

City of Madison Disparity Study



David Keen, Principal
Linsay Edinger, Consultant
Keen Independent Research LLC
100 Fillmore St., 5th Floor
Denver CO 80206
303-385-8515
928-684-3021 (fax)
dkeen@keenindependent.com
Linsay.Edinger@keenindependent.com

Keith Wiener, Partner
Holland & Knight LLP
1201 W. Peachtree St., NW Ste 2000
Atlanta GA 30309
404-817-8515
404-881-0470
keith.wiener@hklaw.com

Renée Lauber
Lauber Consulting LLC
1252 Morrison Court
Madison WI 53703
608-577-9997
LauberConsulting@gmail.com

Stan Davis, Partner
Davis & Farley, LLC
1606 Sky Blue Dr
Sun Prairie WI 53590
608-469-7208
standavis32@yahoo.com

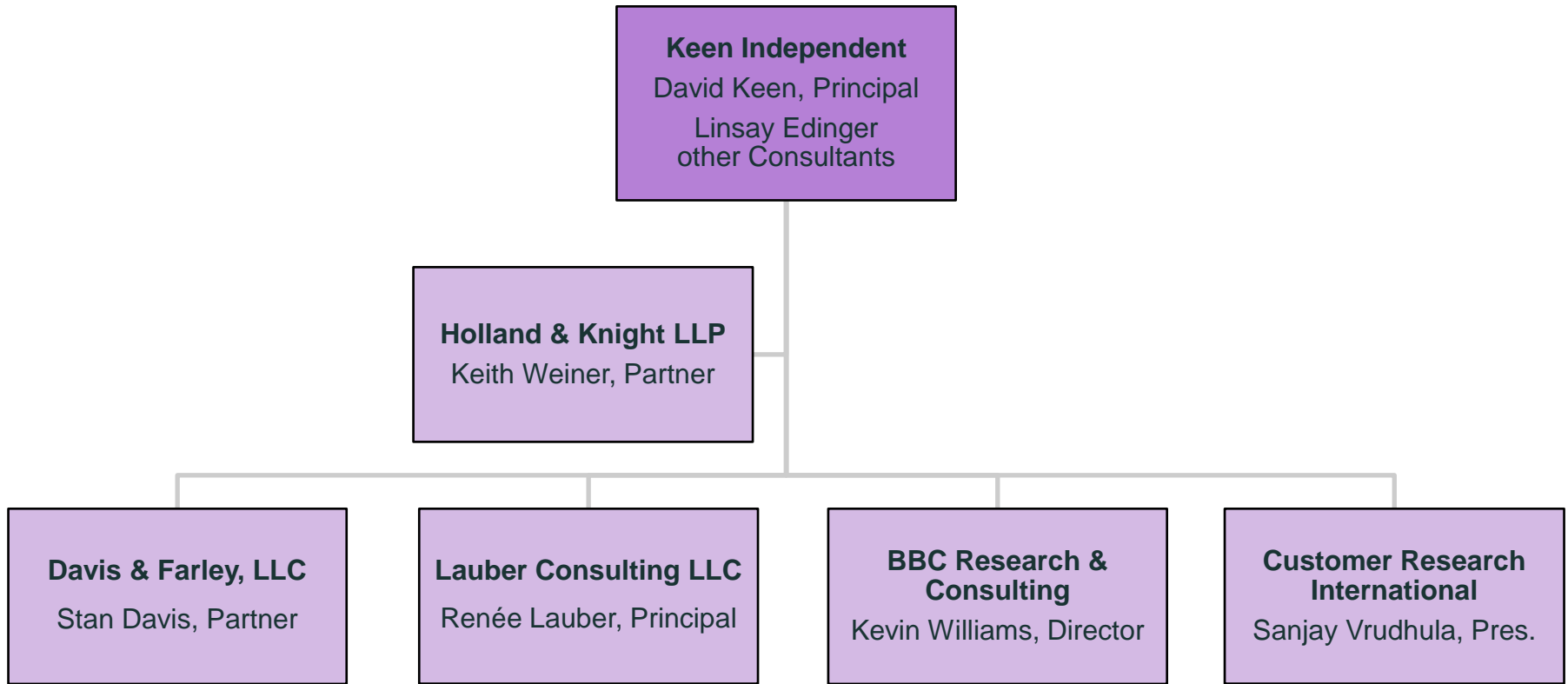
April 11, 2014
Stakeholder Meeting



Objectives for Stakeholder Meeting

1. Introduce key study team members
2. Review U.S. Supreme Court, Seventh Circuit court, and other relevant circuit decisions, and explain why a study is necessary
3. Define certain terms and concepts
4. Explain key components and schedule for the disparity study
5. Explore how we will work interact with businesses and other groups
6. Discuss immediate action items

