

CHAPTER ES.

Executive Summary

The City of Madison seeks to ensure equity in its contracting activities. It commissioned a disparity study to assist in determining if there is a level playing field for minority- and women-owned firms when competing for City public works contracts and subcontracts. This research helps the City determine if its current Small Business Enterprise (SBE) Program is effective in encouraging utilization of minority- and women-owned firms in City public works contracts. The study reviewed other potential City actions as well, recognizing the legal case law, restrictions and issues that limit the ability of cities to implement minority and women business enterprise programs.

The City of Madison contracted with Keen Independent Research LLC (Keen Independent) to perform the City of Madison Public Works Contracting Disparity Study. The Keen Independent study team includes three minority- or women-owned firms (Lauber Consulting, The Davis Group and Customer Research International), a national law firm (Holland & Knight LLP) and an economic research firm (BBC Research & Consulting).

In addition to the SBE Program for its City-funded contracts, the City operates contracting programs for Minority Business Enterprises (MBEs), Women Business Enterprises (WBEs) and Disadvantaged Business Enterprises (DBEs) for certain state- and federally-funded contracts. The City also uses Tax Increment Financing (TIF) as a tool for construction projects, which was not examined in the study. Although the focus of the disparity study was City-funded contracts, some of the programs discussed in this report might apply to other City contracts as well.

A. Conditions for Minorities and Women in the Local Construction Marketplace

Because 90 percent of City public works prime contract and subcontract dollars go to firms with locations in Dane County, the study team focused its analysis of local marketplace conditions on the Dane County construction market. Research included in-depth interviews with 40 local businesses and trade associations, telephone interviews with local businesses, and analysis of Census data and other information.

As explained in the report, there is evidence of racial and gender discrimination in the Dane County construction industry that affects opportunities to work and advance in the industry and start construction businesses. That may be one reason why minority- and women-owned firms comprise a relatively small number of firms in the local marketplace. There is also evidence of discrimination affecting minority- and women-owned businesses as they compete in the local construction industry.

B. Availability of Minority- and Women-owned Firms for Public Works Contracts

Representation of minority- and women-owned public works contracting firms in the local construction industry is less than what might be expected if there were a level playing field for minorities and women in the local industry. About 2 percent of businesses related to public works construction contracting in Dane County are owned by racial and ethnic minorities. About 7 percent

of public works contracting businesses are owned by non-minority women. Minority residents comprise 15 percent and women are 49 percent of the Dane County workforce.

C. Utilization of Minority- and Women-owned Firms on Public Works Contracts

The study team identified 600 City-funded public works contracts totaling \$331 million awarded from 2008 through 2013. Keen Independent determined the share of those dollars going to minority- and women-owned firms (MBEs and WBEs). This analysis includes work performed by prime contractors, subcontractors, trucking firms and materials suppliers. The utilization totals for minority- or women-owned businesses included non-certified and certified firms.

MBE utilization. Minority-owned firms received about \$6 million in City-funded public works contract dollars from 2008 through 2013, including subcontracts. MBE utilization was 1.9 percent of the \$331 million in City-funded public works contract dollars (see Figure ES-1 below). Nearly all of the MBE participation was from firms certified as SBEs.

WBE utilization. For 2008-2013, white women-owned firms obtained about \$11 million or 3.6 percent of City public works contracts. About one-third of this participation was by SBE-certified white women-owned firms (see Chapter 4).

SBE utilization. The study team determined that certified SBEs received \$23 million in City public works contract dollars during the study period, or 7 percent of the contract dollars (a higher percentage than the City previously reported). About two-fifths of total SBE utilization was minority- and women-owned firms and three-fifths was white male-owned firms. Figure ES-1 shows these results.

