



**METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY**

DISPARITY STUDY

EXECUTIVE SUMMARY

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LEGAL ANALYSIS	3
RELEVANT MARKET ANALYSIS	6
AVAILABILITY ANALYSIS	9
UTILIZATION ANALYSIS	14
A. SUMMARY OF METHODOLOGY	16
1. Utilization of M/WOBs by Agency and Procurement Category	17
2. Availability of M/WOBs by Agency and Procurement Category	17
3. Disparity Between Utilization and Availability of M/WOBs	17
4. Statistical Tests of Disparity Indices	18
B. SUMMARY OF DISPARITY ANALYSIS FINDINGS	19
1. MNPS.....	19
2. MNAA	20
3. Metro Purchasing	22
4. NES	23
5. MDHA	24
6. MTA	25
PURCHASING POLICIES AND PROCEDURES REVIEW	26
ISSUES AND OBSERVATIONS.....	27
1. Metro Purchasing	27
2. MNAA	27
3. MNPS.....	28
4. MDHA	28
5. NES	28
6. MTA	28
7. ALL AGENCIES	28
REGRESSION ANALYSIS.....	29
QUALITATIVE ANALYSIS: ANECDOTAL INTERVIEWS AND ANALYSIS OF	
RACE NEUTRAL METHODS	31
CONCLUSIONS AND RECOMMENDATIONS	33
1. Metro Purchasing	36
2. Metropolitan Nashville Airport Authority	42
3. Metropolitan Nashville Public Schools	42
4. Metropolitan Development and Housing Authority	42
5. Nashville Electric Service	43
6. Metropolitan Transit Authority	43

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LEGAL ANALYSIS

In order to ensure that public contracting opportunities are equally available to minorities and women, the Metropolitan Government of Nashville and Davidson County has dedicated itself to creating a Minority/Women Business Enterprise program that addresses the needs of minority and women business owners, and renders a more diverse and equitable business environment that will benefit all its citizens.

Government initiatives that use "race conscious" remedies to ensure equal opportunity must satisfy the most exacting standards in order to comply with constitutional requirements. These standards were applied in two key Supreme Court cases-- City of Richmond v. J.A. Croson Company, 488 U.S. 469, 709 S.Ct. 706 (1989), and Adarand Constructors, Inc. v. Peña, 515 U.S. 200, 115 S.Ct. 2097 (1995). The Croson decision represents the definitive legal precedent which established "strict scrutiny" as the standard of review by which state and local programs that grant or limit government opportunities based on race are evaluated. The Adarand decision subsequently extended the "strict scrutiny" standard of review to race conscious programs enacted by the federal government.

The strict scrutiny test requires public entities to establish race- or ethnicity-specific programs based upon a compelling governmental interest and that such programs be narrowly tailored to achieve the governmental interest. It further requires a "searching judicial inquiry into the justification" for the race-conscious remedy to determine whether the classifications are remedial or "in fact, motivated by the illegitimate notions of social inferiority or simple social politics" (Croson).

It is important to note that the "strict scrutiny" standard of review represents the highest level of judicial scrutiny, and is used to test the legality of all state programs which consider race as a determining factor for the award of benefits or services.

Concurrently, some lower courts have applied an “intermediate” level of scrutiny to state programs that use gender as a determining factor and assist women-owned businesses.

Various decisions regarding “affirmative action” coming from the Sixth Circuit Court of Appeals and federal District Courts in Tennessee have generally been consistent with the analysis and principles of law set forth in Croson. However, there are anomalies among some of the more recent opinions, which present judicial modification and expansion of the principles of law in Croson, with regard to data collection and other evidentiary matters.

As a result of the Croson decision, courts have entertained numerous legal challenges to M/WBE set-aside programs. To maintain a lawsuit against an M/WBE program, a plaintiff must have standing. Standing is important because it usually is pivotal in determining a party’s relevance in a lawsuit. Thus, if an M/WBE program is properly constructed and administered, there should be no legitimate claims of reverse discrimination by majority contractors resulting in a lawsuit. Under the traditional standing analysis, in order to satisfy the "injury in fact" requirement, plaintiffs must establish a causal connection between the injury, the ordinance, and the likelihood that the injury will be redressed by a favorable decision.

The second preliminary matter that courts address is the standard of equal protection review that governs their analysis. The Fourteenth Amendment, section 1, provides that "No state shall . . . deny to any person within its jurisdiction the equal protection of the laws."

Courts determine the appropriate standard of equal protection review by examining the protected classes embodied in the statute. The courts apply *strict scrutiny* to review an ordinance's race-based preference scheme and inquire whether the law is narrowly tailored to achieve a compelling governmental interest. Conversely, gender-based classifications are evaluated under the *intermediate scrutiny* rubric, which provides that the statute must be substantially related to an important governmental objective. Therefore, race-conscious affirmative action is subject to a much higher standard of judicial review than gender-conscious affirmative action. However, it remains unclear how the review of evidence of discrimination for an intermediate level of scrutiny differs from strict scrutiny.

In Croson, the Court concluded that state and local governments have a compelling interest to remedy identified past and present discrimination within their jurisdiction. Thus, courts have to assess whether a public entity has the requisite factual support for its M/WBE program in order to satisfy the particularized showing of discrimination required by Croson. This factual support can be developed from statistical and anecdotal evidence.

As far as anecdotal evidence is concerned, the Croson majority decision implied the inclusion of personal accounts of discrimination. However, anecdotal evidence about MBE experiences alone would not be enough to demonstrate public or private discrimination in a municipality's construction industry, but may complement empirical evidence. Thus, courts have required anecdotal evidence of past or present discrimination. Accordingly, a combination of statistical disparities in the utilization of M/WBEs and particularized anecdotal accounts of discrimination are required to satisfy the factual predicate. Thus, this study has included anecdotal evidence of past and present discrimination in order to establish the factual predicate by these guidelines.

Croson additionally held that an inference of discrimination may be made with empirical evidence that demonstrates "a significant statistical disparity between the number of qualified minority contractors . . . and the number of such contractors actually engaged by the locality or the locality's prime contractors." A predicate to governmental action is a demonstration that gross statistical disparities exist between the proportion of MBEs awarded government contracts and the proportion of MBEs in the local industry "willing and able to do the work," in order to justify its use of race conscious contract measures. "Qualified," "willing," and "able" are the three pillars of the Croson case. "The relevant question is how to determine who are qualified, willing and able."

Availability, utilization, calculation of a disparity index, testing of the validity of the disparity index through standard deviation analysis and statistical regression analysis are the key statistical elements of a disparity study. However, the appropriate geographic area from which the empirical data comes must also be determined. Generally, the scope of the statistical analyses pertains to the geographic market area from which the governmental entity makes most of its purchases. It can be inferred that the most appropriate and legally defensible scope of empirical data for the Metro Government is the standard metropolitan area of Nashville, including the relevant adjacent counties in Tennessee and, perhaps, in the Commonwealth of Kentucky.

