

Memorandum



CITY OF DALLAS

DATE July 31, 2020

TO Honorable Mayor and Members of the City Council

SUBJECT **Availability and Disparity Study Recommendations**

On Wednesday, August 5, 2020 you will be briefed on the availability & disparity findings and proposed minority/women-owned business goals. In September 2018, the City retained MGT of America Consulting, LLC (MGT) to conduct the availability and disparity study. The objective of the study was to determine if there were any disparities between the City's utilization of minority and/or women-owned business enterprises (M/WBEs) compared to the availability of M/WBEs in the marketplace who are ready, willing, and able to perform work. The study was executed to determine if a legally justified need exists for the continuation of a M/WBE program in accordance with the guidelines set forth by the Supreme Court and relevant subsequent cases.

The study period was October 2014 to September 2018 and was based on statistical payment data. The findings and recommendations from this study will be used to shape an improved business inclusion policy that creates opportunities for minority and women vendors, builds capacity of minority and women vendors, and executes diversity compliance in contract awards.

MGT has prepared the attached Availability and Disparity Study findings and recommendations.

The Office of Business Diversity has included the current status of recommendations and will highlight accomplishments during the briefing. Please feel free to contact me if you have any questions or should you require additional information.

A handwritten signature in blue ink that reads "Zarin D. Gracey".

Zarin D. Gracey
Director
Office of Business Diversity

c: T.C. Broadnax, City Manager
Chris Caso, City Attorney
Mark Swann, City Auditor
Billierae Johnson, City Secretary
Preston Robinson, Administrative Judge
Kimberly Bizer Tolbert, Chief of Staff to the City Manager
Majed A. Al-Ghafry, Assistant City Manager
Jon Fortune, Assistant City Manager

Joey Zapata, Assistant City Manager
Nadia Chandler Hardy, Assistant City Manager
Dr. Eric A. Johnson, Chief of Economic Development and Neighborhood Services
M. Elizabeth Reich, Chief Financial Officer
Laila Alequresh, Chief Innovation Officer
M. Elizabeth (Liz) Cedillo-Pereira, Chief of Equity and Inclusion
Directors and Assistant Directors

CITY OF DALLAS AVAILABILITY & DISPARITY STUDY

FINAL REPORT

Dallas City Council Briefing

August 5, 2020



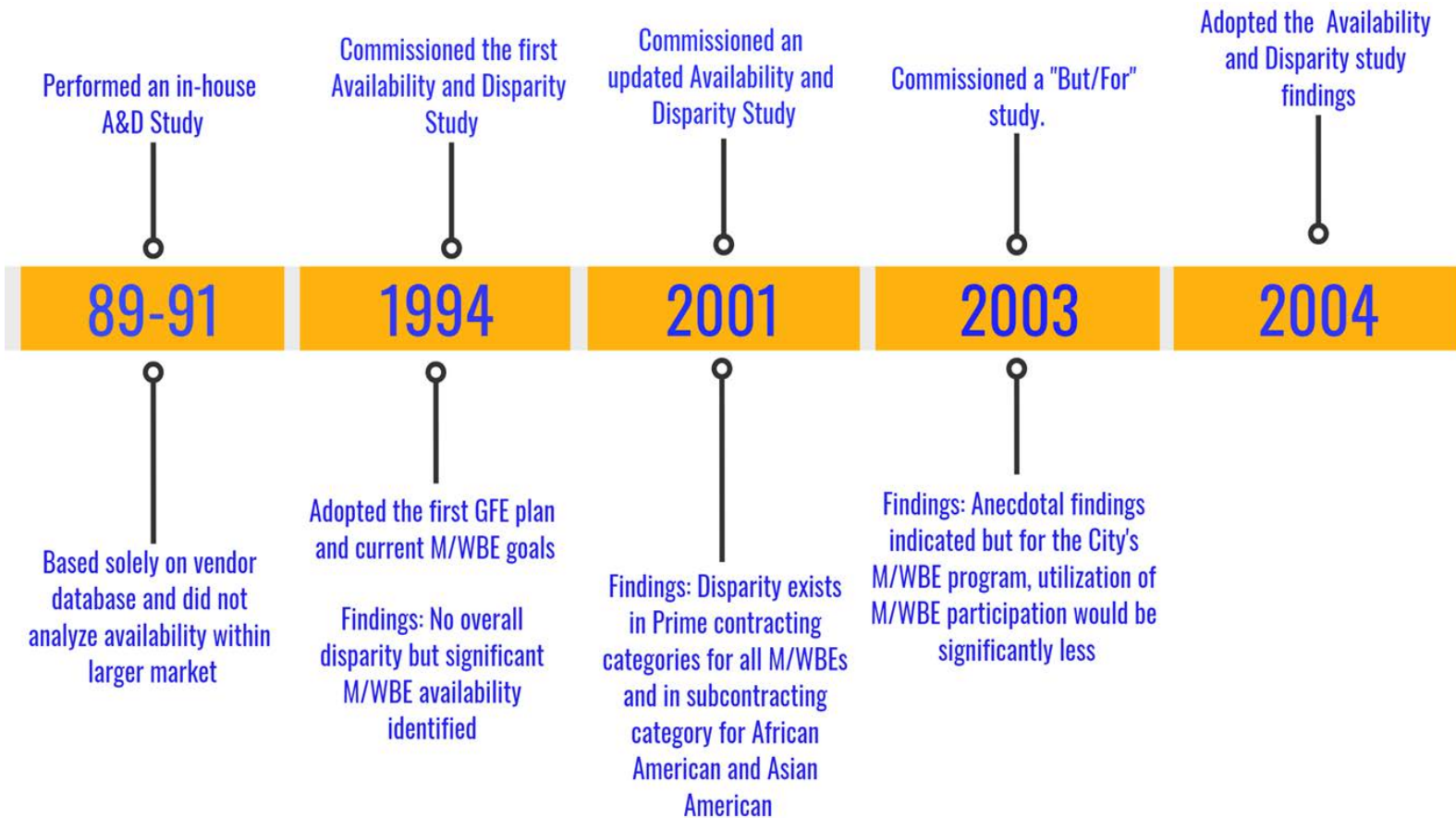
City of Dallas

AGENDA

- Study History
- Study Objective
- Study Framework
- Study Methodology
- Relevant Market Area
- Key Findings
- Key Recommendations



STUDY HISTORY





STUDY OBJECTIVE

Determine if a significant statistical disparity exists between the percentages of available, qualified minority- and woman-owned business enterprise (M/WBE) firms and the dollars paid to such firms in the City's procurement and contracting.



