY FEMALE	LEON, FL	$10,780.91
SAVLOV & ANDERSON	NONMINORITY MALE	LEON, FL	$9,716.00
SHUTTS & BOWEN LLP	NONMINORITY MALE	LEON, FL	$159,000.00
SMITH THOMPSON SHAW P A	NONMINORITY FEMALE	LEON, FL	$6,496.50
TALLAHASSEE LAND CO INC	NONMINORITY MALE	LEON, FL	$962.50
THE DYE LAW FIRM P.A.	NONMINORITY MALE	LEON, FL	$4,905.00
THOMAS HOWELL FERGUSON PA	NONMINORITY MALE	LEON, FL	$759,552.29
TRACY P. MOYE, P.A.	NONMINORITY FEMALE	LEON, FL	$970.12
TROY FAIN INSURANCE INC	NONMINORITY MALE	LEON, FL	$185.88
UZZELL ADVERTISING	AFRICAN AMERICAN	LEON, FL	$30,000.00
VAUSE'S PROCESS SERVICE	NONMINORITY MALE	LEON, FL	$3,633.00
WILLIAMS, WILSON, & SEXTON PA	AFRICAN AMERICAN	LEON, FL	$3,694.80

Utilization Details - Other Services

VENDOR NAME	ETHNICITY	COUNTY_STATE	EXPENDITURE AMT
A AND A CLEANING	NONMINORITY MALE	LEON, FL	$12,415.00
A BLIND DECOR	NONMINORITY MALE	LEON, FL	$2,939.80
A MAN WITH A VAN INC	NONMINORITY MALE	LEON, FL	$189.00
AAA TO ZEE	NONMINORITY MALE	LEON, FL	$4,266.30
AAA TREE SERVICE INC	NONMINORITY MALE	LEON, FL	$39,445.00
ABRAHAM GEORGE PATIO	NONMINORITY MALE	LEON, FL	$5,939.00
ACCENT OFFICE PLANNERS INC	NONMINORITY FEMALE	LEON, FL	$21,625.10
ACTION LEGAL COPY SERVICE INC	NONMINORITY MALE	LEON, FL	$10.00
ADAM'S TREES	NONMINORITY MALE	LEON, FL	$300.00
ADVANCED GRAPHICS TECHNOLOGIES INC	NONMINORITY MALE	LEON, FL	$555.00
AEGIS COMPUTER SERVICES, INC.	NONMINORITY FEMALE	LEON, FL	$6,450.00
AFFINITY DESIGN GROUP	NONMINORITY FEMALE	LEON, FL	$157.60
AIR TECH	NONMINORITY MALE	LEON, FL	$450.00
ALL PRO LANDSCAPING	NONMINORITY MALE	LEON, FL	$33,034.15
ALL-AMERICAN CARPET & UPHOLSTERY CLEANING INC	NONMINORITY MALE	LEON, FL	$260.00
ALPHA BUSINESS FORMS	NONMINORITY MALE	LEON, FL	$16,795.44
ALPHA TRAVEL & TOURS INC	AFRICAN AMERICAN	LEON, FL	$2,156.90
AMERICAN CLUTCH REBUILDERS	NONMINORITY MALE	LEON, FL	$1,526.45
AMERICAN EXTERIOR CLEANING COMPANY	NONMINORITY MALE	LEON, FL	$1,970.00
AMERICAN FENCE CO	NONMINORITY MALE	GADSDEN, FL	$31,478.60
AMERICAN PHOTOGRAPHY SERVICES	AFRICAN AMERICAN	LEON, FL	$165.00
ANDREWS	NONMINORITY MALE	LEON, FL	$708.50
ASTRO TRAVEL AND TOURS	NONMINORITY MALE	LEON, FL	$1,262.50
B&T FENCING INC	NONMINORITY MALE	LEON, FL	$1,100.00
BAKER LANDSCAPE & IRRIGATION INC.	NONMINORITY FEMALE	LEON, FL	$2,749.00
BARRY GROSS PHOTOGRAPHY	NONMINORITY MALE	LEON, FL	$3,437.00
BEGGS FUNERAL HOME INC	NONMINORITY MALE	LEON, FL	$250.00
BIG BEND GARAGE DOOR SERVICE	NONMINORITY MALE	LEON, FL	$19,750.00
BIG BEND TRANSIT INC	NONMINORITY MALE	LEON, FL	$590.15
BILL'S CARPET CARE	NONMINORITY MALE	LEON, FL	$25,253.95
BONE DRY RESTORATION AND CLEANING	NONMINORITY MALE	LEON, FL	$8,782.86
BRIAN S HURLEY & ASSOCIATES INC	NONMINORITY MALE	LEON, FL	$967.22
BRIAN'S SEPTIC SERVICE	NONMINORITY MALE	LEON, FL	$2,260.00
BRIDGES TREE SERVICE INC	NONMINORITY MALE	LEON, FL	$3,300.00
BROWNS PAINT & BODY SHOP	AFRICAN AMERICAN	LEON, FL	$8,975.46
BROWN'S REFRIGERATION & EQUIPMENT CO, INC	NONMINORITY MALE	LEON, FL	$4,760.68
BRUCE'S KEY & LOCK INC	NATIVE AMERICAN	LEON, FL	$3,696.37
B'S ICE CREAM	NONMINORITY MALE	LEON, FL	$1,363.73
BUDDY'S SEPTIC TANK SERV	NONMINORITY MALE	LEON, FL	$200.00
BUDGET PRINTING CENTERS	NONMINORITY MALE	LEON, FL	$56,220.56
BUSINESS COMMUNICATIONS	NONMINORITY MALE	LEON, FL	$5,764.50
C & L ASSOCIATES	NONMINORITY FEMALE	LEON, FL	$2,109,824.45
C & L WELL AND PUMP SERVICE	NONMINORITY MALE	LEON, FL	$1,920.00
C & M IRRIGATION & LAWN SERVICE	NONMINORITY MALE	LEON, FL	$50.00
C & M LANDSCAPE & IRRIGATION	NONMINORITY MALE	LEON, FL	$9,325.00
CAPITAL BUSINESS INTERIORS	NONMINORITY FEMALE	LEON, FL	$7,560.69

VENDOR NAME	ETHNICITY	COUNTY_STATE	EXPENDITURE AMT
CAPITAL CITY BLACK PAGES	AFRICAN AMERICAN	LEON, FL	$3,000.00
CAPITAL CITY RADIATOR SHP	NONMINORITY MALE	LEON, FL	$536.50
CAPITAL CITY STAMPS	NONMINORITY FEMALE	LEON, FL	$656.50
CAPITAL GLASS TINTING,INC	NONMINORITY MALE	LEON, FL	$684.29
CAPITAL HYDRAULICS	NONMINORITY MALE	LEON, FL	$26,565.35
CAPITAL OUTLOOK NEWSPAPER	AFRICAN AMERICAN	LEON, FL	$19,888.00
CAPITAL TREE SERVICE	NONMINORITY MALE	LEON, FL	$5,650.00
CAPITAL TRUCK INC	NONMINORITY MALE	LEON, FL	$3,632.11
CAPITOL GLASS AND TINTING, INC.	AFRICAN AMERICAN	LEON, FL	$4,290.75
CAPITOL WINDOW CENTER	NONMINORITY MALE	LEON, FL	$490.83
CARLSON WAGONLIT TRAVEL	NONMINORITY FEMALE	LEON, FL	$437.79
CITY BLUE COPY & MAIL CENTER	NONMINORITY MALE	LEON, FL	$13,000.18
COMMERCIAL CLEANING ASSOCIATES	NONMINORITY MALE	LEON, FL	$400.00
COMMERCIAL PRINT & COPY	NONMINORITY MALE	LEON, FL	$368.00
CONFIDENTIAL SHREDDING & RECYCLING, INC.	NONMINORITY FEMALE	LEON, FL	$18,265.00
CORRY CABINET COMPANY	NONMINORITY MALE	GADSDEN, FL	$17,763.00
COVER TIME UPHOLSTERY, INC	NONMINORITY MALE	LEON, FL	$1,565.00
CREATE IT ENTERPRISES	NONMINORITY MALE	LEON, FL	$5,000.00
CRICKETS TREE SREVICE	NONMINORITY MALE	LEON, FL	$6,150.00
CULLEY'S MEADOWWOOD FUNERAL HOME	NONMINORITY MALE	LEON, FL	$250.00
CUSHING SPECIALTY CO. INC.	NONMINORITY MALE	LEON, FL	$1,068.00
DAVIS SAFE & LOCK INC	NONMINORITY MALE	LEON, FL	$14,644.60
DICKIES TREE SERVICE	NONMINORITY MALE	LEON, FL	$2,820.00
DJKT ENTERPRISES INC	NONMINORITY MALE	LEON, FL	$83.00
DON HENSLEY'S LANDSCAPE AND LAWN SERVICE	NONMINORITY MALE	LEON, FL	$86,027.82
DON SIRMONS ALIGNMENT & BRAKE INC	NONMINORITY MALE	LEON, FL	$63.50
DOUG'S WINDOW CLEANING	NONMINORITY MALE	LEON, FL	$2,850.00
DUCT MASTER	NONMINORITY MALE	LEON, FL	$550.00
EDDIE NATHAN PAINTING	AFRICAN AMERICAN	LEON, FL	$3,425.00
ELLIS TREE SERVICE	NONMINORITY MALE	LEON, FL	$485.00
ELSASSERS'S LOCK & KEY	NONMINORITY MALE	LEON, FL	$1,404.00
ELUSTER RICHARDSON INC	AFRICAN AMERICAN	LEON, FL	$300.00
EMMETT BELL'S TREE SERVICE	NONMINORITY MALE	LEON, FL	$3,600.00
ENGLAND FLORIST & GIFTS	NONMINORITY FEMALE	LEON, FL	$3,453.50
ESTES SEAL COATING	NONMINORITY MALE	LEON, FL	$16,115.00
EVANS SURECUT LANDSCAPING	AFRICAN AMERICAN	GADSDEN, FL	$47,795.97
EXPRESS COPY & PRINTING	ASIAN AMERICAN	LEON, FL	$3,671.80
EXPRESSIT INC	NONMINORITY FEMALE	LEON, FL	$1,382.45
FAMILY FUN RENTALS	NONMINORITY MALE	LEON, FL	$90.00
FISH WINDOW CLEANING	NONMINORITY MALE	LEON, FL	$378.00
FLORIDA FENCE AND DECK	NONMINORITY MALE	LEON, FL	$132,684.47
FLORIDA PEST CONTROL &	NONMINORITY MALE	LEON, FL	$175.00
FLORIDA ROOFING & SHEET METAL WORKS, INC	NONMINORITY MALE	LEON, FL	$6,637.81
FULL MOON SIGNS & GRAPHIC	NONMINORITY MALE	LEON, FL	$20,590.75
GANDY PRINTERS	NONMINORITY MALE	LEON, FL	$21,645.64
GANT ASSOCIATES INC	AFRICAN AMERICAN	LEON, FL	$36,200.00
GASKIN IRRIGATION AND LANDSCAPE	NONMINORITY MALE	LEON, FL	$42,496.61
GIBSON SAW REPAIR	NONMINORITY MALE	LEON, FL	$232.50
GLASS PRO SHOP INC	NONMINORITY MALE	LEON, FL	$12,869.93

VENDOR NAME	ETHNICITY	COUNTY_STATE	EXPENDITURE AMT
GRAMLING'S INC.	NONMINORITY MALE	LEON, FL	$8,530.96
GRAPHATERIA	NONMINORITY FEMALE	LEON, FL	$4,302.06
GREEENWAY LAWN CARE	NONMINORITY MALE	LEON, FL	$950.00
GULF COAST PAINTING	AFRICAN AMERICAN	LEON, FL	$27,830.00
H&S SERVICES OF N FLORIDA	AFRICAN AMERICAN	LEON, FL	$10,822.50
HARMON AUTOGLASS	NONMINORITY MALE	LEON, FL	$571.27
HARTSFIELD ELECTRIC CO.	NONMINORITY MALE	LEON, FL	$3,108.00
HARVEST PRINTING & COPY	HISPANIC AMERICAN	LEON, FL	$9,795.08
HEAVENLY CATERING	AFRICAN AMERICAN	LEON, FL	$4,781.61
HELGA'S TAILORING	NONMINORITY FEMALE	LEON, FL	$5,454.00
HIRE QUEST, LLC DBA TROJAN LABOR	NONMINORITY MALE	LEON, FL	$469,152.70
HOUSE OF BROWN'S FUNERAL SERVICES INC	AFRICAN AMERICAN	LEON, FL	$1,250.00
HUNTERS TREE SERVICE	NONMINORITY MALE	LEON, FL	$2,000.00
ILG RESTAURANT LLC	NONMINORITY MALE	LEON, FL	$352.00
INLINE LANDSCAPE INC	NONMINORITY MALE	LEON, FL	$49,225.00
INSTY PRINTS	NONMINORITY FEMALE	LEON, FL	$1,657.00
J & R PRINTERS	AFRICAN AMERICAN	LEON, FL	$34,807.45
JEFF KYNOCH PAINTING	NONMINORITY MALE	LEON, FL	$22,210.00
JERRYS AUTO & INDUSTRIAL ELECTRIC INC	NONMINORITY MALE	LEON, FL	$8,133.43
JIMMIE WILSON PAINTING	AFRICAN AMERICAN	LEON, FL	$1,162.00
JONES AUTO ELECTRIC, INC	NONMINORITY MALE	LEON, FL	$1,121.85
JOYNER ELECTRIC INC	NONMINORITY MALE	LEON, FL	$2,274.21
KIM'S FURNITURE REPAIR	NONMINORITY FEMALE	LEON, FL	$1,322.00
KINKO'S THE COPY CENTER	NONMINORITY MALE	LEON, FL	$564.43
LAB WORKS,LLC	NONMINORITY MALE	LEON, FL	$4,190.41
LARRY'S PUMP SERVICE	NONMINORITY MALE	LEON, FL	$168.60
LAWN KEEPERS	AFRICAN AMERICAN	LEON, FL	$121,415.03
LEGAL EASE TEMP SERVICES INC	NONMINORITY MALE	LEON, FL	$13,270.50
LEON SCREENING & REPAIR INC	NONMINORITY MALE	LEON, FL	$34.00
LEVINGS & ASSOCIATES, INC.	HISPANIC AMERICAN	LEON, FL	$1,071.00
LISA'S PAINT & BODY SHOP	NONMINORITY FEMALE	LEON, FL	$5,552.79
M & L BRAKE & ALIGNMENT	NONMINORITY MALE	LEON, FL	$11,087.54
MACK CROUNSE GROUP	NONMINORITY MALE	LEON, FL	$54,223.00
MACK'S LAWN SERVICE	AFRICAN AMERICAN	LEON, FL	$178,895.48
MADISON LAWN SERVICE	AFRICAN AMERICAN	LEON, FL	$1,000.00
MAINTENANCE & MORE	NONMINORITY MALE	LEON, FL	$924.50
MARIE LIVINGSTON'S STEAKHOUSE	NONMINORITY FEMALE	LEON, FL	$735.00
MARK'S LAWN MAINTENANCE INC	NONMINORITY MALE	LEON, FL	$1,150.00
MCNEILL SEPTIC TANK COMPANY INC	NONMINORITY MALE	LEON, FL	$3,575.00
METRO DELI/ELITE DELI & CATERING	NONMINORITY MALE	LEON, FL	$456.80
MIKE VASILINDA PRODUCTIONS INC	NONMINORITY MALE	LEON, FL	$9,346.25
MIKE'S MOVING	NONMINORITY MALE	LEON, FL	$2,219.01
MILLS WELL DRILLING & PUMP SERVICES, INC.	NONMINORITY MALE	LEON, FL	$9,375.00
MODERN MAILERS INC	NONMINORITY MALE	LEON, FL	$3,845.90
MOWER MENDERS, INC	NONMINORITY MALE	LEON, FL	$1,199.17
NATIONWIDE TRANSMISSION	NONMINORITY MALE	LEON, FL	$27,385.55
NATURES FINEST	HISPANIC AMERICAN	LEON, FL	$308,222.24
NATURE'S NEEDS	NONMINORITY MALE	LEON, FL	$11,800.00
NE-RO TIRE AND BRAKE SERVICE, INC.	NONMINORITY MALE	LEON, FL	$205.96