RELEVANT MARKET ANALYSIS

In general, there are two methods primarily used to determine the "relevant market." The first method consists of ascertaining the geographic location of the contract awardees and vendors. In the second method, the entity's bidders' or vendors' lists are scrutinized to ascertain their geographic location. The former has gained more acceptance under the United States Justice Department's guidelines for defining relevant markets, particularly in antitrust and merger cases. Some consultants have modified the two main methods and developed an alternative method for determining an entity's relevant market by using the prime contractors (awardees) lists, the vendor lists, and the bidder lists.

The relevant market is established when the geographic area that meets one of the following is defined: 1) the area where 75% or more of the qualified vendors are located; 2) the area where 75% or more of the awardees are located; or, 3) the area where 75% or more of the bidders are located. Ideally, the application of these three criteria results in a unique relevant market designation. However, in cases where this is not true, criterion number three, the area where 75% or more of the bidders are located, is given greater weight because it more accurately reflects the spirit of the Supreme Court's test, which asserts that qualified firms in the area demonstrate that they are ready, willing and able to do business with governmental or other entities. In other words, when the relevant market is the same for the awardees, the vendors and the bidders for a procurement category, the decision to choose is easy. When there is a difference, the bidders are given more weight because many economists and researchers apply a rule of thumb that the relevant market is the geographical area in which a vast majority of the offerers or sellers to the relevant buyer are located.

The following tables summarize the relevant market analysis for the six agencies of Metro Government:

Table 1
Metro Purchasing
RELEVANT MARKET ANALYSIS

	CONSTRUCTION	PROFESSIONAL SERVICES¹	GOODS & SERVICES²
Prime Contractors	Nashville, TN MSA	State of TN	Nashville, TN MSA
Bidders	Nashville, TN MSA	State of TN	Nashville, TN MSA
Vendors	State of TN	State of TN	Nashville, TN MSA

Source: Griffin & Strong, P.C

Table 2
MNPS
RELEVANT MARKET ANALYSIS

	CONSTRUCTION	PROFESSIONAL SERVICES	GOODS & SERVICES
Prime Contractors	Nashville, TN MSA	City of Nashville	Nashville, TN MSA
Bidders	Nashville, TN MSA	State of TN	Nashville, TN MSA
Vendors	State of TN	State of TN	Nashville, TN MSA

Source: Griffin & Strong, P.C

Table 3
NES
RELEVANT MARKET ANALYSIS

	CONSTRUCTION	PROFESSIONAL SERVICES	GOODS & SERVICES
Prime Contractors	Nashville, TN MSA	State of TN	Nashville, TN MSA
Bidders	Nashville, TN MSA	State of TN	Nashville, TN MSA
Vendors	State of TN	State of TN	Nashville, TN MSA

Source: Griffin & Strong, P.C

¹ Professional Services include Architecture and Engineering

² Services refer to Non Professional Services.

Table 4
MDHA
RELEVANT MARKET ANALYSIS

	CONSTRUCTION	PROFESSIONAL SERVICES	GOODS & SERVICES
Prime Contractors	Nashville, TN MSA	State of TN	Nashville, TN MSA
Bidders	Nashville, TN MSA	State of TN	Nashville, TN MSA
Vendors	State of TN	State of TN	Nashville, TN MSA

Source: Griffin & Strong, P.C

Table 5
MNA
RELEVANT MARKET ANALYSIS

	CONSTRUCTION	PROFESSIONAL SERVICES	GOODS & SERVICES
Prime Contractors	Nashville, TN MSA	City of Nashville	Nashville, TN MSA
Bidders	Nashville, TN MSA	Nashville, TN MSA	Nashville, TN MSA
Vendors	State of TN	State of TN	Nashville, TN MSA

Source: Griffin & Strong, P.C

Table 6
MTA
RELEVANT MARKET ANALYSIS

	CONSTRUCTION	PROFESSIONAL SERVICES	GOODS & SERVICES
Prime Contractors	Nashville, TN MSA	Nashville, TN MSA	Nashville, TN MSA
Bidders	Nashville, TN MSA	Nashville, TN MSA	Nashville, TN MSA
Vendors	State of TN	State of TN	Nashville, TN MSA

Source: Griffin & Strong, P.C

AVAILABILITY ANALYSIS

There are numerous approaches to measuring available, qualified firms. GSPC has developed three different estimations of available, qualified firms for the Metropolitan Government of Nashville and Davidson County Disparity Study using vendor files, bid tabulations and certified Disadvantage Business Enterprise (DBE) lists. A vendor listing was supplied by each agency included in the study to GSPC. Certified DBE lists were supplied by MNAA and MDHA, and Metro Purchasing, which supplied a copy of the Tennessee Department of Transportation's Certified DBE list. Bid tabulations for Construction and Professional Services were also compiled by GSPC. Availability is a benchmark to examine whether there are any disparities between the utilization of minority and female business enterprises and their availability in the market place. The measures of availability utilized in this disparity study incorporate all the required criteria of availability:

- a. The bidder, or the vendor or the certified DBE does business within an industry group from which agencies of the Metropolitan Government of Nashville and Davidson County make certain purchases.
- b. The firm's owner has demonstrated that he or she believes the firm is qualified and able to perform the work, and is located within a relevant geographical area such that it can do business with agencies of the Metro Government of Nashville and Davidson County,
- c. By filing out a vendor application, or bidding, or going through the certification process, he or she has demonstrated an interest in obtaining work.

The following definitions are necessary for the estimation of availability.

Definitions: Let: A = Availability Estimates
 A (*Asian*) = Availability Estimates for Asian Business Enterprises
 N (*Asian*) = Number of Asian Business Enterprises in the pool
 N (*M/WFBE*) = Number of Minority Owned Business Enterprises

$N(t)$ = Total number of businesses in the pool of bidders in the procurement category (*for example, construction*)

Availability (A) is found by dividing the number of minority and/or women-owned business enterprises by the total number of businesses in the pool of bidders. For instance, availability for Asian is $A(\text{Asian}) = N(\text{Asian})/N(t)$ and availability for M/WBE is $N(\text{M/WBE})/N(t)$.

Availabilities for this study have been estimated from three sources:

- 1) Availabilities were estimated from each individual agency's pool of vendors. Availability estimates from this source were used in the prime contracting disparity analysis for Goods and Services for each agency.
- 2) The vendor listing from each individual agency was combined with the bidders' list of the agency. Availability estimates from this source were used in the prime contracting disparity analysis for Construction and Professional Services.
- 3) A master vendor database was developed by combining all agencies' vendor listings. A second master database was developed by combining Certified DBE lists from MNAA with the ones from MDHA and the Tennessee Department of Transportation (TDOT). These two master databases were then combined and used as data sources for the estimations. Availability estimates from this source were used in the subcontracting disparity analysis for the three major procurement categories examined in this study (Construction, Professional Services, and Goods & Services).

