



A Disparity Study for the Commonwealth of Virginia

EXECUTIVE SUMMARY

Submitted by:



Submitted to:

Mr. Samuel Hayes
Commonwealth of Virginia
1100 Bank Street, Suite 300
Richmond, VA 23219-3639

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E.0 EXECUTIVE SUMMARY

In November 2009, MGT of America, Inc. (MGT), was retained to conduct Phase I of a minority and women business enterprise (M/WBE) disparity study for the Commonwealth of Virginia (Commonwealth). Phase I of the study consisted of fact-finding to analyze the Commonwealth procurement trends and practices for the study period between July 1, 2005, and June 30, 2009 and to evaluate various options for future program development. Phase II of the study will include the gathering of anecdotal evidence such as, community outreach, telephone surveys, personal interviews with business owners, public hearings, and focus groups. Phase II will address the history of M/WBE utilization in the Commonwealth, discrimination faced by M/WBEs, and impediments to M/WBE participation in procurement and contracting. MGT will address business capacity, financing, bonding, insurance, and other potential barriers to the establishment and growth of businesses. It is important to know not only that disparity exists, but the reasons why. The completion of Phase II of the study will result in a comprehensive, legally defensible update to the Commonwealth's 2004 Procurement Disparity Study.

The following sections summarize each of the findings in Phase I, which are followed by major recommendations and commendations.

E.1 Findings for M/WBE Utilization and Availability

FINDING E-1: Historical M/WBE Prime Utilization

In the 2004 Procurement Disparity Study of the Commonwealth of Virginia, (2004 Commonwealth Disparity Study) M/WBEs had the following prime utilization:

- M/WBEs won prime construction contracts for \$12.4 million (1.49 percent of the total).
- M/WBEs won architecture and engineering contracts for \$4.7 million (0.52 percent of the total).
- M/WBEs won professional services contracts for \$13.1 million (0.70 percent of the total).
- M/WBEs won other services contracts for \$37.2 million (2.16 percent of the total).
- M/WBEs won goods and supplies contracts for \$40.3 million (1.23 percent of the total).

FINDING E-2: M/WBE Prime Utilization, Availability, and Disparity

The dollar value of M/WBE prime utilization by the Commonwealth over the study period is shown in **Exhibit E-1**:

- M/WBEs won prime construction contracts for \$28.7 million (1.87 percent of the total). There was substantial disparity for all M/WBE groups.

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- M/WBEs won architecture and engineering contracts for \$6.3 million (1.34 percent of the total). There was substantial disparity for all M/WBE groups.
 - M/WBEs won professional services contracts for \$74.7 million (2.33 percent of the total). There was substantial disparity for all M/WBE groups.
 - M/WBEs won other services contracts for \$102.9 million (6.09 percent of the total). There was substantial disparity for all M/WBE groups, except Native Americans.
 - M/WBEs won goods and supplies contracts for \$74.5 million (2.96 percent of the total). There was substantial disparity for all MWBE groups, except Native Americans.

**EXHIBIT E-1
COMMONWEALTH OF VIRGINIA
M/WBE PRIME UTILIZATION, AVAILABILITY AND DISPARITY
JUNE 1, 2005 THROUGH JULY 30, 2009**

Business Category	African American	Hispanic American	Asian American	Native American	Nonminority Women	Total M/WBE
Construction Prime Contractors						
Utilization Dollars	\$8,820,285	\$11,520,765	\$1,337,691	\$752,452	\$6,271,315	\$28,702,508
Utilization Percent	0.58%	0.75%	0.09%	0.05%	0.41%	1.87%
Availability Percent	3.10%	2.40%	1.53%	0.45%	7.68%	15.16%
Disparity	YES	YES	YES	YES	YES	
Architecture & Engineering Prime Consultants						
Utilization Dollars	\$786,082	\$165,729	\$1,242,311	\$0	\$4,153,886	\$6,348,008
Utilization Percent	0.17%	0.04%	0.26%	0.00%	0.88%	1.34%
Availability Percent	2.77%	2.19%	3.93%	1.06%	9.54%	19.49%
Disparity	YES	YES	YES	YES	YES	
Professional Services Prime Consultants						
Utilization Dollars	\$36,653,086	\$4,820,452	\$29,459,428	\$144,624	\$3,721,647	\$74,799,237
Utilization Percent	1.14%	0.15%	0.92%	0.00%	0.12%	2.33%
Availability Percent	3.23%	2.14%	7.15%	0.60%	21.70%	34.82%
Disparity	YES	YES	YES	YES	YES	
Other Services Firms						
Utilization Dollars	\$57,029,313	\$17,912,932	\$6,164,555	\$9,191,993	\$12,648,518	\$102,947,311
Utilization Percent	3.37%	1.06%	0.36%	0.54%	0.75%	6.09%
Availability Percent	7.17%	3.51%	5.65%	S	22.26%	38.59%
Disparity	YES	YES	YES	N/A	YES	
Goods and Supplies Vendors						
Utilization Dollars	\$10,316,088	\$4,039,749	\$53,867,062	\$254,451	\$6,064,731	\$74,542,081
Utilization Percent	0.41%	0.16%	2.14%	0.01%	0.24%	2.96%
Availability Percent	1.96%	7.67%	0.89%	S	20.65%	31.17%
Disparity	YES	YES	NO	N/A	YES	