VENDOR NAME	ETHNICITY	COUNTY_STATE	EXPENDITURE AMT
NEWMAN'S AUTO AIR	NONMINORITY MALE	LEON, FL	$1,570.00
NORTHSIDE MOWER	NONMINORITY MALE	LEON, FL	$229.50
PARKER SERVICE	NONMINORITY MALE	LEON, FL	$5,055.00
PARKWAY WRECKER SERVICE	NONMINORITY MALE	LEON, FL	$44,155.90
PERSICA LANDSCAPING CO INC	NONMINORITY MALE	LEON, FL	$40,276.00
PO' BOYS CREOLE CAFE	NONMINORITY MALE	LEON, FL	$1,739.34
PRECISION MOBILE SHARPENING SRVC	NONMINORITY MALE	LEON, FL	$265.98
PROTECTION SERVICES, INC	NONMINORITY MALE	LEON, FL	$240.00
PROTOCALL COMMUNICATIONS INC	NONMINORITY MALE	WAKULLA, FL	$3,450.00
PYRAMID EXCAVATION, INC. (ADA) TIM'S HAULING AND TRACTOR SER	NONMINORITY MALE	GADSDEN, FL	$141,963.60
RAY'S GLASS SERVICE	NONMINORITY MALE	LEON, FL	$919.42
REX THOMAS PEST CONTROL	NONMINORITY MALE	LEON, FL	$5,945.00
RIGGINS FENCE CO	NONMINORITY MALE	LEON, FL	$5,471.00
ROBERT THOMAS FURNITURE REFINISHING	NONMINORITY MALE	LEON, FL	$8,360.00
ROBERT WILSON/WILSONS BBQ & CATERING	AFRICAN AMERICAN	LEON, FL	$14,502.25
ROSSELOT'S REMODELING	NONMINORITY MALE	LEON, FL	$73.09
ROWE DRILLING CO INC	NONMINORITY MALE	LEON, FL	$204.00
RUSSELL DANIEL IRRIGATION	NONMINORITY MALE	GADSDEN, FL	$65,926.90
S&T PAINTING	AFRICAN AMERICAN	LEON, FL	$113,300.00
SAULS SIGNS	NONMINORITY MALE	LEON, FL	$55.00
SERVICE PLUS INC	NONMINORITY MALE	LEON, FL	$363,451.21
SESSALY ROSE TRANSIT	AFRICAN AMERICAN	LEON, FL	$875.00
SHEFFIELD AUTO & TRUCK BODY SHOP, INC.	NONMINORITY MALE	LEON, FL	$10,838.57
SHEFFIELD'S BODY SHOP	AFRICAN AMERICAN	LEON, FL	$2,288.35
SIEMENS	NONMINORITY MALE	LEON, FL	$73.00
SILVER PRODUCTIONS	NONMINORITY MALE	LEON, FL	$2,300.00
SIMMONS MOVING & STORAGE INC	NONMINORITY MALE	LEON, FL	$1,550.00
SIR SPEEDY PRINTING	NONMINORITY MALE	LEON, FL	$42.48
SKELDING & COX	NONMINORITY MALE	LEON, FL	$40,000.00
SOFT TOUCH CAR WASH OF TALLAHASSEE	NONMINORITY MALE	LEON, FL	$2,430.22
SOFTWARE SOLUTIONS NOW	NONMINORITY FEMALE	LEON, FL	$250.00
SOLOMAN'S PAINTING AND PRESSURE WASHING SERVICES	AFRICAN AMERICAN	LEON, FL	$800.00
SONITROL OF TALLAHASSEE INC	NONMINORITY MALE	LEON, FL	$509,088.82
SOUTHERN TRADITION LANDSCAPING	NONMINORITY MALE	LEON, FL	$11,476.00
SOUTHSIDE MOWER & MAGNETO INC	NONMINORITY MALE	LEON, FL	$58,691.81
STEAM MASTER	NONMINORITY MALE	LEON, FL	$30.00
STEREO SALES	NONMINORITY MALE	LEON, FL	$703.29
STRIPES UNLIMITED	NONMINORITY MALE	LEON, FL	$854.00
STRONG AND JONES FUNERAL HOME INC	AFRICAN AMERICAN	LEON, FL	$7,750.00
SUN COAST ELECTRIC NETWORKING	NONMINORITY MALE	LEON, FL	$1,528.50
SUPERGLASS WINSHIELD REPAIR	NONMINORITY MALE	LEON, FL	$520.00
SUPER-SUDS	NONMINORITY MALE	LEON, FL	$34.85
SUZANNE DIAMBRA LANDSCAPING INC.	NONMINORITY FEMALE	LEON, FL	$5,497.50
SWEETPEAS CAFE' & CATERING	NONMINORITY MALE	LEON, FL	$1,450.00
TALAHASSEE FINEST WINDOW CLEANING CO.	NONMINORITY MALE	LEON, FL	$29,409.00
TALLAHASSEE DEMOCRAT	NONMINORITY MALE	LEON, FL	$4,782.79
TALLAHASSEE HYDRAULIC INC	NONMINORITY MALE	LEON, FL	$728.80
TALLAHASSEE PAINT AND BODY SHOP	NONMINORITY MALE	LEON, FL	$81,440.70
TALLAHASSEE WELDING & MACHINE SHOP INC	NONMINORITY FEMALE	LEON, FL	$44,895.22

VENDOR NAME	ETHNICITY	COUNTY_STATE	EXPENDITURE AMT
TARGET COPY	NONMINORITY FEMALE	LEON, FL	$13,253.71
TASTE BUDS	NONMINORITY FEMALE	LEON, FL	$3,880.85
TAYLOR JANITORIAL SERVICES	AFRICAN AMERICAN	LEON, FL	$147,513.26
TERMINAL SERVICE COMPANY	NONMINORITY MALE	LEON, FL	$1,025.65
THE BLUEPRINT SHOP	NONMINORITY MALE	LEON, FL	$5.00
THE COPY SHOP	NONMINORITY FEMALE	LEON, FL	$3,174.62
THE FINISHING TOUCH	AFRICAN AMERICAN	LEON, FL	$22,426.00
THE HONEY BAKED HAM COMPANY AND CAFE	NONMINORITY MALE	LEON, FL	$974.70
THE PRINTERY	NONMINORITY FEMALE	LEON, FL	$1,345.00
THE SEINEYARD SEAFOOD RESTAURANT	NONMINORITY MALE	LEON, FL	$553.15
THINK CREATIVE	NONMINORITY MALE	LEON, FL	$20,300.00
TIRES ON THE MOVE	NONMINORITY MALE	LEON, FL	$128.00
TJG DISTRIBUTERS INC, DBA 1800 RADIATOR OF TALLAHASSEE	NONMINORITY MALE	LEON, FL	$568.28
UPTOWN CAFE	NONMINORITY MALE	LEON, FL	$98.25
VIDEO TECH	NONMINORITY MALE	LEON, FL	$75.00
VISUAL SOLUTIONS	NONMINORITY MALE	LEON, FL	$1,828.00
W BUCKLEY REESE LANDSCAPING	NONMINORITY MALE	LEON, FL	$7,553.96
WALKER BODY SHOP INC	NONMINORITY MALE	LEON, FL	$279.50
WRIGHT WELDING	NONMINORITY MALE	LEON, FL	$2,050.00

Utilization Details - Materials and Supplies

VENDOR NAME	ETHNICITY	COUNTY_STATE	EXPENDITURE AMT
ACCENT BLINDS	NONMINORITY MALE	LEON, FL	$395.00
ACCURATE AUTO & FLEET, INC	NONMINORITY FEMALE	LEON, FL	$1,918.44
AD-ART SIGNS	NONMINORITY MALE	LEON, FL	$1,235.00
ADVANCED BUSINESS SYSTEMS	NONMINORITY MALE	LEON, FL	$113,509.81
ADVANCED DATA SYSTEMS	NONMINORITY MALE	LEON, FL	$103,601.00
AEGIS COMPUTER SERVICES, INC.	NONMINORITY FEMALE	LEON, FL	$6,450.00
ALEXANDER TRAILERS, LLC	NONMINORITY MALE	LEON, FL	$4,200.00
ALL ABOUT GUTTERS	NONMINORITY MALE	GADSDEN, FL	$200.00
ALL PRO EQUIPMENT	NONMINORITY MALE	LEON, FL	$6,640.36
ALSCO INC	NONMINORITY MALE	LEON, FL	$12,826.14
AMERICAN AUDIO VISUAL, INC	NONMINORITY MALE	LEON, FL	$26,922.25
AMERICAN PUMP & SUPPLY	NONMINORITY MALE	LEON, FL	$14,462.70
ARCHITECTURAL HARDWARE PRODUCTS INC	NONMINORITY MALE	LEON, FL	$430.00
ARTISTIC FLOWERS	NONMINORITY MALE	LEON, FL	$109.50
ASHLEY FEED STORE	NONMINORITY MALE	LEON, FL	$259.00
ASSOCIATED SERVICES AND SUPPLIES, INC.	NONMINORITY FEMALE	LEON, FL	$320,220.78
AWARDS 4 U	NONMINORITY MALE	LEON, FL	$10,098.23
B & B SPORTING GOODS INC	NONMINORITY FEMALE	LEON, FL	$949.75
B & T SMALL ENGINES	NONMINORITY MALE	LEON, FL	$4,221.00
BENTON PRODUCTS	NONMINORITY MALE	LEON, FL	$589.75
BILL'S SIGNS	NONMINORITY MALE	LEON, FL	$401.81
BLOSSOM'S FLOWERS	NONMINORITY MALE	LEON, FL	$535.61
BOATWRIGHT TIMBER SERVICE	NONMINORITY MALE	LEON, FL	$75.00
BRADLEY	NONMINORITY MALE	LEON, FL	$560.00
BRADLEY POND LLC	NONMINORITY MALE	LEON, FL	$1,000.00
BRIAN BARNARD'S FLOORING AMERICA INC	NONMINORITY MALE	LEON, FL	$6,722.42
BURKES TRACTOR WORKS, LLC	NONMINORITY MALE	GADSDEN, FL	$117,216.96
CABINETS FROM PARKER	NONMINORITY MALE	LEON, FL	$12,741.60
CAPITAL CITY LUMBER COMPANY INC	NONMINORITY MALE	LEON, FL	$45.00
CAPITAL HITCH SERVICE	NONMINORITY MALE	LEON, FL	$4,673.16
CAPITAL RUBBER & INDUSTRIAL SUPPLY CO INC	NONMINORITY MALE	LEON, FL	$19,621.43
CARPET STUDIO INC	NONMINORITY MALE	LEON, FL	$33,400.86
CARQUEST AUTO PARTS	NONMINORITY MALE	LEON, FL	$80,484.27
CARROLLS BOOT COUNTRY	NONMINORITY MALE	LEON, FL	$1,437.05
CELLULAR SALES	NONMINORITY MALE	LEON, FL	$53.97
COASTAL WATER SYSTEMS	NONMINORITY MALE	LEON, FL	$2,431.00
COLLIER INTERIORS	NONMINORITY MALE	LEON, FL	$1,925.71
COMPUSA INC	NONMINORITY MALE	LEON, FL	$14,428.93
CONNIE LILES AUTO PARTS	NONMINORITY FEMALE	LEON, FL	$93.13
CONTRACT HARDWARE OF FLORIDA	NONMINORITY MALE	LEON, FL	$114,498.21
COPYFAX 2000, INC	NONMINORITY MALE	LEON, FL	$590.00
CORNERSTONE TOOL & FASTENER INC	NONMINORITY FEMALE	LEON, FL	$48,226.19
CROSS CREEK CENTER	NONMINORITY MALE	LEON, FL	$121,976.04
CUSHING SPECIALTY CO. INC.	NONMINORITY MALE	LEON, FL	$1,068.00
CUSTOM GUTTER CORPORATION	NONMINORITY MALE	LEON, FL	$739.00
CYPRESS PUBLICATIONS	NONMINORITY MALE	LEON, FL	$10.36