Duplications were removed from the databases, and all attempts were made to properly identify the ethnicity, race and gender of the firms. Additionally, major corporations, local, state and federal agencies were also removed from the databases.

Table 7 shows the availability estimates using vendor lists from all agencies included in the study combined with the certified DBEs from MNAA, MDHA and the Tennessee Department of Transportation (TDOT).

Table 7
Availability Estimates Based on the Vendor Lists combined with DBE Lists
(By Procurement Category)
ALL AGENCIES
(Percentages)

Procurement Category	Asian	African American	Hispanic	Native American	White Female	Minority Women	TDOT
Construction	0.44	5.12	0.29	0.73	6.29	-	17.40
Professional Services	0.60	2.31	0.30	0.25	3.67	0.15	2.61
Goods & Services	0.13	0.74	0.17	0.47	2.44	0.17	0.50

Source: Griffin & Strong, P.C.

Tables 8 thru 13 represent availability estimates for Construction and Professional Services for each of the agencies in the study:

Table 8
Availability Estimates Based on the Pool of Vendors combined with the Bidders' List
(By Procurement Category)
Metro Purchasing
(Percentages)

Procurement Category	Asian	African American	Hispanic	Native American	White Female	Minority Women ³
Construction	0.42	2.5	0	1.25	2.08	0.83
Professional Services	0.26	0.53	0.09	0.26	1.25	0.26
Goods & Services ⁴	0.56	1.71	0.40	3.15	8.56	2.70

Source: Griffin & Strong, P.C.

³ Earlier vendors were not required to provide the level of detailed information during registration that is presently required, and some of them identified themselves as Minority Women.

⁴ The availability estimates for this procurement category are based on the vendor listing only (bid data were not collected).

Table 9

Availability Estimates Based on the Pool of Vendors combined with the Bidders' List

**(By Procurement Category)
MNPS
(Percentages)**

Procurement Category	Asian	African American	Hispanic	Native American	White Female	Women Minority
Construction	0.61	1.83	0.61	0.61	0.61	-
Professional Services	0.66	5.26	0.00	0.66	0.66	-
Goods & Services ⁵	0.20	0.91	0.20	1.52	5.17	0.50

Source: Griffin & Strong, P.C.

Table 10

**Availability Estimates Based On the Pool of Vendors combined with the Bidders List
(By Procurement Category)**

**NES
(Percentages)**

Procurement Category	Asian	African American	Hispanic	Native American	White Female	Disabled
Construction	0.00	4.91	1.13	0.37	4.15	-
Professional Services	0.00	4.00	0.00	6.00	8.37	-
Goods & Services ⁶	0.00	10.00	0.00	15.00	35.00	2.5

Source: Griffin & Strong, P.C.

⁵ Ibid

⁶ Ibid

Table 11

**Availability Estimates Based On the Pool of Vendors Combined with the Bidders' List
(By Procurement Category)**

**MNAA
(Percentages)**

Procurement Category	Asian	African American	Hispanic	Native American	White Female
Construction	1.91	3.84	0.64	1.91	4.4
Professional Services	0.60	2.11	0.30	0.15	4.81
Goods & Services ⁷	0.19	1.15	0.29	0.10	3.08

Source: Griffin & Strong, P.C.

Table 12

**Availability Estimates Based On the Pool of Vendors combined with the Bidders List
(By procurement category)**

**MDHA
(Percentages)**

Procurement Category	Asian	African American	Hispanic	Native American	White Female
Construction	1.14	7.42	0.00	1.14	6.86
Professional Services	1.73	4.34	0.00	0.00	4.34
Goods & Services ⁸	0.14	5.42	0.42	0.00	7.14

Source: Griffin & Strong, P.C.

⁷

⁸ Ibid

Table 13

**Availability Estimates Based On the Pool of Vendors
(By Procurement Category)
MTA
(Percentages)**

Procurement Category	Asian	African American	Hispanic	Native American	White Female
Construction	0.00	0.00	0.00	0.00	0.00
Professional Services	0.00	9.09	0.00	0.00	4.54
Goods & Services	0.00	4.35	0.87	0.87	10.43

Source: Griffin & Strong, P.C.

UTILIZATION ANALYSIS

A disparity study measures the difference between the availability and the utilization of minority and women-owned firms in a given relevant market area, in this instance the Metropolitan Government of Nashville and Davidson County (referred to hereinafter as Metro Nashville & Davidson County). Having discussed the availability of minority and women-owned firms in the section immediately preceding this one, the purpose of this section is to provide an assessment of utilization of such firms by Metro Nashville and Davidson County. This report includes utilization figures covering Fiscal Years 1999 through 2003 for each of the agencies listed below, with each agency's procurements categorized by type as Construction, Architecture/Engineering and Other Professional Services, or Goods & Non Professional Services:

- Metro Purchasing
- Metropolitan Nashville Airport Authority (MNAA)
- Metropolitan Development and Housing Authority (MDHA)
- Nashville Electric Service (NES)

➤ Metropolitan Nashville Public Schools (MNPS)

➤ Metropolitan Transit Authority (MTA)

The relevant contracting history for each agency was recorded during the data collection process of this disparity study, which included physical review of purchasing records by data collectors hired by Griffin & Strong, P.C., as well as incorporation of information from databases supplied by each agency. Cross tabulations of the data, first by procurement categories (Construction, Professional Services and Goods & Services) and then by ethnicity, gender and race, provided the data disaggregation necessary to compute the utilization percentages and disparity indices, as will be described in the disparity analysis which will follow this section.

The summary of the total dollars awarded or expended by each agency for each procurement category is broken down by fiscal year, and then by ethnicity, gender, and race. The analysis shows data for universal prime contractors and subcontractors by fiscal year and by procurement category. For each procurement category, utilization data for prime contractors and subcontractors are combined into tables that provide the total amount awarded or paid to minority and women-owned businesses (M/WOB) by fiscal year, and the corresponding percentages for each.

SUMMARY QUANTITATIVE ANALYSIS

A. SUMMARY OF METHODOLOGY

The quantitative analysis for the disparity study included an examination of the contracts awarded during the five-year period from July 1, 1998 through June 30, 2003, for the following six agencies:

- Metro Purchasing
- Metropolitan Nashville Airport Authority (MNAA)
- Metropolitan Development and Housing Authority (MDHA)
- Nashville Electric Service (NES)
- Metropolitan Transit Authority (MTA)
- Metropolitan Nashville Public Schools (MNPS)

The contracting history examined for each agency included three broad categories of awards: **Construction, Professional Services** (including Architecture/Engineering) and **Goods and Services** (including Non-Professional Services), subdivided according to the race and/or ethnicity of the various business owners. Awards to Minorities and White Female Owned Businesses (M/WOBs) consisted of awards to businesses that were at least 51% owned and controlled by members of one of the following five groups:

- African American
- Asian American
- Hispanic American
- Native American
- White Female.