STUDY FRAMEWORK

- Study Period: October 2014 – September 2018
- Study is based on payment data
- Procurement categories analyzed:
 - Construction
 - Architecture & Engineering
 - Professional Services
 - Other Services
 - Goods & Supplies

STUDY FRAMEWORK - Continued

Business Ownership Classifications		
African American	MBE Minority Owned Business Enterprise	M/WBE
Asian American		
Hispanic American		
Native American		
Non-minority Woman	WBE Women Owned Business Enterprise	M/WBE
Non-minority Male	Non-M/WBE	





STUDY METHODOLOGY

1. Reviewed and established the legal framework for conducting disparity studies
2. Completed tasks to determine M/WBE utilization, availability, and disparity based on the legal framework established by *Croson* and relevant cases
3. Used payment data to determine utilization and relevant market area
4. Used industry accepted “custom census” approach
 - Surveyed firms registered with Dun & Bradstreet:
 - Located in the market area
 - Provide services or goods purchased by the City
 - Determined willingness
 - Collected ethnicity/race/gender data



STUDY METHODOLOGY - Continued

5. Used a multi-prong approach to collecting anecdotal input.
 - a. Data collected through:
 - In-Depth interviews with business owners
 - In-Depth interviews with stakeholders
 - Public Meetings
 - Focus Groups
 - Surveys
 - b. Outreach Efforts:
 - Email blasts
 - Direct calls
 - Trade associations and business organizations
 - Printed and digital ads

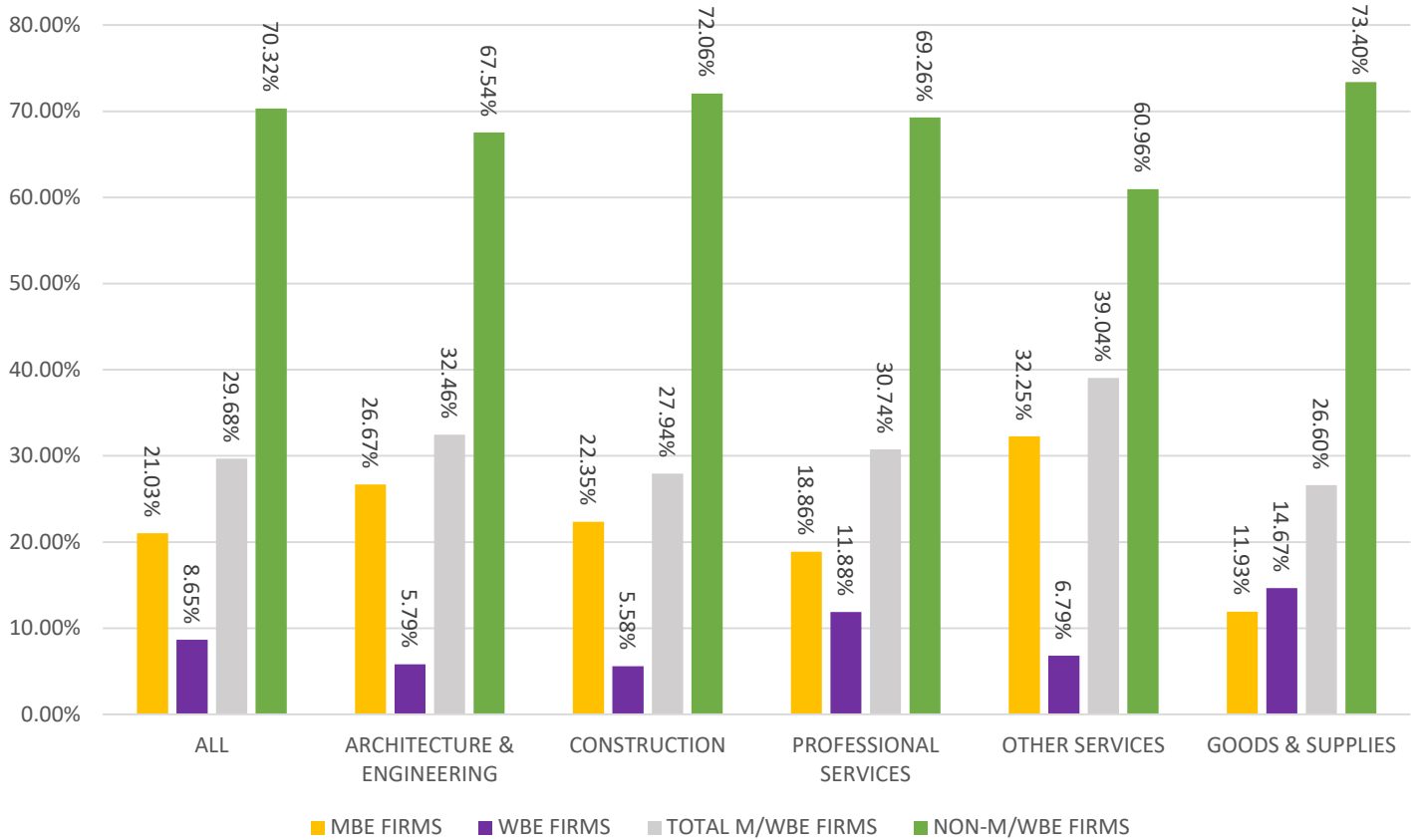


RELEVANT MARKET AREA

- Requires a defined area to ensure that a relevant pool of vendors is considered in analyzing the availability and utilization of firms
- Includes the geographic areas from which the majority of the City's purchases are procured
- Relevant Geographic Market Area: Dallas-Fort Worth-Arlington MSA ("Dallas MSA")
 - Collin County, Dallas County, Denton County, Ellis County, Hood County, Hunt County, Johnson County, Kaufman County, Parker County, Rockwall County, Somervell County, Tarrant County and Wise County
- Relevant market area established the framework for utilization, availability, disparity, private sector, and anecdotal analyses
- Relevant market established the basis for future M/WBE outreach and reporting



