Asheville City Council

Disparity Study Presentation

October 24, 2023

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Key Takeaways

- The City is legally required to conduct a disparity study to extend the existing race- and gender-conscious contracting and purchasing policy.
- The City engaged a consultant (Miller 3 Consulting) to conduct the required disparity study.
- Based on the results, staff is requesting that Council extend the race and gender conscious measures of the Asheville Business Inclusion Policy:
  - Accept the 2023 Disparity Study as the legal basis to continue its race and gender conscious program; and
  - Extend the race and gender conscious measures of the Asheville Business Inclusion Policy, that are currently set to expire on November 1, 2023, for an additional five year period.
- Once the policy is extended, staff will develop an implementation plan for the recommendations of the 2023 Disparity Study.

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NORTH CAROLINA

Asheville Disparity Study Final Report Presentation

Presented by: Miller[3] Consulting, Inc.

Oct. 24, 2023

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Outline of Presentation

01 Approach and Methodology

02 Statistical Findings

03 Qualitative Findings

04 Recommendations

Acknowledgements

Miller[3] Consulting, Inc acknowledges the leadership and commitment of

City of Asheville

City Manager's Office

Purchasing Division

Asheville Business Inclusion Office

Community & Economic Development Department

Along with:

Finance & IT Services Departments

Operational Departments

In participating in the Disparity Study process in the best interest of those whom they serve.



Approach and Methodology: 10-part methodology

What is a Disparity Study?

A Disparity Study is a type of research study that is designed to assess whether there are disparities, or differences, in the participation rates and opportunities for various groups in a particular program or industry.

The goal of a disparity study is to identify any barriers or obstacles that may be preventing certain groups from participating fully, and to develop strategies to promote greater diversity and inclusion.



Richmond v. Croson

Compelling governmental interest provides a factual predicate for an MWBE/DBE program

- Active participant in discrimination
- Passive participant in discrimination

Narrow Tailoring -- program must be focused on remedy to identified discrimination

Takeaways:

- A means to eliminate discrimination against minority and women owned business enterprises (M/WBE) with respect to contracting activities
- A means to legally develop preference programs or set-side for the impacted demographic group
  - One “tool”
  - Policy Improvements
  - Oversight/Performance/Testing
  - Sunset

M³ Consulting's 10 Part Methodology

METHODOLOGY

INDUSTRY ANALYSIS

01 Legal Analysis

02 Procurement and SMWBE Program Operational Analysis

STATISTICAL ANALYSIS

03 Relevant Market

04 Availability Analysis

05 Utilization Analysis

06 Disparity Ratios

07 Capacity Analysis

MARKET ANALYSIS

08 Anecdotal and Survey Analysis

09 Race-Gender Neutral Analysis

10 Marketplace Analysis

LEADS TO

CONCLUSIONS

- Finding discrimination passive or active, if any
- Identification of barriers to SMWBE participation

RECOMMENDATIONS

- Race Conscious and Race Neutral Recommendations
- Post Study Support and Implementation

Preliminary Findings

Compliance

Ensure compliance to the use of ABI Affidavits during the solicitation process (e.g. ABI Affidavit 3 – MWBE Utilization)

Subcontractor Module

Enforce usage of Subcontractor module within MUNIS post award.

Lack of Resources

Resource deficits negatively impact monitoring and auditing tasks, under servicing, and unformalized performance metrics/goals

Limited Reporting

Limited internal and external dissemination of MWBE attainment data and reporting

Commodity Codes Entry & Use

Classify the entry of commodity codes as a required field during registration of a vendor

Use of commodity codes during the creation of MUNIS Contracts and for Payments

Vendor Score Card

No formalized metrics and process for documenting vendor performance and to disseminate vendor performance "score cards" within the Asheville enterprise

Lack of Transparency and Community Connection

Perception of a lack of connectivity between Certification and opportunities due to lack of forecasting and sharing ABI goals

Low Awareness + Trust in COA Procurement Process

COA's MFTA service providers lack awareness of program objectives and have no formalized relationships with providers.

Statistical Findings

for Architecture & Engineering, Construction, Non-Professional Services, Professional Services, and Goods & Supplies

Relevant Market Findings
Availability Findings
Utilization Findings
Disparity Findings

Note: Observations Reflect The Study Period Of FY 2018 Through FY 2022.