1. Utilization of M/WOBs by Agency and Procurement Category

Awards to M/WOBs, and non-minority firms were examined to determine the proportion of contracting dollars received by each group within the three procurement categories in the relevant market area. From this data, percentages of *utilization* of each group were derived for the prime and first tier subcontracting levels for each agency included in the disparity study.

2. Availability of M/WOBs by Agency and Procurement Category

Determining the *availability* of qualified firms to perform work for the agencies included in the study involved the application of two approaches. The first approach consisted of combining each agency's vendor list with its bidder list, based on the presumption that by securing positions on these lists, the firms involved had indicated their availability to perform work for the agencies on whose lists they appeared. This approach was applied to estimate availability of qualified prime contractors. The second approach to estimating availability involved combining all agencies' vendor lists with the lists of Certified Disadvantaged Business Enterprises (Certified DBEs) from MNA, MDHA and the Tennessee Department of Transportation (TDOT). This second approach was applied in estimating the availability of qualified sub-contractors/sub-consultants.

3. Disparity Between Utilization and Availability of M/WOBs

Once calculations were made to determine the utilization and availability of M/WOBs, a ratio of the two variables was calculated: **Utilization percentage divided by Availability percentage**. This calculation produced disparity indices (DIs), which may generally be interpreted as follows:

- A DI greater than one (1.0) indicates that the utilization calculated exceeds that of the availability, hence there is likely *over-utilization*
- A DI equal to one (1.0) indicates that there is *parity* between the availability and utilization of the particular group being measured

- A DI less than one (1.0) indicates that firms have not been utilized to the level of their availability, hence there is *under-utilization*.

4. Statistical Tests of Disparity Indices

A disparity between the availability of certain firms and their utilization must be statistically significant in order to make an inference of discrimination. A differential between the two variables that is greater than two standard deviations indicates that the associated disparity index is statistically significant. Accordingly, once the disparity indices were computed, statistical significance tests were performed to determine if the differential between the utilization and the availability of M/WOBs was greater than two standard deviations.

B. SUMMARY OF DISPARITY ANALYSIS FINDINGS

The findings revealed the existence of disparities between utilization and availability for the M/WOB groups analyzed for each procurement category at each agency included in the disparity study, to the extent that data were available and sufficient for analysis. A listing of *underutilized* M/WOBs, by procurement category, is provided below.

1. MNPS

The minorities listed in the chart below for each business category were *under-utilized* without regard to statistical significance. For details regarding *statistically significant under-utilization* or *over utilization*, please refer to the summary charts.

<i>Construction Prime Contracting</i>	<i>Construction Subcontracting</i>	<i>Goods and Services Prime Contracts</i>	<i>Professional Services Prime Contracting</i>
African American	African American	African American	African American
Asian American	Asian American	Asian American	Asian American
Hispanic American	Hispanic American	Hispanic American	Native American
White Female	Native American	Native American	White Female
	White Female	White Female	

Note: No subcontracting activities were recorded for Professional Services and Goods & Services; therefore no analyses were conducted for these business categories at the subcontracting level.

Summary of MNPS Prime Contracting Disparity Indices

Minorities & White Female	Construction	Professional Services	Goods & Services
African American	0.00	0.61	0.17*
Asian American	0.00	0.00	1.07
Hispanic American	0.00	-	0.04
Native American	-	0.00	0.19*
White Female	0.00	0.00	0.44*
All Groups	0.00*	0.44*	0.46*

(*) Indicates statistically significant under-utilization

(**) Indicates statistically significant over-utilization

(-) Indicates no utilization and no availability

Summary of MNPS Subcontracting Disparity Indices

Minorities & White Female	
<i>Construction</i>	
African American	0.00
Asian American	0.00
Hispanic American	0.00
Native American	0.10*
White Female	0.00*
All Groups	0.00*

(*) Indicates statistically significant under-utilization

(**) Indicates statistically significant over-utilization

(-) Indicates no utilization and no availability

Note: No subcontracting activities were recorded for Professional Services and Goods & Services; therefore no analyses were conducted for these business categories at the subcontracting level.

2. MNAA

The minorities listed in the chart below for each business category were *under-utilized* without regard to statistical significance. For details regarding *statistically significant under-utilization* or *over utilization*, please refer to the summary charts.

<i>Construction Prime Contracting</i>	<i>Construction Subcontracting</i>	<i>Professional Services Prime Contracts</i>	<i>Goods & Services Prime Contracts</i>
African American	African American	African American	African American
Hispanic American	Asian American	Asian American	Hispanic American
Native American	Hispanic American	Hispanic American	Native American
White Female	Native American	Native American	
	White Female	White Female	

Note: No subcontracting activities were recorded for Professional Services and Goods & Services; therefore no analyses were conducted for these business categories at the subcontracting level.

Summary of MNAA Prime Contracting Disparity Indices

Minorities & White Female	Construction	Professional Services	Goods & Services
African American	0.00	0.04	0.18
Asian American	6.25	0.17	35.53**
Hispanic American	0.00	0.00	0.00
Native American	0.00	0.00*	0.00*
White Female	0.00	0.00*	2.78**
All Groups	0.99	0.02*	3.23

(*) Indicates statistically significant under-utilization

(**) Indicates statistically significant over-utilization

(-) Indicates no utilization and no availability

Summary of MNAA Subcontracting Disparity Indices

Minorities & White Female	<i>Construction</i>
African American	0.00*
Asian American	0.00
Hispanic American	0.00
Native American	0.70
White Female	0.95
All Groups	0.21*

(*) Indicates statistically significant under-utilization

(**) Indicates statistically significant over-utilization

(-) Indicates no utilization and no availability

Note: No subcontracting activities were recorded for Professional Services and Goods & Services; therefore no analyses were conducted for these business categories at the subcontracting level.

3. Metro Purchasing

The minorities listed in this chart for each business category were *under-utilized* without regard to statistical significance. For details regarding *statistically significant under-utilization* or *over utilization*, please refer to the summary charts.

Construction Prime Contracting	Construction Subcontracting	Professional Services Prime Contracts	Professional Services Subcontracting	Goods and Services
African American Asian American Native American White Female	Asian American Native American	African American Asian American Hispanic American Native American White Female	African American Asian American Hispanic American Native American White Female	Hispanic American Native American White Female

Note: No subcontracting activities were recorded for Goods & Services; therefore no analysis was conducted for this business category at the subcontracting level.

Summary of Metro Purchasing Prime Contracting Disparity Indices

Minorities & White Female	Construction	Professional Services	Goods & Services
African American	0.00*	0.00*	2.79**
Asian American	0.00	0.00	2.49**
Hispanic American	-	0.00	0.15*
Native American	0.00*	0.00*	0.26*
White Female	0.05*	0.00*	0.27*
All Groups	0.01*	0.00	0.60*

(*) Indicates statistically significant under-utilization

(**) Indicates statistically significant over-utilization

(-) Indicates no utilization and no availability

Summary of Metro Purchasing Subcontracting Disparity Indices

Minorities & White Female	Construction	Professional Services
African American	8.07**	0.09*
Asian American	0.00	0.00*
Hispanic American	18.24**	0.00
Native American	0.00	0.00*
White Female	1.67**	0.30*
All Groups	1.89**	0.14*

(*) Indicates statistically significant under-utilization

(**) Indicates statistically significant over-utilization

(-) Indicates no utilization and no availability

Note: No subcontracting activities were recorded for Goods & Services; therefore no analysis was conducted for this business category at the subcontracting level.