KEY FINDINGS – M/WBE UTILIZATION

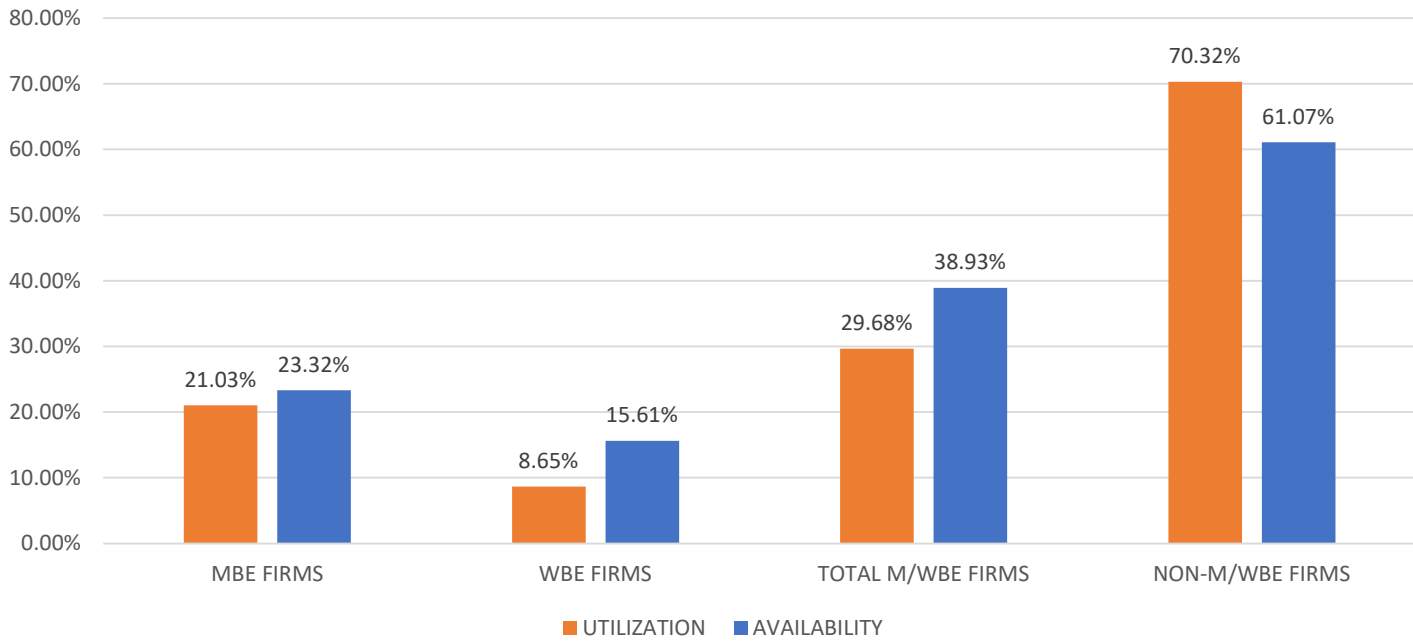


Study Period: October 2014 – September 2018





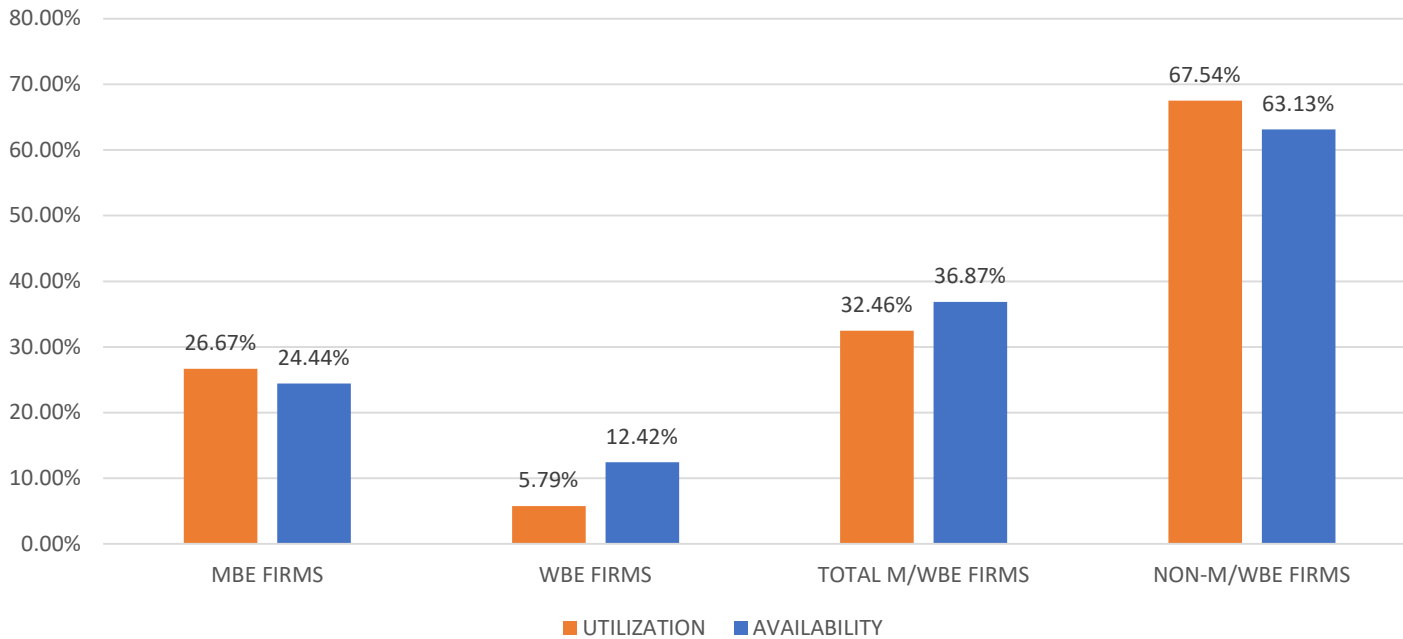
KEY FINDINGS – M/WBE UTILIZATION AND AVAILABILITY ALL CONTRACT TYPES



Study Period: October 2014 – September 2018



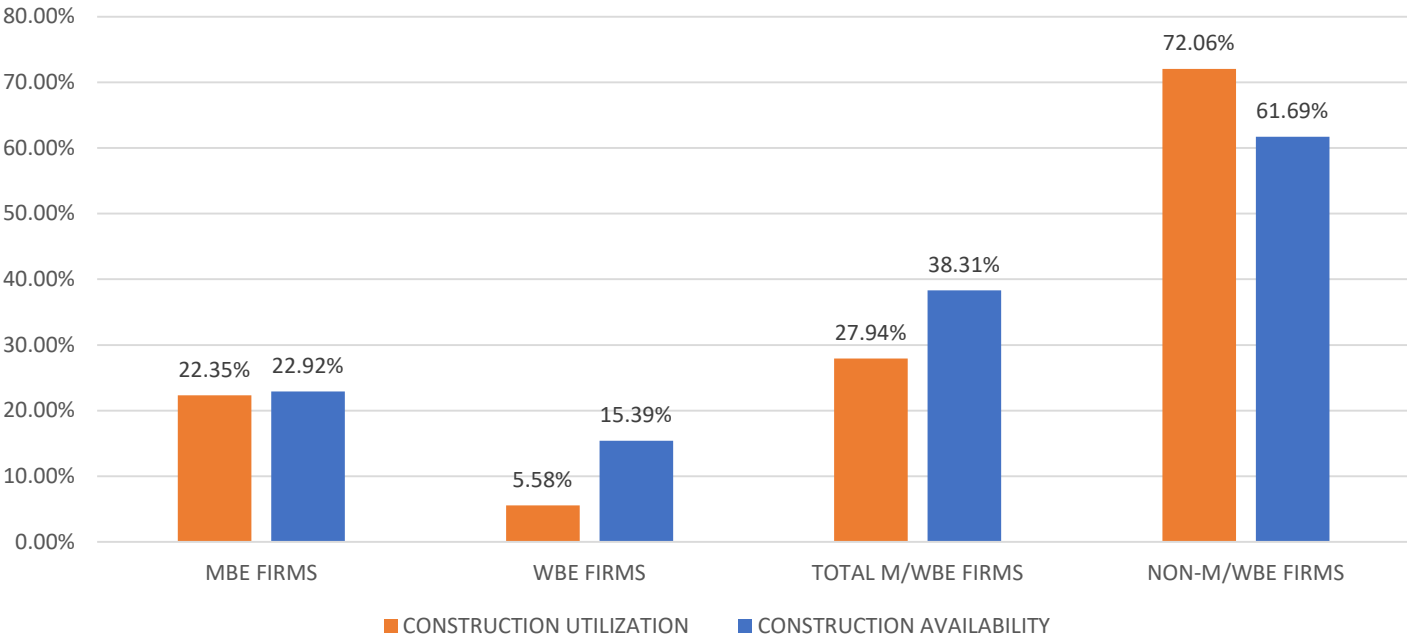
KEY FINDINGS – M/WBE UTILIZATION AND AVAILABILITY ARCHITECTURE & ENGINEERING



Study Period: October 2014 – September 2018



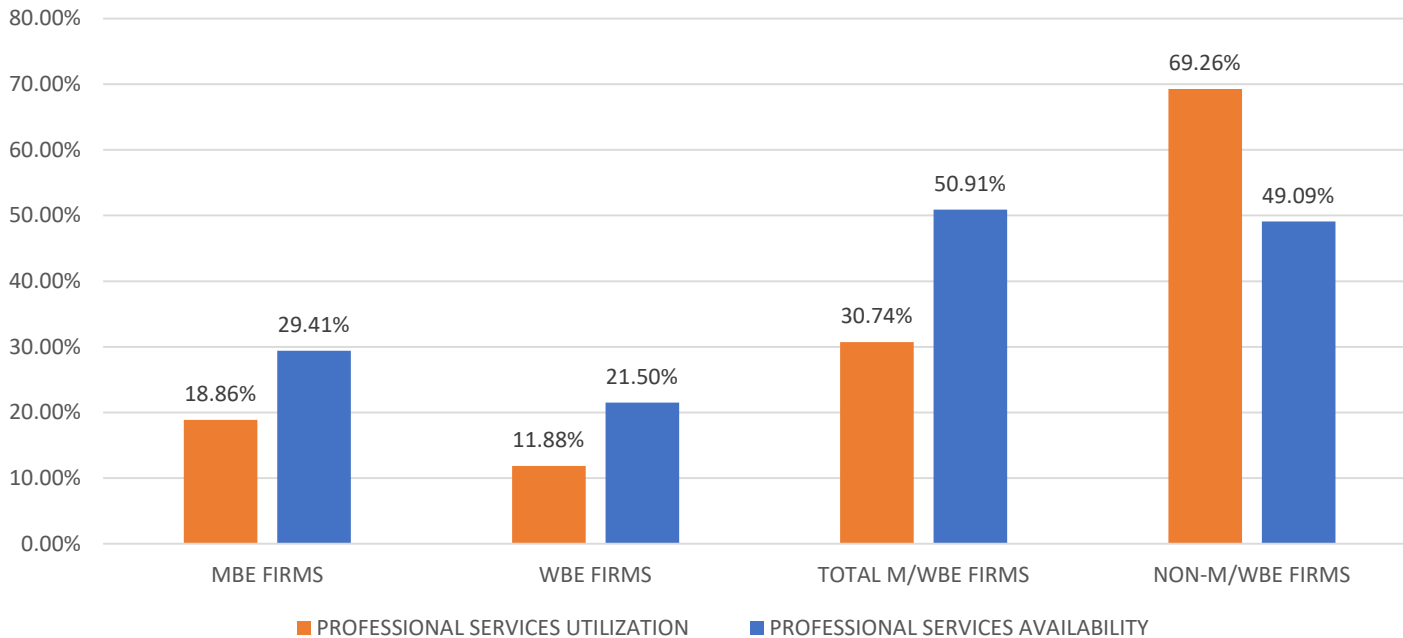
KEY FINDINGS – M/WBE UTILIZATION AND AVAILABILITY CONSTRUCTION



Study Period: October 2014 – September 2018



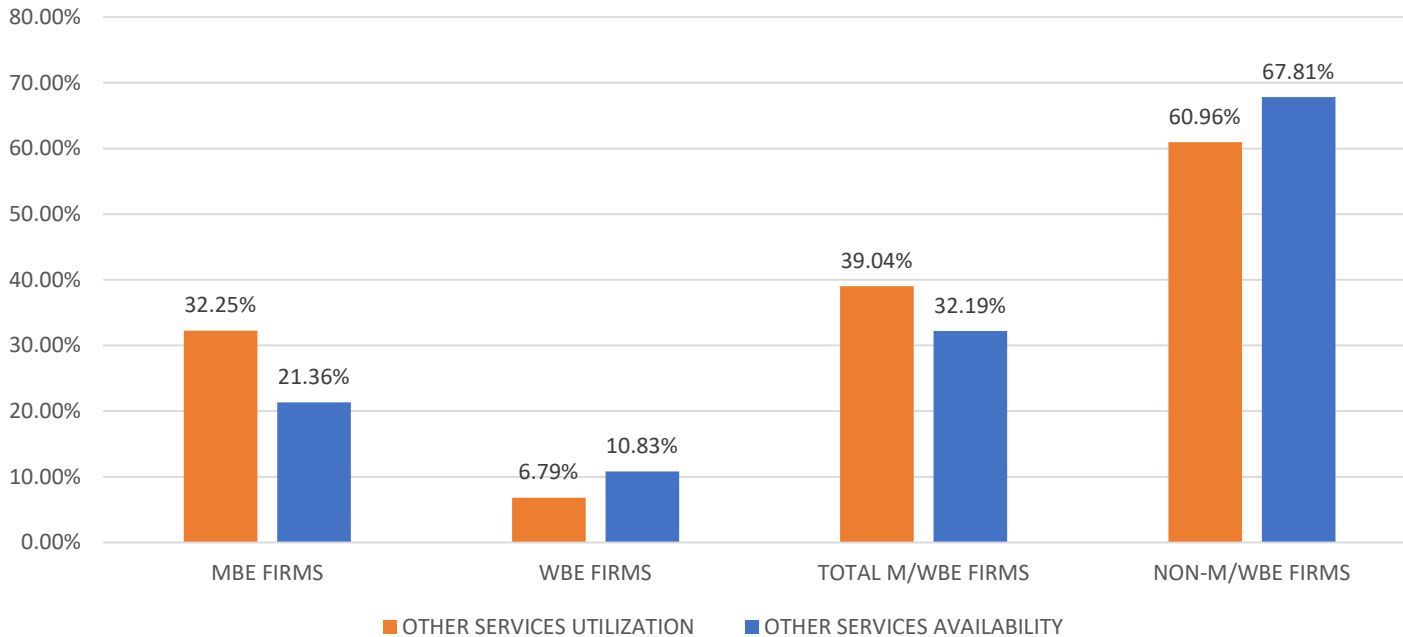
KEY FINDINGS – M/WBE UTILIZATION AND AVAILABILITY PROFESSIONAL SERVICES



Study Period: October 2014 – September 2018



KEY FINDINGS – M/WBE UTILIZATION AND AVAILABILITY OTHER SERVICES



Study Period: October 2014 – September 2018

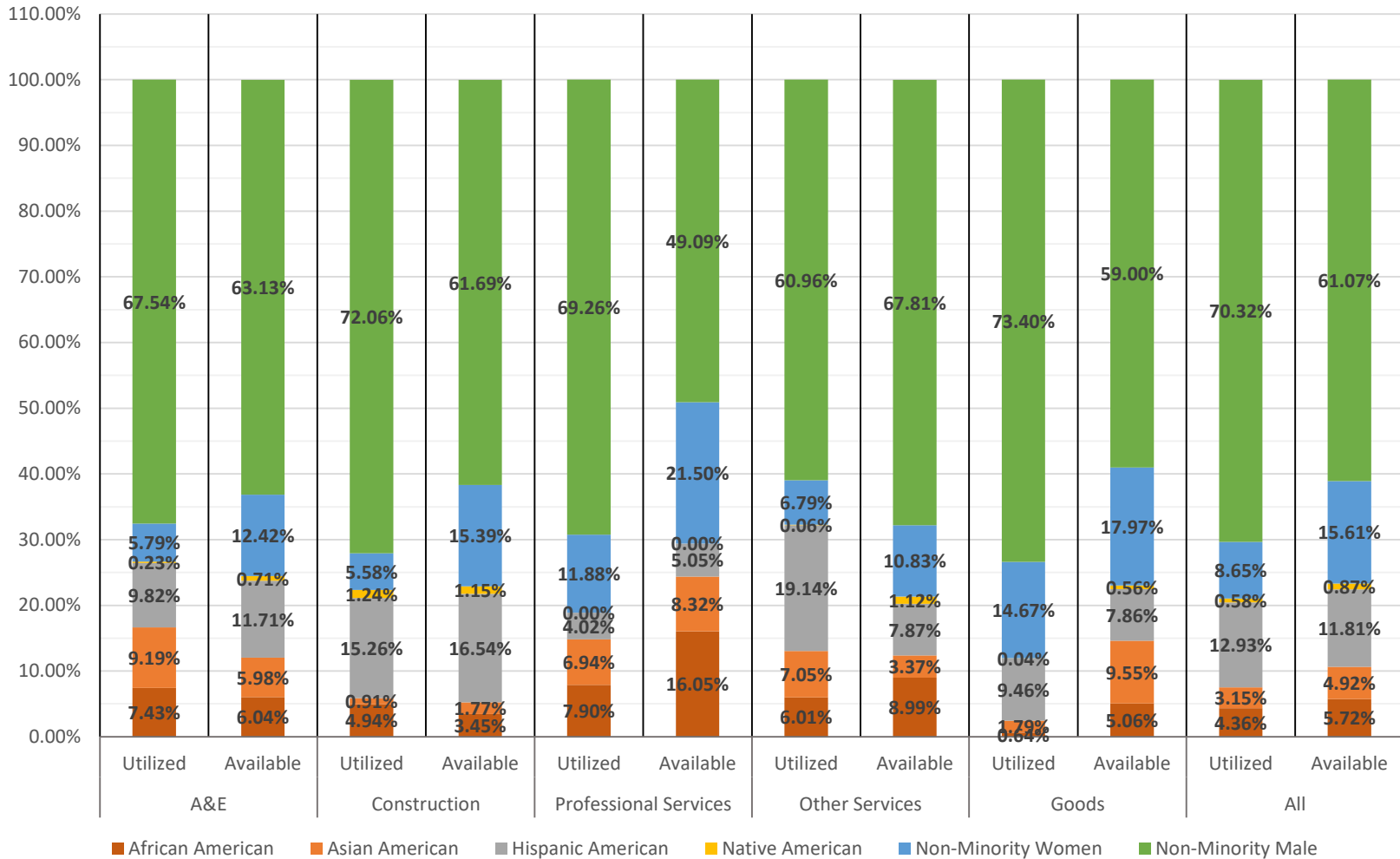


KEY FINDINGS – M/WBE UTILIZATION AND AVAILABILITY GOODS & SUPPLIES



Study Period: October 2014 – September 2018

KEY FINDINGS – M/WBE UTILIZATION/AVAILABILITY BY ETHNICITY/GENDER