VENDOR NAME	ETHNICITY	COUNTY_STATE	EXPENDITURE AMT
DACAR FIRE PROTECTION SYSTEMS, INC	NONMINORITY MALE	LEON, FL	$1,428.00
DELTA TECHNOLOGIES INC	NONMINORITY MALE	LEON, FL	$981,783.10
DIAL COMMUNICATIONS	NONMINORITY MALE	LEON, FL	$1,194.50
DOCS (DEANNE'S OFFICE SUPPLY)	NONMINORITY FEMALE	LEON, FL	$292,086.37
DOOR PRODUCTS	NONMINORITY MALE	LEON, FL	$78,081.20
ELI ROBERTS & SONS INC	NONMINORITY MALE	LEON, FL	$6,132,079.02
ELINOR DOYLE FLORIST	NONMINORITY MALE	LEON, FL	$63.96
EMERALD COAST RV CENTER	NONMINORITY MALE	GADSDEN, FL	$4.56
ENGINEERING & EQUIPMENT CO	NONMINORITY MALE	LEON, FL	$23,384.38
ESPOSITO GARDEN SERVICE	NONMINORITY MALE	LEON, FL	$69,963.26
EXECUTIVE OFFICE FURNITURE INC	NONMINORITY FEMALE	LEON, FL	$145,818.42
FAST SIGNS	NONMINORITY MALE	LEON, FL	$2,968.75
FLEET SUPPLY INC	NONMINORITY MALE	LEON, FL	$11,483.01
FLORIDA FARM & FEED INC	NONMINORITY MALE	LEON, FL	$3,662.30
FOURAKER ELECTRONICS INC	NONMINORITY MALE	LEON, FL	$587.83
FULL PRESS APPAREL,INC	NONMINORITY MALE	LEON, FL	$2,475.00
G & M ENTERPRISES	AFRICAN AMERICAN	LEON, FL	$308.35
G WILLIE'S UNIFORM	NONMINORITY FEMALE	LEON, FL	$31,938.18
GARDEN PRODUCTS	AFRICAN AMERICAN	LEON, FL	$21,760.00
GEORGIA-FLORIDA BURGLAR ALARM COMPANY	NONMINORITY MALE	LEON, FL	$50,564.59
GLASS SERVICE CENTER	NONMINORITY MALE	LEON, FL	$4,125.24
GRAPHICS BUSINESS SYSTEMS	NONMINORITY FEMALE	LEON, FL	$1,950.00
GRIMES CRANE SERVICE	NONMINORITY MALE	LEON, FL	$45,345.00
GULF ATLANTIC CULVERT CO	NONMINORITY MALE	LEON, FL	$7,983.60
GULF COAST LUMBER & SUPPLY INC	NONMINORITY MALE	LEON, FL	$10,410.49
HAVANA SOD & PALLET, INC	NONMINORITY MALE	LEON, FL	$750.00
HAYES COMPUTER SYSTEMS	NONMINORITY FEMALE	LEON, FL	$649,667.86
HD SUPPLY WATERWORKS,LTD	NONMINORITY MALE	LEON, FL	$3,093.37
HEINZ BROTHERS NURSERY	NONMINORITY MALE	LEON, FL	$813.00
HOLLEY INC	NONMINORITY MALE	LEON, FL	$16,813.97
HOWDY'S RENT A TOILET	NONMINORITY MALE	LEON, FL	$2,542.50
HUGHES SUPPLY	NONMINORITY MALE	LEON, FL	$1,801.11
INSIGHT DIRECT	NONMINORITY MALE	LEON, FL	$20,991.30
INTERSTATE BATTERY SYSTEM	NONMINORITY MALE	LEON, FL	$3,377.54
INTERSTATE FIRE SYSTEMS INC	NONMINORITY MALE	LEON, FL	$5,633.39
JH DOWLING INC	NONMINORITY MALE	LEON, FL	$39,670.46
JOHNSON'S LUMBER & SUPPLY, INC.	NONMINORITY MALE	LEON, FL	$1,267.67
JOHNSTONE SUPPLY	NONMINORITY MALE	LEON, FL	$24,166.51
JUST RIGHT SUPPLY INC	NONMINORITY MALE	LEON, FL	$8,437.68
KEENS PORTABLE BUILDING	NONMINORITY MALE	LEON, FL	$1,150.00
KELLY BROS SHEET METAL	NONMINORITY MALE	LEON, FL	$339.00
LANDMARK SYSTEMS	NONMINORITY MALE	LEON, FL	$8,335.00
LEE TRAILER SALES	NONMINORITY MALE	LEON, FL	$46,802.64
LESCO-PROX	NONMINORITY MALE	LEON, FL	$41,142.41
LPS RENTALS INC	NONMINORITY MALE	LEON, FL	$84,000.00
MACK BROTHERS LANDSCAPE NURSERY	AFRICAN AMERICAN	LEON, FL	$17,747.65
MANNING & SMITH TILE CO. INC.	NONMINORITY MALE	LEON, FL	$17,995.25
MARPAN SUPPLY CO	NONMINORITY MALE	LEON, FL	$308,363.65
MAYS MUNROE INC	NONMINORITY MALE	LEON, FL	$5,222.00

VENDOR NAME	ETHNICITY	COUNTY_STATE	EXPENDITURE AMT
MCGEE TIRE STORES	NONMINORITY MALE	LEON, FL	$2,081.64
MCNAMARA TRAILERS	NONMINORITY MALE	LEON, FL	$2,175.00
METAL FABRICATION & SALES OF TALLAHASSEE	NONMINORITY MALE	LEON, FL	$5,321.99
MILLER GLASS	NONMINORITY MALE	LEON, FL	$52,495.00
MILLER SEPTIC TANKS	NONMINORITY MALE	LEON, FL	$2,350.00
MILLER SHEET METAL	NONMINORITY MALE	LEON, FL	$15,834.03
MITCHELL BROTHERS	NONMINORITY MALE	LEON, FL	$455.82
MODERN CABINETS & FIXTURES INC	NONMINORITY MALE	LEON, FL	$3,300.00
MULVANEYS	NONMINORITY MALE	LEON, FL	$5,066.57
MUSICMASTERS	NONMINORITY MALE	LEON, FL	$10,611.29
NATIVE NURSERIES	NONMINORITY MALE	LEON, FL	$32,064.30
NEECE TRUCK TIRE CENTER INC	NONMINORITY MALE	LEON, FL	$88,073.32
NORTHLAND MFG INC	NONMINORITY MALE	LEON, FL	$4,020.63
OFFICE BUSINESS SYSTEMS INC	NONMINORITY MALE	LEON, FL	$15,839.83
OFFICE EQUIPMENT SOLUTIONS	NONMINORITY MALE	LEON, FL	$4,275.00
OFFICE SYSTEMS CONSULTANTS INC.	NONMINORITY FEMALE	LEON, FL	$9,668.96
ONE HOUR SIGNS & DESIGNS	NONMINORITY MALE	LEON, FL	$4,642.84
OSCEOLA SUPPLY, INC.	NONMINORITY FEMALE	LEON, FL	$273.20
PANTHER CREEK SOD FARMS	NONMINORITY MALE	LEON, FL	$705.00
PARAMEDICAL SERVICES INC	NONMINORITY MALE	LEON, FL	$43,362.75
PAUL PRODUCTS COMPANY (PPC)	NONMINORITY MALE	LEON, FL	$1,232.75
PEDDIE CHEMICAL COMPANY	NONMINORITY MALE	LEON, FL	$30,531.09
PIT STOP PORTABLE TOILETS OF TALLAHASSEE	NONMINORITY MALE	LEON, FL	$33,565.63
PLANTS & DESIGN	NONMINORITY MALE	LEON, FL	$1,273.92
POINT GLASS & METAL	NONMINORITY MALE	LEON, FL	$2,012.00
POLY ASPHALT INC	NONMINORITY MALE	WAKULLA, FL	$86,330.36
PROCTOR & PROCTOR INC	NONMINORITY MALE	LEON, FL	$89,598.89
PROFESSIONAL SAFETY EDUCATORS,INC	NONMINORITY MALE	LEON, FL	$49,288.90
QUALITY WATER SUPPLY	NONMINORITY MALE	LEON, FL	$9,063.12
R&R CORPORATE SYSTEMS,INC	AFRICAN AMERICAN	LEON, FL	$55,809.75
RAY LYNN DISTRIBUTORS	NONMINORITY MALE	LEON, FL	$50.00
RED ENTERPRISES	NONMINORITY MALE	LEON, FL	$2,595.41
REVELL	NONMINORITY MALE	LEON, FL	$180.00
REXEL SOUTHERN	NONMINORITY MALE	LEON, FL	$82,681.37
RING RENT	NONMINORITY MALE	LEON, FL	$1,606.25
RIVERS BAIT & TACKLE	NONMINORITY MALE	LEON, FL	$210.00
ROMAC LUMBER	NONMINORITY MALE	LEON, FL	$24,725.29
ROSEMOUNT % EXECUTIVE OFFICE FURNITURE	NONMINORITY MALE	LEON, FL	$8,641.10
ROWLAND PUBLISHING INC	NONMINORITY MALE	LEON, FL	$1,408.50
ROYSTER'S STORAGE VAN RENTALS, INC.	NONMINORITY MALE	LEON, FL	$3,385.00
RUPPSHIRTS, INC	NONMINORITY MALE	LEON, FL	$7,347.00
SCAN HAUS	NONMINORITY MALE	LEON, FL	$1,982.00
SEACOAST SUPPLY	NONMINORITY MALE	LEON, FL	$109,337.29
SGT RENTALS AND SALES	NONMINORITY MALE	LEON, FL	$9,400.00
SHERWIN WILLIAMS	NONMINORITY MALE	LEON, FL	$2,330.39
SIGNPRINTERS	NONMINORITY MALE	LEON, FL	$2,085.05
SIGNS NOW	NONMINORITY MALE	LEON, FL	$8,349.37
SIGNS UNLIMITED	NONMINORITY FEMALE	LEON, FL	$11.00
SIMPLER SOLAR SYSTEMS INC	NONMINORITY MALE	LEON, FL	$3,810.00

VENDOR NAME	ETHNICITY	COUNTY_STATE	EXPENDITURE AMT
SOUTH GEORGIA BRICK	NONMINORITY MALE	LEON, FL	$189.00
SOUTHEAST DIGITAL NETWORKS	NONMINORITY MALE	LEON, FL	$1,124.26
SOUTHEAST PROPANE	NONMINORITY MALE	LEON, FL	$1,823.79
STEVE ROSS SHEETMETAL	NONMINORITY MALE	LEON, FL	$930.00
SUNFLOWER SMALL ENGINES	NONMINORITY MALE	LEON, FL	$7,339.10
SUPER SIGNS	NONMINORITY MALE	LEON, FL	$185.00
TALLAHASSEE CAMERA & IMAGE CENTER	NONMINORITY MALE	LEON, FL	$2,215.00
TALLAHASSEE ENGRAVING & AWARDS INC	NONMINORITY MALE	LEON, FL	$1,451.50
TALLAHASSEE FORD LINCOLN MERCURY	NONMINORITY MALE	LEON, FL	$50,347.52
TALLAHASSEE NURSERIES	NONMINORITY MALE	LEON, FL	$1,801.63
TALLAHASSEE STAMP COMPANY	NONMINORITY MALE	LEON, FL	$212.90
TALLAHASSEE TURF	NONMINORITY MALE	WAKULLA, FL	$17,070.00
TALLAHASSEE WINAIR COMPANY	NONMINORITY MALE	LEON, FL	$3,727.70
TERRY'S AWNING & CANVAS INC	NONMINORITY MALE	GADSDEN, FL	$3,630.00
THE SWEET SHOP	NONMINORITY MALE	LEON, FL	$245.00
THE CLOTHESLINE	NONMINORITY MALE	LEON, FL	$8,064.44
THE PAINT CENTER	NONMINORITY MALE	LEON, FL	$39,198.54
THE SAW-SAW PATCH COUNTRY WOODCRAFTS	NONMINORITY MALE	LEON, FL	$640.00
THE SHOE BOX	NONMINORITY MALE	LEON, FL	$50,312.17
THE STORAGE CENTER	NONMINORITY MALE	LEON, FL	$5,636.00
TODDS GARAGE DOORS	NONMINORITY MALE	LEON, FL	$1,300.00
TROPHY KING	NONMINORITY MALE	LEON, FL	$15.90
TRUCK N' CAR CONCEPTS	NONMINORITY MALE	LEON, FL	$17,289.50
TURNER SUPPLY COMPANY	NONMINORITY MALE	LEON, FL	$2,172.17
ULTIMATE SOUND & LIGHT	NONMINORITY MALE	LEON, FL	$2,589.72
WESLEY THIGPEN GENERAL SHEET METAL	NONMINORITY MALE	LEON, FL	$210.00
WESTON TRAWICK, INC.	NONMINORITY MALE	LEON, FL	$252.00
WHIDDON GLASS CO INC	NONMINORITY MALE	LEON, FL	$11,852.38
WILEY AUTO PARTS	NONMINORITY MALE	LEON, FL	$19.06
WILLIAMS COMMUNICATIONS	NONMINORITY FEMALE	LEON, FL	$160.00
WILLIAMS COMMUNICATIONS	NONMINORITY MALE	LEON, FL	$15,360.55
WILLIAMS PANHANDLE PROPANE	NONMINORITY MALE	LEON, FL	$176.18
YOUR LOGO HERE	AFRICAN AMERICAN	LEON, FL	$50.00

APPENDIX B: ANALYSIS OF RACE/GENDER/ ETHNICITY EFFECTS ON SELF-EMPLOYMENT PROPENSITY AND EARNINGS

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APPENDIX B
ANALYSIS OF RACE/GENDER/ETHNICITY EFFECTS ON SELF-EMPLOYMENT PROPENSITY AND EARNINGS

Executive Summary

The purpose of this analysis is to examine the effects of race and gender, along with other individual economic and demographic characteristics, on individuals' participation in the private sector as self-employed business operators, and on their earnings as a result of their participation in five categories of private sector business activity in the Tallahassee, FL, Consolidated Metropolitan Statistical Area (CMSA)[1]. Findings for minority business enterprises are compared to the self-employment participation and earnings record of nonminority male business owners to determine if a disparity in self-employment rates and earnings exists, and if it is attributable to differences in race, gender, or ethnicity. Adopting the methodology and variables employed by a City of Denver disparity study (see *Concrete Works v. City and County of Denver*[2]), we use Public Use Microdata Samples (PUMS) data derived from the 2000 Census of Population and Housing, to which we apply appropriate regression statistics to draw conclusions.