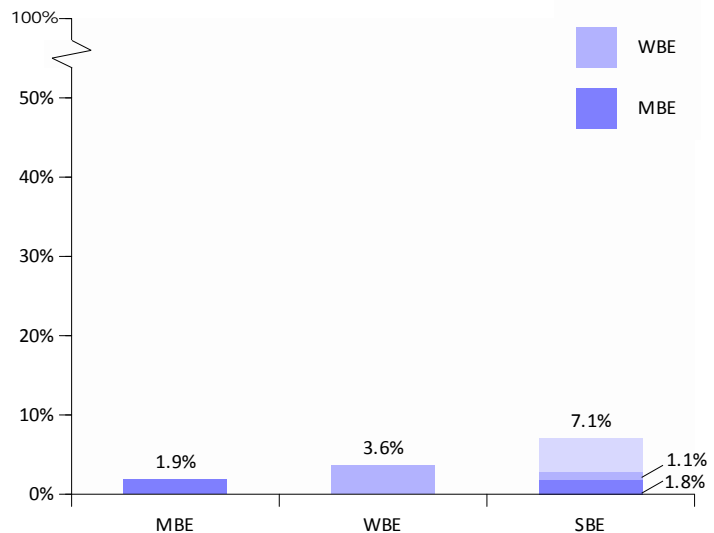
Figure ES-1.
MBE, WBE and SBE share of prime contract/subcontract dollars for City-funded public works contracts, 2008-2013

Note:

Number of contracts/subcontracts analyzed is 2,834

Source:

Keen Independent from data on City of Madison public works contracts 2008-2013.



Disparity analysis. MBE and WBE utilization is the first part of the disparity analysis. The study team compared these results to benchmarks developed from the availability analysis.

- **Minority-owned firms.** Based on telephone interviews with local contractors, minority-owned firms account for 2 percent of the firms available for City public works contracts. After adjusting for the types and sizes of City prime contracts and subcontracts, the percentage of City-funded public works contract dollars that might be expected to go to MBEs is only 0.1 percent (see Appendix D).

Therefore, the 1.9 percent utilization of MBEs is substantially above the 0.1 percent participation that might be expected from the availability analysis. There is no disparity between the utilization and availability of minority-owned firms in City-funded public works contracts, a positive result of the City's SBE Program.

- **White women-owned firms.** Although white women-owned firms are 7 percent of the businesses available for public works contracts, only about 2.5 percent of contract dollars might be expected to go to WBEs after accounting for sizes and types of prime contracts and subcontracts. The 3.6 percent utilization of white women-owned firms on City-funded public works contracts is higher than what might be expected from the availability analysis. There is no disparity between the utilization and availability of white women-owned firms in City-funded public works contracts.

Figure ES-2 shows these results.

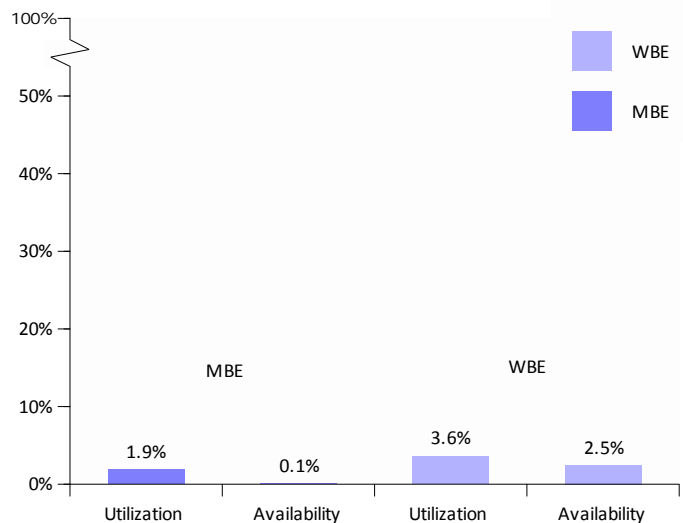
Figure ES-2.
MBE and WBE utilization and
availability on City-funded public
works contracts, 2008-2013

Note:

Number of contracts/subcontracts analyzed is
2,834.

Source:

Keen Independent from data on City of Madison
public works contracts 2008-2013.



D. Conclusions and Potential Actions for City Consideration

The SBE Program appears to have encouraged MBE and WBE utilization to the point that there were no disparities between the utilization and dollar-weighted availability of minority- and women-owned firms on City-funded contracts.

- Almost all of the utilization of minority-owned firms was from firms certified as SBEs. The SBE Program appears to have contributed to most of the MBE utilization in City-funded public works contracts.
- About one-third of the utilization of white women-owned firms on City-funded public works contracts was from businesses certified as SBEs.
- Although some of the individuals interviewed in this study were concerned that the SBE Program would favor white female-owned firms, utilization of SBE-certified minority-owned firms (\$5.9 million) in fact exceeded SBE-certified white female-owned firms (\$3.6 million) on City-funded public works contracts from 2008 through 2013.
- Minority- and women-owned businesses comprise more than one-half of the construction-related firms certified as SBEs.