Relevant Market Determination FY 2018-FY 2022

Procurement Type	City	MSA	State	Nationwide
Architecture & Engineering*			✓	
Construction*+			✓	
Professional Services**				✓
Non-Professional Services**				✓
Goods & Supplies**				✓

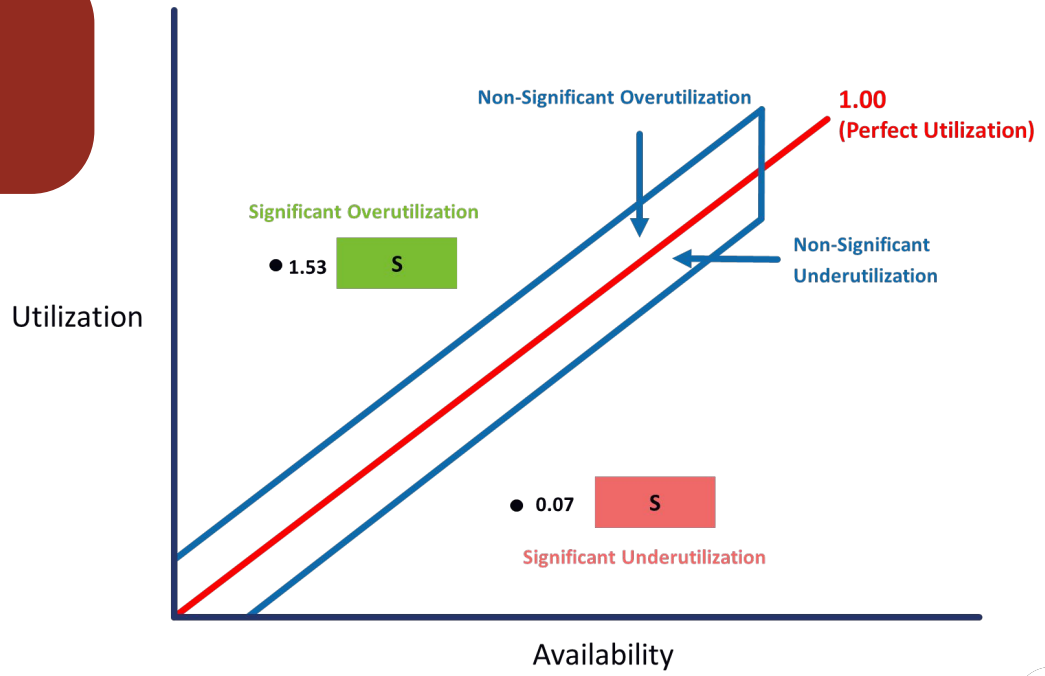
Relevant Market defined as the area where 70-75% of the vendors utilized are located
* Contract Award data used as utilization measure
**Purchase Order + MUNIS Contract data used as utilization measure
+CMAR – included in Construction

M³ Consulting Disparity Ratio© Calculation & Concept

Definition

The ratio of the percentage of M/WBEs in the market (availability) compared to the proportion of dollars spent with those businesses (utilization).

$$D = \frac{U}{A}$$



Disparity Findings Based on Utilization and Level 2 RWA℠

(by Relevant Market and Percent, FY 2018 - FY 2022)

Table 12.1 Inference of Discrimination Based on Findings of Statistically Significant Disparity
By Race/Ethnicity/Gender | By Procurement Type | For the City of Asheville

Race/Ethnicity	Architecture & Engineering (Contract Awards)	Construction & Construction-Related Services (Contract Awards)	Non-Professional Services (POs + MUNIS Contracts)	Professional Services (POs + MUNIS Contracts)	Goods & Supplies (POs + MUNIS Contracts)
African American	Disparity*	Disparity*	Disparity*	Disparity	Disparity*
Asian American	Disparity	Disparity	Disparity	Disparity	Disparity
Hispanic American	Disparity	Disparity*	Disparity	Disparity	Disparity*
Native American	Disparity	ND	ND	Disparity	ND
WBE	Disparity*	No Disparity	Disparity*	Disparity*	Disparity*

Source: M³ Consulting

*Statistically Significant

ND – Not Determined (Zero Availability)