To guide this investigation, three general research questions were posed. Questions and variables used to respond to each, followed by a report of findings, are reported below:

1. Are racial, ethnic and gender minority groups less likely than nonminority males to be self-employed?

   This analysis examined the statistical effects of the following variables on the likelihood of being self-employed in the study market area: Race, ethnicity, *and* gender of business owner (African American, Asian American, Hispanic American, Native American, nonminority women, nonminority men), marital status, age, self-reported health-related disabilities, availability of capital (household property value, monthly total mortgage payments, unearned income) and other characteristics (number of individuals over the age of 65 living in household, number of children under the age of 18 living in household) and level of education.

2. Does racial/gender/ethnic status have an impact on individual's self-employment earnings?

   This analysis examined the statistical effects of the following variables on income from self-employment for business owners in the market area: Race, ethnicity, and gender of business owner (African American, Asian American, Hispanic American, Native American, nonminority women, nonminority men), marital status, age, self-reported health-related disabilities, and availability of capital (household property value, monthly total mortgage payments, unearned income) and level of education.

[1] The Tallahassee CMSA includes the following counties: Leon County, Florida; Gadsden County, Florida; Wakulla County, Florida; and Jefferson County, Florida.
[2] *Concrete Works v. City and County of Denver*, 321 F.3 950 (10th Cir. 2003).

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3. If Minority and Women's Business Enterprises (M/WBEs) and nonminority males shared similar traits and marketplace "conditions" (that is, similar "rewards" in terms of capital and asset accrual), what would be the effect on rates of self-employment by race, ethnicity and gender?

   Derived from a similar model employed by a City of Denver disparity study, MGT created a model that leveraged statistical findings in response to the first two questions. The objectives were to determine if race, gender, and ethnic effects derived from those findings would persist if nonminority male demographic and economic characteristics were combined with M/WBE self-employment data. More precisely, in contrast to Question 1, which permitted a comparison of self-employment rates based on demographic and economic characteristics reported by the 2000 census for individual M/WBE categories and nonminority males, respectively, this analysis posed the question, "How would M/WBE rates change, if M/WBE's operated in a nonminority male business world and how much of this change is attributable to race, gender or ethnicity?"

Findings:

1. Are racial, ethnic and gender minority groups less likely than nonminority males to be self-employed?

   - In all industries in the Tallahassee CMSA, nonminority males were over two and a half times as likely to be self-employed as African Americans, Hispanic Americans, and nonminority women.[3]
   - In the Tallahassee CMSA, nonminority males were over three and a half times as likely as nonminority women to be self-employed in the construction industry.
   - In the Tallahassee CMSA, nonminority males were nearly four times as likely as African Americans to be self-employed in professional services.
   - African Americans were less likely to be self-employed than were nonminority males in all industries.

2. Does race/gender/ethnic status have an impact on an individual's self-employment earnings?

   - In the Tallahassee CMSA, African Americans, Hispanic Americans, and nonminority women reported significantly lower earnings in all business type categories.
   - In the other services industry, African Americans, Hispanic American, and nonminority women reported significantly lower earnings than nonminority males in the Tallahassee CMSA: 19.2 percent, 96.3 percent, and 38.2 percent, respectively.

[3] These 'likelihood" characteristics were derived from Exhibit 1 by calculating the inverse of the reported odds ratios.

- The most egregious effect on earnings elasticities was found in other services for Hispanic Americans. In other services, Hispanic Americans earned 96.3 percent less than nonminority males.

3. If M/WBEs and nonminority males shared similar traits and marketplace "conditions" (that is, similar "rewards" in terms of capital and asset accrual), what would be the effect on rates of self-employment by race, ethnicity, and gender?

   - Overall, comparing self-employed nonminority males with self-employed African Americans in the Tallahassee CMSA, over 70 percent of the disparity in self-employment rates was attributable to race differences.

   - Comparing self-employed nonminority males with self-employed African Americans in the Tallahassee CMSA construction industry, over 67 percent of the disparity in self-employment rates was attributable to race differences.

   - Comparing self-employed nonminority males with self-employed African Americans in Tallahassee CMSA professional services, over 70 percent of the disparity in self-employment rates was attributable to race differences.

   - Comparing self-employed nonminority males with self-employed African Americans in Tallahassee CMSA other services, over 80 percent of the disparity in self-employment rates was attributable to gender differences.

B.1.0 Introduction

This report analyzes the availability of minority, nonminority women, and nonminority male firms in five categories of private sector business activity in the City of Tallahassee. The goal of this investigation is to examine the effects of race and gender, along with other individual economic and demographic characteristics, on individuals' participation in the private sector as self-employed business operators, and on their earnings as a result of their participation. Ultimately, we will compare these findings to the self-employment participation and earnings record of nonminority male business owners to determine if a disparity in self-employment rates and earnings exists, and if it is attributable to racial or gender discrimination in the marketplace. Data for this investigation are provided by the Public Use Microdata Samples (PUMS) data derived from the 2000 Census of Population and Housing, to which we apply appropriate regression statistics to draw conclusions. **Exhibit B-1** presents a general picture of self-employment rates by race, median earnings, and sample sizes (n's) in the City of Tallahassee CMSA, calculated from the five percent PUMS census sample.

The next section will discuss the research basis for this examination to lay the groundwork for a description of the models and methodologies to be employed. This will be followed by a presentation of findings regarding minority status effects on self-employment rates, self-employment earnings, and attributions of these differences to discrimination, per se.

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EXHIBIT B-1
PERCENTAGE SELF-EMPLOYED/1999 EARNINGS BY
RACE/GENDER/ETHNIC CATEGORY
CITY OF TALLAHASSEE CMSA

Race/Ethnic/Gender Category	Percent of the Population Self-Employed	1999 Sample Census n	1999 Median Earnings
Nonminority Males	22.93%	1,025	$39,500.00
African American	6.83%	542	$22,500.00
Hispanic American	8.70%	69	$16,900.00
Asian American	21.74%	46	$20,000.00
Native American	22.22%	18	$112,500.00
Nonminority Women	10.40%	683	$30,000.00
TOTAL	15.23%	2,383	$35,000.00

Source: PUMS data from 2000 Census of Population and Housing.

B.2.0 Self-Employment Rates and Earnings as an Analog of Business Formation and Maintenance

Research in economics consistently supports the finding of group differences by race and gender in rates of business formation (see *Journal of Econometrics*, Vol. 61, Issue 1, devoted entirely to the econometrics of labor market discrimination and segregation). For a disparity study, however, the fundamental question is "How much of this difference is due to factors that would appear, at least superficially, to be related to group differences other than race, ethnicity, or gender, and how much can be attributed to discrimination effects related to one's race/ethnic/gender affiliation?" We know, for instance, that most minority groups have a lower median age than do non-Hispanic whites (PUMS, 2000). We also know, in general, that the likelihood of being self-employed increases with age (PUMS, 2000). When social scientists speak of nonracial group differences, they are referring to such things as general differences in religious beliefs as these might influence group attitudes toward contraception, and, in turn, both birthrates and median age. A disparity study, therefore, seeks to examine these other important demographic and economic variables in conjunction with race and ethnicity, as they influence group rates of business formation, to determine if we can assert that discrimination against minorities is sufficiently present to warrant consideration of public sector legal remedies such as affirmative action and minority set-aside contracting.

Questions about marketplace dynamics affecting self-employment—or, more specifically, the odds of being able to form one's own business and then to excel (that is, generate earnings growth)—are at the heart of disparity analysis research. Whereas early disparity studies tended to focus on gross racial disparities, merely documenting these is insufficient for inferring discrimination effects per se without "partialling out" effects due to nondiscriminatory factors. Moreover, to the extent that discrimination exists, it is likely to inhibit both the formation of minority business enterprises and their profits and growth. Consequently, earlier disparity study methodology and analysis have failed to account for the effects of discrimination on minority self-employment in at least two ways: (1) a failure to account adequately for the effects of discriminatory barriers

minorities face "up front" in attempting to form businesses; and (2) a failure to isolate and methodologically explain discrimination effects once minority businesses are formed.

The next section addresses these shortcomings, utilizing PUMS data derived from the 2000 U.S. Census to answer research questions about the effects of discrimination on self-employment and self-employment earnings using multiple regression statistics.

B.3.0 Research Questions, Statistical Models, and Methods

Two general research questions were posed in the initial analysis:

- Are racial, ethnic, and gender minority groups less likely than nonminority males to be self-employed?
- Does race/gender/ethnic status have an impact on individuals' earnings?

A third question, to be addressed later—How much does race/ethnic/gender discrimination influence the probability of being self-employed?—draws conclusions based on findings from questions one and two.

To answer the first two questions, we employed two multivariate regression techniques, respectively: logistic regression and linear regression. To understand the appropriate application of these regression techniques, it is helpful to explore in greater detail the questions we are trying to answer. The dependent variables in questions I and II—that is, the phenomena to be explained by influences such as age, race, gender, and disability status, for example (the independent or "explanatory" variables)—are, respectively: the probability of self-employment status (a binary, categorical variable based on two possible values: 0 = not self-employed/1 = self-employed) and 1999 earnings from self-employment (a continuous variable). In our analysis, the choice of regression approach was based on the scale of the dependent variable (in question I, a categorical scale with only two possible values, and in question II, a continuous scale with many possible values). Because binary logistic regression is capable of performing an analysis in which the dependent variable is categorical, it was employed for the analysis of question I.[4] To analyze question II in which the dependent variable is continuous, we used simple linear regression.

B.3.1 Deriving the Logistic Regression Model from the Simple Linear Model

The logistic regression model can be derived with reference to the simple linear regression model expressed mathematically as:

$$Y = \beta_0 + \beta_1 X_1 + \beta_2 X_2 + \beta_3 X_3 + \beta_4 X_4 + \beta_5 X_5 + \ldots + \varepsilon$$

[4] Logistical regression, or logit, models generate predicted probabilities that are almost identical to those calculated by a probit procedure, used in *Concrete Works v. City and County of Denver* case. Logit, however, has the added advantage of dealing more effectively with observations at the extremes of a distribution. For a complete explanation, see *Interpreting Probability Models* (T.F. Liao, Text 101 in the Sage University series).

Where:

Y = a continuous variable (e.g., 1999 earnings from self-employment)
β_0 = the constant, representing the value of Y when $X_I = 0$
β_I = coefficient representing the magnitude of X_I's effect on Y
X_I = the independent variables, such as age, human capital (e.g., level of education), availability of capital, race/ethnicity/gender, etc.
ε = the error term, representing the variance in Y unexplained by X_I

This equation may be summarized as:

$$E(Y) = \mu = \sum_{k=1}^{K} \beta_k \, x_k$$

in which Y is the dependent variable and μ represents the expected values of Y as a result of the effects of β, the explanatory variables. When we study a random distribution of Y using the linear model, we specify its expected values as a linear combination of K unknown parameters and the covariates or explanatory variables. When this model is applied to data in the analysis, we are able to find the statistical link between the dependent variable and the explanatory or independent variables.

Suppose we introduce a new term, η, into the linear model such that:

$$\eta = \mu = \sum_{k=1}^{K} \beta_k \, x_k$$

When the data are randomly distributed, the link between η and μ is linear, and a simple linear regression can be used. However, to answer the first question, the categorical dependent variable was binomially distributed. Therefore, the link between η and μ became $\eta = \log[\mu/(1-\mu)]$, and logistic regression was utilized to determine the relationship between the dependent variable and the explanatory variables, calculated as a probability value (e.g., the probability of being self-employed when one is African American). The logistic regression model is expressed mathematically as:

$$\log[\mu/1(1-\mu)] = \alpha + \beta_i X_n + \varepsilon$$

Where:

$(\mu/1-\mu)$ = the probability of being self-employed
α = a constant value
β_i = coefficient corresponding to independent variables
X_n = selected individual characteristic variables, such as age, marital status, education, race, and gender
ε = error term, representing the variance in Y unexplained by X_I

This model can now be used to determine the relationship between a single categorical variable (0 = not self-employed/1 = self-employed) and a set of characteristics hypothesized

to influence the probability of finding a 0 or 1 value for the categorical variable. The result of this analysis illustrates not only the extent to which a characteristic can increase or decrease the likelihood that the categorical variable will be a 0 or a 1, but also whether the effect of the influencing characteristics is positive or negative in relation to being self-employed.

B.4.0 Results of the Self-Employment Analysis

B.4.1 Question I: Are Racial, Ethnic, and Gender Minority Groups Less Likely than Nonminority Males to Be Self-Employed?

To derive a set of variables known to predict employment status (self-employed/not self-employed), we used the 5 percent PUMS data from Census 2000. Binary logistic regression was used to calculate the probability of being self-employed, the dependent variable, with respect to socioeconomic and demographic characteristics selected for their potential to influence the likelihood of self-employment. The sample for the analysis was limited to labor force participants who met to the following criteria:

- Resident of the Tallahassee CMSA
- Self-employed in construction, professional services, other services, architecture and engineering,[5] or goods and supplies
- Employed full-time (more than 35 hours a week)
- 18 years of age or older
- Employed in the private sector

Next, we derived the following variables hypothesized as predictors of employment status:

- ***Race and Sex:*** African American, Asian American, Hispanic American, Native American, nonminority woman, nonminority male
- ***Availability of Capital:*** Homeownership, home value, mortgage rate, unearned income, residual income
- ***Marital Status***
- ***Ability to Speak English Well***
- ***Disability Status:*** From individuals' reports of health-related disabilities
- ***Age and Age Squared:*** Squaring the age variable acknowledges the positive, curvilinear relationship between each year of age and earnings.