4. NES

The minorities listed in this chart for each business category were *under-utilized* without regard to statistical significance. For details regarding *statistically significant under-utilization* or *over utilization*, please refer to the summary chart. There were no subcontracting activities recorded for any of the business categories examined during the period under review; therefore, no analyses were conducted at the subcontracting level.

<i>Construction Prime Contracting</i>	<i>Professional Services Prime Contracts</i>	<i>Goods & Services Prime Contracts</i>
African American Native American White Female	Native American White Female	African American Native American White Female

Note: No subcontracting activities were recorded for Construction, Professional Services and Goods & Services; therefore no analyses were conducted for these business categories at the subcontracting level.

Summary of NES Prime Contracting Disparity Indices

Minorities & White Female	Construction	Professional Services	Goods & Services
African American	0.58	1.59**	0.01*
Asian American	-	-	-
Hispanic American	4.37**	-	-
Native American	0.61*	0.07	0.02*
White Female	0.15*	0.77	0.01*
All Groups	0.82*	1.06	0.02*

(*) Indicates statistically significant under-utilization
 (**) Indicates statistically significant over-utilization
 (-) Indicates no utilization and no availability

5. MDHA

The minorities listed in this chart for each business category were *under-utilized* without regard to statistical significance. For details regarding *statistically significant under-utilization* or *over utilization*, please refer to the summary charts.

<i>Construction Prime Contracting</i>	<i>Construction Subcontracting</i>	<i>Professional Services Prime Contracting</i>	<i>Professional Services Subcontracting</i>	<i>Goods & Services Prime Contracting</i>
African American Asian American	Native American	Asian American Hispanic American	Asian American Hispanic American Native American	Asian American Hispanic American
Native American				

Note: No subcontracting activities were recorded for Goods & Services; therefore no analysis was conducted for this business category at the subcontracting level.

Summary of MDHA Prime Contracting Disparity Indices

Minorities & White Female	Construction	Professional Services	Goods & Services
African American	0.84	5.07**	6.66**
Asian American	0.86	0.00**	0.00
Hispanic American	-	-	0.23
Native American	0.00	-	-
White Female	1.07	0.56*	2.10**
All Groups	0.88*	1.95**	3.92**

(*) Indicates statistically significant under-utilization

(**) Indicates statistically significant over-utilization

(-) Indicates no utilization and no availability

Summary of MDHA Subcontracting Disparity Indices

Minorities & White Female	Construction	Professional Services
African American	7.22**	14.22**
Asian American	17.73**	0.00
Hispanic American	2.28	0.00
Native American	0.00*	0.00*
White Female	134.25**	5.27**
All Groups	3.47	5.36**

(*) Indicates statistically significant under-utilization

(**) Indicates statistically significant over-utilization

(-) Indicates no utilization and no availability

Note: No subcontracting activities were recorded for Goods & Services; therefore no analysis was conducted for this business category at the subcontracting level.

6. MTA

The minorities listed in this chart for Goods & Services were *under-utilized*, without regard to statistical significance. For details regarding *statistically significant under-utilization* or *over utilization*, please refer to the summary chart.

<i>Goods and Services Prime Contracting</i>
African American
Hispanic American
Native American
White Female

Due to the small number of Construction and Professional Services contracts during the period under review, it was determined that attempts to compute utilization rates or to analyze disparity indices would not yield useful or reliable information. Only Goods & Services were analyzed at this agency; however, the analysis did not extend to the subcontracting level since no subcontracting activities were recorded for Goods and Services for the period under review.

Summary of MTA Prime Contracting Disparity Indices

Minorities & White Female	<i>Goods & Services</i>
African American	0.002*
Asian American	-
Hispanic American	0.00
Native American	0.38*
White Female	0.25*
All Groups	0.18*

(*) Indicates statistically significant under-utilization

(**) Indicates statistically significant over-utilization

(-) Indicates no utilization and no availability

Note: No subcontracting activities were recorded for Goods & Services; therefore, no analysis was conducted for this business category at the subcontracting level.

PURCHASING POLICIES AND PROCEDURES REVIEW

This review of the purchasing practices and procedures for the six agencies included in the Phase II Disparity Study (Disparity Study) for the Metropolitan Government of Nashville and Davidson County is the result of an examination of each agency in accordance with the criteria and methodology discussed below. In order to begin the assessment, meetings were scheduled with key management and other personnel who could ensure that the relevant laws, procedures, policies and forms were available for review, and who could make referrals to other resources for information.

Meetings were held at all six agencies and each meeting included an introductory overview of the agency's procurement process, and an interview with minority and female business advocates or specialists. Discussions with agency personnel were also directed at discerning their practical approaches to implementation of the policies of open access to purchasing and contracting, the difficulties encountered in administering the policies and their assessments as to the extent of mainstreaming of minority and female businesses as contractors and vendors.

Upon obtaining copies of, or access to, all relevant procedures, these were reviewed for their relevance to contracting with minority and women owned businesses. The documents were reviewed to ensure that they contain clear statements of the agencies' policies, assign clear responsibility for carrying out such policies, and have in place adequate controls to identify and address policy violations. Included in the review of procedures was a review and assessment of the vendor forms utilized by each agency in connection with its purchasing process, including vendor and bidder list application forms, minority and women owned business certification applications, requisitions, and purchase orders. Forms were assessed for their content, accessibility, ease of use, and efficiency.

This section of the report concludes with observations and findings, although recommendations have been reserved for inclusion in the comprehensive Disparity Study recommendations.

ISSUES AND OBSERVATIONS

The following is a summary of the issues and observations from the review of agency purchasing policies, practices and procedures, which will be considered as part of the final recommendations of the Disparity Study.

1. Metro Purchasing

- a. Definitions of, and distinctions between, small, minority, disadvantaged and female firms, and the nature of certification of such firms.
- b. Responsibilities of the Division of Minority and Small Business Assistance; autonomy; role in compliance, etc.
- c. Maintenance of databases and vendor lists
- d. Handling of protests and grievances; concerns of small and minority businesses
- e. Administration of tier contracts, multi-year contracts, term, requirements-type contracts
- f. Procurement cards and smaller purchases
- g. RFP review and source selection committees; advance notice of requirements
- h. Prompt payment
- i. Contractor and using department/agency compliance with requirements

2. MNAA

- a. Outreach to, and education of, small and minority business community with regard to local (non-federal) procurement spending

- b. Partnering and mentoring on long-term contracts

3. MNPS

- a. Procurement card spending
- b. Communication, education, monitoring source selection; use of active contracts, previously qualified vendors

4. MDHA

Education and outreach regarding contracting requirements
contracting activities, different funding source requirements

5. NES

Vendor rotation requirements and implementation

6. MTA

- a. Data collection and reporting
- b. Personnel and resources for DBE activities

7. ALL AGENCIES

- a. Inter-agency coordination, communication, and cooperation, particularly on blanket, multi-year or requirements-type contracts
- b. Accuracy of data
- c. Sharing of resources
- b. Uniformity of processes, particularly with regard to certification of businesses for local agency work not subject to federal DBE requirements.