Qualitative Findings

Procurement
Anecdotal
Race Neutral

Anecdotal Themes and Race Neutral Findings

ANECDOTAL

200	20	12
Survey Responses	One-on-ones	Focus Groups Participants

1) **More Transparency needed**
    - Publicly sharing attainment of ABI race conscious goals
    - Show where are opportunities within each Dept. (Lack of forecasting beyond the City's annual budget related public hearing and published operating and capital budgets)
2) **Conflation of Disparity Study and Reparations Efforts**
3) **Community perception of lack of connectivity to vendor community**
4) **Perception of a lack of connectivity between certification and opportunities**
5) **Capital and funding Struggles**
6) **Lack of trust**
7) **Feedback that COA SMWBE firms face barriers that majority firms do not (perceptions of capacity and competency)**
8) **Uneven bonding/insurance requirements**

RACE-NEUTRAL THEMES

17	08
Race Neutral Programs Reviewed	Executive Directors or Organizational Leadership Interviewed

1) **Lack of Awareness of Asheville's ABI Program Objectives**
    - MFTA providers don't understand the role they can play because they haven't been exposed to the "Playbook".
    - No formalized relationship with many of the MFTA services provides
2) **Lack of trust in the COA procurement process**
3) **Difficulty in accessing working capital and funding to scale**
4) **No avenue to "cross pollenate" training initiatives**
    - No sharing of identified skill gaps based on the volume of, or lack of submissions/competition to spur specialized/targeted training that is relevant to opportunities

