



Disparity Study Data, Methods, Findings & Conclusions

Prepared for the City of Cleveland

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Study Team



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Prime Consultant:

- NERA Economic Consulting

Subconsultants:

- Abt SRBI, Inc.
- Colette Holt & Associates
- J&D Data Services
- Triad Research Group

Disparity Study Objectives



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- Compile & evaluate evidence necessary to meet Cleveland's constitutional & regulatory requirements
- Suggest recommendations to narrowly tailor program elements
- Increase opportunities for full & fair competition by minorities & women in City of Cleveland contracting

Legal Standards



- M/W/DBE programs must meet “strict constitutional scrutiny”
- Strict scrutiny is the most demanding level of constitutional review
- Two-part test
 - Compelling interest in remedying identified discrimination established by “Strong basis in evidence”
 - Remedies must be “narrowly tailored” to that evidence
- Government has the burden of producing evidence in response to a challenge
- Plaintiff has the burden of persuasion



City of Richmond V. J.A. Croson Co. (1989)

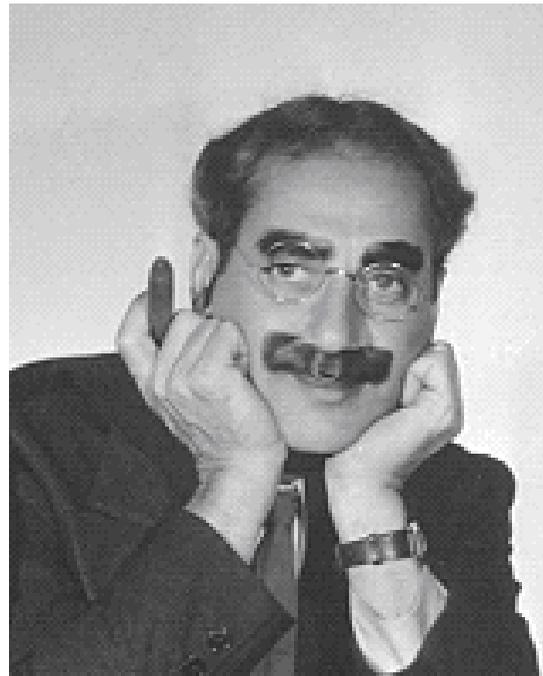
- Strict constitutional scrutiny applies to race-based government decision making
- Court struck down Richmond’s 30% MBE quota
- Government can use spending powers to eradicate private discrimination
- Government must be “passive participant” in discrimination marketplace
- No need to prove agency discriminated
- Motive cannot be racial stereotyping or politics



- **Strict scrutiny as applied**
 - Strong basis in evidence of government’s “compelling interest” in remedying discrimination means
 - Statistical evidence of disparities in the marketplace
 - Anecdotal evidence of barriers to full & fair inclusion
 - Remedies must be “narrowly tailored” to that evidence
 - Each group must have some evidence of discrimination
 - Annual goals must reflect the evidence
 - Contract goals must reflect the scopes of work
 - Beneficiaries must be socially & economically disadvantaged
 - Goals must be flexible
 - Race & gender-neutral measures must be used



*“A child of five would understand this.
Send someone to fetch me a child of five.”*



(Groucho Marx, 1890–1977)

Relevant Markets (Chapter III)



| CONTRACTING CATEGORY All Funding Sources | NUMBER OF CONTRACTS | DOLLARS AWARDED | DOLLARS PAID |
|---|---------------------------|--------------------|-----------------|
| CONSTRUCTION | | \$573,514,795 | \$505,509,350 |
| <i>Prime Contracts</i> | 7,546 | \$357,840,568 | \$308,493,590 |
| <i>Subcontracts</i> | 1,608 | \$215,674,227 | \$197,015,759 |
| AE-CRS | | \$59,840,167 | \$47,179,055 |
| <i>Prime Contracts</i> | 283 | \$37,919,551 | \$29,388,033 |
| <i>Subcontracts</i> | 394 | \$21,920,616 | \$17,791,022 |
| SERVICES | | \$231,961,053 | \$203,738,228 |
| <i>Prime Contracts</i> | 5,251 | \$181,973,492 | \$157,525,325 |
| <i>Subcontracts</i> | 591 | \$49,987,561 | \$46,212,903 |
| COMMODITIES | | \$295,797,167 | \$229,338,154 |
| <i>Prime Contracts</i> | 10,794 | \$289,928,166 | \$223,444,982 |
| <i>Subcontracts</i> | 42 | \$5,869,001 | \$5,893,172 |
| GRAND TOTAL | | \$1,161,113,182 | \$985,764,787 |
| <i>Prime Contracts</i> | 23,874 | \$867,661,777 | \$718,851,930 |
| <i>Subcontracts</i> | 2,635 | \$293,451,405 | \$266,912,856 |