KEY FINDINGS – M/WBE UTILIZATION/AVAILABILITY BY ETHNICITY/GENDER

	A&E		Construction		Professional Services		Other Services		Goods		All	
	Utilized	Available	Utilized	Available	Utilized	Available	Utilized	Available	Utilized	Available	Utilized	Available
African American	7.43%	6.04%	4.94%	3.45%	7.90%	16.05%	6.01%	8.99%	0.64%	2.25%	4.36%	5.72%
Asian American	9.19%	5.98%	0.91%	1.77%	6.94%	6.14%	7.05%	3.37%	1.79%	9.55%	3.15%	4.92%
Hispanic American	9.82%	11.71%	15.26%	16.54%	4.02%	5.05%	19.14%	7.87%	9.46%	7.86%	12.93%	11.81%
Native American	0.23%	0.71%	1.24%	1.15%	0.00%	0.00%	0.06%	1.12%	0.04%	0.56%	0.58%	0.87%
Non-Minority Women	5.79%	12.42%	5.58%	15.39%	11.88%	21.50%	6.79%	10.83%	14.67%	17.97%	8.65%	15.61%
Non-Minority Male	67.54	63.13%	72.06%	61.69%	69.26%	67.81%	60.96%	67.81%	73.40%	59.00%	70.32%	61.07%





KEY FINDINGS – M/WBE DISPARITY

Procurement Category	All	Architecture & Engineering	Construction	Professional Services	Other Services	Goods & Supplies
MBE	Disparity*	No Disparity*	Disparity	Disparity*	No Disparity*	Disparity*