REGRESSION ANALYSIS

Reality in the public sector and private sector is complex. More often, for a specific problem, there may be several possible causes associated with it. In the disparity study report for Metropolitan Nashville Government and Davidson County, a device known as the disparity index (utilization percent divided by availability percent) was used to make inferences of discrimination based on race and gender. Once the inferences of discrimination are established, the question becomes, “what are the causes of the discrimination?” In other words, it becomes necessary to assess the cause or causes of the difference in revenues (proxy of the companies’ actual utilization by the public entity) of the firms involved due to some characteristics such as race and gender. Complex statistical techniques are needed to assess the causal linkage (relationship) between company gross revenues and characteristics, such as race and gender of the company’s owner, company size, level of education of the owner, number of years in business, etc. Multivariate (use of two or more independent variables) or Multiple Regression is well suited for this type of assessment or analysis.

Regression analyses are a set of statistical techniques that permit one to assess the relationship between a variable to be explained, known as the dependent variable and several explanatory variables known as independent variables. For the purposes of this analysis and based on extensive review of statistical and economic studies of discrimination, GSPC has selected to use **2003 company gross revenues** as the dependent variable of the multivariate linear regression model for Metro Nashville Government and Davidson County. The business and demographic characteristics selected by GSPC as explanatory or independent variables are those believed or hypothesized to have an effect on the changes in the 2003 company gross revenues, or dependent variable. The following independent variables are included in this analysis:

- **Number of years in operation.** A firm that is not doing well will likely file for bankruptcy and/or cease operation. The longer a firm is in operation in construction for instance, the more likely it is that the firm is getting construction contracts over time. Additionally it can be argued that

the firm's owner or management team has some skills in the business category he or she is in.

- **Number of full time employees.** The more employees a company has, the more likely it is that the firm can spread its human resources to undertake more than one project at the same time, in construction for instance.

- **Ethnicity, race and gender of the owner.** The objective of this regression analysis is to determine whether or not ethnicity/race and gender has an effect on the variation of the 2003 company gross revenues. We seek to determine how much of the variation of the 2003 company gross revenues is explained by ethnicity/race and gender. In other words, we seek to determine if there is a statistically significant association between firm revenues and the ethnicity/race and gender of the firm's owner. The regression model will be run to examine the individual effect of the ethnicity/race and gender on the dependent variable (2003 company gross revenues) when the amount of data permits. The individual groups are as follows:
 - **African American**
 - **Asian American**
 - **Hispanic American**
 - **Native American**
 - **White Females**
 - **Non-minority firms**
 - **The level of education of the owner.**

It is argued that there is a positive relationship between the owner's level of education and the success of the firm he or she is managing.

The results of the regression analysis clearly support our hypothesis that the minority and female status of the firm's owner has a negative effect on the firm revenue compared to the non-minority male status.

QUALITATIVE ANALYSIS: ANECDOTAL INTERVIEWS AND ANALYSIS OF RACE NEUTRAL METHODS

The approach to this analysis required conducting interviews with key management and other personnel within the six agencies included in the Disparity Study; review of purchasing practices, policies, and procedures for each agency; and selection of interviewees, primarily from the database of suppliers developed during the quantitative phase of the Disparity Study. The anecdotal evidence interviews were conducted with a view toward documenting, in an impartial, but thorough, manner the experiences of members of the business community during the period covered by the Disparity Study. Each of the interviews typically addressed the following basic information:

- History of the company
- Type of business entity
- Background and experience of the firm's principals
- Products and services offered
- The relative proportions of public sector versus private sector business
- The geographic market that the firm attempts to serve
- The percentage or amount of sales resulting from projects with, and without, minority or female business enterprise requirement
- The proportions of prime contractor versus subcontracting business
- Specific project on which the firm has worked, or for which bids have been submitted
- The principal's experiences relating to barriers or impediments to obtaining or performing work with the entities involved in the Disparity Study

Experiences of business owners or their representatives interviewed for this Disparity Study have been grouped into the following broad categories:

1. Denial Of Opportunities To Bid *Or* Denial Of Awards
2. Exclusion From The "Good Old Boy" Network In Subcontracting Or Other Contracting

3. Use Of “Pass-Throughs” Or “Fronts”
4. Stereotypical Attitudes On The Part Of Customers Or Buyers
5. Bid Substitution, Shopping, Manipulation, Or Collusion
6. Past Employment Discrimination
7. Failure To Pay Promptly
8. Double Standards In Performance
9. Price Discrimination By Suppliers
10. Access To Financing
11. Other Barriers Or Concerns

Other barriers or concerns cited by business owners include the following:

- a. Breaking up larger contracts so that smaller firms can compete for them.
- b. Adjusting insurance requirements for smaller firms.
- c. Failure to monitor or enforces the contractors’ commitments to use minority subcontractors.
- d. Failure to consider the minority business owner’s years of experience, as a factor of the firm’s experience, as opposed to simply requiring that the firm be in business a certain number of years.
- e. Not enough flexibility with regard to bonding requirements and difficulties of many women business owners to obtain performance bonds for their work.
- f. Failure on the part of Metro Government to at least send out emails notifying bidders and their listed subcontractors when an award has been made.

CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

1. This study produced significant data that suggest that disparities in purchasing and contracting, as between white male owned firms and minority and women owned firms, continue to exist in each of the agencies analyzed.
2. Consistent with current legal trends, a narrow approach to measuring availability of minority and women owned businesses was utilized in this study. Despite this conservative approach to measuring availability, which almost certainly understates the actual marketplace availability, this study showed underutilization of minority and women owned firms for all of the Metro agencies, in most business categories, for the study period.
3. The study showed statistically significant underutilization for the study period as follows:
 - a. Metro Purchasing
 - 1) Construction Prime Contracting
 - 2) Professional Services Prime Contracting
 - 3) Goods and Services Prime Contracting
 - 4) Professional Services Subconsulting
 - b. Metro Nashville Public Schools
 - 1) Construction Prime Contracting
 - 2) Professional Services Prime Contracting
 - 3) Goods and Services Prime Contracting
 - 4) Professional Services Subconsulting
 - 5) Construction Subcontracting
 - c. Metropolitan Nashville Airport Authority
 - 1) Professional Services Prime Contracting
 - 2) Construction Subcontracting
 - d. Metropolitan Transit Agency