Source: Utilization findings are taken from the exhibit previously shown in **Chapter 3.0** and **Chapter 4.0**. Availability is based U.S. Bureau of the Census 2002, Survey of Business Owners. S denotes that findings were withheld because estimates did not meet U.S. Census publication standards.

N/A Indicates data not available.

Bold indicates substantial disparity.

FINDING E-3: M/WBE Subcontractor Utilization, Availability and Disparity

In the 2004 Commonwealth Disparity Study, M/WBE construction subcontractors won \$818,053, 1.07 percent of the total. The dollar value of M/WBE construction subcontractors over the study period is shown in **Exhibit E-2** below:

- M/WBEs won construction subcontracts for \$23.2 million (14.33 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 E-2
COMMONWEALTH OF VIRGINIA
M/WBE CONSTRUCTION SUBCONTRACTOR
IN THE COMMONWEALTH OF VIRGINIA
UTILIZATION, AVAILABILITY AND DISPARITY
JULY 1, 2006 THROUGH JUNE 30, 2009**

Business Category	African American	Hispanic American	Asian American	Native American	Nonminority Women	Total M/WBE
Construction Subcontractors						
Utilization Dollars	\$3,879,522	\$8,456,150	\$2,207,975	\$133,500	\$8,558,311	\$23,235,457
Utilization Percent	2.39%	5.22%	1.36%	0.08%	5.28%	14.33%
Availability Percent	7.92%	5.94%	2.23%	1.24%	16.09%	33.42%
Disparity	YES	YES	YES	YES	YES	

Source: Subcontractor; Utilization and disparity findings are taken from the exhibit previously shown in **Chapters 4.0** and **5.0**.

Availability is based on custom census.

Bold substantial disparity

FINDING E-4: M/WBE Prime Utilization, Availability, and Disparity for Universities

The findings-based, self-reported universities data is presented below:

- *Construction.* M/WBE firms received \$25.1 million (1.73 percent of the total prime construction dollars reported by the universities). In terms of absolute dollars, nonminority women-owned firms were most successful receiving more \$15.9 million (1.10%) of the construction dollars, followed by firms owned by African Americans receiving more than \$4.8 million (.34%). Overall, there was substantial disparity in the utilization of all M/WBE groups, except by George Mason University and Virginia Commonwealth Universities, where there was overutilization of available Hispanic American- and nonminority women-owned firms, respectively.
- *Architecture and Engineering.* M/WBE firms received \$5.5 million (2.60 percent of the total prime architecture and engineering dollars reported by the universities). In terms of absolute dollars, nonminority women-owned firms were most successful, receiving more \$4.8 million (2.23%) of the dollars, followed by firms owned by Asian Americans, receiving less than \$414,000 (.19%). Overall, there was substantial disparity in the utilization of all M/WBE groups, except by George Mason University, where there was overutilization of available African American-owned firms.
- *Professional Services.* M/WBE firms received \$8.1 million (2.71 percent of the total prime professional services dollars reported by the universities). In terms of absolute dollars, nonminority women-owned firms were most successful, receiving slightly more than \$4.4 million (1.51%) of the dollars, followed by

firms owned by Asian Americans, receiving less than \$2 million (.68%). Overall, there was substantial disparity in the utilization of all M/WBE groups, except by Old Dominion University, where there was overutilization of available Hispanic American-owned firms.