WBE	Disparity*	Disparity*	Disparity*	Disparity*	Disparity*	Disparity*
M/WBE	Disparity*	Disparity*	Disparity*	Disparity*	No Disparity*	Disparity*

* Indicates statistical significance.

BOLD Indicates a substantial level of disparity, which is a disparity index below 80.00.

Study Period: October 2014 – September 2018

KEY FINDINGS – ANECDOTAL ANALYSIS

- Data Collection
 - 130 attendees at two public engagement meetings
 - 29 gave testimonies
 - 75 In-Depth Interviews
 - 2 Focus Groups with Area Trade Associations and Business Organizations
 - 421 Completed Vendor Surveys

- Suggested Remedies by Business Owners/Stakeholders
 - Publicly release results of bids and proposals
 - Hold firms accountable to meet M/WBE goals
 - Enforce compliance of the program for all bidders/proposers
 - Create a broader awareness of contracting opportunities for primes and subcontractors
 - Establish a vendor/subcontractor rotation process to broaden the pool of firms working on City contracts and projects



COMMENDATIONS

- **Commendation:** Implemented a subcontractor utilization payment module
- **Commendation:** Conducting quarterly training meetings
- **Commendation:** Conducting pre-submission meetings
- **Commendation:** Forming a Business Diversity Taskforce

RECOMMENDATIONS

- **Recommendation:** Continue narrowly tailored M/WBE program with new goals
 - Set annual aspiration goals
 - Set project specific goals
- **Recommendation:** Enhance M/WBE compliance efforts
 - Regular site visits and project audits
- **Recommendation:** Diversify supplier utilization
 - Vendor rotation, joint venture, emerging vendor programs
- **Recommendation:** Increased/Additional Outreach
 - Workshops, marketing, professional development and overall capacity building of M/WBE firms
- **Recommendation:** Develop relationships with business organizations
 - Public sector advisory board, to develop and institute “best practices”, build capacity and capabilities



RECOMMENDATIONS – ASPIRATIONAL M/WBE GOALS

MGT found sufficient evidence of disparity to recommend the continuation of the Business Inclusion program to address identified disparities.