- 1) Goods and Services Prime Contracting
 - e. Nashville Electric Service
 - 1) Construction Prime Contracting
 - 2) Goods and Services Prime Contracting
 - f. Metropolitan Development and Housing Authority
 - 1) Construction Prime Contracting
4. There are substantial disparities between availability and utilization in most categories with respect to most ethnic groups in most years. There are also very wide swings and occasionally peaks of over-utilization of some ethnic groups in some years, with some of the six Metro agencies, based on the data that we have reviewed. Because of the relatively low level of availability as determined by bidding activity and the relatively small amount of utilization as determined by a review of the actual procurement dollars spent, it can well be concluded that even in those instances in which there is seemingly over-utilization, minority and women-owned businesses received substantially less business than one would expect by viewing the overall census availability of minority and women-owned firms.
5. During the purchasing practices and policies review, substantial institutional barriers were observed, which inhibit the ability of minority and women-owned businesses to compete effectively for business with Metro. The very existence of those barriers could possibly explain the lack of bidding activity on the part of minority and women-owned firms. During the qualitative evidence gathering in anecdotal interviews and surveys, we determined that many minority and women-owned businesses have a negative impression of their ability to do business with Metro.

6. In addition to the primary statistical research, this study contains a regression analysis, which indicates that the underutilization of minority and women owned firms could be correlated to ethnicity and gender.

Based on the totality of the findings of this study, the Griffin and Strong, P.C. research team concludes that this study demonstrates evidence of discriminatory barriers to participation by minority and women-owned firms in the Nashville Metropolitan Area. Therefore, it is recommended that Metro address the documented barriers to minority and women-owned business participation in its procurement and contracting activities.

There appear to be four barriers that inhibit the growth of minority and women-owned businesses; they are as follows:

- Access to Government Contracts
- Access to Capital
- Access to Bonding
- Business Development and Training

RECOMMENDATIONS

- It is our recommendation that the current programs to ensure equal business opportunity at the six Metro agencies studied be coordinated through the Metro Division of Minority and Small Business Assistance. Central coordination should be designed to ensure the following:
 - That outreach efforts are comprehensive on all solicitations for all agencies
 - That there is a uniform coordinated certification process
 - That there is an integrated list of certified firms
 - That there is a uniform contract administration procedure

- That data are maintained in a uniform manner and reported routinely to the Metro Division of Minority and Small Business Assistance
- That the Metro Division of Minority and Small Business Assistance be provided with adequate staff resources to perform the functions of the recommended nondiscrimination program and coordinate the efforts of the other agencies, since the programmatic success of the collective six agencies requires a strong central administrative staff.

Set forth below is the comprehensive program that is being recommended for Metro as a result of this Disparity Study. This program should be adopted by, or integrated into, all of the agencies along with the measures that are specifically recommended for each agency.

1. Metro Purchasing

- It is recommended that Metro adopt a comprehensive nondiscrimination in purchasing and contracting policy. This policy would require firms working with Metro Government to agree not to discriminate against subcontractors, vendors, or suppliers, and to cooperate in the investigation of any complaints.
- It is recommended that the aforementioned policy be effectuated by the development of a comprehensive nondiscrimination in purchasing and contracting program to be administered by the Division of Minority and Small Business Assistance. The program should contain, at a minimum, the following elements:

Mandatory Covenant of Nondiscrimination

As a mandatory element, each bid, offer, or proposal must describe, in a separate section and in detail, the Offeror's Covenant of Nondiscrimination, through which the Offeror has managed its commitment to nondiscrimination in the bidding or proposal process and through which it will manage its nondiscrimination

covenant in the performance of the contract. Demonstrating compliance with the nondiscrimination covenant in the bidding process will be a precondition to selection.

2) Good Faith Efforts

In its bid or proposal, and subsequently in performing under its resulting contract, an Offeror shall provide evidence of good faith, including a detailed description showing the techniques that it has used and will use to encourage and obtain the maximum practical participation of minority and women owned businesses. Such techniques shall include, but not be limited to segmenting the totality of the work into two or more smaller portions where feasible and can be accomplished in accordance with common and accepted industry practices relating to the utilization of subcontractors; attendance at pre-solicitation, pre-bid and other conferences and forums that allow interested minority and women owned firms to market their goods and services; letters and other direct personal contacts; advertising in publications in general circulation, as well as those directed to specific trades or marketed to small businesses, and those owned by racial minorities and women; reasonable solicitation follow-ups; reasonable assistance with supplies, bonding, insurance, or technical matters; adherence to equal opportunity provisions when replacing or adding subcontractors and suppliers; providing a nondiscriminatory work site'; reporting improper conduct; and cooperating with Metro Government in administration and monitoring of compliance with its nondiscrimination policies.

3) Acceptable Methods of Utilization

(a) **Joint Venture Participation**, which must be real and legitimate, and clearly demonstrate the initial capital investment of each venture partner; proportional allocation of profits and losses; sharing of control over ownership and management; actual participation of each venture partner in the work on the project or contract; and defined methods of accounting, dispute resolution, and other factors deemed pertinent to Metro Government.

(b) **Subcontractor Participation**, where it can be clearly demonstrated that the minority and women owned subcontractors will perform commercially useful functions in the work of the project or contract.

(c) **Supplier Participation**, where an Offeror contracts with minority and women owned suppliers who will perform commercially useful functions as to the nature and amount of

supplies to be furnished, their management of the work involved in furnishing the supplies, and who do not act as pass-throughs or resellers for non-minority or large businesses.

(d) Mentor Protégé Agreement, which is acceptable to the extent that an Offeror has a pre-existing, written mentor/protégé agreement that has previously resulted in the Offeror working with a particular minority or woman owned business enterprise, and the Offeror is able to submit evidence of the existence of such agreement, documentation to support the protégé's inclusion on previous contracts, and a covenant for inclusion of the same protégé on work under the current RFP. The work assigned the protégé must be for commercially useful functions.

4) Evidence of Compliance

Without limitation of other evidence of compliance or noncompliance with the commitment to nondiscrimination, disparity between utilization of minority business enterprises and women business enterprises and their availability in the relevant supply market will justify further inquiry by Metro Government. Such disparity will impose on Offeror a burden of further explanation, in both the bid/proposal process and in the performance of the resultant contract.

5) Cures and Remedies for Noncompliance

In connection with the best and final offer phase of the RFP, an Offeror whose mandatory plan of compliance and related responses merit concern shall be afforded an opportunity to revise its plan to address identified deficiencies, and resubmit the plan before final selection is made. Metro Government may conditionally approve any Program, which is otherwise in substantial compliance by imposing requirements for cure that will then be carried out during contract performance.

6) Monitoring

An Offeror must, when requested by Metro Government, during the evaluation phase of the solicitation and during contract performance, allow interviews with specified officers and employees and provide specified records and other information relevant to the implementation of its Covenant and its compliance with its nondiscrimination covenant.