[5] Due to inadequate sample numbers for all races in the Architecture and Engineering PUMS 2000 data, A & E was merged with the Professional Services category.

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- ***Owner's Level of Education***
- ***Number of Individuals Over the Age of 65 Living in Household***
- ***Number of Children Under the Age of 18 Living in Household***

B.4.1.1 Findings

Binary logistic regression analysis provided estimates of the relationship between the independent variables described above and the probability of being self-employed in the four types of business industries. In **Exhibit B-2**, odds ratios are presented by minority group, reporting the effect of race/ethnicity/gender on the odds of being self-employed in 1999, holding all other variables constant. Full regression results for all the variables are presented in **Appendix C**.

EXHIBIT B-2
SELF-EMPLOYMENT "ODDS RATIOS" OF MINORITY GROUPS RELATIVE TO NONMINORITY MALES AFTER CONTROLLING FOR SELECTED DEMOGRAPHIC AND ECONOMIC CHARACTERISTICS
CITY OF TALLAHASSEE CMSA

Race/Ethnic Group	All Industries	Construction	Professional Services	Other Services	Goods & Supplies
African American	**0.326**	0.573	**0.257**	**0.477**	0.069
Hispanic American	**0.395**	*	1.591	0.300	1.114
Asian American	1.007	*	1.860	0.984	2.038
Native American	1.231	3.711	*	1.654	*
Nonminority Women	**0.392**	**0.282**	**0.357**	1.042	0.732

Source: PUMS data from 2000 Census of Population and Housing and MGT of America, Inc., calculations using SPSS.
Note: **Bold** indicates that the estimated "odds ratio" for the group was statistically significant. The architecture and engineering business industry was excluded from this analysis because of the insufficient data.
* There were insufficient census numbers available for analysis.

The results reveal the following:

- In all industries in the Tallahassee CMSA, nonminority males were over two and a half times as likely to be self-employed as African Americans, Hispanic Americans, and nonminority women.[6]
- In the Tallahassee CMSA, nonminority males were over three and a half times as likely as nonminority women to be self-employed in the construction industry.
- In the Tallahassee CMSA, nonminority males were nearly four times as likely as African Americans to be self-employed in professional services.

[6] These 'likelihood" characteristics were derived from Exhibit 1 by calculating the inverse of the reported odds ratios.

- African Americans were less likely to be self-employed than were nonminority males in all industries.

B.4.2 Question II: Does Race/Gender/Ethnic Status Have an Impact on Individuals' Earnings?

To answer this question, we compared self-employed, minority, and women entrepreneurs' earnings to those of nonminority males in the Tallahassee CMSA, when the effect of other demographic and economic characteristics was controlled or "neutralized." That is, we were able to examine the earnings of self-employed individuals of similar education levels, ages, etc., to permit earnings comparisons by race/gender/ethnicity.

To derive a set of variables known to predict earnings, the dependent variable, we used 1999 wages from employment for self-employed individuals, as reported in the 5 percent PUMS data. These included:

- ***Race and Sex:*** African American, Asian American, Hispanic American, Native American, nonminority woman, nonminority males.
- ***Availability of Capital:*** Homeownership, home value, mortgage rate, unearned income, residual income
- ***Marital Status***
- ***Ability to Speak English Well***
- ***Disability Status:*** From individuals' reports of health-related disabilities
- ***Age and Age Squared:*** Squaring the age variable acknowledges the positive, curvilinear relationship between each year of age and earnings.
- ***Owner's Level of Education***

B.4.2.1 Findings

Exhibit B-3 presents the results of the linear regression model estimating the effects of selected demographic and economic variables on self-employment earnings. Each number (coefficient) in the exhibit represents a percent change in earnings. For example, the corresponding number for an African American in all industries is -.404, meaning that an African American will earn 40.4 percent less than a nonminority male when the statistical effects of the other variables in the equation are "controlled for." Full regression results for all the variables are presented in **Appendix C**.

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EXHIBIT B-3
EARNINGS ELASTICITIES OF MINORITY GROUPS RELATIVE TO NONMINORITY MALES AFTER CONTROLLING FOR SELECTED DEMOGRAPHIC AND ECONOMIC CHARACTERISTICS CITY OF TALLAHASSEE CMSA

Race/Ethnic Group	All Industries	Construction	Professional Services	Other Services	Goods & Supplies
African American	-0.139	-0.278	-0.457	-0.192	-0.784
Hispanic American	-0.374	*	0.469	-0.963	-0.757
Asian American	0.046	*	0.172	0.041	0.569
Native American	**0.852**	-0.101	*	0.943	*
Nonminority Women	-0.129	0.294	-0.176	**-0.382**	0.056

Source: PUMS data from 2000 Census of Population and Housing and MGT of America, Inc., calculations using SPSS.
Note: **Bold** indicates that the estimated "elasticities" for the group were statistically significant. The architecture and engineering business industry was excluded from this analysis because of insufficient data.
* There were insufficient census numbers available for analysis.

The results reveal the following:

- In the Tallahassee CMSA, African Americans, Hispanic Americans, and nonminority women reported significantly lower earnings in all business type categories.
- In the other services industry, African Americans, Hispanic American, and nonminority women reported significantly lower earnings than nonminority males in the Tallahassee CMSA: 19.2 percent, 96.3 percent, and 38.2 percent, respectively.
- The most egregious effect on earnings elasticities was found in other services for Hispanic Americans. In other services, Hispanic Americans earned 96.3 percent less than nonminority males.

B.4.3 Disparities in Rates of Self-Employment: How Much Can Be Attributed to Discrimination?

Results of the analyses of self-employment rates and 1999 self-employment earnings revealed general disparities between minority and nonminority self-employed individuals whose businesses were located in the Tallahassee CMSA.

Exhibit B-4 presents the results of these analyses. Column A reports observed employment rates for each race/gender group, calculated directly from the PUMS 2000 data. To obtain values in columns B and C, we calculated two predicted self-employment rates using the following equation:

$$\Pr ob(y=1) = \sum_{k=1}^{K} (e^{\beta_k x_k} / 1 + e^{\beta_k x_k})$$

Where:

$\Pr ob(y=1)$ = represents the probability of being self-employed

β_k = coefficient corresponding to the independent variables used in the logistic regression analysis of self-employment probabilities

x_k = the mean values of these same variables

The first of these predicted self-employment rate calculations (in column B) presents nonminority male self-employment rates as they would be if their characteristics (that is, x_k, or mean values for the independent variables) were applied to minority market structures (represented for each race by their β_k or odds coefficient values). The second self-employment rate calculation (in column C) presents minority self-employment rates as they would be if minorities were rewarded in a similar manner as nonminority males in the nonminority male market structure: that is, by multiplying the minority means (i.e., characteristics) by the estimated nonminority coefficients for both race and the other independent variables.

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EXHIBIT B-4
OBSERVED AND PREDICTED SELF-EMPLOYMENT RATES

CITY OF TALLAHASSEE CMSA					
Business/Race Group	Observed Self-Employment Rates	White Characteristics and Own Market Structure	Own Characteristics and White Market Structure	Disparity Ratio (column A divided by column C)	Portion of Difference Due to Discrimination
	(A)	(B)	(C)	(D)	(E)
Overall					
Nonminority Males	0.2293	0.2293	0.2293	1.000	
African American	0.0683	0.1030	0.1813	0.3764	70.23%
Hispanic American	0.0870	0.1221	0.3051	0.2850	n/d
Asian American	0.2174	0.2616	0.1977	1.0993	n/d
Native American	0.2222	0.3022	0.2462	0.9025	n/d
Nonminority Women	0.1040	0.1211	0.2679	0.3880	n/d
Construction					
Nonminority Males	0.3496	0.3496	0.3496	1.000	
African American	0.2037	0.2912	0.3015	0.6755	67.07%
Hispanic American	0.0000	0.0000	0.0572	0.0000	16.35%
Asian American	0.0000	0.0000	0.0572	0.0000	16.35%
Natvie American	0.6667	0.7269	0.4835	1.3789	57.78%
Nonminority Women	0.1404	0.1681	0.3992	0.3516	n/d
Professional Services					
Nonminority Males	0.2477	0.2477	0.2477	1.000	
African American	0.0211	0.1246	0.1897	0.1114	74.38%
Hispanic American	0.1333	0.4683	0.4385	0.3041	n/d
Asian American	0.2727	0.5073	0.2113	1.2909	n/d
Natvie American	0.0000	0.0000	0.0000	0.0000	n/d
Nonminority Women	0.0557	0.1652	0.2920	0.1908	n/d
Other Services					
Nonminority Males	0.2434	0.2434	0.2434	1.0000	
African American	0.1078	0.1563	0.2196	0.4910	82.45%
Hispanic American	0.0952	0.1043	0.4209	0.2263	n/d
Asian American	0.2400	0.2765	0.1924	1.2475	n/d
Natvie American	0.2857	0.3911	0.2328	1.2272	n/d
Nonminority Women	0.2444	0.2881	0.2754	0.8875	n/d
Goods & Supplies					
Nonminority Males	0.1000	0.1000	0.1000	1.000	
African American	0.0070	0.0102	0.3175	0.0222	n/d
Hispanic American	0.1053	0.1415	0.1123	0.9375	n/d
Asian American	0.1667	0.2318	0.0644	2.5862	n/d
Natvie American	0.0000	0.0000	0.0001	0.0000	0.07%
Nonminority Women	0.0758	0.0978	0.1092	0.6940	n/d

Source: PUMS data from 2000 Census of Population and Housing and MGT of America, Inc., calculations using SPSS and Microsoft Excel.
n/d: No discrimination was found.

Using these calculations, we were able to determine a percentage of the disparities in self-employment between minorities and nonminority males attributable to discrimination by dividing the observed self-employment rate for a particular minority group (column A) by the predicted self-employment rate as it would be if minority groups faced the same market structure as nonminority males (column C). Next, we calculated the difference between the predicted self-employment rate as it would be if minority groups faced the same market structure as nonminority males and the observed self-employment rate for that minority group, and divided this value by the difference between the observed self-

employment rate for nonminority males and the self-employment rate for a particular minority group. In the absence of discrimination, this number is zero, which means disparities in self-employment rates between minority groups and nonminority males can be attributed to differences in group characteristics not associated with discrimination. Conversely, as this value approaches 1.0, we are able to attribute disparities increasingly to discrimination in the marketplace.

B.4.4 Findings

Examining the results reported in **Exhibit B-4**, we found the following:

- Overall, comparing self-employed nonminority males with self-employed African Americans in the Tallahassee CMSA, over 70 percent of the disparity in self-employment rates was attributable to race differences.
- Comparing self-employed nonminority males with self-employed African Americans in the Tallahassee CMSA construction industry, over 67 percent of the disparity in self-employment rates was attributable to race differences.
- Comparing self-employed nonminority males with self-employed African Americans in Tallahassee CMSA professional services, over 70 percent of the disparity in self-employment rates was attributable to race differences.
- Comparing self-employed nonminority males with self-employed African Americans in Tallahassee CMSA other services, over 80 percent of the disparity in self-employment rates was attributable to gender differences.

B.5.0 Summary of Self-Employment Analysis Findings

In general, findings from the PUMS 2000 data indicate that minorities were significantly less likely than nonminority males to be self-employed and, if they were self-employed, they earned significantly less in 1999 than did self-employed nonminority males. When self-employment rates were stratified by race and by business type, trends varied within individual race-by-type cells, but disparities persisted, in general, for African Americans, Hispanic Americans, and nonminority women. When group self-employment rates were submitted to MGT's disparity-due-to-minority-status analysis, findings supported the conclusion that disparities for these three groups (of adequate sample size to permit interpretation) were likely the result of differences in the marketplace due to race, gender, and ethnicity.[7]

[7] **Appendix C** reports self-employment rates and earnings in greater detail by race/gender/ethnicity and business type.

APPENDIX C: PUMS REGRESSION ANALYSIS

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APPENDIX C
LEON COUNTY, FLORIDA BASED ON CITY TALLAHASSEE CMSA PUMS REGRESSION ANALYSIS

EXHIBIT C-a
RESULTS OF LOGISTIC REGRESSION
EXPLANATION OF RESULTS AND VARIABLES

Logistic Regression Output

Below, variable names and operational definitions are provided. When interpreting **Exhibits C-1** to **C-5**, the third column—Exp (B)—is the most informative index with regard to the influence of the independent variables on the likelihood of being self-employed. From the inverse of this value, we can interpret a likelihood value of its effect on self-employment. For example the Exp (B) for an African American is .326, from **Exhibit C-1**, the inverse of this is 3.07. This means that a nonminority male is 3.07 times more likely to be self-employed than an African American. Columns A and B are reported as a matter of convention to give the reader another indicator of both the magnitude of the variable's effect and the direction of the effect ("-" suggests the greater the negative B value the more it depresses the likelihood of being self-employed, and vice versa for a positive B value). It is noteworthy that theoretically "race-neutral" variables (e.g., marital status) tend to impact the likelihood of self-employment positively and that the race/ethnicity/gender variables, in general, tend to have a negative effect on self-employment.

Variables

Race, ethnicity, and gender indicator variables:

African American
Asian American
Hispanic American
Native American
Sex: Nonminority woman or not

Other indicator variables:

Marital Status: Married or not.
Age
Age^2: age squared. Used to acknowledge the positive, curvilinear relationship between each year of age and self-employment.
Disability: Individuals self-reported health-related disabilities.
Tenure: Owns their own home.
Value: Household property value.
Mortgage: Monthly total mortgage payments.
Unearn: Unearned income, such as interests and dividends.
Resdinc: Household income less individuals personal income.
P65: Number of individuals over the age of 65 living in the household.
P18: Number of children under the age of 18 living in the household.
Some College: Some college education.
College Graduate: College degree.
More than College: Professional or graduate degree.