Relevant Markets (Chapter III)



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- Cleveland's geographic market area is, based on the distribution of its contract and subcontract spending from FY06-FY10, includes the Cleveland-Elyria-Mentor, OH MSA and the Akron, OH MSA.
- The Cleveland MSA includes the counties of Cuyahoga, Geauga, Lake, Lorain, and Medina. The Akron MSA includes the counties of Portage and Summit.
- Cuyahoga County, by itself, does not account for enough contract spending to meet the study's 75% threshold.

Relevant Markets (Chapter III)



- Overall, 83% of payments during the study period went to firms with establishments in the Cleveland MSA or Akron MSA.
 - Construction: 91% in Cle/Akr, 96% in OH
 - AE-CRS: 92% in Cle/Akr, 94% in OH
 - Services: 80% in Cle/Akr, 88% in OH
 - Commodities: 64% in Cle/Akr, 72% in OH
 - Overall: 83% in Cle/Akr, 89% in OH

Relevant Markets (Chapter III)



- Awards and subcontracts were distributed among 237 NAICS industry groups during the study period:
 - Construction, 97 industry groups
 - AE-CRS, 38 industry groups
 - Services, 152 industry groups
 - Commodities, 120 industry groups

- But, spending isn't evenly distributed across industry groups:
 - In Construction, 4 groups account for 50% of spending & 12 for 90%
 - In AE-CRS, 1 group accounts for 90% of spending
 - In Services, 5 groups account for 50% of spending & 29 for 90%
 - In Commodities, 6 group account for 50% of spending & 27 for 90%

DBE Availability (Chapter IV)



- Used Dun & Bradstreet records to identify establishments (both DBE & Non-DBE) in the Cleveland market area, within the relevant NAICS codes.
- Merged customized DBE master directory with Dun & Bradstreet to improve race & sex assignment accuracy.
- Used results from 5,000 telephone surveys to statistically correct availability numbers for instances of race & gender misclassification.
- Overall M/W/DBE availability estimates appear in Executive Summary, Table A and Report Tables 4.21-4.22; more detailed estimates appear in Report Tables 4.23-4.30.

M/W/DBE Availability (Chapter IV)



Table A. M/W/DBE Availability in Cleveland's Market Area

| | African American | Hispanic | Asian/ Pacific Islander | Native American | MBE | Non-minority Female | DBE | Non-DBE |
|-------------------------------------|------------------|----------|-------------------------------|--------------------|------|------------------------|-------|---------|
| CONSTRUCTION (ALL CONTRACTS) | | | | | | | | |
| WEIGHTED BY AWARD DOLLARS | 3.17 | 1.03 | 0.11 | 0.92 | 5.22 | 11.99 | 17.20 | 82.80 |
| WEIGHTED BY PAID DOLLARS | 3.16 | 1.07 | 0.10 | 0.92 | 5.24 | 11.77 | 17.01 | 82.99 |
| AE-CRS (ALL CONTRACTS) | | | | | | | | |
| WEIGHTED BY AWARD DOLLARS | 3.13 | 1.01 | 2.38 | 0.06 | 6.58 | 15.50 | 22.08 | 77.92 |
| WEIGHTED BY PAID DOLLARS | 3.12 | 1.01 | 2.38 | 0.06 | 6.57 | 15.51 | 22.08 | 77.92 |
| SERVICES (ALL CONTRACTS) | | | | | | | | |
| WEIGHTED BY AWARD DOLLARS | 4.13 | 0.65 | 0.55 | 0.34 | 5.67 | 18.75 | 24.42 | 75.58 |
| WEIGHTED BY PAID DOLLARS | 4.02 | 0.65 | 0.53 | 0.36 | 5.55 | 18.72 | 24.27 | 75.73 |
| COMMODITIES (ALL CONTRACTS) | | | | | | | | |
| WEIGHTED BY AWARD DOLLARS | 2.57 | 0.11 | 0.77 | 0.59 | 4.03 | 16.62 | 20.65 | 79.35 |
| WEIGHTED BY PAID DOLLARS | 2.64 | 0.11 | 0.75 | 0.57 | 4.07 | 16.80 | 20.87 | 79.13 |