- *Other Services.* M/WBE firms received \$38.9 million (6.83 percent of the total prime other services dollars reported by the universities). In terms of absolute dollars, nonminority women-owned firms were most successful, receiving more than \$21.4 million (3.76%) of the dollars, followed by firms owned by Asian Americans, receiving more than \$11.9 million (2.10%). Overall, there was substantial disparity in the utilization of all M/WBE groups, except by George Mason University, where there was overutilization of available Asian American-owned firms.
- *Goods and Supplies.* M/WBE firms received \$58.4 million (4.79 percent of the total prime goods and supplies dollars reported by the universities). In terms of absolute dollars, nonminority women-owned firms were most successful, receiving more than \$41 million (3.37%) of the dollars, followed by firms owned by Asian Americans, receiving more than \$11.4 million (.94%). Overall, there was substantial disparity in the utilization of all M/WBE groups, except by, the College of William and Mary, George Mason University, Old Dominion University, and Virginia Polytechnic Institute and State University (Virginia Tech), where there was overutilization of available Asian American-owned firms. There was also overutilization of available African American-owned firms by Old Dominion University.

FINDING E-5: Private Sector Commercial Construction Evidence

MGT collected data on private sector commercial construction from major cities in the Commonwealth. From the available evidence, there was a significant difference in absolute and percentage terms between M/WBE subcontractor utilization on Commonwealth projects and in private sector commercial construction, where there is no SWaM program. M/WBE subcontractor utilization was about 14 percent on Commonwealth projects as compared to less than 0.25 percent on private sector commercial projects. M/WBE prime utilization in Reed Construction Data (RCD) for commercial construction projects was 0.51 percent.

FINDING E-6: Disparities in the Survey of Business Owners Data

There was evidence of disparities based on the 2002 Survey of Business Owners from the U.S. Census Bureau for the Commonwealth:

- *Construction Firms.* Minority-owned firms had 3.1 percent of sales in the Commonwealth, and revenue per firm was 47.2 percent of the market place average.¹
- *Professional Services Firms.* Minority-owned firms had 9.1 percent of sales in the Commonwealth, and revenue per firm was 77.4 percent of the market

¹ Data was not available in the 2002 census on the sales on construction firms owned by nonminority females in Virginia.

place average. Nonminority women-owned firms had 4.3 percent of sales, and revenue per firm was 23.2 percent of the market place average.

- *Other Services Firms.* Minority-owned firms had 7.3 percent of sales in the Commonwealth, and revenue per firm was 47.6 percent of the market place average. Nonminority women-owned firms had 11.8 percent of sales, and revenue per firm was 64.8 percent of the market place average.

E.2 Commendations and Recommendations

COMMENDATION AND RECOMMENDATION E-1: SWaM Program for Prime Contracts

The Commonwealth should be commended for having a small business enterprise (SBE) program. A strong small business program is central to maintaining a narrowly tailored program to promote M/WBE utilization. In particular, the Commonwealth should continue to focus on increasing M/WBE utilization through the SBE program. The Commonwealth does not face constitutional restrictions on its SBE program, only those procurement restrictions imposed by Commonwealth law. Specific suggestions for the Commonwealth's SBE program can be found in features of other small business programs around the United States described in the full report.

COMMENDATION AND RECOMMENDATION E-2: Annual Aspirational M/WBE Goals

The Commonwealth should be commended for its 40 percent aspirational SWaM goal, one of the highest in the country. The Commonwealth should consider setting annual aspirational M/WBE goals by business category, not rigid project goals. 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 an SBE program, race-neutral joint ventures, outreach, and adjustments in the Commonwealth procurement policy. As in the DOT, DBE program goals on particular projects should, in general, vary from overall aspirational goals.

RECOMMENDATION E-3: Joint Ventures

The Commonwealth 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.² 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-owned firms as well as nonminority-owned firms. This rule has resulted in tens of millions of dollars in contract awards to women- and minority-owned firms.

RECOMMENDATION E-4: M/WBE Subcontractor Plans

The Commonwealth should consider establishing the M/WBE good faith effort goal requirements in its contracts. The basis for good faith efforts requirements is significant disparities in construction subcontracting, the very low utilization in private sector

² City of Atlanta Ordinance Sec. 2-1450 and Sec. 2-1451.

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.

RECOMMENDATION E-5: Economic Development

The Commonwealth should consider extending the SWaM program to economic development projects. Jersey City, New Jersey, and the city of Saint Paul, Minnesota, have established offices that focus on employment and SWaM utilization on economic development projects. San Antonio, Texas, and Bexar County, Texas, also have very active SWaM initiatives for development projects that receive tax subsidies.