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EXHIBIT C-1
RESULTS OF LOGISTIC REGRESSION
OVERALL

	City of Tallahassee CMSA		
	B	Sig.	Exp (B)
African American	**-1.119**	0.000	0.326
Hispanic American	**-0.928**	0.037	0.395
Asian American	0.007	0.986	1.007
Native American	0.208	0.725	1.231
Sex (1=Female)	**-0.937**	0.000	0.392
Marital Status (1=Married)	0.058	0.704	1.059
Age	0.096	0.079	1.101
Age^2	-0.001	0.198	0.999
Disability (1=Yes)	-0.022	0.908	0.979
Tenure (1=Yes)	0.346	0.074	1.413
Value	**0.049**	0.001	1.051
Mortgage	0.000	0.880	1.000
Unearn	0.000	0.551	1.000
Resdinc	**0.000**	0.035	1.000
P65	-0.292	0.267	0.747
P18	0.114	0.052	1.121
Some College (1=Yes)	-0.068	0.665	0.934
College Graduate (1=Yes)	-0.126	0.468	0.882
More than College (1=Yes)	0.184	0.357	1.202
Number of Observations	2383		
Chi-squared statistic (df=19)	191.01945		
Log Likelihood	-1842.765		

Source: The Public Use Microdata Samples (PUMS) data from 2000 Census of Population and MGT of America, Inc., calculations using SPSS.
Note: **BOLD** indicates the value is statistically significant at $p < .05$.
Estimation was conducted using the Binary Logistic command on SPSS. The Binary Logistic command performs binary logistic regressions and reports estimated coefficients and odds ratios that measure the effect on the probability of each one-unit increase in the included variables.

EXHIBIT C-2
RESULTS OF LOGISTIC REGRESSION CONSTRUCTION

	City of Tallahassee CMSA		
	B	Sig.	Exp (B)
African American	-0.557	0.158	0.573
Hispanic American	-20.160	0.998	0.000
Asian American	-20.232	0.999	0.000
Native American	1.311	0.344	3.711
Sex (1=Female)	**-1.267**	0.003	0.282
Marital Status (1=Married)	0.291	0.336	1.338
Age	0.019	0.857	1.019
Age^2	0.000	0.944	1.000
Disability (1=Yes)	-0.338	0.366	0.713
Tenure (1=Yes)	0.518	0.211	1.679
Value	0.059	0.077	1.061
Mortgage	0.000	0.609	1.000
Unearn	0.000	0.183	1.000
Resdinc	0.000	0.487	1.000
P65	-1.665	0.123	0.189
P18	0.004	0.977	1.004
Some College (1=Yes)	0.313	0.290	1.368
College Graduate (1=Yes)	-0.413	0.295	0.662
More than College (1=Yes)	-0.472	0.453	0.624
Number of Observations	378		
Chi-squared statistic (df=19)	61.577		
Log Likelihood	-388.8687		

Source: The Public Use Microdata Samples (PUMS) data from 2000 Census of Population and MGT of America, Inc., calculations using SPSS.
Note: **BOLD** indicates the value is statistically significant at $p < .05$.
Estimation was conducted using the Binary Logistic command on SPSS. The Binary Logistic command performs binary logistic regressions and reports estimated coefficients and odds ratios that measure the effect on the probability of each one-unit increase in the included variables.

EXHIBIT C-3
RESULTS OF LOGISTIC REGRESSION
PROFESSIONAL SERVICES

	City of Tallahassee CMSA		
	B	Sig.	Exp (B)
African American	**-1.358**	0.041	0.257
Hispanic American	0.464	0.631	1.591
Asian American	0.621	0.468	1.860
Native American	-18.515	0.999	0.000
Sex (1=Female)	**-1.029**	0.002	0.357
Marital Status (1=Married)	0.172	0.666	1.187
Age	**0.428**	0.009	1.534
Age^2	**-0.004**	0.021	0.996
Disability (1=Yes)	0.342	0.510	1.408
Tenure (1=Yes)	0.641	0.197	1.898
Value	**0.084**	0.030	1.087
Mortgage	0.000	0.343	1.000
Unearn	0.000	0.667	1.000
Resdinc	0.000	0.252	1.000
P65	-0.055	0.921	0.947
P18	0.181	0.192	1.198
Some College (1=Yes)	0.669	0.417	1.952
College Graduate (1=Yes)	**1.918**	0.013	6.806
More than College (1=Yes)	**2.211**	0.004	9.127
Number of Observations	754		
Chi-squared statistic (df=19)	154.74		
Log Likelihood	-368.0563		

Source: The Public Use Microdata Samples (PUMS) data from 2000 Census of Population and MGT of America, Inc., calculations using SPSS.
Note: **BOLD** indicates the value is statistically significant at $p < .05$.
Estimation was conducted using the Binary Logistic command on SPSS. The Binary Logistic command performs binary logistic regressions and reports estimated coefficients and odds ratios that measure the effect on the probability of each one-unit increase in the included variables.

EXHIBIT C-4
RESULTS OF LOGISTIC REGRESSION
OTHER SERVICES

	City of Tallahassee CMSA		
	B	Sig.	Exp (B)
African American	**-0.740**	0.013	0.477
Hispanic American	-1.204	0.130	0.300
Asian American	-0.016	0.975	0.984
Native American	0.503	0.573	1.654
Sex (1=Female)	0.041	0.876	1.042
Marital Status (1=Married)	-0.053	0.834	0.949
Age	0.075	0.415	1.078
Age^2	-0.001	0.530	0.999
Disability (1=Yes)	0.348	0.233	1.417
Tenure (1=Yes)	0.119	0.735	1.126
Value	**0.064**	0.010	1.066
Mortgage	0.000	0.897	1.000
Unearn	0.000	0.403	1.000
Resdinc	0.000	0.088	1.000
P65	-0.437	0.321	0.646
P18	0.151	0.126	1.164
Some College (1=Yes)	0.171	0.508	1.187
College Graduate (1=Yes)	0.057	0.853	1.059
More than College (1=Yes)	-0.004	0.992	0.996
Number of Observations	659		
Chi-squared statistic (df=19)	55.384		
Log Likelihood	-599.125		

Source: The Public Use Microdata Samples (PUMS) data from 2000 Census of Population and MGT of America, Inc., calculations using SPSS.
Note: **BOLD** indicates the value is statistically significant at $p < .05$.
Estimation was conducted using the Binary Logistic command on SPSS. The Binary Logistic command performs binary logistic regressions and reports estimated coefficients and odds ratios that measure the effect on the probability of each one-unit increase in the included variables.

EXHIBIT C-5
RESULTS OF LOGISTIC REGRESSION
GOODS AND SUPPLIES

	City of Tallahassee CMSA		
	B	Sig.	Exp (B)
African American	**-2.670**	0.010	0.069
Hispanic American	0.108	0.896	1.114
Asian American	0.712	0.538	2.038
Native American	-17.942	0.999	0.000
Sex (1=Female)	-0.312	0.442	0.732
Marital Status (1=Married)	0.072	0.871	1.075
Age	0.253	0.152	1.288
Age^2	-0.002	0.240	0.998
Disability (1=Yes)	-0.651	0.316	0.522
Tenure (1=Yes)	-0.427	0.520	0.652
Value	0.006	0.888	1.006
Mortgage	0.000	0.588	1.000
Unearn	0.000	0.430	1.000
Resdinc	0.000	0.304	1.000
P65	0.687	0.220	1.987
P18	0.154	0.327	1.166
Some College (1=Yes)	0.000	0.999	1.000
College Graduate (1=Yes)	0.135	0.770	1.144
More than College (1=Yes)	0.515	0.485	1.674
Number of Observations	592		
Chi-squared statistic (df=19)	37.854		
Log Likelihood	-270.4627		

Source: The Public Use Microdata Samples (PUMS) data from 2000 Census of Population and MGT of America, Inc., calculations using SPSS.
Note: **BOLD** indicates the value is statistically significant at $p < .05$.
Estimation was conducted using the Binary Logistic command on SPSS. The Binary Logistic command performs binary logistic regressions and reports estimated coefficients and odds ratios that measure the effect on the probability of each one-unit increase in the included variables.

EXHIBIT C-b
RESULTS OF LINEAR REGRESSION
EXPLANATION OF RESULTS AND VARIABLES

Linear Regression Output

Below, variable names and operational definitions are provided. When interpreting the linear regression **Exhibits C-6** to **C-10**, the first column—Unstandardized B—is the most informative index with regard to the influence of the independent variables on the earnings of a self-employed individual. Each number in this column represents a percent change in earnings. For example, the corresponding number for an African American is -.139, from **Exhibit C-6**, meaning that an African American will earn 13.9 percent less than a nonminority male. The other four columns are reported in order to give the reader another indicator of both the magnitude of the variable's effect and the direction of the effect. Std. Error reports the standard deviation in the sampling distribution. Standardized B reports the standard deviation change in the dependent variable from on standard deviation increase in the independent variable. The t and Sig. columns simply report the level and strength of a variable's significance.

Variables

Race, ethnicity, and gender indicator variables:

African American
Asian American
Hispanic American
Native American
Nonminority Woman

Other indicator variables:

Marital Status: Married or not.
Disability: Individuals self-reported health-related disabilities.
Age
Age^2: age squared. Used to acknowledge the positive, curvilinear relationship between each year of age and self-employment.
Speaks English Well: Person's ability to speak English if not a native speaker.
Some College: Some college education.
College Graduate: College degree.
More than College: Professional or graduate degree.

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EXHIBIT C-6
RESULTS OF LINEAR REGRESSION
OVERALL

	City of Tallahassee CMSA				
	Unstandardized		Standardized		
	B	Std. Error	B	t	Sig.
African American	-0.139	0.148	-0.046	-0.940	0.348
Hispanic American	-0.374	0.355	-0.052	-1.054	0.293
Asian American	0.046	0.300	0.008	0.155	0.877
Native American	0.852	0.420	0.098	2.030	0.043
Nonminority Women	-0.129	0.113	-0.056	-1.141	0.255
Marital Status	**0.207**	0.105	0.099	1.973	0.049
Disability (1=Yes)	**-0.411**	0.138	-0.146	-2.985	0.003
Age	**0.087**	0.039	0.909	2.206	0.028
Age^2	**-0.001**	0.000	-0.859	-2.089	0.037
Speaks English Well	-0.109	0.207	-0.029	-0.528	0.598
Some College (1=Yes)	0.024	0.114	0.012	0.209	0.835
College Graduate	**0.475**	0.122	0.220	3.907	0.000
More than College	**0.763**	0.136	0.320	5.612	0.000
Constant	8.288	0.841		9.859	0.000

Source: The Public Use Microdata Samples (PUMS) data from 2000 Census of Population and MGT of America, Inc., calculations using SPSS.
Note: **BOLD** indicates the value is statistically significant at $p < .05$.
Estimation was conducted using the Binary Logistic command on SPSS. The Binary Logistic command performs binary logistic regressions and reports estimated coefficients and odds ratios that measure the effect on the probability of each one unit increase in the included variables.

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EXHIBIT C-7
RESULTS OF LINEAR REGRESSION CONSTRUCTION

	City of Tallahassee CMSA				
	Unstandardized		Standardized		
	B	Std. Error	B	t	Sig.
African American	-0.278	0.241	-0.107	-1.153	0.252
Native American	-0.101	0.618	-0.017	-0.164	0.870
Nonminority Women (1=Female)	0.294	0.272	0.098	1.079	0.283
Marital Status (1=Married)	**0.331**	0.160	0.188	2.064	0.042
Disability (1=Yes)	-0.043	0.231	-0.018	-0.186	0.852
Age	**0.177**	0.059	2.264	2.985	0.004
Age^2	**-0.002**	0.001	-2.296	-3.023	0.003
Speaks English Well (1=Yes)	**1.963**	0.619	0.336	3.169	0.002
Some College (1=Yes)	-0.129	0.167	-0.076	-0.773	0.442
College Graduate (1=Yes)	0.414	0.220	0.177	1.881	0.063
More than College (1=Yes)	-0.088	0.346	-0.024	-0.255	0.799
Constant	6.560	1.218		5.386	0.000

Source: The Public Use Microdata Samples (PUMS) data from 2000 Census of Population and MGT of America, Inc., calculations using SPSS.
Note: **BOLD** indicates the value is statistically significant at $p < .05$.
Estimation was conducted using the Binary Logistic command on SPSS. The Binary Logistic command performs binary logistic regressions and reports estimated coefficients and odds ratios that measure the effect on the probability of each one-unit increase in the included variables.

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EXHIBIT C-8
RESULTS OF LINEAR REGRESSION
PROFESSIONAL SERVICES

	City of Tallahassee CMSA				
	Unstandardized		Standardized		
	B	Std. Error	B	t	Sig.
African American	-0.457	0.613	-0.087	-0.745	0.459
Hispanic American	0.469	0.725	0.073	0.646	0.520
Asian American	0.172	0.662	0.033	0.260	0.795
Nonminority Women (1=Female)	-0.176	0.277	-0.077	-0.636	0.527
Marital Status (1=Married)	0.285	0.351	0.102	0.814	0.419
Disability (1=Yes)	**-0.954**	0.454	-0.252	-2.102	0.039
Age	-0.072	0.138	-0.580	-0.523	0.603
Age^2	0.001	0.001	0.511	0.462	0.645
Speaks English Well (1=Yes)	0.040	0.485	0.011	0.083	0.934
Some College (1=Yes)	-1.412	0.785	-0.400	-1.799	0.076
College Graduate (1=Yes)	-0.661	0.746	-0.318	-0.885	0.379
More than College (1=Yes)	-0.494	0.745	-0.250	-0.663	0.509
Constant	13.565	3.406		3.982	0.000

Source: The Public Use Microdata Samples (PUMS) data from 2000 Census of Population and MGT of America, Inc., calculations using SPSS.
Note: **BOLD** indicates the value is statistically significant at $p < .05$.
Estimation was conducted using the Binary Logistic command on SPSS. The Binary Logistic command performs binary logistic regressions and reports estimated coefficients and odds ratios that measure the effect on the probability of each one-unit increase in the included variables.