Recommendations

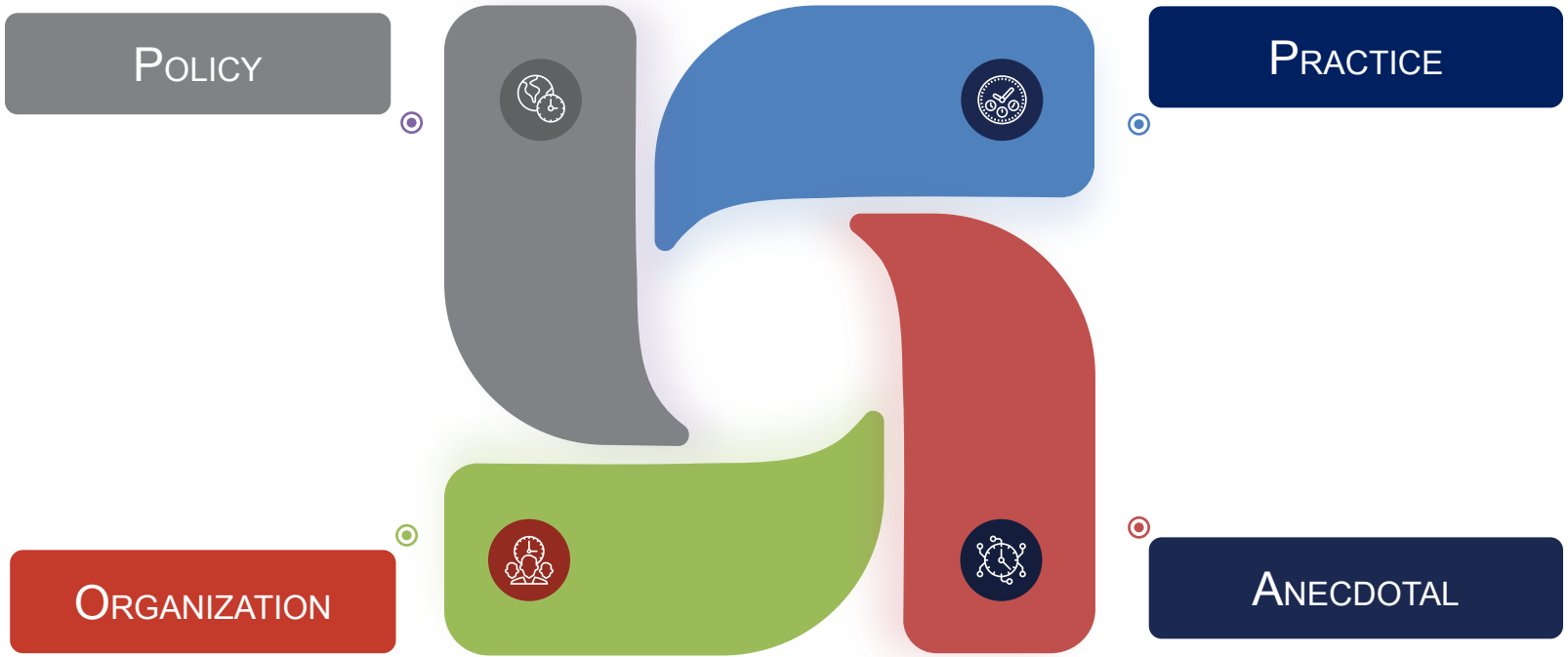
Best Practices Comparison Table

	City of Asheville	Comparable City	Model City
Newsletter	✓	✓	✓
ABI Office Fully Staffed		✓	✓
FAQ's - Frequently Asked Questions page for Partners & Vendors	✓	✓	✓
Information listing who to contact for solicitations on website	✓	✓	✓
External facing formalized program - how to do business with the municipality (including video explanations in English & Spanish)		✓	✓
KPI's and Performance Metrics			✓
Tailored outreach to vendors sharing solicitation opportunities			✓
Forecasting of Opportunities to include timing of when opportunities come to market beyond Strategic Plan			✓
Post-award contract monitoring		✓	✓

*Comparable cities include Knoxville, TN; Chattanooga, TN; Raleigh, NC; Greenville, SC



Overview of Recommendations for City of Asheville



Policy

- City's initiatives are challenged to progress without implementation of recommendations (2018 Disparity Study/ Addressing Disparity in Contracting)
- Consider best value bid policy over low bid policy
- Increase awareness and usage of the shareable vendor list readily accessible to internal and external stakeholders
- Implement additional measures to increase vendor awareness of upcoming opportunities
- Establish proper documentation for classifying Procurement Types
- Implement organizational guard rails for adherence to procurement policies to ensure policies are upheld
- Include a roadmap toward implementation of the disparity study recommendations in COA's Annual Strategic Plan.

Anecdotal

- Develop and post FAQ's to help the vendor community further understand how to do business with COA
- Community desires broader relationships with Management, Financial and Technical assistance (MFTA) providers to include round table discussions to recognize trends, document and promote best practices
- Community would like to see COA provide information via formalized listing of upcoming opportunities and the potential implementation of mentor-protégé program
- Simplification of solicitation documents to enhance table of contents
- Make public the results of solicitation opportunities to enhance transparency

Practice

- Equip ABI / Purchasing Division staff to accurately respond to solicitation needs from the vendor community
- Implement standard practice to include the addition of a checklist for vendor solicitations and Inform bidders of the existence of debriefing opportunities to enhance success in future opportunities
- Create formalized documentation process for evaluating contractor performance
- Formalize additional partnerships with management, financial and technical-assistance (MFTA) firms
- Extend advertising period of opportunities to release 90-120 days prior to due date

Organizational

- Staff the ABI Office and ensure it is positioned to effectively liaison with internal and external stakeholders
- Ensure bandwidth for effective implementation of the ABI Operation
- Ensure efficiency in timely contract payments, dispute resolution and post-award administration duties (supported anecdotally)
- Monitor the use of change orders to ensure proper procedures are adhered to documenting the why and the amount value of all change orders
- Establish a policy and Contractor performance evaluation at contract closeout including identifying the responsible job position for vendor evaluation and as a liaison to the Purchasing Division.