Market-Based Disparities (Chapter V)



- Based on regression analysis using Census data from the most recent *American Community Surveys*. Also includes data from the most recent *Survey of Business Owners*
- Comparing minorities & women to similarly-situated non-minority males, we:
 - Tested for disparities in (1) wages, (2) business owner earnings, and (3) business formation rates
 - Identified adverse & statistically significant disparities for all M/W/DBE types in construction, goods & services, & economy-wide

Market-Based Disparities (Chapter V)



Summary of Chapter V Regression Results

| | Construction | | | Goods & Services | | |
|------------------------|--------------|-------------------------|-------------------------|------------------|-------------------------|-------------------------|
| | Wages | Business Owner Earnings | Business Formation Rate | Wages | Business Owner Earnings | Business Formation Rate |
| African American | Adverse | Adverse | Not Adverse | Adverse | Adverse | Adverse |
| Hispanic | Adverse | Adverse | Not Adverse | Adverse | Adverse | Adverse |
| Asian/Pacific Islander | Adverse | Adverse | Adverse | Adverse | Adverse | Not Adverse |
| Native American | Adverse | Not Adverse | Adverse | Adverse | Adverse | Not Adverse |
| Non-minority Female | Adverse | Adverse | Adverse | Adverse | Adverse | Adverse |

All results are statistically significant at a 5% or better (1-in-20) probability value

Capital Market Disparities (Chapter VI)



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- Based on regression analysis using data from Federal Reserve Board & NERA's own surveys.
- Loan applications of minority-owned firms, esp. African Americans, were substantially more likely to be denied than other groups, *even after accounting for differences in balance sheets and creditworthiness.*
- Minority-owned firms, when they did receive credit, paid almost 1% more, on average, in interest for their loans.
- Results were not significantly different in the East North Central census division (which includes Ohio) or in the construction sector than in the nation as a whole.
- The results from NERA's own past credit surveys are entirely consistent with the Federal Reserve results.

Disparities in City Contracting (Chapter VII)



- Significant disparities observed between availability & utilization in many City contracting activities, despite the presence of M/W/DBE goals during on many contract opportunities.
- Measure of disparity is the Disparity Ratio:
$$= (\text{Utilization \%} \div \text{Availability \%}) \times 100$$
- Statistical significance is indicated by asterisks:
 - * significant at 10% or better (1-in-10)
 - ** significant at 5% or better (1-in-20)
 - *** significant at 1% or better (1-in-100)

Disparities in City Contracting (Chapter VII)



Construction (All Funds)

| M/W/DBE Type | Utilization (%) | Availability (%) | Disparity Ratio (if Adverse) | |
|----------------------|-----------------|------------------|------------------------------|-----|
| Dollars Paid | | | | |
| African American | 8.57 | 3.16 | | |
| Hispanic | 1.99 | 1.07 | | |
| Asian | 2.67 | 0.10 | | |
| Native American | 1.42 | 0.92 | | |
| Minority-owned | 14.64 | 5.24 | | |
| White female | 6.30 | 11.77 | 53.6 | *** |
| M/W/DBE total | 20.95 | 17.01 | | |

Disparities in City Contracting (Chapter VII)



AE-CRS (All Funds)

| M/W/DBE Type | Utilization (%) | Availability (%) | Disparity Ratio (if Adverse) | |
|----------------------|-----------------|------------------|------------------------------|-----|
| Dollars Paid | | | | |
| African American | 5.68 | 3.12 | | |
| Hispanic | 0.80 | 1.01 | 79.7 | |
| Asian | 19.29 | 2.38 | | |
| Native American | 0.00 | 0.06 | 0.0 | *** |
| Minority-owned | 25.77 | 6.57 | | |
| White female | 4.81 | 15.51 | 31.0 | *** |
| M/W/DBE total | 30.57 | 22.08 | | |

Disparities in City Contracting (Chapter VII)



Services (All Funds)

| M/W/DBE Type | Utilization (%) | Availability (%) | Disparity Ratio (if Adverse) | |
|----------------------|-----------------|------------------|------------------------------|-----|
| Dollars Paid | | | | |
| African American | 18.88 | 4.02 | | |
| Hispanic | 2.65 | 0.65 | | |
| Asian | 1.38 | 0.53 | | |
| Native American | 0.02 | 0.36 | 5.3 | *** |
| Minority-owned | 22.92 | 5.55 | | |
| White female | 3.04 | 18.72 | 16.3 | *** |
| M/W/DBE total | 25.97 | 24.27 | | |