1. Keen Independent study team



2. Why conduct a disparity study?

- 1989 U.S. Supreme Court decision in *City of Richmond v. J.A. Croson Company* established the strict scrutiny standard of review for race-conscious programs adopted by state and local governments
 - Compelling governmental interest
 - Narrow tailoring
- The disparity study will examine whether there is evidence of discrimination against minority- and women-owned firms in the local marketplace, and, if so, what remedies might be appropriate
- Disparity study provides information to help the City:
 - Determine if the current SBE Program, alone, is an effective remedy
 - Whether additional or different measures are needed
- Also, outside review of City practices and other policies is useful

3. Terms and concepts in the study

- Small Business Enterprise (SBE)
 - Independently owned and controlled business with annual gross receipts of \$4 million or less when averaged over the past three years
 - Personal net worth maximum of \$1.32 million dollars

- Minority Business Enterprise (MBE)
 - Independent business 51% or more owned and controlled by racial/ethnic affirmative action group members

- Woman Business Enterprise (WBE)
 - Independent business 51% or more owned and controlled by women

- Disadvantaged Business Enterprise (DBE)
 - Independent business 51% or more owned and controlled by socially and economically disadvantaged individuals
 - Size restrictions as regulated by the SBA in 13 CFR

3. Terms and concepts (cont.)

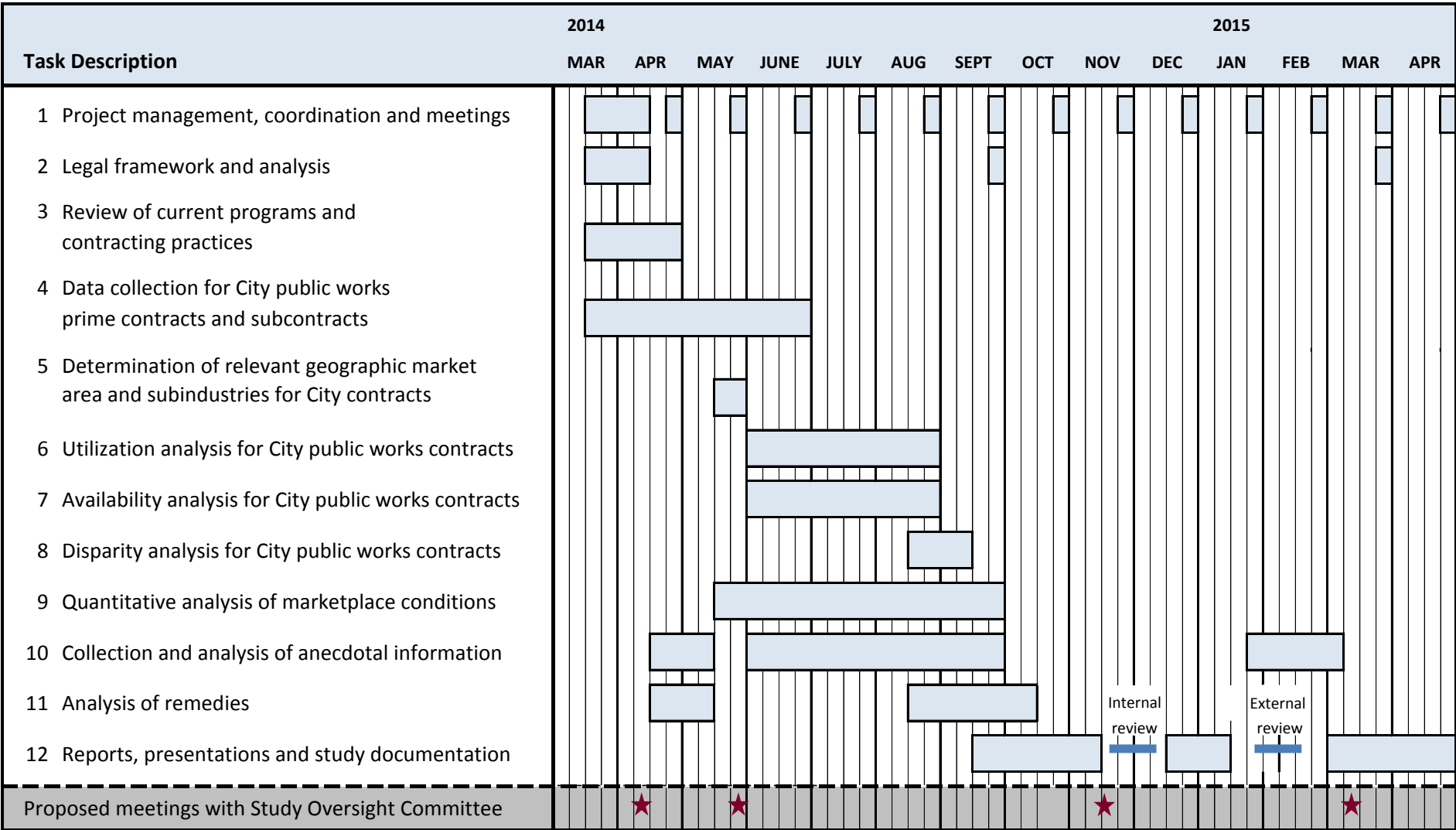
- Relevant geographic market area
 - Study will focus on the Madison Metropolitan Area contracting marketplace (one federal definition is Columbia, Dane and Iowa counties)
- Availability analysis
 - What firms are available to perform specific types and sizes of City prime contracts and subcontracts, and what is their race/ethnicity/gender ownership? (through phone interviews)
 - What percent of contract dollars might SBE/MBE/WBEs (by group) be expected to receive based on their relative availability and the types and sizes of City prime contracts and subcontracts?
 - Calculate by determining availability for each prime contract and subcontract, and then dollar-weighting results
- Utilization analysis
 - Participation of different groups calculated as their % of total dollars
- Disparity analysis
 - Is utilization of minority- or women-owned firms (by group) less than what might be expected from the availability analysis