7) Investigatory Authority

Metro Government shall be authorized to investigate apparent discriminatory practices of an Offeror, successful Offeror or subcontractor, or supplier to either. Such investigation may be initiated by the Division of Minority and Small Business Assistance, on its own initiative, or by complaint from another, when information available to it provides a reasonable basis to believe that an individual contractor who seeks to contract with Metro may be engaging in private discriminatory conduct. Procedures shall be established for due process, including but not limited to, notice of the investigation, conduct of hearing, and sanctions, penalties, and appeals.

8) Sanctions and Penalties for Noncompliance

The Division of Minority and Small Business Assistance shall have the authority and power to enforce these provisions. Failure by an offeror or bidder to comply with the requirements of these nondiscrimination provisions shall subject the non-complying party to administrative sanctions. In addition, a violation of these provisions shall constitute a material breach of contract, enforceable at law, or in equity, as with all other contract provisions, including the imposition of penalties. Sanctions and penalties may include declaration of non-responsiveness, cancellation of contract, rejection of future bids, limited partial withholding of progress payments, partial withholding of payments commensurate with the portion of the contract not in compliance, total withholding of payments, limited suspension and debarment, or permanent debarment.

9) Appeal Process

Any bidder or offeror or other party aggrieved by the provisions of this Article may appeal said grievance to Metro Government whereby it is the intent of this provision to ensure all parties the basic guarantees of due process and the right to be heard by an impartial trier of fact, and the same are hereby so guaranteed.

10) Assistance to Minority and Women Owned Businesses

The Division of Small and Minority Business Assistance should work in cooperation with designated economic development agencies and the private sector, to develop or identify bonding, financial and technical assistance programs for small, minority, and women owned businesses, and maintain a database containing the full array of incentives that are available.

11) Certification Process

To ensure that the Nondiscrimination Program achieves its purpose, Metro Government must verify the minority or women owned business enterprise certification status of each firm claiming such designation. Only certified minority and women business enterprises and joint venture partners should be designated in reports as MBEs or WBEs, as defined within the Nondiscrimination Program. In addition to the basic information that would be required of all vendors, whether certified or not, the certification process should, at minimum, include an examination of the following for each applicant:

- (a) Type of ownership, such as corporation, limited liability company, partnership, etc.
- (b) For each individual owner, the name, race or ethnicity, gender, years of ownership, and percentage of ownership.
- (c) Information as to the level of control exercised by each owner over the entity's affairs, including but not limited to voting percentages, contributions of capital, real or personal property, expertise, work assignments, day-to-day operations, financial and other management decisions, etc.
- (d) Information as to each owner's background, experience, length of time with the company, responsibilities, etc.
- (e) Copies of agreements or other documentation concerning stock options, restrictions on ownership or control of the minority or female owners, changes in ownership prior to certification, relationships between other individuals or firms that hold an ownership interest in the company, including financing or loans, sharing of space, employees or other resources, etc.
- (f) Documentation of income or gross receipts for at least two years preceding the application, personal financial statements, credit and bonding references, job references, trade references, and proof of other certifications.
- (g) The certification application should be signed or acknowledged in the presence of a notary public, and include appropriate warnings against falsification of data, misrepresentations, or other fraudulent statements.
- (h) The application should contain language that clearly reserves Metro Government's right to request additional information in support of the claims

made on the application, to conduct site visits, and to request third party confirmation of the information provided.

- (h) The management and staff involved in the certification process should be trained extensively on the procedures involved in certification, and on how to detect indicators that ownership and/or control by the minority or female owners may be subject to challenge.

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- It is recommended that Metro Government take steps to ensure that all changes to procurement processes be consistently brought before the Procurement Standards Board, to the extent required by the Procurement Code.
 - It is recommended that Metro Government modify its prompt payment procedures to ensure conformity to guidelines by all employees and using departments, and to create a corresponding procedure to ensure timely payments by prime contractors to subcontractors.
 - It is recommended that Metro Government maintain an accurate and reliable small business database, which should be maintained by the Division of Minority and Small Business Assistance.
 - It is recommended that procedures be put in place to ensure that the Division of Minority and Small Business Assistance shall be provided with no less than two days' advance notice of upcoming solicitations in order to prepare a qualified list of small, minority and women businesses to be attached to outgoing solicitations, and that the Division of Purchases provide the Division of Minority and Small Business Assistance no less than five days' advance notice of upcoming pre-bid meetings and pre-proposal conferences.
 - It is recommended that adherence to the nondiscrimination policy be established as a required evaluation factor in Requests for Proposals.

- It is recommended that Requests for Proposals and Invitations to Bid include a standard provision requiring that contractors adhere to their committed levels of small and minority business participation when their contract amounts are increased due to change orders or other changes.
- It is recommended that the current tier contracting system be modified to establish specific criteria for inclusion in the program at various levels, to establish an annual schedule for the letting of contracts, and to include provisions for small business utilization across contract terms whenever possible.

2. Metropolitan Nashville Airport Authority

The Metropolitan Nashville Airport Authority has an effective Disadvantaged Business Enterprise Program that appears to be staffed adequately.

- It is recommended that MNAA adopt the nondiscrimination program developed by Metro and coordinate with Metro on its local program.

3. Metropolitan Nashville Public Schools

- We recommend that the Metropolitan Nashville Public Schools adopt the nondiscrimination program which has been recommended for Metro. Coordination with Metro should bolster the MNPS program in key areas where underutilization was noted in this report.

4. Metropolitan Development and Housing Authority

As with MNAA, the Metropolitan Development and Housing Authority has a federal DBE program requirement which appears to be effective.

- For all other purchasing and contracting requirements, it is recommended that MDHA adopt the nondiscrimination program that has been recommended for Metro.

5. Nashville Electric Service

The current Nashville Electric Service program is aggressively administered, but the low staffing level and programmatic support are troublesome.

- It is, therefore, recommended that NES adopt the program which has been recommended for Metro and develop it in close coordination with the Metro Division of Minority and Small Business Assistance.

6. Metropolitan Transit Authority

MTA has responsibility for a federal DBE program and a local program. Staffing appears to be inadequate for the work that is required to be done, particularly with the addition of purchasing responsibilities to outreach and compliance activities.

- It is recommended that MTA adopt the nondiscrimination program which has been recommended for Metro. It is also recommended that MTA conduct an assessment of staff resources and consider bolstering those resources. For MTA, greater coordination with Metro is a necessity, but even with that coordination, there will likely be a need for MTA to increase staff.

The information provided in this study suggests that sufficient barriers to the utilization of minority and women business enterprises remain in the Metro Nashville marketplace, and in the procurement processes of the six organizations which were part of this study, to warrant the remedial measures suggested above. Nevertheless, despite the need for remedial measures, Metro Nashville has a number of favorable attributes, including dedicated government officials and strong advocacy groups, which suggest that the future for minority and women owned businesses will be one of equal access to purchasing and contracting opportunities.