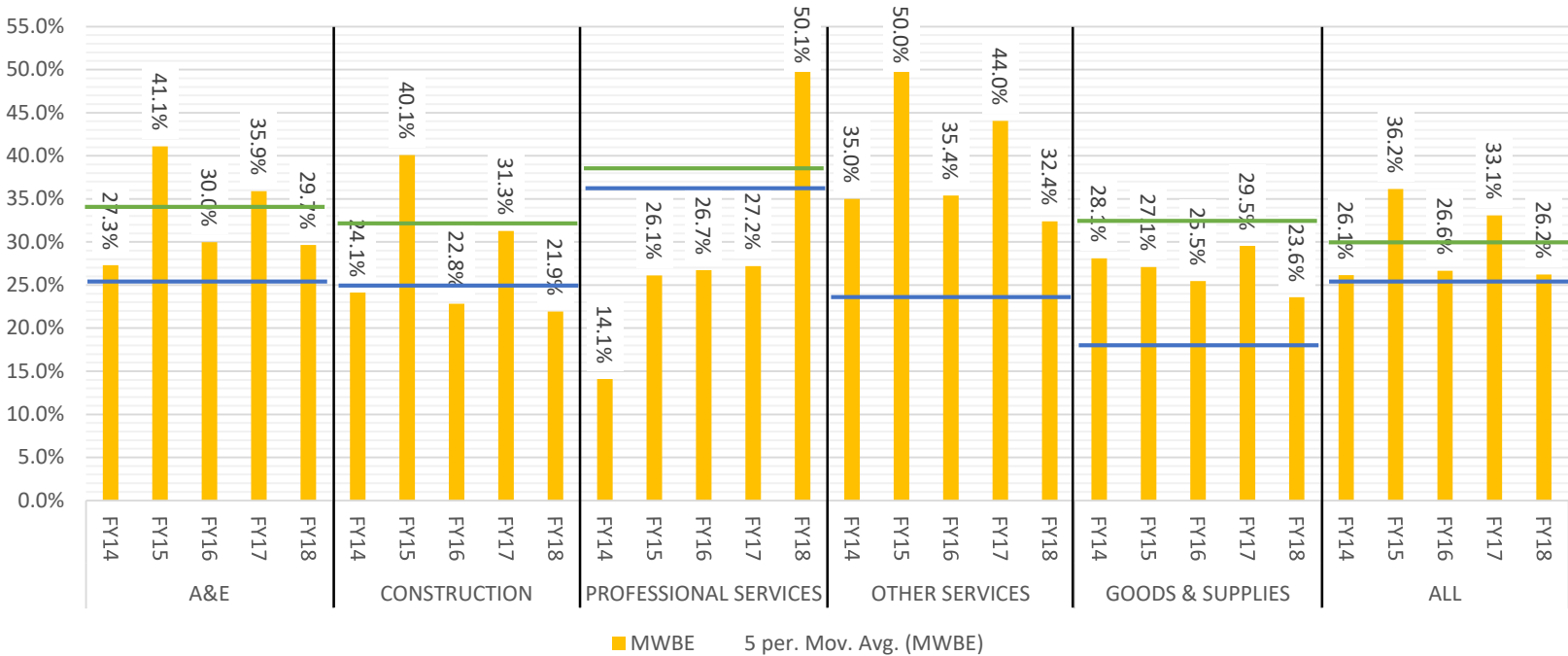
CONTRACT CATEGORY	CURRENT M/WBE GOALS	UTILIZATION	AVAILABILITY	PROPOSED M/WBE GOALS
A&E	25.60%	32.46%	36.86%	34.22%
Construction	25.00%	27.94%	38.30%	32.09%
Professional Services	36.30%	30.74%	50.92%	38.81%
Other Services	23.80%	39.04%	32.18%	N/A
Goods and Supplies	18.00%	26.60%	41.00%	32.36%

The proposed goals are based on a weighted average of M/WBE utilization and availability. Aspirational goals should be based on relative M/WBE availability. Current MWBE goals were adopted in 1994.



RECOMMENDATIONS – M/WBE UTILIZATION BY YEAR

25.66%	25.00%	36.30%	23.80%	18.00%	CURRENT GOAL
34.22%	32.09%	38.81%	N/A	32.36%	PROPOSED GOAL



Study Period: October 2014 – September 2018



KEY RECOMMENDATION NEXT STEPS

Continue narrowly tailored M/WBE program with new goals

Set annual aspirational M/WBE Goals

Establishes annual overall M/WBE targets across all procurement types (Architecture & Engineering, Construction, Professional Services, and Goods) to address identified disparities that will continue to be included in Business Diversity performance measures

- Update new Business inclusion policy to reflect new goals
- The current Dallas 365 performance goals is:
 - The annual M/WBE spend will increase from 25.0% to 30.0%
- Staff will work with CAO to develop the new policy and bring back to Council for approval in September
- Effective 10/01/2020

Set project specific goals

Establishes M/WBE goals by contract category with an option to waive the M/WBE goal where there is no, or limited availability

- Staff currently reviews over 400 contracts on an annual basis
- Goals are sometimes waived or lowered where there is a lack of availability
- This will be formally documented in the M/WBE admin. guide
- Effective 10/01/2020

Develop departmental M/WBE performance review metric

Includes M/WBE utilization into the performance review process for department heads and other employees with procurement authority