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EXHIBIT C-9
RESULTS OF LINEAR REGRESSION
OTHER SERVICES

	City of Tallahassee CMSA				
	Unstandardized		Standardized		
	B	Std. Error	B	t	Sig.
African American	-0.192	0.178	-0.095	-1.075	0.285
Hispanic American	-0.963	0.513	-0.156	-1.876	0.063
Asian American	0.041	0.342	0.011	0.119	0.906
Native American	0.943	0.515	0.153	1.831	0.070
Nonminority Women (1=Female)	**-0.382**	0.151	-0.219	-2.529	0.013
Marital Status (1=Married)	0.252	0.140	0.154	1.797	0.075
Disability (1=Yes)	**-0.345**	0.171	-0.168	-2.020	0.046
Age	0.016	0.066	0.200	0.247	0.805
Age^2	0.000	0.001	-0.024	-0.030	0.976
Speaks English Well (1=Yes)	**-0.508**	0.241	-0.194	-2.106	0.037
Some College (1=Yes)	0.201	0.153	0.128	1.310	0.193
College Graduate (1=Yes)	**0.461**	0.176	0.253	2.627	0.010
More than College (1=Yes)	0.131	0.259	0.046	0.505	0.614
Constant	9.542	1.367		6.982	0.000

Source: The Public Use Microdata Samples (PUMS) data from 2000 Census of Population and MGT of America, Inc., calculations using SPSS.
Note: **BOLD** indicates the value is statistically significant at $p < .05$.
Estimation was conducted using the Binary Logistic command on SPSS. The Binary Logistic command performs binary logistic regressions and reports estimated coefficients and odds ratios that measure the effect on the probability of each one-unit increase in the included variables.

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EXHIBIT C-10
RESULTS OF LINEAR REGRESSION
GOODS AND SUPPLIES

City of Tallahassee CMSA					
	Unstandardized		Standardized		
	B	Std. Error	B	t	Sig.
African American	-0.784	1.125	-0.128	-0.697	0.491
Hispanic American	-0.757	0.857	-0.173	-0.884	0.384
Asian American	0.569	1.280	0.093	0.445	0.660
Nonminority Women	0.056	0.375	0.026	0.150	0.882
Marital Status	-0.489	0.370	-0.224	-1.321	0.197
Disability (1=Yes)	-0.620	0.610	-0.172	-1.016	0.318
Age	0.123	0.158	1.164	0.778	0.443
Age^2	-0.001	0.002	-1.145	-0.772	0.446
Speaks English Well	0.547	0.791	0.151	0.691	0.495
Some College (1=Yes)	-0.005	0.401	-0.003	-0.012	0.990
College Graduate	0.139	0.405	0.070	0.344	0.733
More than College	**1.716**	0.724	0.475	2.371	0.024
Constant	7.922	3.606		2.197	0.036

Source: The Public Use Microdata Samples (PUMS) data from 2000 Census of Population and MGT of America, Inc., calculations using SPSS.
Note: **BOLD** indicates the value is statistically significant at $p < .05$.
Estimation was conducted using the Binary Logistic command on SPSS. The Binary Logistic command performs binary logistic regressions and reports estimated coefficients and odds ratios that measure the effect on the probability of each one-unit increase in the included variables.

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APPENDIX D: PRIVATE SECTOR DISCUSSION

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APPENDIX D
PRIVATE SECTOR DISCUSSION

Based on the U.S. Bureau of Census, 2002 Survey of Business Owners (SBO) there remains a significant gap between the market share of minority- and women-owned business enterprises (M/WBEs) and their share of the Leon County metropolitan area business population.

As shown in **Exhibit D-1** below, there were 24,317 businesses in the Leon County metropolitan area, of which 16.5 percent were owned by minorities and 27.8 percent by women. Minorities' share of market revenue was 2.2 percent. Minorities averaged $303,661 per firm. **Exhibit D-1** also shows that the following:

- African American-owned firms were 9.6 percent of firms, 0.7 percent of sales, with $95,637 in average revenue per firm, 7.3 percent of the market place average.
- Hispanic American-owned firms were 3.0 percent of firms, 0.4 percent of sales, with $49,299 in average revenue per firm, 11.9 percent of the market place average.
- Asian American-owned firms were 2.6 percent of firms, 1.0 percent of sales, with $139,444 in average revenue per firm, 39.3 percent of the market place average;
- Native American-owned firms were 1.3 percent of firms, 0.1 percent of sales, with $19,281 in average revenue per firm, 11.3 percent of the market place average.
- Nonminority women-owned firms were 27.8 percent of firms, 7.0 percent of sales, with $958,738 in average revenue per firm, 25.2 percent of the market place average.

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EXHIBIT D-1
U.S. BUREAU CENSUS 2002
SURVEY OF BUSINESS OWNERS
MEASURE OF AVAILABILITY AND UTILIZATION
IN THE LEON COUNTY MARKET PLACE
ALL FIRMS

	# of Firms	Sales	Sales Per Firm
All firms	24,317	$13,690,982	$563
African American	2,333	$95,637	$41
Hispanic American	734	$49,299	$67
Asian American	631	$139,444	$221
Native American	304	$19,281	$63
All Minorities	4,002	$303,661	$76
Nonminority Women	6,769	$958,738	$142

Percentage of Marketplace

	Firms	Sales	Sales Per Firm Compared to the Marketplace Average
African American	9.6%	0.7%	7.3%
Hispanic American	3.0%	0.4%	11.9%
Asian American	2.6%	1.0%	39.3%
Native American	1.3%	0.1%	11.3%
All Minorities	16.5%	2.2%	13.5%
Nonminority Women	27.8%	7.0%	25.2%

Disparity Index

	(ratio of sales to firms)
African American	7.3
Hispanic American	11.9
Asian American	39.3
Native American	11.3
Nonminority Women	25.2

Source: U.S. Bureau of the Census 2002, Survey Of Business Owners, Based On All Firms.

Exhibit D-2 below shows that based on all firms there were 6,472 businesses with paid employees. in the Leon County metropolitan area in 2002, of which 7.6 percent were owned by minorities and 18 percent by nonminority women-owned firms. Minorities' share of market revenue was 1.7 percent. Minorities averaged $217,536 per firm. **Exhibit D-2** also shows that the following,

- African American-owned firms were 3.6 percent of firms, 0.4 percent of sales, with $53,179 in average revenue per firm, 11.5 percent of the market place average.
- Hispanic American-owned firms were 2.3 percent of firms, 0.3 percent of sales, with $41,808 in average revenue per firm, 14.4 percent of the market place average.

- Asian American-owned firms were 1.8 percent of firms, 1 percent of sales, with $122,549 in average revenue per firm, 53.5 percent of the market place average.

- Nonminority women-owned firms were 18 percent of firms, 5.8 percent of sales, with $752,237 in average revenue per firm, 32.3 percent of the market place average.

- The data was incomplete for Native American-owned firms *with paid* employees.

EXHIBIT D-2
U.S. BUREAU CENSUS 2002
SURVEY OF BUSINESS OWNERS
ALL FIRMS WITH PAID EMPLOYEES

	# of Firms	Sales	Sales Per Firm
All firms	6,472	$12,889,631	$1,992
African American	233	$53,179	$228
Hispanic American	146	$41,808	$286
Asian American	115	$122,549	$1,066
Native American	N/A	N/A	N/A
All Minorities	494	$217,536	$440
Nonminority Women	1,168	$752,237	$644

Percentage of Marketplace			
	Firms	**Sales**	**Sales Per Firm Compared to the Marketplace Average**
African American	3.6%	0.4%	11.5%
Hispanic American	2.3%	0.3%	14.4%
Asian American	1.8%	1.0%	53.5%
Native American	N/A	N/A	N/A
All Minorities	7.6%	1.7%	22.1%
Nonminority Women	18.0%	5.8%	32.3%

Disparity Index	
	(ratio of sales to firms)
African American	11.5
Hispanic American	14.4
Asian American	53.5
Native American	N/A
Nonminority Women	32.3

Source: U.S. Bureau of the Census 2002, Survey Of Business Owners, Based On Firms with Paid Employees Only.

For all construction firms the results are shown in **Exhibit D-3** below, there were 2,901 construction firms in the Leon County metropolitan area in 2002, of which 6.8 percent were owned nonminority women-owned firms. **Exhibit D-3** also shows that:

- Nonminority women-owned firms were 6.8 percent of firms, 6.2 percent of sales, with $84,224 in average revenue per firm, 90.9 percent of the market place average.

- Complete data on African American-, Native American, Hispanic American-, and Asian American-owned firms was not available.

EXHIBIT D-3
U.S. BUREAU CENSUS 2002
SURVEY OF BUSINESS OWNERS
CENSUS MEASURE OF AVAILABILITY AND UTILIZATION
IN THE LEON COUNTY MARKET PLACE
ALL CONSTRUCTION FIRMS

	# of Firms	Sales	Sales Per Firm
All firms	2,901	$1,363,866	$470
African American	N/A	N/A	N/A
Hispanic American	N/A	N/A	N/A
Asian American	N/A	N/A	N/A
Native American	N/A	N/A	N/A
All Minorities	N/A	N/A	N/A
Nonminority Women	197	$84,224	$428

Percentage of Marketplace

	Firms	Sales	Sales Per Firm Compared to the Marketplace Average
African American	N/A	N/A	N/A
Hispanic American	N/A	N/A	N/A
Asian American	N/A	N/A	N/A
Native American	N/A	N/A	N/A
All Minorities	N/A	N/A	N/A
Nonminority Women	6.8%	6.2%	90.9%

Disparity Index

	(ratio of sales to firms)
African American	N/A
Hispanic American	N/A
Asian American	N/A
Native American	N/A
Nonminority Women	90.9

Source: U.S. Bureau of the Census 2002, Survey of Business Owners, Based On All Firms Specializing in Construction.

Exhibit D-4 below shows that based on all firms there were 4,387 businesses specializing in professional services in the Leon County metropolitan area in 2002, of which 7.9 percent were owned by minorities and 24.4 percent by nonminority women-owned firms. Minorities' share of market revenue was 26.4 percent. Minorities averaged $33,034 per firm. **Exhibit D-4** also shows that the following,

- African American-owned firms were 5.6 percent of firms, 0.9 percent of sales, with $15,000 in average revenue per firm, 16.9 percent of the market place average.

- Asian American-owned firms were 2.3 percent of firms, 1.1 percent of sales, with $18,034 in average revenue per firm, 49.8 percent of the market place average.

- Nonminority women-owned firms were 24.4 percent of firms, 12.7 percent of sales, with $202,148 in average revenue per firm, 52.1 percent of the market place average.

- The data was incomplete for Hispanic American and Native American-owned firms.

EXHIBIT D-4
U.S. BUREAU CENSUS 2002
SURVEY OF BUSINESS OWNERS
ALL FIRMS WITH PAID EMPLOYEES

	# of Firms	Sales	Sales Per Firm
All firms	4,387	$1,588,337	$362
African American	245	$15,000	$61
Hispanic American	N/A	N/A	N/A
Asian American	100	$18,034	$180
Native American	N/A	N/A	N/A
All Minorities	345	$33,034	$96
Nonminority Women	1,072	$202,148	$189

Percentage of Marketplace

	Firms	Sales	Sales Per Firm Compared to the Marketplace Average
African American	5.6%	0.9%	16.9%
Hispanic American	N/A	N/A	N/A
Asian American	2.3%	1.1%	49.8%
Native American	N/A	N/A	N/A
All Minorities	7.9%	2.1%	26.4%
Nonminority Women	24.4%	12.7%	52.1%

Disparity Index

	(ratio of sales to firms)
African American	16.9
Hispanic American	N/A
Asian American	49.8
Native American	N/A
Nonminority Women	52.1

Source: U.S. Bureau of the Census 2002, Survey Of Business Owners, Based On All Firms Specializing in Professional Services.

All groups exhibited disparity to substantial disparity in the marketplace where data was available. Disparity indices for the overall market place are presented at the bottom of **Exhibits D-1**, **D-2**, **D-3**, and **D-4**.

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Board of County Commissioners
Leon County, Florida
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Agenda Item
Executive Summary

Tuesday, August 25, 2009

Title: Approval of Proposed Revisions to the Minority/Women Aspirational Targets
Staff: Parwez Alam, County Administrator Alan Rosenzweig, Assistant County Administrator Iranetta D. Burnett, Minority, Women and Small Business Enterprise Director

Issue Briefing:
This agenda item seeks Board approval of the proposed revisions to the minority and women-owned businesses enterprise aspirational targets in the areas of Construction, Architecture & Engineering, Professional Services, Other Services, and Material and Supplies (Attachment #1).

Fiscal Impact:
This item has no fiscal impact on the County.

Staff Recommendation:
Option #1: Approve the proposed revisions to the minority/women aspirational targets.

Option #2: Direct staff to revise Policy No. 96-1, Purchasing and Minority, Women and Small Business Enterprise Policy to reflect new minority and women-owned businesses enterprise aspirational targets, which allows targets to be adjusted on individual bids/RFPs when there is insufficient availability of Women/Minority businesses for that specific bid/Request for Proposals.

Report and Discussion

Background:
At the September 2, 2008 meeting, the Board directed staff to engage MGT of America (MGT) to prepare an update to the County's aspirational targets related to minority and women-owned businesses. The overall objective of the disparity study is to determine if data supports a "compelling interest" for the County to maintain a program to provide minority and women-owned business enterprises greater opportunities to participate in County procurement activities as goods and services providers.

Analysis:
The MGT report included data collection drawn from County purchase orders, contracts for goods and services, and direct payments, review of County vendor's recorders and other sources. Based on the findings of the MGT report, the County has a "compelling interest" to keep the minority and women-owned business enterprise program (Attachment #1). MGT has provided staff with an updated list of aspirational targets in the categories of Construction, Architectural and Engineering, Professional Services, Other Services, and Material and Supplies that reflects current disparities within Leon County procurement activities.

The Minority/Women Small Business Enterprise Advisory Committee reviewed the aspirational targets at their August 13, 2009 meeting, and concurred with the findings of the report.