Disparities in City Contracting (Chapter VII)



Commodities (All Funds)

| M/W/DBE Type | Utilization (%) | Availability (%) | Disparity Ratio (if Adverse) | |
|----------------------|-----------------|------------------|------------------------------|------------|
| Dollars Paid | | | | |
| African American | 1.41 | 2.64 | 53.5 | ** |
| Hispanic | 0.49 | 0.11 | | |
| Asian | 0.08 | 0.75 | 10.2 | *** |
| Native American | 0.01 | 0.57 | 1.7 | *** |
| Minority-owned | 1.99 | 4.07 | 48.9 | *** |
| White female | 4.72 | 16.80 | 28.1 | *** |
| M/W/DBE total | 6.71 | 20.87 | 32.2 | *** |

Anecdotal Evidence (Chapter VIII)



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- Large-scale, statistically randomized, mail survey of M/W/DBE & non-M/W/DBE characteristics & experiences doing business found:
 - Statistically significantly more M/W/DBEs than non-M/W/DBEs report experiencing disparate treatment, even when capacity-type factors are held constant across firms.
 - Statistically significantly more M/W/DBEs than non-M/W/DBEs report that business environment factors make it harder or impossible to obtain contracts, even when capacity-type factors are held constant across firms.

Anecdotal Evidence (Chapter VIII)



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- Large-scale, statistically randomized, mail survey of M/W/DBE & non-M/W/DBE characteristics & experiences doing business found:
 - In the large majority of cases, prime contractors who use M/W/DBEs on contracts with goals rarely use them—or even solicit them—on contracts without goals.

Anecdotal Evidence (Chapter VIII)



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- Interviews with M/W/DBEs & non-M/W/DBEs found that M/W/DBEs reported discrimination in doing business, including:
 - Stereotypes & negative perceptions of competence
 - Exclusion from industry networks
 - Barriers to obtaining public sector contracts
 - Barriers to obtaining work as prime vendors
 - Barriers to obtaining commercial loans

M/W/DBE & CSB Program Overview & Feedback Interviews (Chapter IX)



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- The MBE, FBE & CSB program review covered the following topics:
 - Subcontractor Disparity Analysis Study
 - CSB, MBE & FBE Program Elements
 - Program Responsibilities
 - Review & Evaluation Committee
 - Program Remedies
 - Contract Award Procedures
 - Contract Performance Compliance & Monitoring Procedures
 - Small Contract Rotation Program
 - Bonding Reduction Waiver Policy

M/W/DBE & CSB Program Overview & Feedback Interviews (Chapter IX)



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- Interviews with M/W/DBEs & non-M/W/DBEs covered the following topics:
 - Perceptions of the Program's Overall Effectiveness
 - Access to Prime Contract Awards
 - Contract Size & Complexity
 - Payment
 - Certification Standards & Processes
 - Meeting M/F/DBE Goals at Contract Award
 - Waivers of Goals
 - Contract Performance Monitoring and Enforcement
 - Mentor-Protégé Programs
 - CSB Set-Asides



■ **Revise & Enhance Race- & Gender-Neutral Initiatives**

- Revise the Cleveland Area Small Business Program Element
- Review Surety Bonding, Insurance & Experience Requirements
- Implement a Bonding and Financing Program
- Increase Vendor Communication, Outreach & Supportive Services
- Increase Contract “Unbundling”
- Ensure Prompt Payments



- **Revise & Enhance Race- & Gender-Neutral Initiatives**
 - Ensure Bidder Non-Discrimination & Fairly Priced Subcontractor Quotations
 - Adopt a Pilot Mentor-Protégé Initiative
 - Enhance the Small Business Element of the DBE Program
 - Improve Contracting & Procurement Data Collection & Retention Procedures



- **Adopt New Race- & Gender-Conscious Policies & Procedures & Enhance Current Measures:**
 - Implement Narrowly Tailored Program Eligibility Standards
 - Use the Study to Set Overall M/FBE Goals for City Spending
 - Use the Study to Set Contract-Specific M/FBE Goals
 - Count M/FBE Prime Contractor Participation Towards Meeting Contract Goals
 - Enhance Policies and Procedures for Good Faith Efforts Reviews & Approvals



- **Adopt New Race- & Gender-Conscious Policies & Procedures & Enhance Current Measures:**
 - Ensure Monitoring of Contract Performance
 - Enhance Program Administration
 - Develop Performance Measures for Program Success
 - Mandate Program Review & Sunset

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