- Staff will work with the City Manager’s office to develop M/WBE utilization performance metrics for key departments that align with new M/WBE goals
- Effective 10/01/2020



KEY RECOMMENDATIONS

Enhance M/WBE Compliance Efforts	
Perform regular project site visit audits	
Ensures compliance with the business inclusion program while being proactive instead of reactive	<ul style="list-style-type: none"> In the process of developing a bi-weekly site visit schedule based on contract size or subcontractor concerns Effective 10/01/2020
Develop a specification review team	
Encourages equity and competition by ensuring barriers are removed and creates opportunities for new competitors	<ul style="list-style-type: none"> Business Diversity and Procurement Services are working to establish a specification review team and procedures to ensure competition, opportunity, and efficiency Business Diversity will work with DWU, Aviation, Public Works, Building Services, and Parks to develop a specification review team for architecture & engineering and construction contracts Effective 10/01/2020
Clearer definition and expectations of good faith efforts	
Strengthens good-faith effort criteria	<ul style="list-style-type: none"> Includes outreach to the ethnic contractors associations, chambers, and/or ethnic newspapers Will be included in specification language Effective 10/01/2020



KEY RECOMMENDATIONS

Enhance M/WBE Compliance Process – Continued

Develop non-compliance penalties

Enforces prime and subcontractor accountability

- Tier I – Placed on a 1 year non-compliance probation which includes notifications to project managers and department directors
- Tier II – Brought before City Council to consider being sanctioned for up to 2 years
- Violations include (but not limited to): Changing subcontractors without properly notifying the Office of Business Diversity and subcontractor; Closing out projects without fulfilling the M/WBE good faith process; or Self-performing scopes of work that was committed to an M/WBE subcontractor
- Effective 10/01/2020

Prompt payment enforcement – Effective 10/01/2020

Government Code Section 2251.022 requires prime contractors to pay subcontractors within ten (10) days from receipt of payment from the City

- Continue using the M/WBE compliance system to monitor payments to prime contractors from the City and payments from prime contractors to subcontractors on a monthly basis
- Effective 10/01/2020

Make changes to evaluation criteria

Updates existing criteria to include an evaluation of prime contractor’s utilization of M/WBEs on private sector contracts

- 15 current total business inclusion evaluations points
- Staff will bring recommended breakdown of those 15 points back to council with the September policy update
- Effective 10/01/2020



KEY RECOMMENDATIONS

Diversify Supplier Utilization	
Establish a job order or master agreement task order contracting model	
Creates opportunities for a diverse pool of qualified small and minority vendors while encouraging competition and potentially lowering City costs	<ul style="list-style-type: none"> Staff will work with Procurement Services and construction departments to develop a pool of qualified vendors on applicable contracts to utilize on a rotating basis for a set period of time Effective 10/01/2020
Establish an emerging vendor program	
Allows Small Business Enterprises (SBEs) to compete and self-perform at the prime contracting level.	<ul style="list-style-type: none"> Staff will work with CAO, departments, and Business Diversity Task Force to determine contract values and bring back to City Council Effective Q2 FY20-21
Establish a joint venture program	
Allows M/WBEs to partner with each other or larger companies in order to gain experience as a prime contractor while increasing bonding capacity as one entity.	<ul style="list-style-type: none"> The City has historically utilized joint ventures on procurements Staff will formalize the program and consider awarding evaluation points for joint ventures and will bring back to City Council Effective Q2 FY20-21
Establish a mentor/protégé program	
Encourages prime contractors to participate in a formal mentor protégé program to increase the number of business ready, willing, and able to do business with the City of Dallas	<ul style="list-style-type: none"> Currently being developed through the Broadening Urban Investment to Leverage Dallas (B.U.I.L.D.) program Will be developed across multiple industries Effective 10/01/2020



KEY RECOMMENDATIONS

Diversify Supplier Utilization - Continued

Establish an owner controlled insurance program

An owner controlled insurance policy owned by the City during on construction projects designed to cover virtually all liability and loss from the construction project
Creates opportunities for emerging general contractors to work on City projects and increasing competition

- Staff will be exploring this further in consultation with CAO and the Business Diversity Taskforce and will bring a proposed plan back to the City Council
- Effective Q2 FY20-21



KEY RECOMMENDATIONS

Develop a formal strategy for business relationships with organizations	
Develop a public sector council to advise on increased capacity best practices	
Revamp Diversity Taskforce to include key public sector entities to advise on industry best practices, new programs, and opportunities for improvement	<ul style="list-style-type: none"> The Business Diversity Taskforce was formally established in FY18-19 The taskforce will continue to focus on best practices utilizing the recommendations from the availability and disparity study Effective 10/01/2020
Increase outreach	
Creates an opportunity to connect small businesses to resources, M/WBE certification, and contracting opportunities that have historically been overlooked	<ul style="list-style-type: none"> In addition to businesses located in Dallas County, B.U.I.L.D.'s outreach strategy includes connecting local businesses located in LMI census tracts to the resources within the B.U.I.L.D. ecosystem Effective Q1 FY20-21
Increase technical assistance	
Incorporates frequent meetings with local organizations that support M/WBEs to better coordinate available assistance and support to M/WBEs	<ul style="list-style-type: none"> B.U.I.L.D.'s outreach strategy focuses on the "hand-off" of businesses between business service organizations Effective Q1 FY20-21





NEXT STEPS

- Accept and approve the availability and disparity report
- Approve the proposed M/WBE goals and business inclusion policy
- Scheduled for the September 23, 2020 Council Agenda
- Effective October 1, 2020

Current M/WBE goals will expire September 30, 2020



QUESTIONS & ANSWERS

Zarin D. Gracey

Office of Business Diversity

214.412.4518

Zarin.Gracey@dallascityhall.com

Reginald Smith

MGT Consulting

850.386.3191

www.mgtconsulting.com

cityofdallasdisparitystudy@mgtamer.com

For more information about the disparity study
visit: www.cityofdallasdisparitystudy.com