Staff recommends the Board approve the updated aspirational targets and direct staff to incorporate the targets into the County's purchasing policy. As part of their analysis, MGT has stated that these targets should be utilized for the overall goals for the County, not necessarily for any individual project. As part of the implementation of the new targets, staff recommends continuing to analyze each specific bid/RFP to ensure the minority/women businesses are available for the work being requested; if not, the aspirational target may need to be adjusted for a given bid/RFP.

Other recommendations and policy changes provided in MGT's report are still being reviewed by staff and will be presented to the Board at a future meeting.

MGT will be available at the meeting to provide a brief presentation on the findings contained in the report.

Options:
1. Approve the proposed revisions to the minority/women aspirational targets.
2. Direct staff to revise Policy No. 96-1, Purchasing and Minority, Women and Small Business Enterprise Policy, to reflect new minority and women-owned businesses enterprise aspirational targets, which allows targets to be adjusted on individual bids/RFPs when there is insufficient availability of Women/Minority businesses for that specific bid/RFP.
3. Do not approve the proposed revisions to the minority/women aspirational targets.
4. Board Direction.

Recommendation:
Options #1 and #2.

Attachment:
1. MGT of America Report regarding aspirational targets for MWSBE Division

Tallahassee Office
2123 Centre Pointe Boulevard
Tallahassee, Florida 32308
P: (850) 386-3191
F: (850) 385-4501
www.mgtofamerica.com

MGT OF AMERICA, INC.

August 6, 2009

Ms. Iranetta Burnett
Leon County MWSBE Director
2284 Miccosukee Road
Tallahassee, Florida 32308

Dear Ms. Burnett:

This is a follow up to our meeting held on Friday, July 31, 2009.

During this meeting, we discussed proposed M/WBE aspirational goals by business categories, and revised time lines for the draft Disparity Study report for the Leon County Board of County Commissioners (herein referred to as the County). We have revised our time line to reflect the results of our discussions and attached it for your review. Please see **Attachment A.**

Attachment B is a chart that compares M/WBE utilization in percentage of dollars between private commercial construction and Leon County, Florida for both prime contractors and subcontractors. **Attachment C** shows aspirational targets, by business category, by M/WBE for the study period, October 1, 2004 through September 30, 2008. Aspirational goals should be flexible, and based on relative M/WBE availability. The primary means for achieving these aspirational goals should be an SBE program, race-neutral joint ventures, outreach, and adjustments in the County procurement policy.

Please call me at (850) 386-3191 if you have any questions about our progress on the disparity study draft final report or need additional information.

Sincerely,

Reginald A. Smith
Project Director

CC: Mr. Steve Humphrey
Ms. Hope Smith

Attachments

Leon County Aspirational Targets

	1997 - 2001					October 1, 2004 through September 30, 2008			
Business Category by M/WBE Classification	% of Dollars	% of Available Firms	Disparity Index Goal (.8 * avail.)	Race/Gender Neutral Target	Race/Gender Conscious Target	Business Category by M/WBE Classification	% of Dollars	% of Available Firms	Aspirational Target
Construction Prime Contractors						***Construction Prime Contractors***			
African Americans	0.37	6.03	4.82	1	4	African Americans	3.46%	9.73%	8.0%
Hispanic Americans	0.08	1.51	1.21	0	1	Hispanic Americans	0.00%	0.00%	0.0%
Asian Americans	0.00	0.00	0.00	0	0	Asian Americans	0.00%	0.54%	0.0%
Native Americans	0.00	0.50	0.40	0	0	Native Americans	0.00%	0.00%	0.0%
Nonminority Women	1.15	3.02	2.42	1	1	Nonminority Women	12.86%	6.49%	5.0%
Construction Subcontractors						***Construction Subcontractors***			
African Americans	14.37	22.09	17.67	15	3	African Americans	10.12%	18.75%	15.00%
Hispanic Americans	0.00	1.20	0.96	0	0	Hispanic Americans	1.64%	1.56%	1.00%
Asian Americans	0.00	0.40	0.32	0	0	Asian Americans	1.64%	0.52%	0.00%
Native Americans	0.35	0.40	0.32	0	0	Native Americans	0.05%	0.69%	1.00%
Nonminority Women	3.60	3.21	2.57	3	0	Nonminority Women	1.16%	10.76%	9.00%
						Architecture & Engineering Prime Consultants			
						African Americans	7.46%	8.70%	7.00%
						Hispanic Americans	0.00%	0.00%	0.00%
						Asian Americans	2.73%	4.35%	3.00%
						Native Americans	0.00%	0.00%	0.00%
						Nonminority Women	4.45%	17.39%	14.00%
Professional Services Consultants						***Professional Services Consultants***			
African Americans	4.69	5.63	4.50	5	0	African Americans	4.05%	8.08%	6.00%
Hispanic Americans	0.00	0.00	0.00	0	0	Hispanic Americans	0.00%	1.01%	1.00%
Asian Americans	1.30	0.63	0.50	1	0	Asian Americans	0.00%	0.00%	0.00%
Native Americans	0.00	0.00	0.00	0	0	Native Americans	0.00%	0.00%	0.00%
Nonminority Women	5.25	5.63	4.50	5	0	Nonminority Women	12.00%	18.18%	15.00%
Professional Services Subconsultants									
African Americans	0.33	23.25	18.60	1	18				
Hispanic Americans	0.40	0.96	0.77	1	0				
Asian Americans	0.20	0.64	0.51	1	0				
Native Americans	0.02	0.00	0.00	0	0				
Nonminority Women	4.71	17.20	13.76	5	9				
Other Services Vendors						***Other Services Vendors***			
African Americans	13.29	6.93	5.54	6	0	African Americans	12.85%	11.63%	9.00%
Hispanic Americans	4.00	0.27	0.22	0	0	Hispanic Americans	5.02%	1.16%	1.00%
Asian Americans	0.65	0.27	0.22	0	0	Asian Americans	0.06%	0.39%	0.00%
Native Americans	0.00	0.00	0.00	0	0	Native Americans	0.06%	0.39%	0.00%
Nonminority Women	11.77	6.93	5.54	6	0	Nonminority Women	35.59%	10.47%	8.00%
Material and Supplies Vendors						***Material and Supplies Vendors***			
African Americans	0.68	2.86	2.29	1	1	African Americans	0.82%	1.45%	1.00%
Hispanic Americans	0.07	0.26	0.21	0	0	Hispanic Americans	0.00%	0.36%	0.00%
Asian Americans	0.00	0.26	0.21	0	0	Asian Americans	0.00%	0.36%	0.00%
Native Americans	0.00	0.00	0.00	0	0	Native Americans	0.00%	0.00%	0.00%
Nonminority Women	15.44	5.99	4.79	5	0	Nonminority Women	12.98%	8.00%	6.00%

COMPARISON OF M/WBE UTILIZATION PERCENTAGE OF DOLLARS
PRIVATE COMMERCIAL CONSTRUCTION
AND LEON COUNTY, FLORIDA
OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2008

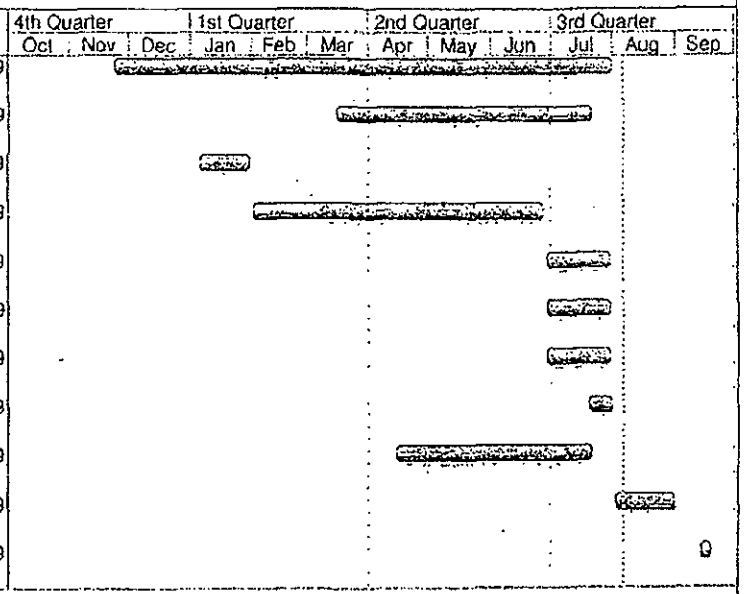
Business Category/Data Source	African American	Hispanic American	Asian American	Native American	Nonminority Women	M/WBE Firms	Non-M/WBE Firms
Prime Contractors							
Leon County Construction Prime Contractors (Based on Expenditure Data Only)	3.46%	0.00%	0.00%	0.00%	12.86%	16.32%	83.68%
Private Construction Prime Contractors (Leon County, Florida Building Permits)	0.86%	0.00%	0.00%	0.00%	2.48%	3.34%	96.66%
Private Construction Prime Contractors (City of Tallahassee, Florida Building Permits)	0.03%	0.00%	0.00%	0.00%	1.02%	1.05%	98.95%

Subcontractors	African American	Hispanic American	Asian American	Native American	Nonminority Women	M/WBE Firms	Non-M/WBE Firms
Leon County Construction Subcontractors (Overall Subconractor Level)[1]	10.12%	1.64%	1.64%	0.05%	1.16%	12.97%	87.03%
Private Construction Subcontractors (Leon County, Florida Building Permits)	3.54%	0.00%	0.00%	0.05%	0.26%	3.80%	96.20%
Private Construction Subcontractors (City of Tallahassee, Florida Building Permits)	0.04%	0.00%	0.00%	0.00%	18.16%	18.21%	81.79%

[1] Percentage of the total subcontractor dollars awarded

Attachment A
Leon County Update Disparity Study
Adjusted Project Time Line

ID	Task Name	Start	Finish
1	Task 2.0: Conduct Detailed Legal Review and Analysis	Mon 11/24/08	Fri 7/31/09
2	Task 3.0: Review of Policies, Procedures, and Programs	Mon 3/16/09	Mon 7/20/09
3	Task 4.0: Assess Data	Tue 1/6/09	Fri 1/30/09
4	Task 5.0: Collect and Clean Data	Mon 2/2/09	Fri 6/26/09
5	Task 6.0: Conduct Market Area Analyses	Mon 6/29/09	Thu 7/30/09
6	Task 7.0: Conduct Utilization and Threshold Analyses	Mon 6/29/09	Thu 7/30/09
7	Task 8.0: Determine Availability of Qualified Firms	Mon 6/29/09	Thu 7/30/09
8	Task 9.0: Analyze Utilization and Availability Data for Disparity	Mon 7/20/09	Fri 7/31/09
9	Task 10.0: Conduct Private Sector Analysis	Wed 4/15/09	Mon 7/20/09
10	Task 11.0: Prepare Draft Final Report	Mon 8/3/09	Mon 8/31/09
11	Task 12.0: Prepare and Submit Final Report	Mon 9/14/09	Fri 9/18/09



Project: Leon County Timeline 080609
Date: Thu 8/6/09

Task
Progress
Milestone
Summary
Rolled Up Task
Rolled Up Milestone
Rolled Up Progress
Split
External Tasks
Project Summary
Group By Summary
Deadline

MWSBE Workshop Letter Recipients

Glenda Thornton, Chairman of the Greater Tallahassee Chamber of Commerce

Sue Dick, President of the Greater Tallahassee Chamber of Commerce

Kim Williams, Chairman of the Tallahassee-Leon County Economic Development Council

Beth Kirkland, Executive Director of the Tallahassee-Leon County Economic Development Council

Terrence Hinson, Chairman of the Capital City Chamber of Commerce

Windell Paige, President of the Capital City Chamber of Commerce

Dale Fuller, Executive Officer of the Tallahassee Builders Association

Leon County

Board of County Commissioners

301 South Monroe Street, Tallahassee, Florida 32301
(850) 606-5302 www.leoncountyfl.gov

Commissioners

BILL PROCTOR
District 1

JANE G. SAULS
District 2

JOHN DAILEY
District 3

BRYAN DESLOGE
District 4

BOB RACKLEFF
District 5

CLIFF THAELL
At-Large

AKIN AKINYEMI
At-Large

PARWEZ ALAM
County Administrator

HERBERT W.A. THIELE
County Attorney

August 31, 2009

Sue Dick, President
Greater Tallahassee Chamber of Commerce
100 N. Duval Street
Tallahassee, Florida 32301

Dear Ms. Dick:

I am writing this letter to invite you to participate in the Leon County Board of County Commissioners' workshop on Minority, and Women Small Business Enterprise. The workshop will take place on October 13, 2009, from 12 p.m. to 3 p.m. at the Leon County Courthouse. The purpose of the workshop is to address the disparity in usage of minority- and women-owned businesses in our community. The goal is to identify ways in which to encourage the economic growth and sustainability of these businesses.

Leon County has historically taken the lead to ensure the inclusion of minority- and women-owned businesses in its procurement process. However, current data indicates that the private sector has not emulated the County's action. A recent study conducted by MGT of America, found that approximately 3 percent of minority- and women-owned businesses were utilized by local construction companies as prime contractors; another 3 percent were utilized as subcontractors. These numbers are in stark contrast to the County's numbers of 16 percent and 13 percent, respectively. In order to develop solutions, the County Commission believes it is vital that the conversation regarding the disparity go beyond the government sector and encompass the local business community.

The workshop will provide an opportunity for the entire business community to discuss growth of our minority- and women-owned businesses. I have included the materials that were presented to the Commission during its August 25, 2009 Board meeting as part of its discussion on the County's MWSBE program, which includes the MGT data. If you would like to submit any specific documents, including proposed solutions related to the workshop, please forward them to Shington Lamy, Special Projects Coordinator, either by mail at 301 S. Monroe Street, Tallahassee, FL 32301 or by email at lamys@leoncountyfl.gov.

Sincerely,

Parwez Alam
County Administrator

Encl: August 25, 2009 Board Agenda Item on Proposed Revisions to the Minority/Women Aspirational Targets

cc: Leon County Board of County Commissioners