The SBE Program alone does not create a level playing field for local minority- and women-owned construction firms. The study identified barriers for minorities and women in the local construction industry that appear to impact MBEs and WBEs in ways that an SBE contracting goals program may not effectively address. These issues appear to be widely known in the industry, and there are more than 40 organizations providing different types of business assistance in the local community. The City may need to take a larger role in helping the industry and business assistance organizations develop minority- and women-owned businesses outside of public works contracting. This might include more support to encourage minorities and women to enter and receiving training in local construction trades.

In addition, the City might consider some operational improvements to the SBE contract goals program outlined in the full study report. It can also do more to remove barriers to participating in City contracts. Figure ES-3 on the following page summarizes possible initiatives and program changes for the City to consider. The study team does not necessarily recommend each of these initiatives at this time, but they merit further exploration by the City.

E. Public Comment Process for the Draft 2015 Disparity Study Report

One of the purposes of the disparity study was to generate broader discussion and input about City public works contracting and methods to promote a level playing field for minority- and women-owned construction businesses. The City of Madison distributed the Draft Availability Study report for public comment and held public meetings about the draft report on March 4 and March 5, 2015 at the Madison Municipal Building, Room 260. The City made video of each meeting available on The Madison City Channel.

The public was encouraged to provide feedback at those meetings and provide written comments at the hearings, online or via email at contractingdisparitystudy@cityofmadison.com.

Keen Independent reviewed feedback and comments before preparing the final 2015 Disparity Study report in April 2015. The final report also summarizes public comments. The City of Madison will also review comments as it considers actions to take based on the study.

Figure ES-3. Actions for City consideration based on disparity study results

Potential actions for City review and exploration
<p>1. Further improving the SBE contract goals program</p> <ul style="list-style-type: none"> a. Respond to industry and community concerns about program operation b. Monitor concentration of SBE participation in only a few firms c. Encourage small businesses to become SBE-certified and participate in City contracting d. Improve data collection and reporting of SBE participation on City-funded contracts e. Monitor SBE participation, by race, ethnicity and gender f. Monitor representation of MBEs and WBEs among certified SBEs g. Monitor local versus non-local SBE participation h. Better connect new SBEs with prime contractors i. Consider refinement of revenue limits by specialization j. Consider time limits for SBE certification, with flexibility for exceeding size limit k. Consider prime contractor scorecards for cumulative SBE (and MBE/WBE) participation l. Consider extending the Program to other City-supported construction such as TIF projects <p>2. Further building an SBE prime contracting part of the Program</p> <ul style="list-style-type: none"> a. Make greater efforts to identify small contracts for SBE participation b. Review accelerating City payment of SBE prime contractors c. Review opportunities for minority- and women-owned SBEs to bid on small contracts d. Monitor and report SBE participation as prime contractors <p>3. Creating a business development component to the SBE Program, including mentorship and a City SBE coach</p> <ul style="list-style-type: none"> a. Explore partnerships with large contractors to provide SBE mentoring b. Consider an SBE coach position at the City <p>4. Minimizing barriers in public works prequalification</p> <ul style="list-style-type: none"> a. Perform review of prequalification requirements and thresholds b. Phase in prequalification requirements for SBEs over their first two years in the Program <p>5. Expanding communication of City bid opportunities</p> <ul style="list-style-type: none"> a. Conduct further outreach and education about how to identify City bid opportunities b. Further promote City quarterly meetings with contractors <p>6. Improving prime contractor payment of subcontractors and relaxing retainage policies</p> <ul style="list-style-type: none"> a. Better enforce prompt payment policy b. Review ways to more quickly release City retainage <p>7. Supporting local technical assistance, bonding and financing programs, and creating new programs when necessary</p> <ul style="list-style-type: none"> a. Consider assembling and marketing an integrated network of local business assistance b. Support specialized business training for small construction businesses <p>8. Supporting local efforts to encourage minorities and women to enter, receive training and obtain jobs in the construction industry</p> <ul style="list-style-type: none"> a. Review the effectiveness of current City programs regarding affirmative action for contractors b. Support other organizations' efforts to build a pipeline of minority and female workers