3. Terms and concepts (cont.)

- Marketplace analysis
 - Census data and other data on entry and advancement of minorities and women within the contracting industry, business formation, access to capital and business success
 - From the availability interviews, business owners' answers to questions concerning potential barriers in the marketplace
 - In-depth personal interviews with business owners, trade groups, others
 - Input from public meetings
- Analysis of potential remedies
 - Any changes to contracting policies and practices
 - Small business programs, business development programs, technical assistance and other neutral remedies
 - As appropriate, race- and gender-conscious programs such as MBE/WBE contract goals

4. Key tasks and potential schedule

incorporating public review of draft report



4. Key tasks and schedule (cont.)

- Reports, presentations and study documentation
 - Draft report
 - Initial draft report is intended for review by the project manager, other City staff and the Oversight Group
 - Draft report will be made available to the public for review
 - Will receive comments through review period
 - 2 public meetings to receive public comments
 - Final report
 - Two sets of study team presentations

5. Communication and input from businesses/other groups

- Meeting with stakeholders
- Meetings with trade associations and other groups
- Press release, study website, dedicated email address
- Telephone interviews with business owners and managers
- 40 in-depth personal interviews with business owners and trade associations
- Opportunities for any interested individuals or groups to submit comments
- 2 public meetings
- Public distribution of draft (and receive comments) and then final report
- Final presentations

6. In next six weeks, the City/Keen Independent will ...

- Announce study via press release, website
- Inform key groups about the study
- Start preparing legal framework and analysis
- Receive and review electronic data
- Review materials concerning City contracting practices
- Meet with City staff to discuss public works contract and subcontract data, and contracting processes
- Analyze distribution of contract dollars by location of contracts and by types of work
- Begin quantitative analyses of the local marketplace
- Design availability interviews for local businesses
- Initiate in-depth personal interviews with trade associations, chambers and other groups