Recommendations for Programmatic Initiatives

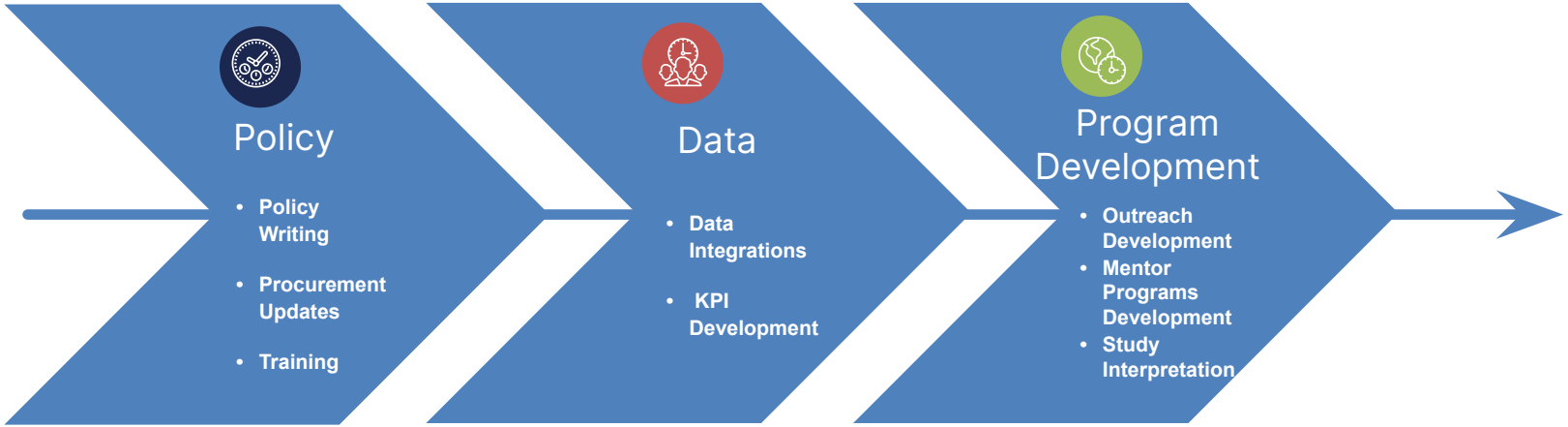
Procurement Type	Race and Gender-Conscious*	Race and Gender-Neutral
Architecture & Engineering	African American WBEs	Asian American* Hispanic American* Native American*
Construction	African American Hispanic American	Asian American* Native American~ WBEs^
Non-Professional Services	African American WBEs	Asian American* Hispanic American* Native American~
Professional Services	WBEs	African American * Asian American* Hispanic American* Native American*
Goods & Supplies	African American Hispanic American WBEs	Asian American* Native American ~

* Finding of Statistical significance

^Non-Significant Overutilization
*Non-Significant Underutilization
~ Zero Availability

Implementing Next Steps

Based on the findings and recommendations, Miller[3] has tailored a recommended list of post-study support. Listed below are some of Miller[3]'s offerings to aide in the implementation of COA's next steps.



Thank You.

Miller[3] Consulting, Inc. (M[3] Consulting) provides advisory services and consultancy to governments and corporations seeking practical solutions to real world problems that arise from the cross-section of cultures and interests in which our clients interact and operate. We focus on understanding the organizational environment, its policies, processes, and people, in order to develop a customized roadmap to our clients' success in providing measurable results to their stakeholders.

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Current Initiatives

- ARPA expansion of funding for the Mountain Community Capital Fund
- Partnering with Carl Harris Construction Services for MWBE (minority-, women- business enterprise) outreach & NC HUB (historically underutilized business) certification
  - Assisted in recruitment of new prime contractors to aid City in MWBE engagement
  - Outreach to primes & MWBE subs for attendance at outreach events
  - Developed MWBE outreach list for projects
- Quarterly MWBE Vendor convenings
  - First session completed on Aug. 16
  - Second session is scheduled for Nov. 8
- Hiring of Business Inclusion Manager
- Budget set aside for Disparity Study Implementation



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Next Steps

- Upon acceptance of the draft disparity study report by Asheville City Council, staff will develop an implementation plan based on the recommendations of the report.
- The City's Business Inclusion Manager will be the staff person responsible for the Disparity Study implementation plan, with support from the Economic Development Division.
- The implementation plan will be a cross-departmental effort and will be supported by the City Manager's office.
- Staff will return to the Equity & Engagement Committee to provide regular updates on the timeline and actions of the implementation plan.

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Suggested Motion

- Motion to recommend that the Asheville City Council (1) accept the 2023 Disparity Study as the legal basis of a compelling governmental interest of ongoing marketplace discrimination in public contracting, and as a framework to continue the City's narrowly tailored race- and gender-conscious contracting program; and (2) extend/continue the race- and gender- conscious measures of the Asheville Business Inclusion Policy for an additional five year period based upon the data reflected in the Disparity Study and community engagement prior to its current expiration date of November 1, 2023.

Questions?

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